

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

WRIT PETITION 8100 OF 2020

Sairaj s/o Keshavrao Jadhav

.. Petitioner

Versus

The State of Maharashtra
and ors.

.. Respondents

Mr V.B. Dhage, Advocate for petitioner
Mr A.R. Kale, A.G.P. for respondents no.1, 2 and 5
Mr S.G. Karlekar, A.G.P. for respondent no.4

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 8th December 2020

PER COURT :

1. The learned Counsel for the petitioner submits that the petitioner had applied from E.W.S. category seeking admission to the Medical Course pursuant to his performance being made. The petitioner was allotted respondent no. 6 College but the certificate was not in proper format, the same was not accepted.
2. This Court, on 27.11.2020 in Writ Petition No. 7847 of 2020, directed the authority to issue the certificate in the proper format. The petitioner was earlier, on 3.9.2020 issued with the E.W.S. certificate, however, in incorrect format.
3. The contention of the petitioner is that he had applied from E.W.S. and never applied from S.B.E.S. for admission to the medical course. The petitioner was possessing E.W.S. certificate on 3.9.2020, but same was in incorrect format probably, the caste was mentioned as 'Maratha' and as at the relevant time, the caste Maratha came within the purview of S.E.B.C, the certificate of E.W.S. produced by the petitioner was not held to be valid. The

petitioner approached this Court. This Court, on 27.11.2020 passed order directing the authority to issue E.W.S. certificate to the petitioner after obtaining undertaking from the petitioner that during the entire educational career, the petitioner would not seek benefit of reservation other than E.W.S. The petitioner filed such an undertaking on 4.12.2020 for the E.W.S. certificate in the correct format. The petitioner was allotted respondent no.6 as per the contention of the petitioner. However, the last date for submission of E.W.S. certificate was 27.11.2020 and the E.W.S. certificate of the petitioner was not in proper format, so the same was not accepted.

4. The issue of reservation to S.E.B.C. is subjudice before the Apex Court and the stay has been granted by the Apex Court to S.E.B.C. reservation.

5. The petitioner claims that at no point of time, he has claimed admission from S.B.E.C. Only because the E.W.S. certificate mentioned his caste as Maratha, the E.W.S. certificate was not accepted by the institution.

6. It appears that in the whole process, the petitioner is not at fault. The petitioner had the certificate of E.W.S. on the relevant date. He had also tried to tender the said certificate, but as the certificate of E.W.S. was not in proper format, the same was not accepted. It would be too technical to deny the petitioner benefit of E.W.S. only on the ground that E.W.S. certificate was not in proper format, more particularly, when the issue was pending before the Apex Court for reservation to S.E.B.C.

7. Considering the above, in case the seat allotted to the petitioner in the first round from E.W.S. is not allotted to any other candidate, then the petitioner be given admission in the said College, if the petitioner is otherwise eligible. In case for some reason, the seat cannot be now allotted to the

petitioner that was allotted in the first round, then case of the petitioner should be concerned from E.W.S. for the second round.

8. Writ Petition disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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