

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9271 OF 2019

TANVI NITIN JOGALKAR,
THROUGH NITIN ARVIND JOGALEKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioner : Mr. Padalkar Harshad H
AGP for Respondent No. 1 : Mr. A. R. Kale
Advocate for Respondent No. 2 :
Mr. M. D. Narwadkar

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CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, J.

DATE: 26th JULY, 2019

PER COURT:

1. Mr. Padalkar, learned counsel for the petitioner submits that the provisional list of vacancies for CAP Round-III for B.Pharmacy and D.Pharmacy is published on 25.07.2019. The first round selection list for BAMS/BUMS/BHMS courses is to be published on 26.07.2019. The persons who had taken provisional admission in the seats of B.Pharmacy and D.Pharmacy in CAP Round-III and subsequently find their place in the selection list for BAMS/BUMS/BHMS, then they may cancel

their admission of B. Pharmacy and D.Pharmacy. However, the candidates like the petitioner will not get the opportunity to apply as those seats becoming vacant in CAP Round-III would be filled in from institution quota. The candidates like the petitioners would be left at the mercy of the institutions.

2. Mr. Narwadkar, learned counsel for the respondent submits that the apprehension of the petitioner is misplaced. Even, at the institutional level, the institution has to fill in the vacant seats from amongst the candidates on the basis of *inter se* merit.

3. Reference can be have to Clause 13 of the information brochure which reads thus -

"13. Admissions in Institutional Quota and vacant seats after CAP:- The Director or Principal of the institution shall carry out the admissions for these seats in the following manner-

(a) Admissions shall be made in a transparent manner and strictly as per the Inter-Se-Merit

of the Candidates who have applied to the Competent Authority for verification of documents and then to the Institution.

(b) Information brochure or prospectus of the Institution which specifies rules of admission should be published well before the commencement of the process of admission. All the information in the brochures should also be displayed on the Institution's website.

(c) Institution shall invite applications by notifying schedule of admission and the number of seats in each course to be filled by the institution, by advertisement on the website of the institution. Aspiring Candidates fulfilling the eligibility criteria as notified by the Government and specified by the appropriate authority, from time to time, shall apply to the Principal or Director of the respective institution for admission at the Institution level as provided in rule 3(4)(b) and shall be filled in on the basis of Inter-Se-Merit prepared by following the procedure specified in 8(3).

(d) The institution after verification of all required documents shall prepare and display the Inter-Se-Merit lists of the Candidates to be filled in at the institution level, in the Institutional Quota and Supernumerary Quota

of OCI / PIO, Foreign National, Children's of Indian workers in Gulf Countries along with the vacant seats after CAP, on the notice board and shall publish the same on the website of the institution.

..."

Reading the aforesaid clauses, it is manifest that the candidates are never left at the mercy of the institutions. The institutions have bounden duty to invite applications by notifying schedule of admission and the number of seats in each course to be filled by the institution by advertising on the website of the institution. All these seats are to be filled in on the basis of *inter se* merit and as per the procedure provided in the Rules.

4. In the light of above, the apprehension of the petitioner does not have any basis.

5. Writ Petition, as such, is disposed of. No costs.

[MANGESH S. PATIL, J.]
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[S. V. GANGAPURWALA, J.]