

Vidya Amin

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12623 OF 2022

Khushi Sallauddin Pathan

.. Petitioner

Vs.

The State of Maharashtra, through Secretary,

Medical Education and Medicine Dept and Anr. .. Respondents

Ms. Rekha Musale for the petitioner.

Mr. S.b. Kalel, AGP for the State.

Mr. Sameer Khedekar for respondent no. 2.

**CORAM : S.V. GANGAPURWALA &
R.N.LADDHA, JJ.**

DATE : OCTOBER 20, 2022.

P.C.:

1. The advocate for the petitioner submits that the petitioner has studied upto 7th Standard in Pune. The petitioner is a domicile of Pune, Maharashtra. Learned counsel submits that the father of the petitioner had to take up the job in a private sector in Dubai. As such, the petitioner studied from 8th to 11th Standard in Dubai. The petitioner completed her 12th Standard at Pune. The learned advocate has submitted that Rule 4.5 of NEET UG-2022 is ultra vires.

2. As the petitioner is domicile of State of Maharashtra, the petitioner should be considered eligible for admission in the State quota, more particularly when the petitioner has undergone her 12th Standard in Maharashtra. According to the learned advocate, Rule 4.5 which requires 10th & 12th Standard to be completed from the State of

Maharashtra is ultra vires, inequitable and does not stand to reason.

3. We have heard learned advocate for respondent no. 2 and learned AGP

4. Rule 4.5 was a subject matter of challenge in Writ Petition No. 8539 of 2022, the same is decided under judgment and order dated 12 September, 2022. In the said judgment, we have upheld Rule 4.5, however, the same was read down in the manner to provide relaxation or exemption to the ward of defence personnel. The defence personnel do not have any choice but to perform duties in the area as directed by the Government. It was in that context, we had read down the rule with exception to be provided for the wards of defence personnel.

5. In the present case, the father of the petitioner was in private employment. The father of the petitioner voluntarily on its own took up employment in Dubai probably for better prospects. The petitioner has studied in Dubai from 8th to 11th Standard. In light of that, we cannot come to aid of the petitioner.

6. Writ Petition as such is disposed of. No costs.

(R.N. LADDHA, J.)

(S.V. GANGAPURWALA, J.)