

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

CIVIL APPLICATION NO.3143 OF 2019
IN
WRIT PETITION NO.11863 OF 2015
WITH
WRIT PETITION NO.11863 OF 2015

KU SHAH NIDA AFRIN NAWAB NIZAMUDDIN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for the Applicant/ Petitioner : Shri A.P. Bhandari
AGP for Respondents 1 and 2 : Shri S.G. Sangle
Advocate for Respondent 4 : Shri K.C. Sant
...

**CORAM : RAVINDRA V. GHUGE
&
B. U. DEBADWAR, JJ.**

DATE :- 07th May, 2021

Per Court :-

1. On 26.02.2019, this Court (Coram : T.V. Nalawade & Sunil K. Kotwal, JJ) had passed the following order :-

- “1. Call record and proceeding. The learned AGP is to take steps to see that the record and proceeding is brought before this Court immediately.
2. Call record in respect of validity orders in respect of brothers of the petitioners viz. Danish Nawab Nizamuddin Shah and Ajahat Nawab Nizamuddin Shah.
3. List the main matter for final disposal at admission stage on 15.03.2019. Civil Application will be disposed of along with the main matter.”

2. Today, the learned advocate for the applicant/ original petitioner submits that, notwithstanding the above order, this Civil Application has been circulated in an emergent situation since the final year result of MBBS course of the petitioner has not been declared and withholding of the said result is likely to deprive her of the internship programme, which would start in this month.

3. We have considered the submissions of the learned advocate for the applicant, the learned AGP and the learned advocate representing respondent No.4/ Maharashtra University of Health Sciences, Nashik.

4. We are informed by the applicant that though the applicant is ready for final hearing, which may not be feasible in the restricted court hearing on account of covid-19 pandemic, the applicant is ready to proceed with the petition as and when it would be listed. However, the applicant requires an urgent order from this Court in terms of the declaration of her final year MBBS result since the applicant is likely to lose her opportunity of internship if this matter is taken up after normal physical hearing is restored in the courts. Reliance is placed on the order passed by this Court (Coram : S.V. Gangapurwala and S.D. Kulkarni, JJ) dated 04.05.2021 in Writ Petition Nos.6321/2021 to 6334/2021.

5. The order dated 04.05.2021 referred to above by the applicant, reads as under :-

“1. In all these matters the grievance of the petitioners it

appears is that they have appeared for examination. The results are not declared and that they may be permitted to either prosecute their internship and/or further course of M.B.B.S. The validation proceedings in respect of these petitioners is pending before the Scrutiny Committee.

2. *We have heard the learned counsel for respective petitioners, the learned A.G.P and learned counsel for respondent no.2.*
3. *It is not disputed that in all these matters the validation proceedings are pending before the Scrutiny Committee.*
4. *The Scrutiny Committee shall decide the validation proceedings in respect of tribe claim of petitioners preferably within a period of six (06) months from the date of appearance of the petitioners before the Scrutiny Committee. The petitioners shall appear before the Scrutiny Committee on 16.06.2021.*
5. *In those matters where petitioners have appeared for final year M.B.B.S. examination and examination results are not declared, the examination results shall not be withheld only on the ground that validation proceedings are pending and in case they are otherwise eligible they may not be refrained from prosecuting their internship.*
6. *In those petitions where petitioners have appeared for either 1st year or 2nd year M.B.B.S. examination, their results shall not be withheld only on the ground that validation proceedings are pending and in case they are otherwise eligible they may be allowed to prosecute studies for further year.*
7. *The respondents may take further course of action depending upon the judgment that would be delivered by the Scrutiny Committee in their validation proceedings.*
8. *Writ Petitions are disposed of. No costs."*

6. The learned advocate for the applicant submits that though her caste validity claim has been rejected, the caste validity claims of her two biological brothers viz. Danish Nawab Nizamuddin Shah and Ajahat Nawat Nizamuddin Shah have been validated. The said validity

certificates issued by the competent scrutiny committee are at page Nos.27 and 28 of the writ petition.

7. The learned advocate for the Health University submits that though the result of the present applicant/ petitioner can be declared so as to avoid deprivation of an opportunity of undergoing internship, this Court should record that no right would accrue to the applicant by virtue of this order.

8. We have perused the order dated 03.02.2017 (Coram : S.V. Gangapurwala and S.S.Patil, JJ) in the original Writ Petition No.11863/2015, vide which the applicant was protected since her claim for validation was pending. By order dated 21.02.2017 (Coram : S.V. Gangapurwala and K.L. Wadane, JJ), this Court noted that the caste claim of the applicant/ petitioner is invalidated and granted her protection by directing that no adverse action should be taken against her on the ground that her caste claim is invalidated. We are informed that ever since the filing of this petition and the invalidation of the caste claim of the applicant/ petitioner, she has been granted interim relief by this Court, from time to time, to the extent of protecting her admission to the MBBS course and declaration of her results.

9. In view of the above, this Civil Application No.3143/2019 is partly allowed under the following directions :-

(a) Result of the applicant/ petitioner, which has been withheld,

shall be declared.

(b) The applicant/ petitioner is permitted to apply for internship training.

(c) No equities would be created in favour of the applicant by virtue of this order.

(d) In the event, the applicant/ petitioner fails in the writ petition, no right shall accrue to the petitioner and she shall suffer the consequences as is the crystallized position of law.

10. List the Writ Petition for final hearing on 10.06.2021 at 02:30 PM.

kps

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)