

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

WRIT PETITION NO.7837 OF 2022

Ku.Devika Abhijeet Wanjari

Vs.

Union of India through its Secretary, Department of Health and Family
Welfare, New Delhi

Shri B.G.Kulkarni, Advocate for petitioner.

Shri N.S.Deshpande, Deputy Solicitor General of India for respondent nos. 1
to 4.

CORAM :- A.S.CHANDURKAR AND ANIL L. PANSARE, JJ.,

DATE :- DECEMBER 13, 2022

P.C.

Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

The petitioner claims to belong to 'O.B.C.' category and she has been issued a validity certificate to that effect. Pursuant to Online application submitted by her, she is treated as a candidate from 'General' category. It is her case that inadvertently the category was shown as 'General' instead of 'O.B.C.'. The petitioner therefore on 20.11.2022 made a representation to the respondent no.3 to permit her to modify the said category from 'General' to 'O.B.C.'. Writ Petition No.7337 of 2022 was filed by the petitioner praying that a direction be issued to decide her representation. That writ petition has been disposed of on 02.12.2022 by directing the respondent no.3 to consider the petitioner's representation dated 20.11.2022.

Pursuant to the said order the respondent no.3 has on 05.12.2022 issued a communication to the respondent no.4 in which it was stated that necessary steps be taken for changing the record of the petitioner from 'General' category to 'O.B.C.' category and thereafter provide the requisite data. Accordingly, on 05.12.2022 the respondent no.4 has issued a communication to the National Informatics Centre (NIC) in which it has been stated that on the basis of advice of the Medical

Counselling Committee, DGHS, category from 'UR' is permitted to be changed to 'O.B.C.'

From the aforesaid, it is thus clear that the change in category has now been permitted by the competent authority. With such a change, the petitioner would be thus entitled to seek registration for admission to first year M.B.B.S. course in the stray round. Accordingly, prayers (ii) and (iii), which are consequential in nature which read as under, are granted.

Prayers (ii) and (iii) :

(ii) By a writ of mandamus or a suitable writ, order or direction, respondent no.3, the Associate Dean of Graduate Medical Education (ADGME), new Delhi be directed to forthwith provide/open link for registration and permit the petitioner to register herself for admission to first year M.B.B.S.course for stray vacancy round and accept the online registration and registration fees from the petitioner within 48 hours from the date of the order.

(iii) By a writ of mandamus or a suitable writ, order or direction, respondent no.3, the Associate Dean of Graduate Medical Education (ADGME), new Delhi be directed to forthwith include the name of the petitioner in the list of candidates for admission to first year M.B.B.S. course in stray vacancy round within 48 hours from the date of the order and to permit the petitioner to participate in stray vacancy round.

The respondents shall do the needful and permit the petitioner to participate in the stray vacancy round.

Since this Court had merely directed the respondent no.3 to consider the petitioner's representation dated 20.11.2022 keeping in mind the decision of the Madras High Court in Writ Petition No.29475 of 2022 (*Nihal Hamza vs. The Government of India and ors*) decided on 08.11.2022, this order be treated to have been passed in the peculiar facts of the present case.

Rule accordingly. No costs.

Authenticated copy of this order is supplied to the learned counsel for the parties.

(ANIL L. PANSARE, J.)

(A.S.CHANDURKAR, J.)

Andurkar.