

2 Some time in the year 2008 the Petitioner applied for BDS course with Respondent No.2, a deemed University. The Petitioner was granted admission by Respondent No.2 in the said BDS course in the year 2008. It is the case of the Petitioner that the Petitioner was granted admission in the said course under NRI quota and was charged fee of Rs.2,41,000/- for granting such admission under the management seat. The Petitioner completed his BDS course in the year 2014 and was issued a degree certificate by Respondent No.2. It appears that the Petitioner thereafter applied for a job in a Government Dental College and Hospital. The Petitioner was appointed as intern in J.J. Hospital on temporary basis. He worked in the said hospital till the end of March 2015.

3 It is the case of the Petitioner that the due to family dispute, several false complaints were filed against the Petitioner. The Petitioner worked in J.J. Hospital on the basis of the caste certificate produced by the Petitioner. Since such complaints were made, the Dean of the Government Dental College and Hospital made enquiries with the Chairman/ Additional Commissioner, Caste Scrutiny Committee, Nashik Division. The Chairman/ Additional Commissioner, Caste Scrutiny Committee, informed the Dean of the Government

Dental College and Hospital that the Petitioner has submitted false caste certificate of Scheduled Tribe for the post of clinical assistance at the Government Dental college. The said caste certificate relied upon by the Petitioner was not even signed by the Scrutiny Committee. Based on the said letter, the complaint has been filed against the Petitioner. The Petitioner was required to obtain anticipatory bail Application No.1221 of 2018 in the Court of Sessions, Greater Bombay.

4 On 27.05.2018 the Dean of the Government Dental College and Hospital addressed a letter to the Registrar of Respondent No.2 informing that the letter of the Caste Scrutiny Committee submitted by the Petitioner was false and therefore, action be taken in respect of the BDS degree course completed by the Petitioner and the admission be cancelled. There was correspondence exchanged between the Respondent No.2 and the Dean of the Government Dental College and Hospital -Respondent No.3. Respondent No.2 accordingly issued a show cause notice to the Petitioner on 03.10.2018 stating that the caste certificate submitted by the Petitioner was fake and bogus and signature of the Deputy Collector appearing thereon was forged. The Respondent No.2 called upon the Petitioner to show cause why

the initial admission to first year BDS course given on the basis of caste certificate submitted by the Petitioner in the academic year 2008–2009 should not be cancelled.

5 In response to the said show cause notice, the Petitioner filed reply and called upon Respondent No.2 to withdraw the said show cause notice. Respondent No.2 was not satisfied with reply of the Petitioner and cancelled the B.D.S. Degree conferred upon the Petitioner vide order dated 27.10.2020.

6 We are informed that the criminal proceedings are pending against the Petitioner in respect of the alleged offence committed by the Petitioner before the criminal Court. Mr. Tolat, the learned Counsel for the Petitioner invited our attention to the various documents annexed to the Petition and also the compilation filed for consideration of this Court. He submits that the Petitioner was granted admission under NRI quota and management seat by the Respondent No.2 by exercising its discretion conferred upon the Respondent No.2 under the Dental Council of India notification and more particularly clause 9(b) thereof. He submits that the Petitioner had already secured more than 50% marks in the KAIET 2008. He submits that considering the fact that the Petitioner was granted

admission under NRI quota and the Petitioner has already secured more than 50% marks in the KAIET 2008, there was no question of the Petitioner submitting any caste certificate to the Respondent No.2 for admission for availing 10% concession in marks available to the reserve category candidate.

7 It is submitted that the Respondent No.2 has relied upon Caste certificate before this Court which was not submitted by the Petitioner to Respondent No.2. The learned Counsel for the Petitioner invited our attention to the order passed by the Sessions Court granting anticipatory bail in favour of the Petitioner on 25.07.2018 and would submit that the Sessions Court having been satisfied that no case was made out for custodial interrogation of the Petitioner granted anticipatory bail in favour of the Petitioner.

8 The learned Counsel for the Petitioner submits that though an opportunity was granted by this Court to Respondent No.2 to produce the application form submitted by the Petitioner at the time of admission, the Respondent No.2 has deliberately not produced such application form which would have indicated as to whether the Petitioner had at all applied for admission under reserved category seat or under NRI quota. It is submitted by the learned Counsel for

the Petitioner that the Petitioner is a reputed Doctor practicing since last several years after obtaining the B.D.S. Degree from Respondent No.2. The Respondent No.2 could not have cancelled B.D.S. Degree on some flimsy ground.

9 The learned A.G.P. submits that no case is made out by the Petitioner for interference in the order passed by Respondent No.2. The learned Counsel for Respondent No.2 invited our attention to the reply of the Petitioner to the show cause notice and more particularly the letters dated 26.10.2018 and 21.01.2019 and would submit that in both these letters the Petitioner has admitted that his father's uncle deceased Mr. Yusufali A. Bharmal who was 75 years old at that time had got the Petitioner admission, in the absence of his father and had committed an error in submitting the wrong caste certificate. The Petitioner requested for a permission to re-issue the new caste certificate within a short period. In the said letter he tendered his apology on behalf of his father's uncle for his mistake of giving wrong certificate and to rectify the mistake.

10 It is submitted by the learned Counsel for Respondent No.2 that insofar as application form submitted by the Petitioner is concerned, since the Respondent No.2 is not required to maintain the

records for more than five years, the records pertaining to the application of the Petitioner are destroyed and are not available.

11 The learned Counsel produced the caste certificate for perusal of this Court which caste validity certificate according to the Respondent No.2 was submitted by the Petitioner at the time of seeking admission, which certificate is alleged to have been issued on 27.06.2008 allegedly certifying that the petitioner belongs to the Tadvi Scheduled Tribes.

12 Upon raising a query to the learned Counsel appearing for the Petitioner by this Court whether the caste certificate which is produced by Respondent No.2 before this Court and the caste certificate produced by the Petitioner, were the same certificates which the Petitioner has produced before the Government Dental College for getting a job in respect of which the enquiry is going on by the investigating authority, the learned Counsel on instructions, submitted that the said caste certificate which is produced by Respondent No.2 was submitted by the Petitioner also to the Government Dental College. It is not in dispute that the Government Dental College had granted temporary admission to the Petitioner on the basis of such caste validity certificate. The Caste Scrutiny Committee upon the

query raised by the Government Dental College as to whether the certificate was a false certificate clarified that no such certificate was issued by the Caste Scrutiny Committee. The signatures on the caste certificate produced by the Petitioner were also fake.

13 It is thus clear beyond reasonable doubt that the Petitioner had submitted fake caste certificate to Respondent No.2 for seeking admission for the said BDS course. The learned Counsel for the Petitioner on instruction conceded before this Court that the said caste certificate produced by Respondent No.2 as also the caste certificate produced by the Petitioner were submitted before the Government Dental College. We thus, cannot accept the submission of the learned Counsel for the Petitioner that his client had not submitted any caste certificate to Respondent No.2 while seeking admission to the said BDS course.

14 Insofar as the submission of the learned Counsel for the Petitioner that the Petitioner was granted admission under NRI quota (management seat) and not under reserved category seat is concerned, the learned Counsel fairly agreed that his client had not secured more than 50% marks in Physics, Chemistry and Biology (PCB) taken together in the KAIET 2008. He placed reliance on the

Government Gazette in support of the submission that the said clause 9(ii)(b) granted the discretion with Respondent No.2 to grant admission by relaxing norms under NRI quota/management seat.

15 A perusal of the brochure issued by Respondent No.2 for the said BDS course which is not in dispute clearly indicates that the candidate belonging to open category must secure more than 50% marks in Physics, Chemistry and Biology (PCB) taken together in the KAIET 2008. Candidate belonging to Backward class must secure not less than 40% marks in Physics, Chemistry and Biology (PCB) taken together in the KAIET 2008.

16 The said brochure does not prescribe for any discretion to be exercised by the Respondent No.2 as canvassed by the Petitioner. In our view even if the Petitioner has paid the fees under NRI quota, he would not have secured admission unless he had obtained more than 50% marks in Physics, Chemistry and Biology (PCB) taken together in the KAIET 2008. The only relaxation which candidate could get under the said brochure was relaxation of 10% marks in Physics, Chemistry and Biology (PCB) taken together in the KAIET 2008 provided such candidate would have belonged to the Backward Class.

17 Admittedly the Petitioner has secured 45.66% marks in Physics, Chemistry and Biology (PCB) in the Higher Secondary Examination and had secured 113 out of 200 marks in the KAEIT 2008. The marks which were to be considered for grant of such admission in BDS course in open category was required to be more than 50% marks in Physics, Chemistry and Biology and 40% marks in case of a backward class candidate.

18 In our opinion if the Petitioner would have been granted admission in NRI quota, the Petitioner would not have submitted any caste certificate to get an admission in the said BDS course under NRI or management quota. It is thus clear that the caste certificate submitted by the Petitioner was submitted to avail of the relaxation of 10% available to a reserved category candidate for getting admission to such BDS course. The learned Counsel for the Petitioner could not explain as to why the Petitioner submitted such caste certificate if he was granted admission in management quota.

19 We are not making any observation in respect of the pending investigation going on against the Petitioner. The law shall take its own course in the ongoing proceedings against the Petitioner. In our view the Petitioner had fraudulently obtained admission by

submitting a fake certificate. The Respondent No.2 is thus justified in cancelling the B.D.S. Degree certificate obtained by the Petitioner. Under Section 10 of the Maharashtra Scheduled Castes, Scheduled Tribes, Denotified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000, it is clearly provided that whoever not being a person belonging to any of the Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes or Special Backward Category secures admission in any educational institution against a seat reserved for such Castes, Tribes or other Backward or Special Backward Classes or secures any appointment in the Government, local authority or in any other Company or Corporation, owned or controlled by the Government or in any Government aided institution or Co-operative Society against a post reserved for such Castes, Tribes or Classes by producing a false Caste Certificate shall, on cancellation of the Caste Certificate by the Scrutiny Committee, be liable to be debarred from the concerned educational institution, or as the case may be, discharged from the said employment forthwith and any other benefits enjoyed or derived by virtue of such admission or appointment by such person as set out therein shall be withdrawn

forthwith.

20 In our view the Petitioner having obtained the BDS Degree from Respondent No.2 on the basis of such false certificate has committed a fraud on the Constitution of India. The Petitioner is, thus, liable to restore all the benefits obtained by the Petitioner on the basis of such Degree obtained with the support of a false caste certificate.

21 In our view the order passed by Respondent No.2 withdrawing the degree obtained by the Petitioner by such fraudulent means does not warrant any interference. We make it clear that the findings herein are confined to this Petition. Writ Petition is totally devoid of merit. We accordingly pass the following order :

- i) Writ Petition No.2433 of 2021 is dismissed.
- ii) No order as to costs.

(R.I. CHAGLA, J.)

(R.D. DHANUKA, J.)