

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**WRIT PETITION NO. 9270 OF 2021
AND
CIVIL APPLICATION (ST.) NO. 30233 OF 2022**

PREETI VENKATRAO KAURWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Mr. S.M. Vibhute, Advocate for petitioner;
Mrs. V.N. Patil-Jadhav, AGP for respondent - State;
Mr. Shrikant S. Patil, Advocate for respondent no. 4
Mr. M.D. Narwadkar, Advocate for respondent no. 5
...

**CORAM : DIPANKAR DATTA, CJ.
AND
SMT. VIBHA KANKANWADI, J.**

DATE : NOVEMBER 15, 2022

PC :

Registry to assign appropriate number to the civil application tendered in Court today by Mr. Vibhute, advocate for petitioner.

2. Maharashtra Institute of Medical Sciences and Research, Latur (hereafter, 'the said Institute' for short) shall be impleaded as an additional respondent (respondent no. 6) in the writ petition as well as the civil application. Cause title of the writ petition as well as the civil application be amended here and now. Copy of the writ petition and the civil application shall be served on the added respondent together with a copy of this order.

3. The Scheduled Tribe Certificate Verification Committee - respondent no. 2 has invalidated the petitioner's caste claim by an order dated 14th August, 2021. The said order is challenged in this writ petition on multiple grounds.

4. In the civil application filed by the petitioner, it is her pleaded case that after qualifying the MBBS examination she has acquitted herself creditably in the NEET-PG-2022 examination for admission in Post Graduate Medical Courses and has since been selected for the course of PG (Anesthesiology) at the said Institute from the management quota as an open candidate. It is also the petitioner's case that the said Institute has called upon her to be present on 15th November, 2022, i.e., today, along with Degree Certificate, Internship Completion Certificate of MBBS Course and other documents for facilitating her admission in the PG course.

5. The prayer in the civil application reads as under:

“(B) The respondent Nos. 3 College and respondent no. 4 University, may kindly be directed to issue Degree Certificate, Internship Completion Certificate of MBBS course and other necessary documents, which the applicant is entitled without insisting for Tribe Validity Certificate of the applicant and subject to final outcome of this Writ Petition No. 9270/2021,

challenging invalidation of tribe claim of the applicant;"

6. Together with the application, the petitioner has filed an undertaking that she will not "take any benefit of the S.T. category for P.G. Course/any other purpose and her above said original documents and above said PG course would be subject to the decision" of this writ petition.

7. It is not in dispute that the petitioner secured admission in the MBBS Course on a seat reserved for S.T. category claiming that she belongs to Mannervarlu tribe. If indeed, this Court upon final hearing of the writ petition, upholds the order of the respondent no. 2, it is obvious that the petitioner would lose all benefits flowing from her admission in the MBBS Course as a S.T. candidate. On the other hand, if the petitioner's prayer in the civil application is not granted but ultimately, she succeeds in the writ petition, an irretrievable damage to her career could be caused. Thus, there is reason for us to interfere at this stage.

8. To balance the equities and to secure the ends of justice, we propose to allow the civil application by the following order:

(I) The respondent no. 3 - College as well as the respondent no. 4 - University are directed to issue the Degree Certificate, Internship Completion Certificate of MBBS Course and other relevant documents to the petitioner, as the case may be, without prejudice to their rights and contentions in this writ petition. While issuing such certificates / documents, the College / University shall clearly endorse on all such certificates / documents that the same are being issued pursuant to the order passed by this Court today and would be subject to the result of this writ petition.

(II) Let the certificates / documents be issued by the University as well as the College as early as possible, preferably by 3:00 pm today.

(III) If the petitioner fails to produce the relevant certificates / documents before the said Institute by today, it shall extend the time for such purpose, by close of working hours tomorrow.

(IV) We restrain the said Institute from issuing the final pass certificate to the petitioner, in case she successfully completes the course before decision on this writ petition is rendered by this Court.

(V) In the unlikely event of the petitioner abandoning her course of study at the said Institute, we restrain her from engaging in the profession of practicing medicine on the basis of her MBBS degree without obtaining leave of this Court.

9. This order is passed in the special facts and circumstances of the case to safeguard the career prospect of the petitioner and she shall not claim any equity at the time of final hearing of the writ petition.

10. The civil application is disposed of. No costs.

[SMT. VIBHA KANKANWADI, J.]

[CHIEF JUSTICE]

arp/