

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1092 OF 2021

Miss Saakshi Nilesh Gaikwad

...Petitioner

Versus

All India Shri Shivaji Memorial Society's
& Ors.

...Respondents

Mr. Tejas D. Deshmukh for the Petitioner.

Mr. Prathmesh Bhargude a/w Mr. Sumit Sonare for the
Respondent No. 1.

Mr. V.M. Mali, AGP for Respondent Nos. 3 and 4-State.

CORAM : R.D. DHANUKA &
R.I. CHAGLA, JJ.

DATE : 4 August 2021

ORDER :

1. Rule.

2. Learned AGP waives service on behalf of
Respondent Nos. 3 and 4. Learned Counsel Mr. Bhargude
appearing for Respondent No. 1 waives service. In spite of being
served, none appeared on behalf of Respondent No. 2 and

Respondent No. 5.

3. Heard finally by consent of the parties.

4. By this Petition filed under Article 226 of the Constitution of India, the Petitioner is seeking directions against Respondents to admit the Petitioner to second year of Engineering course in Respondent No.1- College for academic year 2020 - 2021.

5. It is the case of the Petitioner that the Petitioner had obtained admission in the Respondent No. 1-College by submitting her application on 29th June 2018 and pursuant to which admission had been granted by Respondent No. 1 for the year 2018-2019.

6. The Petitioner had applied for validation of her caste certificate on 12th June 2018 before the Scrutiny Committee, Solapur. The Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward

Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000 had been amended in the year 2018 and Section 4A had inserted after Section 4. It was provided that the Applicant seeking admission to professional courses for the academic year 2018-2019 shall produced caste validity certificate to the admission authorities on or before such date as may be specified by the Admissions Regulating Authority in consultation with the State Government.

7. It is an admitted position that the Caste Scrutiny Committee, Solapur had validated the caste certificate of the Petitioner on 17th August, 2020. Respondent No. 1- College had granted admission to the Petitioner prior to that and the Petitioner had completed one year of engineering course in Respondent No. 1-College. The Petitioner inspite of applying to the Respondent No.1 - College within a few days of being granted the Caste Validity Certificate, the Petitioner had not granted admission to the second year of engineering course in Respondent No. 1-College for the academic year 2020-2021 in view of the caste validity certificate being validated only on 17th August, 2020. The Petitioner being aggrieved thereof has filed the present Petition.

8. The learned Counsel for the Petitioner has submitted that due to no fault of the Petitioner, the Caste Scrutiny Committee had validated the caste certificate of the Petitioner on 17th August, 2020. The Petitioner had in fact applied for validation of the caste certificate on 12th June 2018 before the Caste Scrutiny Committee, Solapur i.e. well before the admission having been granted to the Petitioner. Respondent No. 1-College had also not insisted on the Petitioner submitting her caste validity certificate prior to being granted admission in the first year of engineering course for the academic year 2018-19 under the centralised admission process. The provision of Section 4A of the said Act read thus:-

“4A. (1) The provisions of this section shall apply in respect of admission to the professional courses for the academic year 2018-2019.

(2) Notwithstanding anything contained in this Act, a person possessing a Caste Certificate and who has applied for or on whose behalf an application is made by the educational institution for verification of Caste Certificate and issue of validity certificate, and the same is pending before the Scrutiny Committee shall be eligible for participating in the admission process on the basis of Caste Certificate, subject to the

following conditions, namely :—

(i) he shall produce a proof to the effect that he has made an application for issue of validity certificate to the Scrutiny Committee or that such application has been made on his behalf to the Scrutiny Committee;

(ii) he shall produce his validity certificate to the admission authorities on or before such date as may be specified by the Admissions Regulating Authority in consultation with the State Government:

Provided that, the date referred to in clause (ii) shall be before the date of closure of admission process in respect of the admission to the concerned professional course for the academic year 2018-2019.

(3) Upon failure to produce validity certificate on or before such date specified by the Admissions Regulating Authority under sub-section (2), the provisional admission secured, if any, against reserved seat, shall be deemed to be cancelled.

(4) Nothing in sub-section (3) shall be construed as preventing the relevant authority for considering such person eligible for admission to the professional course, from the open category in accordance with the law for the time being in force.”

9. The learned Counsel for the Petitioner has submitted that it is clear from the said provision that the

Applicant seeking admission to professional courses shall produce validity certificate to the admission authorities on or before such date as may be prescribed by the Admissions Regulating Authority in consultation with the State Government. The proviso thereto made it clear that the date shall be before the closure of admission process for academic year 2018-19. He has submitted that the admission was granted to the Petitioner subject to the production of the caste validity certificate. He has submitted that in view of the Petitioner having been granted admission for the first year of engineering course in Respondent No. 1-College in the year 2018-2019 and the Petitioner having completed the first year and thereafter the caste validity certificate was granted, the Petitioner is entitled to be admitted to the second year of the engineering course in the Respondent No. 1-College for the subsequent academic year upon having submitted the caste validity certificate.

10. Learned Counsel for the Respondent No. 1 has submitted that on 7th July 2021 he had sought time of this Court to take instructions as to whether Respondent No. 1 had no objection if the Petitioner is admitted in the academic year

2021-2022 commencing in the month of August 2021. The learned AGP for Respondent Nos. 3 and 4 was also to make a statement whether they have any objection if the caste validity certificate issued to the Petitioner on 17th August 2020 is accepted on record and admission for the aforesaid academic year be granted to the Petitioner on the basis of caste validity certificate or not. Pursuant to the said order, learned AGP for Respondent Nos. 3 and 4 had on 28th July, 2021 informed this Court that CET would be the concerned party to make the statement whether they have any objection or not. In view thereof, the Petitioner was by order dated 28th July, 2021 permitted to implead the CET as Respondent No. 5 and CET was to make statement as to whether they had any objection, if on the basis of the caste validity certificate issued to the Petitioner on 17th August 2020 and which is now accepted on record, admission for the academic year 2021-2022 could be granted to the Petitioner. Thereafter, the Petitioner has brought the said CET on record as Respondent No. 5.

11. It is noted that inspite of the CET having been brought on record as Respondent No.5 and served with the proceedings, none appears on behalf of the CET.

12. Learned Counsel appearing for Respondent No. 1 on instructions states that he has no objection, if the Petitioner is granted admission for the academic year 2021-2022 since the academic year 2021-2022 is already closed and that the academic year 2021-2022 is commencing in the month of August 2021. Statement is accepted.

13. Learned Counsel for the Petitioner also on instructions states that the Petitioner has no objection, if admission is granted by the Respondent No. 1-College for the second year engineering course for the academic year 2021-2022. Statement is accepted.

14. Respondent No. 1- College shall accept the caste validity certificate issued to the Petitioner on 17th August 2020 as the basis for granting the final admission to the Petitioner retrospectively from the year 2018-2019. The Respondent No.1 shall grant admission to the Petitioner for the second year engineering course for the academic year 2021 - 22.

15. In view thereof, the Petition is disposed of in the above terms.

16. Rule is made absolute. There shall be no order as to costs.

[R.I. CHAGLA J.]

[R.D. DHANUKA, J.]