

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.2148/2021

1. Chandrashekhar S/o R Mahajan,
aged 41 Yrs., Occ. Private,
R/o At Plot No.59, Janseva Housing
Society, Behind Bharat Gas, Narsala
Road, Nagpur.
2. Kunal S/o Jagesh Wanjari,
age 29 Yrs., Occ. Private,
R/o At Plot No.25, Abhijit Nagar,
Sandhekar Layout, Manewada Besa
Road, Nagpur.

..Petitioners.

..Vs..

1. State of Maharashtra,
through the Secretary, Higher and
Technical Education, 4th Floor, Mantralaya
Annex, Madam Cama Road, Nariman
Point, Mantralaya, Mumbai - 400 032.
2. State of Maharashtra,
through the Secretary, Admission
Regulating Authority, 8th Floor, New
Excelsior Building, A.K. Nayak Road,
Fort, Mumbai - 400 001.
3. The Director,
Higher and Technical Education,
Department of Law, Central Building,
3, BJ Medical Road, Agarkar Nagar,
Pune - 411 001.
4. The Registrar,
Rashtrasant Tukadoji Maharaj
Nagpur University, Nagpur, Near
Maharaj Bagh, Amrawati Road,
Nagpur.

5. The Principal,
Dr. Babasaheb Ambedkar College
of Law (City Branch), R.T.M.,
Nagpur University, Dighori, Nagpur. ..Respondents.

Shri Sandeep N. Nandeshwar, Advocate for the petitioners.
Shri A.S. Fulzele, Additional Government Pleader for respondent Nos.1 & 2 / State.
Shri N.S. Khubalkar, Advocate for respondent No.3.
Shri S.M. Puranik, Advocate for respondent Nos.4 and 5.

CORAM :- SUNIL B. SHUKRE AND
ANIL S. KILOR, JJ.
DATED :- 5.8.2021.

ORAL JUDGMENT *(Per Sunil B. Shukre, J.)*

Heard. **Rule.** Rule made returnable forthwith. Heard finally
by consent.

2. Both the petitioners are questioning the cancellation of their
admissions given to them to three year LL.B. course run by respondent
No.5 college.

3. The petitioners were desirous of seeking admissions to three
year LL.B. course on the basis of their performance in the three year
graduation course. Both the petitioners had taken part in Centralized
Admission Process (for short “CAP”) but in none of the rounds either
of the petitioners could emerge successful. There were in all three
such CAP rounds. Ultimately, as per the prescribed procedure, the

unfilled seats were surrendered to the colleges and the institutions and at that stage, another opportunity was made available to the aspirants for securing admissions to the institutions of their choice, which were still in the fray. Accordingly, both the petitioners applied for grant of admission to three year LL.B. course to respondent No.5. So far as institutional round was concerned, petitioner No.1 applied from the open category and on the basis of the documents submitted / uploaded by him, petitioner No.1 was allotted a general category seat by respondent No.5 and said allotment of seat was provisionally allowed by respondent No.2 subject to final scrutiny of academic and CET performance and validation of all the uploaded documents matching with original documents by the admitting college. As regards petitioner No.2, an application was made by petitioner No.2 at the time of institutional round from SC category but, petitioner No.2 was allotted a seat from general category. Petitioner No.2 had, in fact, never applied for allotment of seat from general category. But, he too was admitted to three year LL.B. course on a seat from general category.

4. Later on, the provisional admissions granted to both the petitioners were cancelled by respondent No.5 on the basis of the communication it received from respondent No.2. The reason for the

cancellation of the admission of petitioner No.1 was that in the qualifying exam which was three years graduation course, he had secured less than 45% marks as regards the criterion of minimum 45% of marks prescribed for general category candidates. In case of petitioner No.2, the reason stated was that as the petitioner No.2 had applied only for admission to a seat reserved for SC category candidate and till the date of provisional admission i.e. 21.11.2019, the petitioner No.2 had not submitted caste validity certificate, a requirement as contained in instruction Nos.13 and 14 (page 74), and therefore, the petitioner No.2 was also found to be not eligible for admission to three year LL.B. course.

5. So far as the cancellation of admission of petitioner No.1 on the aforestated ground is concerned, we are of the view that there being no dispute about the facts narrated earlier, no fault could be found in the cancellation of the admission of petitioner No.1. Admittedly, petitioner No.1 had sought admission to a general category seat from open category and it was indeed granted to him and, therefore, the eligibility criterion of minimum 45% marks of three year graduation course was applicable, which was not fulfilled by him. So, the claim of petitioner No.1 deserves to be dismissed.

6. As regards the claim of petitioner No.2, however, we find substance in the same. Although it is submitted by respondent No.5 that petitioner No.2 had never applied for admission from general category and had always applied in a seat reserved for SC category and petitioner No.2 having not submitted his caste validity certificate on or before 21.11.2019, the cancellation of admission of petitioner No.2 was justified, we disagree with the contention. The reason being that the provisional allotment letter issued to petitioner No.2 (page 72) clearly shows that at the time of giving admission to him, the case of petitioner No.2 was considered by respondent No.5 as suitable for allotting a general category seat instead of SC category seat and such decision of respondent No.5 has also been confirmed by CET when it issued the provisional letter subject to final scrutiny of academic and CET performance and validation of the uploaded documents. So, the final scrutiny in such a case would have been confined not to the question of caste validation certificate issued by competent Scrutiny Committee but to the mark-lists' and other relevant documents pertaining to three year graduation course completed by petitioner No.2. These documents admittedly show that in the three year graduation course the petitioner No.2 had secured 46.45% marks, which were slightly more than the requisite minimum 45% marks, required for general category seat. Therefore,

petitioner No.2 was qualified to be admitted to a general category seat.

7. Now, it is contended by respondent No.5 that such provisional admission given to petitioner No.2 was a mistake committed on its part as petitioner No.2 had never applied for admission from a general category seat. We do not think that it was a mistake on the part of respondent No.5 as the applicable law would show that a scheduled caste category candidate can always compete for a seat reserved for general category and in the instant case, this law has been followed by respondent No.5 by considering the case of petitioner No.2 as falling in general category on the basis of *inter se* merit of all the candidates who had applied for admission to general category seats. It then follows that the cancellation of admission of petitioner No.2 is illegal and it deserves to be quashed and set aside.

8. Learned counsel for petitioner No.2 has also sought other relief like permission to petitioner No.2 to appear at 3rd and 4th semester examinations. However, this has been strongly resisted by learned counsel for respondent No.5 on the ground that such permission can be granted only after the authorities had satisfied that petitioner No.2 actually attended the requisite minimum number of classes. That

being so, in our opinion, this issue would give rise to a disputed question of fact and, therefore, such question would have to be left to be decided by the concerned authority by considering appropriately the record of attendance maintained by it.

9. In the result, the petition is partly allowed. The petition of petitioner No.1 stands dismissed and petition of petitioner No.2 stands partly allowed. The impugned communication cancelling admission of petitioner No.2 is hereby quashed and set aside and provisional admission given to petitioner No.2 vide provisional allotment letter dated 21.11.2019 is directed to be approved by respondent No.2. As regards the relevant claim for grant of permission to 3rd and 4th semester examinations, we leave it to the discretion of the concerned authorities to take appropriate decision in the matter after due verification of relevant records. Rule as regards petition of petitioner No.1 is discharged. Rule as regards petition of petitioner No.2 is made absolute in the above terms. There shall be no orders as to costs.

JUDGE

JUDGE