

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

956 WRIT PETITION NO.1187 OF 2023

SUVARNA LAKSHIMANRAO KISVE
VERSUS

THE STATE OF MAHARASHTRA THROUGH THE DEPARTMENT OF
HIGH AND TECHNICAL EDUCATION AND OTHERS

Mr.K.P.Rodge, Advocate for the petitioner.
Mr.V.M.Kagne, AGP for the respondent/State.
Mr.A.D.Aghav, Advocate for respondent No.3.
Mr.S.V.Kurundkar, Advocate for respondent No.4.
Mr.S.G.Karlekar, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.)

DATE : FEBRUARY 8, 2023

PER COURT :

1. On 02.02.2023, we had passed the following order :-

"1. The petitioner has tendered a service affidavit, stating therein that respondent No.4/ Law College has been served with Advocate's notice through E-mail.

2. This is a peculiar case. The petitioner, who is a house-maker and around 40 years of age, has secured admission to the First Year of Old LL.B. Course (Three years LL.B. Course) from the 'OPEN-Female' category. Her allotted medium of instructions is 'English'. She belongs to the NT-2 (NT-C) category. She also has a certificate of validity of

belonging to the 'Hatkar (29)' Nomadic Tribe-C category. Strangely, her admission has been cancelled on 29/11/2022 on the ground that she had not tendered her validity certificate dated 06/01/2023, which she received on 09/01/2023. When her admission was granted from the 'OPEN-Female' category, prima facie, we do not find that the order of cancellation may be justified.

3. *We are informed that, today is the last date for filling in the examination forms of the First Year First Semester and the examination would commence on 14/02/2023.*

4. *Issue notice to the respondents, returnable on 20/03/2023. The learned A.G.P. waives service of notice on behalf of respondent No.1. The learned Advocate Shri. Karlekar waives service of notice on behalf of respondent No.2 and Shri Aghav, the learned Advocate waives service of notice on behalf of respondent No. 3.*

5. *Considering the fact situation as recorded above, we direct respondent No.4/ Law College, to forward the examination form of the petitioner with late fees. We also direct the University to accept the examination form of the petitioner and process the same to ensure that the petitioner would be able to appear for examination beginning from 14/02/2023. Needless to state, this order shall not create any equities in favour of the petitioner."*

2. In pursuance to the above order, the Law College has received the

examination form of the petitioner. On instructions from the Law College, Mr.Kurundkar, the learned Advocate has lodged the affidavit in reply through the Principal of the Law College. Following are the aspects on which the Principal indicates that the admission of the petitioner, after being cancelled, cannot be continued :-

[a] Undisputedly, the petitioner had sought admission to the 3 years LL.B. Course, from the reserved category of NT-2 (NT-C).

[b] The admission regulatory authority, respondent No.2, considering the high score of the petitioner, recommended her admission from the open category vide the provisional allotment letter No.A 15869.

[c] The College as well as the University, were under the presumption that the petitioner is admitted from the reserved category and lesser charges for the admission process and lesser fees towards the College fees, were charged.

[d] The petitioner also was under the belief that her admission was granted from the reserved category.

[e] A list of candidates who were admitted, was published on 22.11.2022 and the name of the petitioner was mentioned as against the eligible category of NT-2 (NT-C). This indicates that the petitioner had to submit a validity certificate.

[f] After the anomaly was noticed and as the petitioner did not have a tribe validity certificate, which was a mandate for confirming the admission of a student, the authority cancelled the admission of the petitioner on 29.11.2022.

[g] The petitioner, who was in the College on 29.11.2022, has signed in token of her acknowledgment that her admission has been cancelled.

[h] Her signature as well as the date appearing on the cancellation note, is undisputed.

[i] Clause 9 and 10 of the instructions to the candidates and the Institutes for institutional round, for CAP-Round - III dated 10.11.2022, indicates that the candidate can change their choice and edit the form matching the details with the uploaded documents. 'Confirm the form' was an option available to the petitioner, who did not avail of the said facility. She could have modified her choice and could have confirmed her application from the open category.

[j] The entire quota of 264 candidates for the 2 law courses, has already been filled in and there is not a single seat vacant or available.

[k] This is not the only case of cancellation of admission of a candidate. One candidate above the petitioner who belongs to the SC category and who was allotted the open category, but had applied from

the SC category and had not tendered the validity certificate, has also suffered cancellation of his admission.

[l] Even if there is a cancellation of a seat and if at all the petitioner would be eligible, the admission regulatory authority is not permitted to continue with such admission process, all round the way.

[m] There are about 4 more candidates, who had scored much more than the petitioner. In one case, the score is 111 as against the score of the petitioner being 80, out of 150. The said candidate, has also suffered cancellation of the admission, though he was also provisionally granted admission from the open category and had failed to submit his validity within the prescribed time.

3. In view of the above, the learned Advocate for the petitioner submits on instructions that since there is not a single seat available and the petitioner, therefore, can not appear for the first semester examination in the absence of any seat to accommodate her, that she desires to withdraw this petitioner.

4. In view of the above, this petition is disposed off, as withdrawn.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)