

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5009 OF 2023

**DIPALI BHAUSAHEB KAMBLE
VERSUS
THE UNION OF INDIA THROUGH ITS SECRETARY AND
ANOTHER**

...

Advocate for the Petitioner : Shri Sambhaji S. Tope
Standing Counsel for Respondents 1 and 2/UoI : Shri Bhushan B.
Kulkarni

...

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

DATE :- 02nd May, 2023

Per Court :-

1. We have considered the submissions of the learned Advocates for the respective sides and have taken into consideration the strong objection of the learned Standing Counsel for the Union of India representing the Respondents.

2. The Petitioner is an 18 years old undergraduate student, who approached the Net-Cafe operator to assist her in filling her NEET UG-2023 Examination on-line form. A folder by way of an annexure was created containing her photograph and signature. A lapse occurred on behalf of the computer

technician, who attached the folder of a different student, namely, Anamika Changdeo Lad along with her signature, instead of the Petitioner's folder containing her photograph and her signature. It is, thus, obvious that the Petitioner had taken assistance of a computer technician since she was not techno-savvy and while uploading her photograph and signature by way of an attachment to the folder, the computer technician committed the mistake. It is beyond dispute that the Petitioner is not at fault. Laches cannot be attributed to her conduct.

3. In somewhat similar facts and circumstances, the Division Bench of the Delhi High Court has delivered the order on 10.12.2019 in Writ Petition (Civil) No.13038/2019 (***Deepika vs. UPSC***). We are reproducing paragraphs 11 and 12 of the said order hereunder:-

“11. *In our view, the error committed by the petitioner, though fundamental, is not informed with any malice, mala fides or sinister reason. We also notice that, from the record annexed to the petition, the identity of the petitioner is verifiable and not in doubt. It is also seen that the respondent has issued the admit card with the petitioner's photograph, though with the mother's name.*

12. *Accordingly, we are disposed to exercising our extraordinary jurisdiction under Article 226 of the Constitution of India in the petitioner's favour, since we consider this to be a deserving*

case where the candidature of the petitioner ought not to have been rejected by reason of an innocent and inadvertent error committed by her. While so opining, we are also conscious that by way of this order, the petitioner would only be able to participate in the interview; and whether or not she ultimately succeeds will be known in the normal and usual course. We make it clear that this order is not intended to be used as a precedent.”

4. In view of the above, **this Writ Petition is partly allowed** with the following directions:-

(a) The Petitioner shall forward an email to Respondent No.2 along with the copy of this order, her photograph, her signature and her left as well as right hand fingers and thumbs impressions, as required.

(b) Respondent No.2 would take into account the above and initiate appropriate steps to ensure that the Petitioner is delivered an Admit Card online so as to enable her to appear for the examination commencing on 07.05.2023.

kps

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)