

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

WRIT PETITION NO. 9892 OF 2018

Mohammad Asef Rafeeqe,
Age: 24 years, Occu. Student
R/o Alamgir Colony, Parbhani,
Tq. Parbhani, District Parbhani.

...PETITIONER

V E R S U S

1. The State of Maharashtra,
Through its Secretary
Higher Technical Education,
Department Mantraya, Mumbai.
2. The Director (Education)
Maharashtra Council of Agriculture
Education and Research,
132 (B) Bhamburda Bhosalenagar,
Pune, District Pune.
3. The Registrar,
Vasantrao Naik Marathwada
Agriculture University, Parbhani,
District Parbhani.
4. The Principal,
M. Tech Food Technology
College, Parbhani.

... RESPONDENTS

WRIT PETITION NO. 9893 OF 2018

Shubham S/o Atmaram Pawar
Age: 23 years, Occu. Student
R/o Alamgir Colony, Parbhani,
Tq. Parbhani, District Parbhani.

...PETITIONER

V E R S U S

1. The State of Maharashtra,
Through its Secretary
Higher Technical Education,
Department Mantraya, Mumbai.
2. The Director (Education)
Maharashtra Council of Agriculture
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132 (B) Bhamburda Bhosalenagar,
Pune, District Pune.
3. The Registrar,
Vasantrao Naik Marathwada
Agriculture University, Parbhani,
District Parbhani.
4. The Principal,
M. Tech Food Technology
College, Parbhani.

... **RESPONDENTS**

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WRIT PETITION NO. 9894 OF 2018

Priyanka Baliram Mirase,
Age: 22 years, Occu. Student
R/o : Lokmanyagar, Parbhani,
Tq. Parbhani, District Parbhani.

...**PETITIONER**

V E R S U S

1. The State of Maharashtra,
Through its Secretary
Higher Technical Education,
Department Mantraya, Mumbai.
2. The Director (Education)
Maharashtra Council of Agriculture
Education and Research,
132 (B) Bhamburda Bhosalenagar,
Pune, District Pune.
3. The Registrar,
Vasantrao Naik Marathwada
Agriculture University, Parbhani,
District Parbhani.

4. The Principal,
M. Tech Food Technology
College, Parbhani.

... **RESPONDENTS**

...

WRIT PETITION NO. 9895 OF 2018

Sachin S/o Arun Giri,
Age: 22 years, Occu. Student
R/o : Visawa Corner, Parbhani,
Tq. Parbhani, District Parbhani.

...**PETITIONER**

V E R S U S

1. The State of Maharashtra,
Through its Secretary
Higher Technical Education,
Department Mantraya, Mumbai.
2. The Director (Education)
Maharashtra Council of Agriculture
Education and Research,
132 (B) Bhamburda Bhosalenagar,
Pune, District Pune.
3. The Registrar,
Vasantrao Naik Marathwada
Agriculture University, Parbhani,
District Parbhani.
4. The Principal,
M. Tech Food Technology
College, Parbhani.

... **RESPONDENTS**

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Mr. R.J. Nirmal, Advocate for petitioners
Mr. S.B. Narwade, AGP for respondent No. 1
Mr. S.K. Kadam, Advocate for respondent No. 2
Mr. M.N. Navandar, Advocate for respondents No. 3 and 4.

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**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

**RESERVED FOR JUDGMENT ON : 10th DECEMBER, 2018
PRONOUNCED FOR JUDGMENT ON : 5th FEBRUARY, 2019**

JUDGMENT (Per : K. K. Sonawane, J.)

Rule. Rule made returnable forth-with. With consent of learned counsel appearing for parties, heard finally at the stage of admission.

2. Points of controversy in all these petitions are centered on the issue of validity and propriety of clause No. 2.1.1 of the prospectus 2018-2019 published / issued by respondent No. 2 - Maharashtra Council of Agriculture Education and Research, Pune (for short "MCAER, Pune") for admission to Post Graduate Course in Agricultural University in Maharashtra State. Therefore, all these allied petitions are dealt with together for its adjudication on merit by this common judgment.

3. The petitioners are from OBC, NT as well as ST reserved categories. They produced their caste certificates on record for perusal. After completion of graduation in B. Tech (Food Tech.) from Vasantrao Naik Marathwada Agricultural University, Parbhani, the petitioners were intending to pursue Post Graduate Course. Therefore, they appeared for CET examination conducted by respondent No. 2 - MCAER, Pune. In the CET examination, the petitioners got success and their names shown in the provisional and final merit list as well as appeared in the list of first round of PG admission published on 24-08-2018. The

petitioners secured rank Nos. 25, 23, 26 and 35 against total marks obtained as 5.478, 5.552, 5.309 and 4.763 respectively. Accordingly, respondent No. 2 - MCAER, Pune issued provisional allotment letter in favour of petitioners and it was informed that provisional admission were allocated to each of the petitioner for the Post Graduate Course of M.Tech. (Food Tech.) in Food Technology College, Parbhani. The petitioners contend that provisional admission was accorded on certain terms and conditions and they were asked to report the allotted College within prescribed period for final admission. Accordingly, the petitioners kept ready all their original documents for verification by the College Authority. But, in the meanwhile, respondent No. 2 - MCAER, Pune communicated to the petitioners that their provisional allotment came to be cancelled owing to non-eligibility as per PG Prospectus clause- point No. 2.1.1. Pursuant to same, the respondent - College did not allow the petitioners to comply all procedural formalities to get final admission for Post Graduate Course. Being aggrieved by the act of cancellation of provisional admission for Post Graduate Course (Food Tech.), the petitioners rushed to this Court and preferred these writ petitions under Articles 226 and 227 of the Constitution of India to redress their grievance.

4. Learned counsel for the petitioners vehemently submitted that all the petitioners are from OBC, ST and NT as well as

project affected reserved categories. Total reservation of the specific seat of 19% for OBC, 7% for ST and 4% for NT as well as 5% to the project affected persons were provided for admission to the Post Graduate Course in Food Technology. There were in all 15 seats for M. Tech (Food Tech) made available for candidates belonging to reserved categories. According to the petitioners, the provisional admission was allocated to them for M.Tech (Food Tech) Post Graduate Course in the first round of centralized admission process. The allotment letter was also issued in favour of petitioners for allocation of College of Food Technology, Parbhani for final admission. But, suddenly respondent No. 2 through impugned communication informed the petitioners that their provisional admission came to be cancelled as they have not fulfilled the eligibility criteria for admission to the Post Graduate Course. Learned counsel for petitioners harped on the circumstances that in all 15 seats of PG admission were kept reserved in Agricultural University being special concession to the aspirant from backward category. The petitioners were considered for admission in these 15 reserved seats, but respondents taking recourse of clause 2.1.1 of the Prospectus, denied the petitioners for admission to Post Graduate Course by extending special benefit being candidate from reserved category. Learned counsel assailed that the impugned clause 2.1.1 of the Prospectus is contrary to law and principle

meant for providing special concession to the students of the reserved categories. The respondent should have given special concession to the candidates from backward category while considering the eligibility criteria for PG admission. But, the impugned clause 2.1.1 caused serious injustice and prejudice to the petitioners as it contemplates equal marks for eligibility to all category of students. The learned counsel explained the factual aspects in detailed and submits that special concession to the candidates of the reserved category is required to be given while considering eligibility criteria. Therefore, he prays to allow the petition and provisional admission of the petitioners granted by respondent No. 2 - MCAER, Pune be restored for final admission of the petitioners to pursue Post Graduate Course M. Tech (Food Tech.) in particular College at Parbhani. Learned counsel for petitioners in support of his submissions relied on the judgment of the Supreme Court in the case of ***P.V. Indiresan Vs. Union of India*** reported in ***2011 AIR SCW 4855***.

5. Learned AGP and learned counsel appearing for respondents No. 2 to 4 vociferously opposed the contentions propounded on behalf of petitioners and submit that in all 15 seats were kept reserved for admission in the College for candidates from reserved category. However, in regard to eligibility criteria, in view of prospects issued for admission to Post Graduate Course in Agricultural University for the year

2018-2019, it was compulsory for the candidate to obtain minimum 55% marks (5.5.out of 10 point scale), aggregate marks for admission. It has been contended that the council of academicians of Agricultural University have an authority to prescribe eligibility norms and rules for admission to meritorious students, and therefore, allegations cast on behalf of petitioners are totally devoid of merit and deserves to be turned down. Learned counsel for respondents No. 2 to 4, in support of their submissions relied upon the decision of the Supreme Court, in the case of ***State of U.P. And others Vs. Dr. Anupam Gupta*** reported in ***AIR 1992 Supreme Court, 932.***

6. It is not in dispute that respondent No. 2-MCAER, Pune is the authority created under Section 12 of the Maharashtra Agricultural Universities Act, 1983 ("Universities Act") and one of the functions of MCAER, Pune is to co-ordinate and implement admission process for under Graduate and Post Graduate Courses in all Agricultural Universities in the State of Maharashtra. The powers are delegated to Council of Academicians of the Agricultural University to prescribe eligibility norms and rules for admission to the under Graduate and Post Graduate Courses by meritorious students in Agricultural Universities. According to respondents, the concerned Council of Academicians after due deliberation and discussion determined the eligibility criteria for admission to the Post Graduate Course in Agricultural University

for the year 2018-2019. Respondent No. 2 MCAER Pune published and issued in advance the prospectus for admission to the Post Graduate Courses in Agricultural University for the year 2018-2019. The impugned clause 2.1.1 came to be incorporated in the prospectus after due deliberation and consultation with members of Council of Academician of all four Agricultural Universities in State of Maharashtra. The relevant part of the clause 2.1.1 of the prospectus 2018-2019 is reproduced as under:-

"2.1.1 POSTGRADUATE COURSES:

Postgraduate admissions are strictly on merit basis on marks obtained in the Common Entrance Test (CET) of respective faculty for the current year conducted by Maharashtra Agricultural Universities Examination Board (MAUEB) and CGPA of the qualifying degree examination in the proportion of 70:30 with weightages, respectively. Accordingly, Minimum 55% (5.5. out of 10 point scale) total aggregate marks are compulsory for admission."

7. It is explicit and clear from the aforesaid clause 2.1.1 that the MCAER Pune issued guidelines well in advance that admission to Post Graduate Courses are strictly on merit basis and marks obtained in CET of respective faculty for current year conducted by the Maharashtra Agricultural Universities Examination Board ("MAUEB") and CPGA of qualifying degree examination in proportionate of 70 : 30 with weightage respectively. Accordingly, the criteria of securing minimum 50% (5.5. out of

10 point scale) aggregate marks was made compulsory. Thus, it can be seen that aforesaid eligibility criteria for admission to Post Graduate Course was determined with the object and purpose that the best among the talented student/candidate would be eligible for admission.

8. It is also an admitted fact that number of seats for admission to Post Graduate Courses are limited and large number of candidates used to apply for admission to these courses of study. In such circumstances, eligibility criteria prescribed by MCAER, Pune for admission to the Post Graduate Course on the basis of merit prescribed by Council of Academician and published in prospectus 2018-2019 cannot be said to be in conflict with regulations made under the Maharashtra Agricultural Universities (Krushi Vidyapeeth) Act, 1983, as well as arbitrary and discriminatory one.

9. The relevant factor for consideration is that respondent No. 2 MCAER, Pune published/issued prospectus for admission to various courses in Agricultural Universities in Maharashtra State well in advance before commencement of admission process. It has been specifically stated in the prospectus that for the purpose of admission to the Post Graduate Courses, it is compulsory for the candidates to secure minimum 55% (5.5. out of 10 point scale) aggregate marks. There was no special concession given in eligibility criteria for the candidates from

reserved category. The petitioners were aware about the eligibility criteria notified in the prospectus 2018-2019, prior to admission process. But, even thereafter, the petitioners participated in the admission process without any protest or demur to such eligibility criteria prescribed in clause 2.1.1. Undoubtedly, the respondent completed the admission process of Post Graduate Course as per scheduled programme, and the entire 15 seats kept reserved for candidates of backward category all were filled in by following due procedure. All the 15 seats kept reserve for candidates from reserve category, all were occupied by the students from same reserve category. These students secured higher marks than the petitioners and they were found eligible as per criteria for admission from reserve categories. Therefore, the allegations of discrimination appears not sustainable and considerable one. The petitioners preferred these petitions at belated stage and raised objections to the eligibility criteria prescribed under clause 2.1.1 of the prospectus – 2018-2019.

10. We find force in the argument advanced on behalf of respondent that the letters of admission issued in favour of petitioners were for provisional/temporary admissions. As per clause 4.11(d) of the prospectus, the provisional admission given to the candidates can be cancelled on the ground of technical error etc. Admittedly, the petitioners did not satisfy the eligibility

criteria as prescribed under prospectus, 2018-2019 for admission to the Post Graduate Courses in Agricultural Universities. There were no special concession in the eligibility marks for reserve category candidates. But, the specific seats were kept reserve for candidates belonging to reserved category and the entire seats provided for reserved category were filled in by the candidates, who secured more marks than the petitioners and satisfy the eligibility criteria. Therefore, it cannot be said that there was irregularity or illegality in the admission process of M. Tech. (Food Technology) Course. The policy and procedure considered by the members of Council of Academician do not warrant any interference. The respondent No. 2 - MCAER Pune has an authority to fix minimum eligibility criteria for admission for reserve category. In order to maintain the standard of excellence in higher education, the eligibility criteria set-up by the respondent appears justifiable and reasonable one. It cannot be said to be arbitrary or discriminatory one. It would not affect adversely the balance reservation with other societal interest. The textual facts in the case of ***P.V. Indiresan Vs. Union of India (Supra)*** relied upon by petitioners and the factual aspects of the present matter in hand are clearly distinguishable and not akin with each other. The issue in the aforesaid ***P.V. Indiresan's case*** pertains to the interpretation of words "cut-off marks". Therefore, it would not render any assistance to the petitioners.

11. In the above premise, we are not inclined to cause any interference in the admission process already conducted by MCAER Pune by exercising extra-ordinary jurisdiction under Article 226 of the Constitution of India. The petitions being devoid merit deserves to be dismissed.

12. Accordingly, the Writ Petitions stand dismissed. Rule discharged. No order as to costs.

[K. K. SONAWANE, J.]

[S. S. SHINDE, J.]

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