

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

967 WRIT PETITION NO.6996 OF 2020

PARTH VIDYASAGAR SHINDE ..PETITIONER

VERSUS

THE UNION OF INDIA AND OTHERS ..RESPONDENTS

...

Mr. Ganesh Gade, Advocate for the Petitioner.

Mr. K. N. Lokhande, AGP for Respondent-State.

Mr. A. G. Talhar, A.S.G. for the Respondent Nos.1
and 2.

Mr. V. P. Latange, Advocate for Respondent No.4.

Mr. S. S. Deshmukh, Advocate for Respondent No.2.

Mr. A. S. Reddy, Advocate for Respondent No.3.

...

AND

969 WRIT PETITION NO.7272 OF 2020

TANISHKA PRASANNA CHAVAN ..PETITIONER

VERSUS

THE UNION OF INDIA THROUGH SECRETARY
AND OTHERS ..RESPONDENTS

AND

971 WRIT PETITION NO.7312 OF 2020

KUNAL KIRAN SALUNKE ..PETITIONER

VERSUS

THE UNION OF INDIA AND OTHERS ..RESPONDENTS

...

Mr. Avishkar S. Shelke h/f Mr. Majit S. Shaikh,
Advocate for the Petitioner.

Mr. D. R. Kale, Incharge G.P. for Respondent-State.

Mr. A. G. Talhar, A.S.G. for the Respondent No.1.

Mr. V. P. Latange, Advocate for Respondent No.4.

Mr. S. S. Deshmukh, Advocate for Respondent No.2.

Mr. A. S. Reddy, Advocate for Respondent No.3.

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**CORAM : S. V. GANGAPURWALA &
R. G. AVACHAT, JJ.**

DATED : 06th NOVEMBER, 2020.

PER COURT:-

1. Mr. Shelke, learned counsel and Mr. Gade, learned counsel for respective petitioners submit that the petitioners had passed CLAT examination and were shown as eligible candidates to be admitted in the National Law Universities in the State of Maharashtra from SEBC category. The admission process has commenced. The petitioners were allotted Maharashtra National Law University, Mumbai and Maharashtra National Law University, Nagpur. Even the further process had been done except the stage of verification of the documents. Subsequently, respondents canceled the allocation of colleges to the petitioners on the ground that the Hon'ble Apex Court has stayed the SEBC reservation. The petitioners could have been considered from the EWS. The learned counsel for the petitioners rely upon the interim order passed by the Hon'ble Apex Court in a case of **Janhit Abhiyan Vs. Union of India in Writ Petition (Civil) No.55/2019**. The learned counsel submit that once the admission process starts, the modalities cannot be changed.

2. Mr. Gade, learned counsel relies on the judgment of the Larger Bench of the Apex Court in a case of **S. Krishna Sradha Vs. State of Andhra Pradesh and Others** dated December 13, 2019 in Civil

Appeal No.1081 of 2017 and submits that if it is not the fault of the candidate, then High Court may direct admission to be given even after the cut off date.

3. The learned counsel appearing for the Maharashtra National Law University, Mumbai and Maharashtra National Law University, Nagpur submit that no vacancy exists, all seats are filled in. The learned counsel for consortium submits that after the stay was granted on 11.09.2020 by the Hon'ble Apex Court to SEBC reservation, the Press Note was released to the effect that those who had applied from the SEBC category would be considered from the Open category. All these petitioners were considered from the Open category, however, could not get admission on merit.

4. The petitioners had applied from the SEBC category and were also allocated the colleges that is Maharashtra National Law University, Mumbai and Maharashtra National Law University, Nagpur. In the interregnum, the Hon'ble Apex Court had stayed the reservation for SEBC. These petitioners are considered from the Open category. They could not get admission from Open category on merit.

5. The petitioners in Writ Petition No.7272/2020 and Writ Petition No.7312/2020 do not possess EWS certificates. Their admissions were never confirmed with the Universities. The verification of the documents has yet to take

place. In view of the stay granted by the Hon'ble Apex Court to the SEBC reservation, naturally, the claims of the petitioners from SEBC category could not have been processed further. It would have been another thing had the admission of these petitioners were confirmed.

6. The interim order of the Apex Court relied by Mr. Shelke, learned counsel would not inure to the benefit of the petitioners, in as much as, in the said case 10% reservation was provided to EWS category in on going admission process. The said reservation was provided by the Government. In light of that, Court observed that the said reservation would not apply for the same year. The Apex Court kept in mind the need to balance the competing claims which balance could be upset by claim of equity, if the reserved category candidates are allowed to undergo the medical course(s) and in the event their admission is found to be untenable at a later stage of proceedings. The said judgment instead of helping the petitioner would go against the petitioner. If the same analogy is applied, as applied by the Apex Court if the petitioners are allowed to be admitted from the SEBC category and subsequently, the reservation for SEBC is quashed, it is the petitioners who would stand to loose.

7. The judgment of the Larger Bench of the Apex Court in a case of **S. Krishna Sradha Vs. State of Andhra Pradesh and Others** (supra) would also not

assist the petitioners. In the said case the Apex Court had held that if it is not fault of the candidate/student, then the Court can in exceptional circumstances in rarest of rare case direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats.

8. In the present case, the admission of the petitioners are not confirmed. In view of the stay granted by the Apex Court, the petitioners cannot be considered from the SEBC category, however they were give opportunity to be considered from the Open (General) category. Unfortunately, they could not get admission from Open (General) category. In Writ Petition No.6996/2020 the petitioner secured EWS certificate on 20.10.2020 and at that time the vacancies were filled in. The petitioners had not applied from the EWS category, nor could have applied. The candidates seeking benefit of Social Reservation are not entitled to apply from EWS. Naturally, the petitioners did not have EWS certificates at the relevant time and it is only on 20.10.2020 the petitioner in Writ Petition No.6996/2020 could get the E.W.S. certificate. By that time, it would not possible for the respondents to restructure.

9. In case the vacancies exist as on the date or if the vacancy is created in the Maharashtra National Law University in the State of Maharashtra, the respondents may consider the case

of petitioner in Writ Petition NO.6996/2020 from EWS category, provided that the petitioner produce EWS certificate immediately with the authority and the same would be permissible according to the Rules and Regulations of the respondents and keeping in mind the merit of the persons given admission from the EWS category. The petitioner shall submit his EWS certificate with the authority immediately.

10. Writ Petitions are disposed of. No costs.

(R. G. AVACHAT)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/November-2020