

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

**CIVIL APPLICATION NO.13284 OF 2022
IN
WRIT PETITION NO.1714 OF 2022
WITH
WRIT PETITION NO.1714 OF 2022**

**MAHADEVI VYANKAT NANDAGAVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for the Petitioner : Shri Deshmukh Swapnil A.
AGP for the Respondents/State : Shri S.G. Sangle
Advocate for Respondents 3 and 4 : Shri S.G. Karlekar
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 21st October, 2022

Per Court :-

1. The petitioner has preferred this writ petition since her admission to the Bachelor of Pharmacy (B.Pharm) course has been rejected by the Admission Regulating Authority, Mumbai/ respondent No.3 herein. The petitioner secured admission to the B.Pharm course in respondent No.5 Institution on 18.08.2018. Clause 3 below “Important Instructions for Candidates” incorporated in the State Common Entrance Test Cell,

Maharashtra, Mumbai Notice No.CETCELL/B.Pharm-
Admission Notice/2018/793 dated 09.06.2018, which reads as
under:-

“3. *The candidates belonging to SC, VJ/DT (NT (A), NT(B), NT(C), NT(D), OBC and SBC categories shall produce “Caste Validity Certificate” and ST category shall submit “Tribe Validity Certificate”. All Backward Class candidates excluding SC and ST shall produce Non Creamy Layer certificate valid up to 31st March, 2019. If such candidates fail to produce the Caste/ Tribe validity and Non Creamy Layer Certificate at the time of verification at FC, then such candidates will be treated as GENERAL category candidates for CAP Admissions.”*

2. The petitioner admittedly could not submit her validity certificate at the time of verification of the documents. She received the validity on 06.10.2018. The validity was submitted to respondent No.5/ Institution on 10.10.2018. The admission of the petitioner was cancelled by respondent No.3 after 10.10.2018. The petitioner by now has completed her B.Pharm course and the result of the last 8th semester is yet to be declared.

3. This Court, at the Nagpur Bench in ***Kuldeep Sanjay Deshmukh vs. State of Maharashtra and others***, Writ Petition

No.326/2020 decided on 12.07.2022 (MANU/MH/2284/2022), has taken the view that as it is not within the scope or hands of the petitioner/student to get a validity certificate within a particular timeline and since it is the Scrutiny Committee, which decides the claim after following due procedure laid down in law, the petitioner/student cannot be held responsible for belated filing of the validity certificate.

4. All said and done, the petitioner has a validity certificate of belonging to “Dhangar”, NT-C category, issued by the competent committee on 06.10.2018, which is said to have been submitted to respondent No.5 Institution on 10.10.2018, which is less than two months from the date she has been admitted in respondent No.5 College. Prima facie, the law laid down in ***Kuldeep Deshmukh (supra)*** would assist the petitioner.

5. The learned AGP strenuously points out that this petition filed by the petitioner is for quashing the cancellation of her admission. The petition was adjourned at the request of the petitioner on 23.02.2022, 07.06.2022, 27.06.2022 and thereafter, the matter could not be taken up for hearing. The verdict as to whether, the cancellation of admission can be sustained or not, will have to be delivered by this Court. He, therefore, submits that

though this Court is hearing the Civil Application today, the Writ Petition needs to be posted for final hearing.

6. In view of the above and to balance the equities, we are partly allowing the Civil Application with the following directions :-

(a) The petitioner/ applicant shall tender an affidavit undertaking to respondent Nos.3 and 5 with copies to be filed in these proceedings, on or before 11.11.2022, declaring that though the petitioner would avail of the admission to the M.Pharm course on the basis of the tribe validity certificate, if in the journey of this litigation, her admission to the B.Pharm course could not have been regularized, the petitioner would return all marks memo as well as degree certificates.

(b) Respondent No.5 would forthwith declare the result of the 8th semester of B.Pharm course and also issue the marks memo of the 7th semester as well as the 8th semester, immediately.

(c) Subject to the above, the petitioner would proceed to take admission to the M.Pharm course by seeking benefits of reservation based on the validity certificate.