

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.5051 OF 2019

Deepak s/o Earesh Karhade

Petitioner

Versus

The Union of India & others

Respondents

Mr.Sunil M. Vibhute, advocate for the petitioner.
Mrs.R.P.Gour, AGP for Respondents.

**CORAM : PRASANNA B. VARALE AND
NITIN W. SAMBRE, JJ.
DATE : 26th April, 2019.**

P.C. :

1 Heard learned Counsel for the petitioner.

2 The petitioner is a minor student represented through his natural guardian – father. Considering the grievance raised in the petition, we deem it appropriate to dispose of the petition at the admission stage.

3 Notice is issued to the respondents making it returnable forthwith. Mrs.Sudha S. Kuthe, advocate waives notice for Respondents No.1 and 2. Learned AGP waives notice for Respondent No.3.

4 The petitioner was admitted in Respondent No.2-School in 8th standard on the seat reserved for Scheduled Tribe category student. The petitioner, after passing 8th standard examination, was desirous of prosecuting his academic studies for

the next academic year i.e. 9th standard. The application form was filled by the petitioner. Respondent No.2, by communication dated 08.04.2019, informed the petitioner about his provisional admission in 9th standard. The copy of the said communication is placed on record at Exhibit-D.

5 Mr.Vibhute, learned Counsel for the petitioner, submitted that real brother of the petitioner and their father are possessing caste certificate certifying that they belong to “Mannervarlu”, a Scheduled Tribe and as such, application was submitted to the Sub Divisional Officer for issuance of caste certificate in favour of the petitioner. The Sub Divisional Officer, even through there was sufficient material in the form of caste certificates issued in favour of father and real brother of the petitioner as well caste validity certificate issued in favour of uncle of the petitioner, only on the ground that there was no sufficient evidentiary material prior to year 1950, rejected the application.

6 The learned Counsel for the petitioner, on instructions, submits that the petitioner would file an appeal, before the competent forum, challenging the order of Sub Divisional Officer within two weeks from today. He, however, submits that as the petitioner apprehends cancellation of his admission by the school on account of non submission of caste certificate, admission of the petitioner be protected. The learned Counsel invited our attention to the submission made in the petition at paragraph 10 in support of his submission that petitioner is apprehending cancellation of his admission.

7 Considering these facts that the petitioner was already admitted in Respondent No.2-school in 9th standard and the submission of the learned Counsel for the petitioner that the petitioner would immediately file an appeal challenging the order of Sub Divisional Officer, the petition is disposed of with a direction to the petitioner to submit an undertaking to this Court that the petitioner would file an appeal challenging the order of Sub Divisional Officer before the appellate authority within two weeks from today. Respondent No.2-school is directed to grant provisional admission to the petitioner to 9th standard. Needless to say that this provisional admission is subject to the proceedings which would be initiated by the petitioner by filing an appeal before the competent appellate forum and the petitioner would not claim equity on the basis of protection granted to the petitioner. The petitioner to submit undertaking to this Court within one week from today. If petitioner files an appeal before the appellate authority, the appellate authority to decide the appeal as expeditiously as possible.

Petition stands disposed of with above directions.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

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