

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

WRIT PETITION NO. 731 OF 2021

Yadnya Sandip Yeolekar

... Petitioner.

Versus

The Union of India
and others

... Respondents.

....

Mr. Amit S. Savale, Advocate for the Petitioner.

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

....

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

DATE : 25th JANUARY, 2021

PER COURT:-

1. The petitioner allotted a seat in first round of respondent Institute for B planning. His admission is subsequently cancelled for non payment of fees.

2. The petitioner's contention is that the students who were allotted seats in the second round were given extension of time to deposit the fees and for the students admitted in the first round, the respondents did not extend time for payment of fees. The petitioner had filed writ petition No.8420/2020. This Court, on 21.12.2020 passed the following order.

“1. The learned counsel for the petitioner submits that the petitioner was allotted seat in the first round at respondent no.3-Institute. The petitioner made part payment of the fees, but could not collect the entire fees. The respondent did not extend the time for payment of fees. The second round commenced. The students who were allotted seats in the second round were given extension of time to deposit the fees. The respondents adopted discriminatory approach. For the students admitted in the first round, the respondents did not extend time for payment of fees, however, the same benefit was given to the students admitted in the second round. No rational reason is put forth by the respondents.

2. Mr. Talhar, learned A.S.G. submits that the time was extended for payment of fees to the students admitted in the second round because of natural calamities i.e. Cyclone Nivar and due to the impact of the Cyclone large number of requests from the candidates who were allotted seats in the Second Round were received as such the time was extended. Now the seats are not vacant.

3. It is not disputed that the petitioner had made part payment of fees. The petitioner had secured good marks in JEE (Mains) Examination and was allotted seat in the first round from OBC category. The petitioner's father is in private service. The petitioner had paid almost 50% amount of the fees i.e. Rs.37,000/-.

4. We cannot disturb the seats already allotted. It is submitted that the seat allotted to the petitioner with respondent no.3 is already filled in. For the fault of the petitioner, we cannot displace the candidates who are already allotted the seats.

5. In case, if any seat is vacant as on date of the category from which the petitioner had applied, then the respondent may consider allotment of seat to the petitioner on payment of entire fees.

6. Writ Petition is disposed of. No costs.”

3. The said order was not assailed by any party. In spite of the said order, the petitioner was not given the admission. The petitioner, thereafter, has filed the instant writ petition.

4. We have heard Mr. Salve, learned counsel for the petitioner and Mr. Talhar, learned A.S.G. for respondent Nos. 1 and 2.

5. Mr. Talhar, learned A.S.G., on institutions, submits that one seat for B planning student is vacant with respondent No.3 i.e. institute, where the petitioner was allotted the seat.

6. Considering the earlier order passed by this Court on 21.12.2020 in writ petition No.8420/2020 and further the fact that the seat with respondent No.3 is still vacant, we direct the respondent

No.3 to allot the said seat to the petitioner provided there is no impediment and the petitioner pay the entire fees within a period of two weeks from today.

7. We have passed this order on the premise that earlier this Court had passed the order in writ petition No.8420/2020 so also to consider the equity. The same would not tantamount to any precedent.

8. The writ petition is disposed of. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

S.P. Rane