

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

20 WRIT PETITION NO.10109 OF 2021

BUSHRA MASROOR SYED AZAM

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Taher Ali Quadri, Advocate for the Petitioner.

Ms. G. L. Deshpande, AGP for Respondents-State.

...

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATED : 14th SEPTEMBER, 2021.

PER COURT:-

1. The learned counsel for the petitioner seeks directions for cancellation of the examination commencing from 16.09.2021. According to the learned counsel, the petitioner is eligible to appear for the 12th standard examination to be held on 16.09.2021. According to the learned counsel, the pandemic is not over as yet. The NEET examination has been held on 12.09.2021. Clause 4.4 of the Brochure/Information Bulletin for the National Eligibility Cum Entrance Test (UG) 2021 prescribes that, a candidate who is appearing in the qualifying examination, i.e. 12th Standard in 2021, whose result is awaited, may apply and appear in the test but he/she shall not be eligible for admission to the Undergraduate Medical Courses if he/she does not pass the qualifying examination

with the required pass percentage at the time of first round of counselling. The learned counsel further submits that, if the examination is held on 16.09.2021 and the results are not declared till the first round, appearance in examination would carry no meaning.

2. The Clause (E) of the Government Resolution dated 02.07.2021 issued by respondent no.1 is discriminating the petitioner and similarly situated students under Class Improvement Scheme. Those students who have failed in the examination, their performance will be evaluated on the basis of the passed exams and students who have passed will have to appear for Class Improvement and they are not given benefits of their past performance.

3. We have also heard learned A.G.P.

4. The students who have passed in the examination cannot be placed on the same pedestal, as the students failing in the examination. The petitioner has already passed in examination. After having passed in the examination cannot say now his performance can be assessed on the basis of the past examination.

5. In educational matters, framing of the policy decision is with the domain of the experts. The Apex Court in the case of **Maharashtra State Board of Secondary And Higher Secondary Education,**

Pune Vs. Paritosh Bhupeshkumar Sheth reported in (1984) 4 SCC 27 has held that, the Courts do not possess the necessary expertise in the academic matters. The policy decision in respect of the academic matters has to be left to the academicians who are experts in the said field. The Courts cannot substitute its views only because it finds that a particular policy would be more prudent.

6. This Court under order dated 02nd September, 2021 in Writ Petition No.8928 of 2021 with connected writ petitions has also refrained from entertaining the writ petitions. The same was the view adopted by the Division Bench of this Court at Nagpur Bench under its judgment and order dated 01st September, 2021 in Writ Petition No.2708 of 2021.

7. In light of that, no relief can be granted to the petitioner.

8. Writ Petition is disposed of. No costs.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE