

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

**CIVIL APPLICATION NO.11769 OF 2021
IN WP/2588/2018
WITH
WRIT PETITION NO.2588 OF 2018**

**VIVEK VITTHAL SHAMANTE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Applicant/ petitioner : Mr.A.S. Golegaonkar h/f
Mr.Golegaonkar Madhur A.
AGP for Respondents 1 and 2 : Shri P.S. Patil
Advocate for Respondent 3 : Shri K.M. Suryawanshi
...

**CORAM : RAVINDRA V. GHUGE
&
S.G. MEHARE, JJ.**

DATE :- 29th October, 2021

Per Court :-

1. The applicant/ petitioner has put forth prayer clause
B in the Civil Application as under :-

“B) To direct the respondent No.3 and 4 to declare result
of applicant by issuing original marks memo of Third (I) MBBS
degree course and allow the applicant to appear Third (II) MBBS
Degree course by accepting examination form for the same,
during the pendency of her tribe claim, by issuing appropriate

writ, order or directions.”

2. In the Writ Petition, the petitioner has put forth prayer clauses B and C, which read thus:-

- “B) *To direct respondent No.2 Committee to decide tribe claim of the petitioner within stipulated period, as this Hon’ble Court deems fit by issuing appropriate writ, order or directions as the case may be.*
- C) *To quash and set aside the impugned letter dated 03.02.2018 issued by respondent no.4 (Exhibit I) and direct the respondent no.3 and 4 to accept his examination form and allow the petitioner to continue his studies in MBBS course as well as declare his result time to time and grant him admission to the up-coming year/ years pending decision of the committee i.e. respondent No.2 and to consider him eligible for the MBBS 1st year course, as this Hon’ble Court deems fit by issuing appropriate writ, order or directions as the case may be.”*

3. The claim of the petitioner of belonging to “Mannervarlu” (Scheduled Tribe) was tendered for validation to the competent scrutiny committee i.e. respondent No.2 on 06.09.2017. Now, the petitioner is seeking admission in the third year second semester of MBBS degree course. Four years have lapsed and the learned AGP representing the scrutiny committee submits, on specific instructions, that the validation claim of the

petitioner is still pending at the vigilance committee report level, which can be said to be the first stage in the scrutiny process.

4. It is quite shocking to us that the validation claim of the student, after passage of four years, is at stage one. Needless to state, time has come for this Court to react to such situation to ensure that such claims and especially the claims of students, are decided expeditiously. This has become more necessary in view of the law laid down by the Honourable Supreme Court in the matter of *Chairman and Managing Director, Food Corporation of India and others vs. Jagdish Balaram Bahira and others, (2017) 8 SCC 670*, vide which the benefits derived by the candidate on the basis of his claim of belonging to the reserved category, will have to be taken away if such claim is negated. It would be ironical that a student completes his MBBS degree course and qualifies to be a Doctor and subsequently, his very admission is required to be held illegal if the caste/ tribe claim is invalidated.

5. In view of the above, the Civil Application as well as the Writ Petition are partly allowed with the following directions :-

(a) Result of the petitioner of third year first semester examination of the MBBS degree course, shall be declared

within 10 (ten) days from today.

(b) The validation claim of the petitioner shall be decided by the competent scrutiny committee as expeditiously as possible and not beyond 31.05.2022.

(c) No equities would be created in favour of the petitioner pursuant to the orders of this Court if his claim is invalidated by the scrutiny committee, of course subject to his right to challenge the same.

6. We deem it appropriate to direct the Principal Secretary, Tribal Development Department, State of Maharashtra and the Commissioner, Tribal Research and Training Institute, Pune, to ensure that the caste/ tribe claims of the students should be decided in accordance with the procedure laid down, within a period of 12 months from the date of the submission of such claims and if any claimant is found to be delaying the proceedings, the scrutiny committee should be permitted to proceed to the next stage keeping in view the dilatory tactics of the claimant. So also, the Principal Secretary, Home Department, State of Maharashtra shall ensure that these directions shall apply with equal force to the Vigilance Officers as it is noticed in

several cases that the Vigilance Officers delay the submissions of the vigilance reports.

7. The learned Registrar (Judicial) of this Court shall place a copy of this order before the above authorities so as to enable them to issue appropriate directions to the caste/ tribe scrutiny committee members. Laxity on the part of the committee members shall be dealt with by way of disciplinary action as and when such occasion will arise.

kps (S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)