

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

2 WRIT PETITION NO.12169 OF 2022

RAHUL PRADEEP SONAWANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. A. D. Shinde.

AGP for Respondents: S. G. Sangle.

Advocate for Respondent No.2 : Mr. S. P. Brahme.

...

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

DATE : 02nd December, 2022.

Per Court :

1. The only issue in this petition is that an MBBS graduate, subject to the rules of NEET-PG-CPS-2021, can apply for a vacant seat for Fellow of the College of Physicians and Surgeon (FCPS – Medicine), by himself or through some one.

2. Rule 5 of Notice No.8 dated 25th November, 2022 issued by the Directorate of Medical Education and Research, indicates as under:-

“For institutional round eligible and interested candidates should approach to the Dean/Principle of the respective colleges/Hospitals within prescribed time and

submit application for vacant seats in person or any person. Such type of applications should not be submitted in the Directorate of Medical Education & Research in person or email. Such type of applications submitted in Directorate of Medical Education & Research will not be considered valid for any institutional level admission process.”

3. The advertisement published by the Government Medical College, Jalgaon, dated 30th November, 2022, indicates the following time table:-

1	Submissions of application on plain paper along with documents	By 01-12-2022 5.00 PM
2	Preparation of Provisional merit List (Based on NEET PG Score/Rank)	01-12-2022 by 7.00 PM
3	Objection regarding Provisional Merit List	01-12-2022 until 08:00 PM
4	Display of final Merit List	01-12-2022 9.00 PM
5	Allotment of seats at Dean office, Govt. Medical College, Jalgaon	02-12-2022 at 11.00 AM
6	Selected students to take admission up to	02-12-2022 3.00 PM
7	Any seats remaining vacant after will be filled by spot round from merit list	02-12-2022 5.00 PM
8	Cut-off date of admission	02-12-2022 5.00 PM

4. We would not prefer to go into the controversy as is narrated to us by the petitioner, that his close friend by name

Dr. Sachin Patil reached the college at 04:45 pm on 1st December, 2022, since the petitioner was not in a position to personally deliver his application. He is presently at Dhule and the college is at Jalgaon at a distance of around two hours. The learned AGP representing the Government Medical College submits that no such person had approached the committee even today upto 03:00 pm. The learned advocate for the petitioner submits that the petitioner himself is presently standing in the college at Jalgaon with his application form and the relevant documents, to be delivered to the admission committee.

5. The hearing in this matter commenced in the 2nd session and after a hearing, we have started dictating this order at 04:30 pm. The Rules clearly indicate that a candidate or any person on his behalf can file an application. Nevertheless, the petitioner is presently available at the college to deliver his application. We, therefore, direct the committee to forthwith accept the application and the relevant documents filed by the petitioner and we request the learned AGP, by permitting him to leave the Court hall, to pass on a telephonic message to the Dean of the College, who is a member of the committee that we have ordered accordingly.

6. Considering the reproduced time table as above, the selection of the candidate available was to complete on 1st December, 2022 until 09:00 pm. Out of the two seats, one was available for physically handicapped and the other was available for SC candidate. The petitioner belongs to SC category. The time table further indicates that those candidates, who are available with the requisite slot, would be granted admission till 03:00 pm on 2nd December, 2022, i.e. today. Any seat remaining vacant will be filled up by spot round from the merit list. As such, clause (7) indicates that any other person available in the merit list, can then be given the vacant spot. However, since the petitioner is an SC candidate, unless there is any other SC candidate above him, he can still be granted the admission till 05:00 pm, by way of a spot admission, unless there is any other legal impediment.

7. The learned AGP submits that in terms of clause (4) of the time table, the merit list was displayed at 09:00 pm on 1st December, 2022 and considering clause (7), vacant seats are to be filled in only from the merit list, in which the name of the petitioner is not entered.

8. Since we find, upon considering clauses (4), (6), (7) and (8) of the time table, if no other SC candidate is available, the petitioner can be considered for admission. We, therefore, direct the Dean of the Medical College and his committee to accordingly

consider the case of the petitioner. Needless to state, if there is any legal hurdle or any SC candidate, having higher marks than the petitioner, the committee would take a decision as is appropriate.

9. With the above directions, this petition is disposed of.

10. Since the dictation in this matter was concluded at 04:30 pm and there is hardly any time to get the order formalised and be uploaded, we request the parties, especially the learned AGP to act on the oral dictation of the order, without waiting for the order being uploaded.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]