

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11652 OF 2016

UGALE RUCHIRA GEORGE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.M.V.Salunke, Advocate for the petitioners.
Mr.M.D.Narwadkar, Advocate for respondent Nos. 1 and 2.
Mr.K.C.Sant, Advocate for respondent No.3.

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

DATE : DECEMBER 16, 2021

PER COURT :

1. On 09/12/2021, we had passed the following order :-

"1. We have briefly heard the learned counsel for the respective sides. We have perused the affidavit in reply filed on behalf of respondent no.3 – Medical University through Ameet Vilas Wangikar dated 01.09.2021 in which it is stated in paragraph no.5 as under :-

"5. As regards the contents of para No.9, I say and submit that since the petitioner No.1 has secured admission in Aditya Dental College, Beed for the course of BDS under the 15% NRI quota and through OBC category hence it was necessary for her and respondent No.4 to comply with requirement of caste validity certificate to claim her right on the said seat. The

petitioner has failed to do so hence the University cannot grant eligibility to the petitioner student and cannot allow her to appear in the University examination. It is further submitted that, after submission of eligibility proposal of petitioner No.1 alongwith caste validity certificate and approval of former Pravesh Niyamtran Samiti, registration and eligibility will be granted to petitioner by respondent No.3 and accordingly petitioner's student will be entitled to prosecute her further study."

2. *When called upon to explain the contents of the above paragraph, Shri Sant, the learned advocate representing the University submits that the averment in the above paragraph may not be correct. Once a student is admitted through the NRI quota, there is no question of a reservation on caste basis under the NRI quota. Such NRI quota is an exclusive quota through which a candidate could be admitted and then the general admission rules would apply to such a candidate as if he is from the open category.*

3. *The learned advocate for the petitioner Ms. Ugale submits that paragraph no.4 of the rejoinder of the petitioner dated 15.11.2021 was in response to the averments of the University in paragraph no.5 reproduced above. She has a validity certificate declaring that she belongs to the Other Backward Class category. He further submits that the petitioner is admitted for the BDS Course in the academic year 2012-13 with respondent no.4 -*

College and would not seek any benefit of any caste reservation by relying on the validity certificate that she possesses.

4. *The learned advocate representing respondent no.2 – Admission Regulating Authority submits that he is causing an appearance today as the learned AGP had inadvertently earlier waived service for respondent no.2. He submits that he would take immediate instructions in this matter within one week.*

5. *We find that this petition has been lodged in this Court on 18.11.2016. As the result of the petitioner of the Ist year as well as Ist Semester 2nd year of the BDS course has not been declared, she is in suspended animation without attending classes or appearing for any examination since October 2016 till today. The petitioner appears to have failed in the Ist year, several times but has every hope of completing her course.*

6. *Noticing the urgency in the matter, we are granting time to the learned advocate Shri Narwadkar to take instructions on urgent basis. We are listing this petition on 16.12.2021 at 02.30 pm."*

2. Today, the learned Advocate representing respondent No.2 places before us a compilation of 5 pages. The same is taken on record and

marked as "X" collectively for identification.

3. The first page of "X" is dated 03/10/2018, which is a communication from the Secretary of the Admission Regulatory Commission, Mumbai, addressed to the Dean/Principal of respondent No.4 College indicating therein that if any student, who is admitted from the NRI quota, is found to be deficient in necessary documents, such deficiency can be cured provided, that the college deposits an amount of Rs.10,00,000/- alongwith an affidavit, as a one time measure and such procedure will have to be completed on or before 09/10/2018. The names of candidates indicates the name of the petitioner Ruchira George Ugale at Sr.No.9 set out in Annexure "B" to the said letter.

4. The learned Advocate for the petitioner (petitioner Nos. 2 to 6 have already withdrawn from this petition and this has been recorded in our order dated 28/09/2021) submits that as the petitioner has received a copy of the said communication "X" today and had no knowledge about the same earlier, she would approach respondent No.2 with a request to permit her to comply with the conditions set out

therein, as a special case with time extended.

5. In view of the above, this petition is disposed off. We make it clear that we have not expressed any opinion about the desire of the petitioner to make a representation and we leave it to the competent authority to take a decision as may be permissible in Law, preferably within a period of 3 months from the date of the filing of such representation.

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)