

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

WRIT PETITION NO. 11255 OF 2022

Krushna S/o Baburao Magar,
Age 25 yrs. Occ. Education,
R/o – Khandgaon Tq. Pathardi,
Dist. Ahmednagar.

... **Petitioner**

VERSUS

1. The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education Department,
Mantralaya, Mumbai-32.
2. Mahatma Fule Krushi Vidyapeeth,
Rahuri – 413722
Through Its Dy. Registrar (Education).
3. The Principal,
Dr. Vithalrao Vikhe Foundation,
Krushi Mahavidyalay
(Vilad Ghat) Vadgaon Gupta, Post M.I.D.C.
Tq. Ahmednagar Dist. Ahmednagar.
4. The Scheduled Tribe Certificate Scrutiny /
Verification Committee, Nashik.

... **Respondents**

...

Mr. S. R. Andhale, Advocate for Petitioner.

Mr. S. G. Karlekar, AGP for Respondent Nos.1 & 4.

Mr. Avishkar Shelke, Advocate for Respondent No.2.

Mr. A. V. Hon, Advocate for Respondent No.3.

...

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

DATE : 06th December, 2022.

ORAL JUDGMENT: (Per Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. The petitioner has put forth prayer clauses 'B' and 'C' as under:-

“B) By issuing appropriate writ, order or direction in like of nature this Hon’ble Court may direct to the Respondent Nos.2 and 3 to issue final marksheet, passing certificate and degree certificate to the petitioner and please to pass necessary orders in that regards;

C) Pending hearing and final disposal of this writ petition this Hon’ble Court may direct to the Respondent Nos.2 and 3 to issue final marksheet, passing certificate and degree certificate to the petitioner;”

3. The petitioner’s claim of belonging to “Koli Mahadev” Scheduled Tribe is pending validation proceedings. The learned AGP submits that the proceedings would be decided by an order, which

would be passed, on or before 31st March, 2023.

4. The learned advocate for the petitioner points out that he has already secured an employment in a private industry known as “Watershed Organisation Trust (WOTR), as a Senior Assistant (Agriculture). He, therefore, needs to tender the final year’s marks-sheet of his B.Sc. (Agriculture) course to the new employer. Without the validity certificate, respondent Nos.2 and 3 are not releasing his marks-memo and the degree certificate.

5. The learned advocate representing the University draws our attention to the recent order passed by the Honourable Supreme Court in the matter of ***Maharashtra University of Health Sciences Vs. Madhvi Ramrao Thakur and others***, in Special Leave to Appeal (C) Nos.866-867 of 2022, dated 31st January, 2022, by which the Honourable Supreme Court has stayed the interlocutory order passed by this Court, directing the University to release the degree certificate. That was a case wherein the committee had invalidated the claim of the students.

6. The learned advocate representing respondent No.3 submits that the petitioner got admission in the college on the basis of

his claim of belonging to a reserved category. He receives scholarship from the Government. If his claim is invalidated by the committee, the college will have to re-imburse the entire scholarship amount to the State Government and thereafter, recover the said amount from the petitioner.

7. The learned advocate for the petitioner submits, on instructions, which he has gathered after seeking a pass over, that the petitioner would tender an affidavit undertaking to respondent Nos.2 and 3, declaring that if his claim is invalidated and if in the litigation journey he does not succeed, he would pay the entire fees to respondent No.3 college. He also submits that his appointment letter is on record at page No.24 and he would pay the amount from his earnings.

8. In view of the above, this petition is disposed off with the following directions:-

ORDER

- A) The marks-memo and the passing certificate of the petitioner be forwarded by respondent No.2 University to the college, on or before 12th December, 2022.

- B) The petitioner would tender an affidavit undertaking to the college on 14th December, 2022 and at the same time collect the marks-memo and passing certificate from the college.
- C) The learned advocate for the college submits that the marks-memo and the passing certificate would be released forthwith, after receiving the affidavit undertaking.
- D) Respondent No.4 committee would endeavour to deliver the order in the pending validation proceedings, on or before 31st March, 2023.
- E) The degree certificate would not be released till the decision of the committee.
- F) The petitioner would whole heartedly cooperate with the committee and shall not seek adjournments unnecessarily.

9. Rule is made absolute in the above terms.

[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE J.]