

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.1610 OF 2020

Cynthia Julious Charlie
Aged about 23 years,
Occupation – Nil,
R/o. Indraprasta Apartment,
MHADA Colony, Amravati
District - Amravati

...PETITIONER

VERSUS

1. The Vice Chancellor,
Sant Gadgebaba Amravati University,
Amravati
2. Director (Assistant),
Department of Technical Education,
Maharashtra State,
Mumbai
3. Vidhya Bharati College of Pharmacy,
through its Principal

...RESPONDENTS

Shri Mohan Sudame, Advocate with Shri H.D. Futane,
Advocate for the petitioner.
Shri S.S. Ghate, Advocate for respondent No.1.
Shri D.P. Thakre, Additional Government Pleader for
respondent No.2/State.

CORAM : A.S. CHANDURKAR AND
URMILA JOSHI-PHALKE, JJ.

DATED : JUNE 27, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. **RULE.** Rule is made returnable forthwith.

3. By this petition, petitioner is seeking the direction against the respondents to release her mark sheets of VIth and VIIIth semester and to treat her admission from open category.

4. The grievance of the petitioner is that she is Christian by religion. After completion of 12th standard, she took admission for B. Pharm Course at Vidhya Bharati College, Amravati from reserved category i.e. Scheduled Tribe category. However, she deposited education fees and other charges as Open category candidate. As per the eligibility criteria decided by the Higher and Technical Education Department i.e. by the Directorate of Technical

Education, Maharashtra State, Mumbai, she was qualified for the admission from the Open category but she was admitted from the Scheduled Tribe category. She was asked to submit Caste Validity Certificate accordingly, she applied for the same. However, on 31/05/2017 Caste Scrutiny Committee rejected the claim of the petitioner. She contended that though her admission is shown from the reserved category she deposited her educational fees and other charges as Open category candidate. She also made a representation before respondent No.1 – University and respondent No.3 – Principal for conversion of her admission from Scheduled Tribe category to Open category. But it was informed to her that her admission cannot be converted into Open category as per the rules and regulations issued by the Director of Technical Education hence, she filed this petition for the directions.

5. Respondent No.1 filed reply and taken stand that the Government of Maharashtra, Higher and Technical Education, Department of Pharmacy i.e. the Directorate of Technical Education, Maharashtra State, Mumbai framed rules for academic year 2008-2009. The petitioner was admitted for the course of B.Pharm from the Scheduled Tribe category. She had completed Vth

semester. The caste certificate on which she placed reliance at the time of taking admission was forwarded for the scrutiny. Her caste claim was invalidated. The petitioner has not challenged the order of the Caste Scrutiny Committee. It is further stand of the respondents that in view of rules i.e. as per the Central Admission Process admission secured by such candidate in the respective reserved category will not be converted into Open category. Hence, admission cannot be transferred or converted to Open category.

6. Heard Shri Sudame, learned Counsel for the petitioner. He submitted that the petitioner had fulfilled the eligibility criteria for the admission from Open category. She had also deposited the fees as of an admission from the Open category. Though she was admitted from the reserved category i.e. Scheduled Tribe however her caste claim is invalidated as she could not produce the relevant documents. She had already completed IVth semester of her academic year and, therefore, her admission be treated as from the Open category and the directions be issued to the respondents to release her mark sheets of VIth and VIIIth semester and to treat her admission from Open category.

7. On the other hand, Shri Ghate, learned Counsel for respondent No.1 submitted that the admission of the petitioner was from reserved category and as per the rules framed admission cannot be converted from reserved category to Open category, therefore, prayer of the petitioner deserves to be rejected.

8. Heard learned counsel for the respective parties and perused the relevant documents.

9. It is the contention of the petitioner that actually her family members belong to 'Gond' caste which is a Scheduled Tribe category but her father has adopted the religion Christian, therefore, her school record shows her religion as Christian. She was admitted in B.Pharm course from the Scheduled Tribe category. She had deposited entire fees as of a candidate of Open category. Her caste claim was invalidated. As per the brochure which is filed on record by the respondents issued by the Directorate of Technical Education, Maharashtra State, Mumbai, the eligibility criteria for admission from the Open category is that the candidate should obtain at least 50% marks in the 12th standard examination.

10. It is submitted by Shri Sudame, learned Counsel for the petitioner that for admission from the reserved category, the requirement is of 45% marks. Present petitioner had already obtained more than 50% marks, therefore, she was eligible for the admission from the Open category. Though she was admitted for the course from the reserved category but she had already qualified for the admission from the Open category. Therefore, her admission be considered from the Open category.

11. The eligibility criteria given in Annexure-III of the said brochure shows that for admission in the said course, a candidate should be an Indian National and should have passed the HSC (std. XII) examination of Maharashtra State Board of Secondary and Higher Secondary Education or its equivalent examination with subjects English, Physics, Chemistry and Mathematics/Biology and secured minimum 50% marks i.e. 150 marks out of 300 marks (minimum 45% marks i.e. 135 marks out of 300 marks in case of candidates of Backward class categories belonging to Maharashtra state only) in the subjects Physics, Chemistry and Mathematics/Biology (Maximum of marks obtained in

Mathematics/Biology shall be considered for purpose of addition) added together. Admittedly, the petitioner had obtained 352 marks out of 650 marks i.e. 54.15%. At the same time, admittedly the petitioner's admission was from reserved category i.e. Scheduled Tribe. Annexure-R-2 filed by the respondents is the list of the candidates admitted to the First Year of Four-Years Full-Time Degree Course in Pharmacy wherein the name of the present petitioner is appearing at serial No.19. Her admission was shown from Scheduled Tribe category. Thus it shows that admission of the petitioner was from the reserved category i.e. Scheduled Tribe category.

12. The rules prescribed by the Directorate of Technical Education, Maharashtra State, Mumbai further states that the candidates who are belonging to SC, ST, VJ/DT, NT(A), NT(B), NT(C), SBC and OBC category are required to produce Caste Validity Certificate at the time of filling of the online application form. However such candidates who are unable to produce the caste validity certificate may produce the same on or before 30th September 2008, such candidates were to be admitted on provisional basis. If a candidate failed to submit the required Caste

Validity Certificate then the admission of such candidate was to be automatically cancelled. The note given in the said rules shows that in case the candidate failed to produce the caste validity then the admission secured by the candidate would be cancelled. Such candidate would be required to pay the complete fees of one academic year to the respective college. The admission secured by such candidate in the respective reserved category would not be converted into Open category. Thus it is specifically mentioned in the rules that the admission secured by such candidate in the respective reserved category would not be converted into Open category.

13. The caste certificate of the petitioner was referred to the Caste Scrutiny Committee but the Caste Scrutiny Committee has rejected and invalidated the caste claim of the petitioner. The order of the Caste Scrutiny Committee is produced on record which shows that the petitioner failed to produce the documents to show that she belongs to 'Gond' Scheduled Tribe. The respondents have given an opportunity to the petitioner to produce valid caste certificate but she could not produce the same and, therefore, in accordance of the rules provided by the Directorate of the Technical

Education, her admission cannot be converted into Open category. This fact was already communicated by respondent No.2 to respondent No.3 by communication dated 04/05/2019.

14. The prayer of the petitioner is contrary to the rules and regulations framed by the Directorate of Technical Education. Hence we are unable to accept the contentions raised by the petitioner. Hence, writ petition deserves to be dismissed.

15. We proceed to pass the following order:

(a) The writ petition is hereby dismissed with no order as to costs.

16. Rule stands discharged.

(URMILA JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)

**Divya*