

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION [STAMP] NO.20867 OF 2019

Kum. Vaishnavi Raghunath
Chanchalwar & Others

.... Petitioners

Vs.

State of Maharashtra & Others

.... Respondents

Mr. R.K. Mendadkar with Ms Priyanka Shaw for
the Petitioners.

Ms R.A. Salunkhe, AGP, for Respondent Nos.1 & 2.

Mr. S.S. Patwardhan for Respondent No.3.

Dr. B.N. Hiwale & Dr. A.S. Vyas, O.S.D., DMER,
present in Court.

CORAM: S.C. DHARMADHIKARI &
SANDEEP K. SHINDE, JJ.

DATE : JULY 24, 2019

P.C:

1. The petitioners before this Court are students and seeking admission to reserved seats.

2. The reservation is constitutional as also granted by the State. Overall, it is a reservation for the backward category of students who otherwise deserve to be either

Doctors/Engineers/Professionals.

3. The 2nd respondent-Committee invalidated the claim of these petitioners leading to the filing of writ petitions in this Court and particularly before its Bench at Aurangabad.

4. Each of these petitioners claim that they have succeeded in the writ petitions, they have satisfied this Court that they indeed belong to the Scheduled Tribe, to which they laid their claim. However, despite being meritorious and found eligible for admission and their names appearing in the merit list, on account of non-production of Certificate of Validity before the cut-off date, the petitioners are apprehending that they may lose their opportunity to enter the Undergraduate Medical Course.

5. The 3rd respondent was put to notice of this petition and we directed Mr. Patwardhan, appearing for the 3rd respondent, to take instructions.

6. In this case, the petitioners before this Court

succeeded in the writ petitions filed by them and the final order of this Court's Bench, in the 1st petitioner's petition, at Aurangabad reads as under:-

“(i) The impugned order is quashed and set aside.

(ii) The Committee shall issue validity certificate of 'Koli Mahadeo' Scheduled Tribe to the petitioner immediately.

(iii) The said validity certificate shall be subject to the decision that would be taken by the Committee, in case the validation proceeding in respect of the father of the petitioner is re-opened.

5. The Writ Petition is disposed of. No costs.”

7. The Certificate of Validity was to be issued immediately but the grievance of Mr. Mendadkar is that, the 3rd respondent has not acted upon this order and insisted on production of the Certificate of Validity from the Competent Scrutiny Committee. That, according to Mr. Mendadkar, was going to perform a purely ministerial act and failure to perform that act by the said Committee before the cut-off date should not result in denial of admission.

8. Mr. Patwardhan, appearing for the 3rd respondent,

stated that the 3rd respondent ordinarily could not have acted upon this Court's order and directions and proceeded on the basis that the Certificates of Validity are issued by this Court's order and a formal document may follow, but the petitioners are not the only complainants or apprehending losing of opportunities in this manner. There are other students who were not so fortunate to obtain the Certificate of Validity before the cut-off date and the 3rd respondent cannot exclude them from consideration, for they may be ranked higher in merit. This 3rd respondent proceeds *bona fide* and if any one of the candidate provisionally admitted fails to produce the Caste Validity Certificate before the cut-off date, his/her admission is not confirmed. Then, the next in order of merit and who has all the documents deserves to be considered.

9. After hearing both sides and perusing the writ petition and the annexures thereto, we think that Mr. Patwardhan is justified. Mr. Patwardhan is right, for the 3rd respondent is not expected to go by the order of this Court and proceed to confirm the admissions. That may be taking a risk

and in a given case acting contrary to Rules. If the Rules demand production of Certificate of Validity and before the cut-off date, then that insistence cannot be said to be improper, unfair, unjust much less illegal. The Authority has acted within the four corners of the Rules.

10. However, in this case, the order of this Court must be read in its entirety. So read, it is apparent that the claim, which was invalidated by the Scrutiny Committee, now stands validated. Once it is validated and accepted, then, the Scrutiny Committee has to perform an administrative and ministerial act, after validating the Tribe Certificate already issued, of issuing a Caste Validity Certificate to the successful party like the petitioner. The Committee takes its own time. That does not mean that the deserving candidate should suffer. The candidates before us are not going to get admitted straightaway for there could be other cases of this nature and some persons though armed with the Caste Validity Certificate from the Scrutiny Committee did not produce it by the closing time of 5:00 p.m. on 19-7-2019. In their case, the Certificate is issued on or before

19-7-2019 but they were not in a position to reach the office of respondent No.3 before 5:00 p.m.. These candidates may be higher in the order of merit and the petitioners will have to compete with them. All, therefore, who are not before the Court but are eligible to be admitted as they also produced the Certificates of Validity by the cut-off date, too, deserve consideration.

11. Their claims cannot be, therefore, defeated and just as the petitioners are deserving to be admitted, equally all students who possess the Certificates of Validity but in whose cases admissions granted to them provisionally are still not cancelled or the next candidate is still not admitted, then only in such cases the 3rd respondent shall relax the rigour of the Rule and relying upon the orders of this Court. This Court's orders do not mean that meritorious candidates have to be excluded from the process merely because they have not approached the Court of law. If the time to produce the document, namely, the Certificate of Validity is extended or the rigour of the condition in that behalf is relaxed, then the benefit of such relaxation

should be extended to all meritorious deserving candidates.

Hence, the following order:-

ORDER

(i) We direct that the students who have been provisionally admitted against reserved seats and who are in possession of and produced the Certificates of Validity on or before 19-7-2019, shall be considered for admission in the ongoing process against the reserved seats, strictly in order of merit. When we say that the date is 19-7-2019, we are not going by the time stipulated, namely, 5:00 p.m. but the date of 19-7-2019. The benefit of this order shall be extended to those students who either have a Certificate of Validity in their possession or an order of this Court accepting and validating their claim. Meaning thereby, such students whose petitions are allowed by this Court in the above terms.

(ii) With the above observation and directions, the petition is disposed of.

(SANDEEP K. SHINDE, J.)

(S.C. DHARMADHIKARI, J.)