

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 4374 OF 2022
IN
WRIT PETITION NO. 1469 OF 2022

Omkar Gopal Yenchewad
Versus
The State of Maharashtra
and Another

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Advocate for the Petitioner : Mr. S. M. Vibhute
AGP for Respondent Nos. 1 to 3 : Mr. S. K. Tambe
Advocate for Respondent No.4 : Mr. K. C. Sant
Advocate for Respondent No.5 : Mr. A.V. Hon]
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**CORAM : R. D. DHANUKA &
S.G. MEHARE JJ.
DATE : 01.04.2022.**

PER COURT :-

By this Civil Application the applicant/petitioner seeks impleadment of respondent No.5 as respondent No.5 in Writ Petition No. 1469 of 2022 and seeking order directing respondent No.5 to forward proposal in respect of issuance of Degree Certificate of M.B.B.S course to the respondent No.4 Health University by complying necessary formalities and along with necessary required documents.

2. Learned counsel for the petitioner invited our attention to the order dated 2nd February, 2022 passed by this Court in Writ Petition No. 1469 of 2022 filed by the petitioner recording an undertaking rendered by petitioner No.1 that he will not take benefit of reservation until his claim is validated by this Court before passing such order. He wants to take admission for the post graduation course and for that purpose would require degree certificate. This Court accordingly in view of such undertaking rendered by learned counsel for the petitioner No.1 allowed the request of the petitioner No.1 for degree certificate. It was clarified that if petitioner No.1 is eligible, respondent shall not withhold the degree certificate of the petitioner No.1 on the ground that caste claim of the petitioner No.1 is invalidated. Petitioner No.1 was directed to file an undertaking in this Court in case his claim subsequently invalidated, he will discontinue the Post Graduation course and he will not take benefit of reservation.

3. Learned counsel for the applicant states that respondent No.5 is not agreeable to submit the proposal of the petitioner to respondent No.4 University in respect of issuance of degree certificate of M.B.B.S course, unless the applicant furnish bank guarantee so as to secure the amount of fees received by the institute from the Government in respect of the applicant in

case the caste claim of the applicant is invalidated by this Court in the present pending petition.

4. Heard Mr. K.C. Sant, learned counsel for the university states that their past experience is that students who are issued such degree certificate upon furnishing undertaking are not traceable after dismissal of their caste claim in most of the cases.

5. We are not inclined to accept the suggestion of the learned counsel for the applicant that respondent No.5 shall be directed to forward the proposal of the applicant for issuance of degree certificate of M.B.B.S course without any condition or shall forward such proposal only on the applicant furnishing undertaking to the effect that if the applicant does not succeed in the Writ Petition, respondent can enforce such undertaking against the applicant.

6. Be that as it may, we agreed with suggestion of learned counsel for respondent No.5 that reasonable condition that may be imposed while forwarding the proposal of the applicant in respect of issuance of degree certificate of M.B.B.S course. We accordingly pass the following order :-

7. Civil Application is made absolute in terms of prayer clause 'B' and 'C' subject to the condition that it will be open for respondent No.5 to impose the condition if any while forwarding the proposal of the applicant for issuance of M.B.B.S degree course to respondent No.4, in accordance with law. The applicant shall comply before with such condition before his proposal is forwarded.

8. It is made clear that this order passed by this Court and the submission of the proposal by respondent No.5 to respondent No.4 University will be subject to outcome of the Writ Petition No. 1469 of 2022 filed by the applicant.

9. Civil Application is disposed of in aforesaid terms.

10. Parties to act upon the authenticated copy of this order.

11. Place the Writ Petition No. 1469 of 2022 for admission on 8th June 2022. Respondents are at liberty to file affidavit-in reply within four weeks from today. Copy be served upon learned counsel for the petitioner Advocate simultaneously. Rejoinder if any shall be filed within two weeks thereafter.

(S.G. MEHARE J.)

(R.D. DHANUKA J.)