

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

WRIT PETITION NO.7314 OF 2022

**VAISHNAVI JAYANT KADAM
VERSUS
THE UNION OF INDIA THROUGH ITS SECRETARY AND
OTHERS**

...
Advocate for the Petitioner : Shri P.P. More
Standing Counsel for the Respondents/ UOI : Shri Aashish T.
Jadhavar
...

**CORAM : RAVINDRA V. GHUGE
&
ANIL L. PANSARE, JJ.**

DATE :- 14th July, 2022

Per Court :-

1. Considering the statement made on behalf of respondent Nos.1, 2 and 3 and the consent of the petitioner, we are not required to deal with the entire pleadings in this petition. Suffice it to say that the petitioner had applied for the National Institute of Fashion Technology (NIFT) course and had preferred a reserved category as Other Backward Category (OBC) Non Creamy Layer. Since the said caste certificate was invalidated due to certain development, she was agreeable to apply from the Open Category. Fortunately for her, under the guidelines below

“Reservation of Seats” under Admissions Guidelines, 2022, her inability to submit a valid category certificate made her eligible for being considered from the open category seat provided the benefit of any relaxed age or income or cut off has not been availed of by the candidate at any stage.

2. For clarity, the relevant portion is reproduced as under :-

“The category selected by a candidate at the time of submitting the application form will be final. Requests for any change of category will not be permitted during later stage of admission process. However, if a candidate who has selected a reserved category i.e. SC/ ST/OBC (NC)/ EWS and has not submitted a valid category certificate, he/she will be considered for open category seats only provided any benefit of relaxed age or income or cut offs has not been availed by the candidate at any stage of the Admission Process. If any benefit has been availed, the candidate’s application will be rejected.”

3. The learned advocate for the respondents points out the email placed on record dated 28.06.2022 vide which the petitioner was informed that as her caste certificate was invalid, she will be converted to unreserved category and she can change her preferences (colleges) till 10:00 pm on 28.06.2022. Further email between the petitioner and the respondent admission authority indicates that she was unable to open the preference

page and as such, she continued with the four preferences that she had opted for, in favour of the NIFT, Mumbai, Delhi, Bangalore and Gandhinagar, in that order of serial numbers.

4. The learned advocate for the respondents further points out the email addressed by the petitioner to the authority indicating that she has already filled in the preference under the unreserved category and her common merit rank is 69. He adds that the total seats available for the open category students in these four institutes are 60 i.e. 15 seats are allocated for each institute. As the petitioner is at Sr.No.69 in the merit list, she would not be entitled for either of these four institutes, save and except if any candidate, who is within the 60, opts out or is disqualified for any reason and only after the petitioner's rank at Sr.No.69 reaches upto 60, that she would be entitled for admission in any of these four institutes.

5. The learned advocate for the petitioner submits, on instructions, that the petitioner has a bleak prospect insofar as climbing up the ladder from Sr.No.69 to Sr.No.60. It would be under fortuitous circumstances, that she may be lucky to reach the number 60 in the event of students opting out or are disqualified. He, therefore, submits that the case of the petitioner

may be considered for any other NIFT institute which she has not opted for after the entire selection process is over and the authorities desire to fill up the seats, in the event of there being no other legal impediment.

6. In view of the above, we find that if, after the entire five rounds of selection are completed on 15.07.2022 and if the admission guidelines permit the authorities to select candidates like the petitioner by treating them alike, strictly as per their common merit rank to be considered for admission in any of the NIFT institutes in India and if such admission is legally permissible, they would consider the petitioner.

7. Needless to state, our above observation would not be a mandate to the respondents, de-hors the rules and if there is any legal impediment, the respondents would be within their rights to take an appropriate decision.

8. This Writ Petition is disposed off.

kps (ANIL L. PANSARE, J.) (RAVINDRA V. GHUGE, J.)