

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3663 OF 2020

Siddhant Devarao Chavare .. Petitioner
v/s.
State of Maharashtra & Ors. .. Respondents

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Mr. Anil Anturkar, Senior Advocate, a/w. Mr. Ajinkya Udane, i/b. Ms. Namrata Agaste and Mr. Harsh Parte, for the Petitioner.

Ms. Sushama Bhende, AGP, for Respondent No.1.

Mr. Vaibhav Jagdale, a/w. Mr. Avinash Jalisatgi, for Respondent Nos. 2 and 3.

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**CORAM: S.C. GUPTE &
S.P. TAVADE, JJ.**

DATE : 11 JANUARY, 2021.

PC:-

. Heard learned Counsel for the Petitioner and learned AGP for the Respondent State.

2. The subject matter of the present petition concerns admission to Bachelor of Veterinary Sciences and Animal Husbandry (B.V. Sc. & A.H.) Degree Course 2021. The prospectus issued by Respondent No.2 – University [Maharashtra Animal & Fishery Sciences University (MAFSU)] *inter alia* provides for various reservations for social categories as well as special categories within such social categories. The particular special category we are concerned with in the present case is the category of Freedom Fighter. The Petitioner belongs to this category. According to

the prospectus, different seats within both regional and State quota for admissions are reserved for various social and economical categories, such as SC, ST, VJ/DT(a), NT(b), NT(c), NT(d), OBC, EWS. The rest are open or unreserved. Within these broad categories, there are special categories prescribed for admissions to the course by way of reservation. These categories and seats within these are regionwise tabulated. There are about five regions each having a different college, for which categories of reservation, including special categories within such reservation, have been provided, as noted above, both Statewise and regionwise. So far as the Petitioner's region is concerned, there is one reservation for the special category within the social category of SC of Freedom Fighter ('FF'). It is the grievance of the Petitioner that the Petitioner was the only candidate of FF category, though not belonging to the broad category of SC, but open category, i.e. unreserved category, but since there was no other candidate of SC-FF category, the Petitioner should be awarded the seat. Alternatively, it is submitted that the Petitioner may well be accommodated in the region of Mumbai, since that region has one seat reserved for FF in open category and there is no candidate answering that description in Mumbai region.

3. None of the two submissions made by Mr. Anturkar, learned Senior Counsel appearing for the Petitioner, has any merit. In the first place, under the principle of horizontal reservation, which is reflected in the G.R. concerning the admission process, in case candidates of special categories within such reserved categories are not available, the particular seats have to be filled-in through the respective open or social reserved categories, as the case may be, according to merit. Since the seat of FF

reserved for the region represented by the college at Shirval, to which the Petitioner has applied, belongs to the broad category of SC, in case such special candidate, i.e. of FF category within the category of SC, is not available, by the principle of horizontal reservation, the seat goes to any other candidate of SC category according to merits. There is no scope, thus, for the seat of SC-FF category to be made available to the Petitioner, who is from open category. So also, it is not possible to accommodate the Petitioner in the Mumbai College, which represents a different region, since the particular seat of open category, i.e. 'FF', which is available in Mumbai is from its regional quota, that is to say, 30% of total seats available. In case the candidate of that special category is not available, the seat will go to other candidates of unreserved or open category from Mumbai region alone. There is no scope for making that seat available to the Petitioner, who is from a different region.

4. There is, accordingly, no merit in the petition. The petition is dismissed.

5. In view of the decision of the petition, the ad-interim order passed earlier shall be vacated forthwith.

(S.P. TAVADE, J.)

(S.C. GUPTA, J.)