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

WRIT PETITION NO. 5019 OF 2019

Adinath S/o Babasaheb Sanaye
Age 20 years, Occ. Education,
R/o Dhanora, Tal. Jintur,
District Parbhani

..PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary
Department of Technical Education
Mantralaya, Mumbai-32
2. The Director of Technical Education
Maharashtra State, Mumbai
3. The District Caste Certificate Scrutiny
Committee, Parbhani,
Tal. & District Parbhani,
Through its Member Secretary
4. The Government Medical College and
General Hospital, Latur,
Through its Dean
5. The Training College of Nursing
Government Medical College and
General Hospital, Latur,
Through its Principal

..RESPONDENTS

Mr S. B. Solanke, Advocate for petitioner;
Mrs G. L. Deshpande , A.G.P. for respondents

**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 25th April, 2019

ORAL ORDER:

(2)

Petitioner was admitted to General Nursing and Midwifery three years course against a seat reserved for Other Backward Classes category. For failure of the petitioner to produce validity certificate, Respondent no.4 has cancelled the admission of the petitioner by way of impugned communication, dated 22nd March, 2019.

2. The submission of the petitioner is, the petitioner tried his level best to submit his claim to the committee for issuing validity, particularly having regard to the fact that his real sister already holds a validity certificate as Other Backward Class candidate, however, he was successful in submitting the same on 25th March, 2019. According to him, respondent no.3 committee is likely to take some time to decide the caste validity claim and in that eventuality the order cancelling his admission needs to be set aside.

3. Learned A.G.P. appearing on behalf of the respondents opposed the submissions of the learned Counsel for the petitioner on the ground that the petitioner who was admitted to the aforesaid course some time in September, 2018 was given sufficient breathing time to get the validity processed. According to her, since the petitioner failed to take steps for getting the caste validity processed, the respondent authority was left with no option but to cancel the admission. As such, rejection of the petition is sought.

(3)

4. Having regard to the issue raised and the fact that the learned A.G.P. appears on behalf of the respondents, this Court took up the matter for final disposal at this stage.

5. The fact remains that the claim for validation submitted by the petitioner is pending before respondent no.3 committee for a period of about a month. This Court also needs to be sensitive to the fact that in September, 2018 the petitioner was admitted to three years course of General Nursing and Midwifery against a seat reserved for O.B.C. category. The petitioner has already pursued his course for more than six months. The fact remains that the real sister of the petitioner holds a validity as belonging to O.B.C. category and a copy of such certificate is already produced on record.

6. The aforesaid factual matrix and the documentary evidence prompts this Court to form a *prima facie* opinion that the petitioner belongs to O.B.C. category. Of course, such *prima facie* opinion is subject to adjudication of the claim by the competent authority i.e. respondent no.3 committee.

7. The aforesaid *prima facie* opinion is formed by this Court based on the validity issued in favour of the real sister of the petitioner only for the purpose of protecting the admission of the petitioner as his admission came to be cancelled, after having pursued the course for six months.

(4)

8. In the result, we are inclined to pass following order :-

Let the caste claim of the petitioner be decided by respondent no.3 committee within a period of six months from today.

The petitioner to appear before respondent no.3 committee on 21st May, 2019 with all original documents.

In the meantime, respondent no.4 shall permit the petitioner to pursue his education by keeping in abeyance the impugned order dated 22nd March, 2019.

In case if it is found that the caste claim of the petitioner is negated/rejected by respondent no.3 committee, the petitioner shall be permitted to continue his education for a period of two weeks from the date of receipt of such order, so as to enable him to approach this Court questioning the same.

In case if respondent no.3 committee proceeds to grant validity in favour of the petitioner, needless to say that the order impugned shall stand automatically withdrawn.

Petition thus stands allowed in above terms.

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

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