

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5219 of 2019

Gaurav S/o Manish Jadhav, Minor, through his natural Guardian
Shri Manish S/o Vasantrao Jadhav

Versus

The Director of Medical Education and Research, Govt. Dental College and
Hospital, Mumbai, and another.

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

Shri N.B. Kalwaghe, Advocate for Petitioner.

Shri A.M. Deshpande, Additional Government Pleader for Respondent
No.1.

Shri Nahush Khubalkar, Advocate for Respondent No.2.

Coram : R.K. Deshpande & Vinay Joshi, JJ.

Date : 24th July, 2019

This petition seeks a direction to the respondents to permit the petitioner to change his category from Open to Socially and Economically Backward Class (SEBC) category and to consider his claim for admission to the 1st Year MBBS Course in the Academic Session 2019-20.

The facts of the case are that the petitioner was declared successful in the NEET-UG-2019 Examination and he secured 433 marks. He applied on 23-6-2019 as a candidate from Open category. After submission of application, probably he could realize that his father could get a non-creamy lawyer certificate, as he was in Group-C category under the Central Railway. He, therefore, applied on 5-7-2019 for issuance of such certificate. Prior to that, on 3-7-2019, the petitioner informed in writing to CET Cell that he desires to change

his category from Open to SEBC and a certificate of non-creamy layer shall be submitted in due course of time. Undisputedly, the last date for verification of the documents, including the claim for SEBC category, was prescribed as 5-7-2019. The petitioner got such certificate on 6-7-2019, though it was issued on 5-7-2019. On 7-7-2019, the Provisional State Merit List of the candidates was published, in which the last candidate to get the admission from SEBC category secured 399 marks. The petitioner submitted the non-creamy layer certificate on 9-7-2019. However, the respondents have not effected any change in the Provisional State Merit List published on 7-7-2019.

No doubt, that the last candidate in the Provisional State Merit List getting the admission from SEBC category has secured 399 marks and the petitioner having secured 433 marks stands above such candidate to get the admission. In spite of having all sympathies with the petitioner, we are unable to accept his claim, for the reason that (i) there was a fault on the part of the petitioner to produce the non-creamy layer certificate prior to 5-7-2019, and (ii) the petitioner submitted on-line application on 23-6-2019 as the Open candidate. Entertaining the claim of the petitioner, would defeat the rights of certain persons whose names are already included in the Provisional State Merit List. We think that unless rules help the petitioner, it will not be possible for us to defeat legitimate expectations of those included in the Provisional State Merit List. All the instructions were issued well in advance and brought to the notice of all the candidates.

We, therefore, dismiss this petition.

(Vinay Joshi, J.)

(R.K. Deshpande, J.)