

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

CONTEMPT PETITION NO.191 OF 2017
IN
PUBLIC INTEREST LITIGATION NO.63 OF 2014

Bhagwan Vithuji Nannaware
Aged 49, Plot No.4, Jaibhim
Housing Society, Chandramani Nagar,
Nagpur 440027 Occupation Associate
Professor & Social Worker,
Father's name : Vithuji Jairam Nannaware
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... Appellant

-vs-

1. Dr Pravin Shingare
Director (Education)
C/o The Directorate of Medical Education
and Research (DMER), Govt. Dental
College & Hospital Building, St. Gerorge's
Hospital Compound, Near V.T.
Mumbai 400 001 Email-dmercetcell@gmail.com

2. The Directorate of Medical Education
and Research (DMER),
Through its Director (Education)
C/o The Directorate of Medical Education
and Research (DMER), Govt. Dental
College & Hospital Building, St. Gerorge's
Hospital Compound, Near V.T.
Mumbai 400 001 Email-dmercetcell@gmail.com

... Respondent
(R-4 in PIL 63/2014)

Shri Sunil P. Khare, Advocate for appellant.
Shri A. S. Fulzele, Additional Government Pleader for respondents.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : November 29, 2021

Judgment : (Per : A. S. Chandurkar, J.)

In Public Interest Litigation No.63/2014 the Division Bench of this

Court on 24/12/2014 while disposing of said proceedings issued directions to various Authorities including the Directorate of Medical Education and Research through its Director not to insist upon the candidates to furnish their caste validity certificate while admitting them against a seat reserved for Scheduled Tribe candidates. Since these directions were not complied with, the petitioner had filed Contempt Petition No.207/2016. On 21/07/2016 the Court observed therein that the respondents had realized the mistake committed by them of requiring the validity certificate to be furnished by a particular date though the Court had held that such direction was impossible to comply. After accepting the unconditional apology tendered by the respondent No.1 therein, the learned Government Pleader was directed to instruct the Chief Secretary who in turn was required to direct all concerned departments that no such conditions that were beyond the control of a candidate be imposed. The contempt petition was thereafter disposed of.

The present contempt petition has been filed alleging non-compliance and violation of the order passed by this Court in Public Interest Litigation No.63/2014 in the context of issuance of the Information Brochure for admission to Health Science Courses/NEET UG-2017. It is the specific allegation of the petitioner that wide publicity was not given to the aspect that the candidates seeking admission were required to submit an undertaking in the prescribed form stating therein that on receipt of the

validity certificate from the Scrutiny Committee, the same would be duly submitted. It is urged that the candidates seeking admission were instead required to submit original caste validity certificate for seeking admission. Reference is also made to page 82 of the Information Brochure which contains Annexure "S" being an undertaking in that regard.

2. Shri S. P. Khare, learned counsel for the petitioner submits that on account of failure on the part of the respondent No.1 to comply with the directions issued in the aforesaid Public Interest Litigation and thereafter Contempt Petition No.207/2016, affected candidates were required to approach the Aurangabad Bench of this Court wherein on 12/07/2017 in Writ Petition No.8851/2017 and connected writ petitions. Therein with the consent of parties such students were permitted to participate in the admission process subject to submitting an undertaking in the prescribed form. It is submitted that despite earlier directions, the respondent No.1 has continued to seek compliance of conditions that could not be complied with by the students seeking admission in the Scheduled Tribe category.

3. Affidavit has been filed on behalf of the respondent Nos.1 and 2 in which it is stated that the order dated 12/07/2017 passed by the Aurangabad Bench was challenged before the Honourable Supreme Court which stayed that order on 04/08/2017. The aforesaid Special Leave Petition was

thereafter allowed on 06/09/2017 and the order passed by the Aurangabad Bench of this Court on 12/07/2017 was set aside. Shri A. S. Fulzele, learned Additional Government Pleader for the respondents submitted that in the academic year 2017-2018 candidates seeking admission in reserved categories were required to submit caste validity certificate failing which they were to be treated as general candidates. Since the Honourable Supreme Court itself did not accept the submission of such undertaking, it could not be said that the disobedience as alleged by the petitioner was deliberate.

4. We have heard the learned counsel for the parties. It is seen from the record that after Public Interest Litigation No.63/2017 was disposed of on 24/12/2014 and Contempt Petition No.207/2016 was also disposed of on 21/07/2016, in writ petitions filed before the Aurangabad Bench by affected students it was directed that the admissions of such students in the reserved category be permitted subject to furnishing an undertaking in the prescribed form. This order dated 12/07/2017 was initially stayed by the Honourable Supreme Court on 04/08/2017. The Special Leave Petition was thereafter allowed by the Honourable Supreme Court on 06/09/2017. The order dated 12/07/2017 has been specifically set aside. In effect, therefore, the interim order dated 12/07/2017 operated for a short period of less than a month as it was stayed on 04/08/2017 only to be set aside on 06/09/2017. The Information Brochure specifically required the candidates seeking admission

in the reserved category to furnish the caste validity certificate while seeking admission. It is also seen that at page 82 of the Information Brochure the format of the undertaking to be submitted by such students has been shown at Annexure "S". This is in compliance with the orders passed in the Public Interest Litigation and the Contempt Petition.

5. We find that it is not a case of wilful disobedience of the directions issued in the Public Interest Litigation or the observations made in Contempt Petition No.207/2016. Moreover, the interim directions issued on 12/07/2017 by the Aurangabad Bench of this Court on similar lines have been set aside by the Honourable Supreme Court.

6. We therefore do not find this to be an appropriate case for initiating any action against the respondents. The proceedings are accordingly dropped. The Contempt Petition stands disposed of.

(G. A. Sanap, J.)

(A. S. Chandurkar, J.)