

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

935 CIVIL APPLICATION NO.9682 OF 2022

IN

WP/2372/2022

GAURAV GOVINDRAO GAJALWAD

VERSUS

THE STATE OF MAHARASHTRA

THROUGH PRINCIPAL SECRETARY AND OTHERS

...

Advocate for Applicant: Mr. S. M. Kulkarni h/f.

Mr. Boinwad Omgashad B.

AGP for Respondent Nos.1&2: Mr.S. G. Sangle

Advocate for Respondent No.3: Mr. A. R. Kale

...

CORAM: RAVINDRA V. GHUGE

AND

ARUN R. PEDNEKER, JJ.

DATE: 07th OCTOBER, 2022

PER COURT:

1. The Petitioner is before this Court in Writ Petition No.2372 of 2022, as his claim of belonging to Koli Mahadev, Scheduled Tribe, has been invalidated. He is pursuing the MBBS course. His real brother has been granted validity certificate under the orders of this Court vide Judgment dated 03.10.2017, delivered at the Principal Seat in Writ Petition No.10430 of 2017. By order dated 18.02.2022, the Petitioner is protected against coercive steps.

2. By this Civil Application, the Applicant / Petitioner has put-forth prayer clauses 'B' and 'C', as under:-

"B] The respondent No.2 may kindly be directed to declare the result of the applicant of Third MBBS Winter 2021 examination without insisting the applicant for payment of full fees.

C] The Respondent No.2 & 3 may kindly be directed to not prevent the applicant from prosecuting further studies on the ground of non submission of his tribe validity certificate."

3. During the course of the hearing, the learned Advocate for the Applicant / Petitioner submitted on instructions that the full fees would be paid by the Petitioner and in the event his claim is accepted by this Court, when the Writ Petition is decided, the fees be returned to the Petitioner.

4. The learned Advocate representing the University has vehemently opposed this application contending that once the claim of the Petitioner is invalidated, no relief can be granted to him.

5. In view of the above, this Civil Application is partly allowed to the extent of a direction to the University to declare the result of the Third MBBS Winter 2021 examination, on the condition of payment of full fees. If the Petitioner eventually succeeds in the Writ Petition, the said amount would be returned to the Petitioner.

6. In so far as further studies are concerned, i.e. beyond MBBS course, the learned Advocate for the Applicant / Petitioner submits on instructions that the Applicant / Petitioner would prefer PG admission from the Open category. In the event the Petition is decided prior thereto and his claim is validated, obviously the Applicant / Petitioner would be entitled to seek the benefit of such reservation.

[ARUN R. PEDNEKER, J.]

[RAVINDRA V. GHUGE, J.]

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