

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

913 WRIT PETITION NO.4564 OF 2019

ARVIND AMARCHAND MISHRA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Bachate Pralhad D.

AGP for Respondents/State : Mr. A.R. Kale

Advocate for Respondents : Mr. Patil Jayant R. for R/3

Advocate for Respondents : Mr. Bolkar Yogesh B. for R/6

Advocate for Respondents : Mr. Narwadkar Mrigesh D. for R/ 5

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**CORAM : S.V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATE : 20.08.2019

PC. :-

The petitioners assail the order dated 25.09.2018 issued by the Director of AYUSH refusing eligibility in favour of the petitioners for B.H.M.S. admission in the respondent no.6-college for the academic year 2017-2018.

2. We have heard the learned counsel for the parties. The reason for non grant of eligibility to the petitioners is that on the last date of admission though the petitioners were present they did not submit the transfer / domicile certificates and they were submitted subsequently.

3. Initially, the institution had filed Writ Petition bearing no. 12636 of 2018 and this Court under order dated 22.11.2018 allowed the petitioners to appear for the examination. The petitioners appeared for examination, the result has been declared subsequently they have been admitted in the second year under the orders of the Court.

4. The transfer certificates it appears is submitted in December 2017. The petitioners had filed the photocopy of the transfer / domicile certificates, however original transfer / domicile certificates were with other colleges where they had also sought admission. It is not disputed that the petitioners had registered well within the time they were present and all process was completed. The photocopy of the transfer certificates were also filed, the original could not be filed because it was with other institutions.

5. We had asked Mr. Bolkar the learned advocate for the institution whether some other meritorious students were deprived from admission in view of admission given to the petitioners. Mr. Bolkar the learned counsel on instructions submits that the intake capacity of the institution is 75 students only 33 were admitted and out of 33, admission of 2 students was also cancelled, there were only 31 students admitted and 44 seats went vacant.

6. Considering the above, it is clear that more meritorious students than the petitioners were not deprived from admission in the institution. The petitioners have cleared the first year examination and are in the second year. The petitioners satisfy all other required conditions.

7. Considering all the aforesaid conspectus, we are inclined to protect the admission of the petitioners. However, the respondent-institution deserves to be imposed with cost for the default they had committed. The respondents shall not refuse to regularize the admission of the petitioners only on the ground that transfer / domicile certificates were not submitted by them within time. The respondent no.6 shall deposit Rupees One Lakh Fifty Thousand with respondent no.5 within a period of six weeks. Writ petition accordingly disposed of. No further costs.

[MANGESH S. PATIL, J.]

[S.V. GANGAPURWALA, J.]