

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

KANCHAN
VINOD
MAYEKAR

Digitally signed by
KANCHAN VINOD
MAYEKAR
Date: 2021.11.27
15:00:06 +0530

WRIT PETITION NO. 8028 OF 2021

Aniket Gupta & Ors.

..... Petitioners

VERSUS

**The Minister,
The Higher and Technical Education
Department, Mumbai & Ors.**

..... Respondents

Ms.Surabhi Vadhavkar, i/b. Mr.Sachin Dhakephalkar for the
Petitioners.

Mr.N.K.Rajpurohit, A.G.P. for the State – Respondent nos. 1, 2 and 4.

**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.
DATE : 26th NOVEMBER, 2021**

P.C:-

By this petition filed under Article 226 of the Constitution of India, the petitioners have prayed for a writ of certiorari for quashing and setting aside the Government Resolution dated 16th March, 2020 insofar as and to the extent it declares and directs that from the academic year 2021-22 the results of exams held for GMAT, MAT, ATMA and XAT shall not be considered and be excluded from the purview of eligibility criteria for seeking admission to MMS/MBA courses under Rule 10(2)(a) of the Maharashtra Unaided Private

Professional Educational Institutions (Regulation of Admission to the Full Time Professional Undergraduate Technical Courses) Rules, 2017.

2. The petitioners also seek an order and direction to consider the results of Entrance Exam of GMAT, MAT, ATMA and XAT for further courses of MMS/MBA during the academic year 2021-2022 and also to allow the petitioners to take part in admission process for MMS/MBA courses.

3. The grievance of the petitioners is that the State Common Entrance Test Cell issued notice for MBA/MMS for the academic year 2021-22 only on 9th November, 2021 prescribing eligibility criteria for various types of candidature for admission. She submits that the petitioners had already appeared for the MAT course in the month of February 2021 and thus the petitioners would be seriously prejudiced if the respondent no.3 is allowed to amend the eligibility criteria.

4. Learned counsel invited our attention to the judgment delivered by this Court on 11th December, 2020 in case of ***Amol Jagdish Baviskar & Ors. vs. The Minister, The Higher and Technical Education Department Mumbai & Ors.*** in ***Writ Petition (St)***

No.96887 of 2020 and would submit that in the operative part of the said judgment, the Division Bench of this Court had kept it open that the Government circular dated 16th March, 2020 may operate from the next academic year 2021-22.

5. Mr.Rajpurohit, learned A.G.P. for the respondent nos. 1, 2 and 4 on the other hand submits that the Government Resolution dated 16th March, 2020 annexed at Ex.A to the petition clearly provided that the particular eligibility criteria would apply w.e.f. the academic year 2020-21 onwards in the State of Maharashtra. The petitioners ought to have challenged the said Government Resolution issued on 16th March, 2020 immediately and not at this stage.

6. Insofar as the judgment of the Division Bench of this Court in case of **Amol Jagdish Baviskar & Ors.** (supra) is concerned, a perusal of the said judgment indicates that the controversy between the parties before this Court in the said matter was whether it was legal and appropriate for the State Government to issue circular dated 16th March, 2020 to the effect that from the academic year 2020-21 for only MBA/MMS courses, the candidates who had appeared for GMAT,

MAT and ATMA and XAT would not be eligible to participate in the admission process and only those candidates who had appeared for MAH-MBA/MMS CET, CMAT and CAT courses shall be eligible.

7. The petitioners in this case have appeared for MAT examinations. Due to the short notice issued to the students by the State Government vide said Government Resolution dated 16th March, 2020, making the said resolution applicable w.e.f. academic year 2020-21 in the facts of that case, this Court clarified that the said impugned decision in the said Government Resolution dated 16th March, 2020 declaring that the results of ATMA, XAT, MAT, GMAT entrance tests not be a valid eligibility criteria for admissions to the MBA/MMS courses and only the Maharashtra State CET, CMAT and CET would be considered with the valid examination shall not be eligible for the academic year 2020-21. Since there was no challenge to the said Government Resolution dated 16th March, 2020 for subsequent years, this Court clarified that the said Government Resolution may operate in the next academic year 2021-22.

8. Since the said Government Resolution dated 16th March, 2020

makes it clear that change in the eligibility criteria mentioned therein would apply for the academic year 2021 onwards, the petitioners cannot be allowed to urge before this Court that there was a short notice for subsequent years though the said Government Resolution was issued as far back as on 16th March, 2020.

9. The Government notification issued by the Maharashtra CET is in furtherance of the said Government Resolution dated 16th March, 2020. We are thus not inclined to interfere with the examination procedure already commenced.

10. Writ petition is devoid of merits and is accordingly dismissed.
No order as to costs.

[ABHAY AHUJA, J.]

[R.D.DHANUKA, J.]