

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

**CIVIL APPLICATION NO.7829 OF 2019
WITH
WRIT PETITION NO.12406 OF 2017**

**SUDARSHAN BABARAO THAKARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. A.S. More, Advocate for applicants.
Mr. G.O.Wattamwar, AGP for respondent/State.
Mr. Subodh P. Shah, Advocate for respondent No.3.

**CORAM : SUNIL P.DESHMUKH &
S.M.GAVHANE,JJ.
DATED : 24.07.2019**

P.C. :-

1. This is an application seeking directions to respondent No.4 - College to release and handover documents which are mentioned in application dated 04-07-2019, Exh."A" to civil application. It may not be out of place to refer to that one such application had been moved by one *Dr. Jafri Sayyadshadab Shahidali* bearing Civil Application No. 11742 of 2018 in present writ petition. As in said application, applicants pleaded that they want to prosecute further academic studies and learned counsel, on instructions, submits that some of them are in need of employment. It is further being submitted on behalf of applicants that despite there being order not to take coercive action, respondent No.4 is reluctant to release documents which are necessary for prosecution of further studies and employment and that runs counter to the purpose underlying interim relief granted. In the circumstances,

it is being submitted that in civil application No. 11742 of 2018 respondents had made statements that applicants had never approached with a prayer to hand over documents to them. It is being submitted that different stand has been taken, insofar as present applicants are concerned. Discriminatory treatment in the process is being meted out to present applicants. It is further submitted that respondent No.4 would not be within its power to retain documents. Over and above, learned counsel, on instructions submits that pursuant to order in civil application No.6123 of 2018, present applicants have filed undertaking long back. Learned counsel purports to submit that insofar as merits of the petition are concerned, they have strong chance of succeeding in petition.

2. On the other hand, learned counsel for respondent no.4 Mr. Subodh Shah, vehemently submits that in the first place undertaking submitted by students would not be said to be in consonance with directions of this court in civil application No.6123 of 2018. Apart from above, he submits that court had to act neutrally and taking into consideration interest of either side. Referring to decisions, particularly, in case of *Kalabharti Advertising Vs. Hemant Vimalnath Narichania and others*, (2010) 9 SCC 437 and putting emphasis on paragraphs No.15, 16 and 17 thereunder, he submits that court will have to secure interest of management as well. He also purports to refer to decision in the case of *Vyankappa Narayan Patki, Sangli Vs. State of Maharashtra*, 1998 (2), Mh.L.J. 417.

3. He submits that managing an educational institution especially in medicines is an expensive affair and fee is structured on expenses those are required to be incurred therefor. While Fee Regulating Authority has settled fee structure, its decision would be binding on students for more reasons than one. While there had been no promise made that fee structure would be rigid, an estoppel would not apply. He refers to the decision in the case of *R. Gowthami Vs. All India Council for Technical Education*, 2012 SCC OnLine Mad 1022 : (2012) 4 Mad LJ 666.

4. He submits that in present case, applicants have not been unequivocal about what they would be pursuing. In the circumstances request is not proper and appear to be a casual request. He, therefore, urges not to indulge in the request made in application. He further submits that petition can be placed for final hearing.

5. Learned counsel Mr. More appearing for applicants submits that dates are approaching fast and 30th July, 2019, as last date for approaching *Bruhanmumbai Mahanagarpalika* employment and refers to a publication of notice in news paper. He submits many such opportunities are underway. He further submits that appropriate undertaking on affidavit would be filed in this court, pursuant to order dated 11-05-2018 in addition to ones which are

already on record.

6. While such type of request had earlier on been granted and while undertaking is filed and is being filed in this court and with respondent No.4 authority, it would be expedient that applicants be allowed to have documents as prayed for. Civil application is allowed in terms of prayer clause (A).

7. Learned counsel for applicants, on instructions, submits that quite a few applicants may give security cheques. It is open for applicants, if they so desire.

8. Civil Application is disposed of.

9. Interim relief to continue.

10. Post writ petition on 20.08.2019.

[S.M.GAVHANE,J.]

[SUNIL P.DESHMUKH,J.]