

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

WRIT PETITION NO. 1003 OF 2020

Sunit S/o Suresh Ghatole,
Aged 20 years, Occ. Student,
R/o Flat No.302, Balaji
Residency, Plot No.48,
Manish Nagar, Nagpur-15.

... **PETITIONER**

VERSUS

1. State of Maharashtra,
Through its Secretary,
Department of Medical
Education, Mantralaya,
Mumbai-32.
2. State of Maharashtra,
Through its Secretary,
Department of Social
Justice and Special Assistance,
Mantralaya, Mumbai-32.
3. Assistant Commissioner,
Social Welfare,
Amravati.
4. Shri Shivaji Education Society,
Amravati, Through its Secretary,
Shivaji Nagar, Amravati.
5. Dr. Panjabrao alias Bhausaheb
Deshmukh Memorial Medical
College, Gadgenagar, Amravati,
Through its Dean.

... **RESPONDENTS**

Shri Deoul Pathak, Advocate for petitioner.

Ms. S. S. Jachak, Assistant Government Pleader for respondent
Nos.1 to 3.

Shri P. B. Patil, Advocate for respondent Nos.4 and 5.

CORAM : A.S. CHANDURKAR AND
G. A. SANAP, JJ.
DATED : 20/12/2021

ORAL JUDGMENT : (PER A.S. CHANDURKAR, J.)

1. Rule. Rule made returnable forthwith. Heard finally with the consent of learned counsel for the parties.

2. The grievance of the petitioner is with regard to the communication dated 12/12/2019 issued by the respondent No.3 refusing to grant benefit of freeship while taking education with respondent No.5 - College. The petitioner claims to belong to Other Backward Class falling in Non-Creamy Layer segment of that society. The petitioner on 12/11/2019 moved an application seeking such freeship benefit and furnished necessary details. It is his grievance that without hearing him on 12/12/2019, the respondent No.3 refused to grant such eligibility certificate.

3. Today, it is informed by the learned counsel for the petitioner that by issuing Government Resolution dated 04/01/2021, the State Government has sought to further bring clarity in the manner in which applications have to be made for seeking such benefits. It is further submitted that since the earlier

denial to benefit was without hearing the petitioner, the impugned communication is liable to be set aside.

4. Shri P.B.Patil, learned counsel for the respondent Nos.4 and 5 submits that in view of rejection of such request, the demand made by the college for payment of regular fees as per communication dated 16/12/2019 was justified.

5. We find that it is the grievance of the petitioner that the impugned communication has been issued without granting him any opportunity of explanation. Further with the issuance of Government Resolution dated 04/01/2021, it would be necessary for the petitioner to now comply with the requirements thereof and justify his entitlement.

6. In the aforesaid backdrop, interests of justice would be served by permitting the petitioner to make a fresh application for grant of freeship benefits within a period of two weeks from today to the respondent No.3. If such application is made, within further period of three weeks from that date the respondent No.3 shall take decision on the petitioner's application. It is expected that such decision would be taken after considering all relevant aspects and the same shall be communicated to the petitioner.

7. In the aforesaid backdrop, the impugned communication dated 12/12/2019 stands set aside for having been issued in breach of principles of natural justice.

8. It is expected that the respondent Nos.4 and 5 would await adjudication of decision by the respondent No.3.

9. With these directions, the writ petition is disposed of. Rule accordingly. No costs.

(G. A. SANAP, J.)

(A.S. CHANDURKAR, J.)

Choulwar

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CHOULWAR

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