

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

WRIT PETITION NO. 12401 OF 2018

Yogesh Prabhulal Yadav

... Petitioner

Versus

The State of Maharashtra & Ors.

... Respondents

.....

Shri. Patel Shaikh Ashpak Taher, Advocate for the petitioner

Shri. S. G. Karlekar, AGP for respondent/State

Shri. Vikram Kadam, Advocate for respondent No. 6

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATE : 21ST FEBRUARY, 2019

ORAL ORDER:

. Leave to add the Commissioner and Competent Authority, Common Entrance Test Cell, Fort, Mumbai, as party-respondent. Shri. S. G. Karlekar, learned AGP waives service of notice for added respondent.

2. The petitioner's admission for 2nd year of Bachelor of Engineering Course is cancelled on the ground of non-submission of validity certificate. The same is assailed. It is submitted by the

learned counsel for the petitioner that, the validation proceeding in respect of the tribe claim of the petitioner is pending.

3. Learned Assistant Government Pleader submits that, the validation proceeding in respect of the tribe claim of the petitioner is returned back on 16.11.2018.

4. The petitioner was required to submit the validity certificate before the cut-off date so as to confirm the admission from the reserved category to the 2nd year of B.E. Course. The petitioner has not produced the validity certificate. In view of that, the Institution has cancelled the admission of the petitioner.

5. In such a case, considering the relevant rules, the petitioner can be considered for admission from the open category as per the rules, availability of the vacancy and merit.

6. It is submitted that, the petitioner has been admitted to the second year of B.E. Course from Scheduled Tribe Category. Shri. Vikram Kadam, learned counsel for respondent No. 6 submits, on instructions, that five posts from open category are vacant.

7. In view of that, we pass the following order.

ORDER

The admission of the petitioner shall be considered from open category according to merit and on availability of vacant posts. If the petitioner is entitled for admission from open category, the respondents shall consider the petitioner as open category candidate. Of course the petitioner will have to pay full fees as applicable. The steps in that regard shall be taken by the respondents immediately. It is submitted that under the orders of the Court the petitioner is allowed to appear for the examination. After the admission of the petitioner from open category is confirmed, the result of the petitioner's examination shall be declared. The petitioner if so advised may resubmit the proposal for validity of his tribe claim. The same shall be decided by the Committee on its own merits. While considering the petitioner from open category, the impugned communication about cancellation of admission would not be an impediment.

8. The Writ Petition is accordingly disposed of. No costs.

[A. M. DHAVALA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE