

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9140 OF 2020

PALLAVI UKHAJEE GADHAVE
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL SECRETARY AND
OTHERS

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Advocate for the Petitioner : Shri S.S.Thombre
AGP for Respondent 1 : Shri S.R. Yadav Lonikar
Advocate for Respondent 2 : Shri M.D. Narwadkar

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CORAM : RAVINDRA V. GHUGE
&
SMT. VIBHA KANKANWADI, JJ.
(VACATION COURT)

DATE :- 31st December, 2020

Per Court :-

1. The petitioner, a special person (physically challenged girl), is
before this Court with the following prayer clauses :-

- “B. By issuing writ of mandamus or any other writ or order or directions in the like nature, the respondent no.3 may kindly be directed to grant an admission to the petitioner as per the 2nd CAP round of M.B.B.S. Medical Course for the academic year 2020-21 and for that purpose issue necessary orders.
- C. By issuing writ of certiorari or any other writ or order or directions in the like nature, the admission of the

petitioner which is cancelled by the respondent no.4 may kindly be quashed and set aside thereby directing to restore the admission of the petitioner for the M.B.B.S. Medical Course for the academic year 2020-21 as per the 1st CAP round and for that purpose issue necessary orders.

D. By issuing writ of mandamus or any other writ or order or directions in the like nature, the respondent no.2 may kindly be directed to include the name of the petitioner for next CAP round of M.B.B.S. Medical Course for the academic year 2020-21 and for that purpose issue necessary orders.”

2. Respondent Nos.3 and 4 are formal parties since the petitioner had earlier secured admission to the M.B.B.S. course with respondent No.4/ Government Medical College & Hospital, Jalgaon in the first “Centralized Admission Process” (CAP) round and subsequently, with respondent No.3/ Tilak Medical College and Hospital, Mumbai in the second CAP round.

3. Shri Narwadkar, learned advocate, appears on behalf of respondent No.2 and the learned AGP appears on behalf of respondent No.1.

4. This petition throws up peculiar facts before us. The petitioner secured admission to the M.B.B.S. course from the physically handicapped quota with respondent No.4 College at Jalgaon in the first CAP round. She reported to respondent No.4 College and paid the fees and thus, her admission was secured. However, subsequently when she realized that she has succeeded in securing admission in the second CAP

round with respondent No.3 College at Mumbai, she gave up her admission with respondent No.4 College at Jalgaon and after collecting all original documents, proceeded to approach respondent No.3 at Mumbai. However, at that time, she failed in tendering her retention form, inasmuch as, she did not report to respondent No.3 College within the time frame so as to maintain her admission with the said college. Consequentially, going by the Rules as pointed out by Shri Narwadkar, the petitioner lost her admission even with respondent No.3 College at Mumbai.

5. We find from the above facts that this is an unfortunate peculiar case wherein, a physically challenged girl student, though having secured admission on merit in two Government Medical Colleges, has lost her admission in both these colleges only because of lack of proper instructions in filling up the retention form and reporting at respondent No.3 College within the time prescribed, with the original documents.

6. We called upon Shri Narwadkar to take instructions as to whether, the petitioner can be considered for admission in the second mop-up round likely to be commenced on 01.01.2021 and would last up to 07.01.2021. These details are found on the website of respondent No.2 and therefore, the petitioner, upon viewing the website, would become aware of such mop-up II round.

7. Shri Narwadkar, upon instructions, submits that respondent

No.2 cannot make a statement of guaranteeing admission to the petitioner considering the NEET UG Rules, 2020 vide which, the petitioner now cannot be considered for admission. He, however, fairly submits that there is possibility that the remaining candidates, who would be considered in mop-up-II round might have scored less marks than the petitioner.

8. The learned advocate for the petitioner submits, on instructions taken from the petitioner, that in the event of any seat available in the physically handicapped category, she may be considered from the said category and in the event, there being no such seat available for the physically handicapped student, she is willing to compete from the open category based upon the marks secured by her.

9. In these circumstances, we find it appropriate to direct that the petitioner may be considered for the mop-up II round based on her marks scored in the concerned examination and would have the liberty of being considered from the physically handicapped category if such a seat is available from such category. If no such seat is available, she can be considered from the general category.

10. With the above directions, we expect respondent No.2 to permit the petitioner to participate in the mop-up II round. This Writ Petition is, accordingly, disposed off.

11. Since we have dealt with a peculiar case of a physically challenged girl student, who has been in the merit list in the light of

having secured admission in the Government Medical Colleges at Jalgaon as well as at Mumbai, that this case shall not be cited as a precedent.

kps

(SMT. VIBHA KANKANWADI, J.)

(RAVINDRA V. GHUGE, J.)