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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9471 OF 2021

Shivank Vikram Singh

.. Petitioner

Versus

The State of Maharashtra and Others

.. Respondents

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Mr Vishnu B. Madan, Advocate for the Petitioner

Mr K.N. Lokhande, AGP for Respondent No.1

Mr M.D.Narwadkar, Advocate for Respondent No.2

Mr S.G. Chapalgaonkar, Advocate for Respondent No.3

Mr Y.B. Bolkar, Advocate h/f. Mr L.S. Mahajan,

Advocate for Respondent No.4

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CORAM : S. V. GANGAPURWALA
AND
R.N. LADDHA, JJ.

DATE : 22-09-2021

PER COURT : -

1. The petitioner appeared for CET examination for the purpose of seeking admission to five year decree course in law in the State of Maharashtra. The petitioner in the first round of the admission process was allotted Respondent No.4 – College. On 09-02-2021 the petitioner filled in the requisite admission form with Respondent No.4. On the said date the petitioner also paid Rs.4,000/- fees with Respondent No.4 and confirmed his admission.

2. It appears that the petitioner did not freeze the admission with respondent no.4 and participated in the second round of admission for better preference college. It is the stand of respondent no.2 that the petitioner refused admission for the better preference. The petitioner appeared in the first semester examination of the first year LL.B. five year course conducted by respondent no.3 – University from respondent no.4 - College. On or about 08-07-2021 respondent no.2 sent mail to respondent no.4 - College that the petitioner refused to seek admission in a better preference college and as such, his admission cannot be regularized. Subsequently, on or about 17-08-2021 respondent no.4 - College intimated the petitioner that CET cell did not confirm the admission of the petitioner.

3. The learned Counsel for the petitioner submits that the petitioner had already taken admission. He had completed more than one term and thereafter his admission is sought to be cancelled. The petitioner is eligible student. He had appeared through CET cell and was allotted Respondent No.4 - College in first round. The act of the respondent is erroneous.

4. Mr Bolkar, learned Counsel for respondent no.4 – College confirms that the petitioner had taken admission with respondent no.4 - College on 09-02-2021 and also deposited the fees and all the required documents and as such, he was admitted. He had completed the term for appearing in the examination of the first semester and he has secured about A++ grade in the first semester examination conducted by the University.

5. Mr Narwadkar, learned Counsel for respondent no.2 submits that the petitioner is not entitled to get his admission regularized. The petitioner was allotted respondent no.4 - College in the first round. The petitioner did not freeze the admission with respondent no.4 meaning thereby that he wanted to participate in the further round and get a better preference college. In the second round, the petitioner refused admission to the college allotted to him with a better preference. In view of that the petitioner's admission with respondent no.4 cannot be said to be regular.

6. Mr Narwadkar, learned Counsel refers to clause 'k' of the brochure, which reads thus:

"k. Candidates who have been allotted seat OTHER THAN FIRST PREFERENCE in Round - I and reported to Institution for confirmation of seat acceptance, whilst filling fresh option form, he need not fill the preference already allotted to the Candidate in the previous Round-I. Once preference upward preference is allotted to such Candidate, his earlier seat allotment shall stand automatically cancelled due to application of LOGIC OF DYNAMIC ALLOCATION. If the candidate is not allotted seat in Round-II, the seat allotted in Round-I, as the case may be, shall be retained automatically but the Candidate will have to report to Admitting College and concerned college or Institute for Confirmation of Admission again for Round-II. If the candidate does not report to the college in the specified period, his seat will stand forfeited automatically."

7. The learned Counsel submits that in the event upward preference is allotted to a candidate, his earlier seat allotted shall automatically stand cancelled due to the application of Logic of Dynamic Allocation. In the present case, the petitioner was allotted the betterment preference being preference no.8 in round - II as against the preference no.16 in round - I. A telephonic call was made to the petitioner on behalf of CET cell enquiring about the confirmation of admission in the college allotted in round - II. The petitioner refused to confirm the

admission to the college allotted in round - II. In view of that, his admission to respondent no.4 - College allotted to him in round - I automatically stands cancelled and the said fact was communicated to respondent no.4 - College on 08-07-2021.

8. We have considered the submissions advanced by the learned Counsel appearing for the respective sides. It is not disputed that the petitioner is eligible to be admitted to the LL.B. course. The petitioner has participated in the CET examination of the State of Maharashtra and has cleared it. Based upon his performance in the CET, in Round -I the petitioner was allotted respondent no.4 - College. He took admission in respondent no.4 - College and also paid the fees and submitted the documents. The mistake committed by the petitioner appears to be that he did not freeze the seat and in the second round he was allotted a better preference college. He did not accept the same.

9. The learned Advocate for respondent no.4 - College and also the learned Advocate for respondent no.3 - University confirm that the petitioner had appeared for first semester

examination and has cleared it securing A++ grade. In case the admission of the petitioner with respondent no.4 - College is cancelled, the same ought to have been communicated to the petitioner immediately. However, the College for the first time on 17-08-2021 communicated to the petitioner that his admission is not confirmed by the CET cell. CET cell on 08-07-2021 communicated to the college that the admission of the petitioner with respondent no.4 - College cannot be confirmed. It is not the case of the respondents that the petitioner is not eligible. It is also not the case that respondent no.4 – College has admitted more students than the required strength allotted to it even if the admission of the petitioner is considered in respondent no.4 - College. It would be too late now to cancel the admission of the petitioner. Reference can be had to the judgment of the Hon'ble Apex Court in the case of **Shri Krishnan Vs. The Kurukshetra University, Kurukshetra** reported in (1976) 1 SCC 311.

10. Considering the peculiar facts of the case and the fact that the petitioner is eligible, he was already admitted to Respondent

No.4 - College, he had already paid the fees and submitted all the documents so as to completed the entire term of first semester and has also cleared 1st semester with A++ grade, we are inclined to protect his admission.

11. In light of that, we pass the following order.

ORDER

- (i) The impugned communication is quashed and set aside.
- (ii) The respondents shall regularise the admission of the petitioner with respondent no.4 - College.
- (iii) Writ Petition is disposed of.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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