

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

WRIT PETITION NO.10298 OF 2023

Samarth Surendra Suryawanshi

... Petitioner

Versus

The State of Maharashtra & Others

... Respondents

...

Mr. G. V. Mohekar h/f Mr. D. P. Munde, Advocate for the Petitioner

AGP for Respondents/State: Mr. A. S. Shinde

Advocate for Respondent Nos.4 & 5: Mr. U. B. Bondar

Advocate for Respondent No.6: Mr. S. V. Deshmukh

...

**CORAM : MANGESH S. PATIL &
NEERAJ P. DHOTE, JJ.**

DATE : 02.11.2023

PER COURT :

- . Heard the learned Advocate for the petitioner, the learned AGP for the respondent nos.1 to 3, the learned Advocate for respondent nos.4 & 5 and the learned Advocate for respondent no.6.
2. The petitioner who stands in a wait list for admission against 25% reservation quota under the Right of Children to Free and Compulsory Education Act, 2009 [for short 'the RTE Act'] is before us with a prayer to admit him in respondent no.6 / School in the first standard against a seat from out of that quota which is still vacant.
3. Learned Advocate for the petitioner submits that, due to fault of the authorities and lapse in operation of the modalities for filling up the seats against 25% quota under the RTE Act, in the current year more

than eighteen thousand seats across the State have remained vacant. As far as the petitioner is concerned, she was waiting to be admitted to the School and was standing in the wait list at serial no.2. A student by name Amruta Lahu Jadhav had opted out who was selected against that seat, however, the vacancy was not intimated and did not appear on the portal and consequently, due to lapse of time, the seat is going vacant. He would submit that it is in nobody's interest to permit such state of affairs. The petitioner was taking education in the pre-primary section of the same School and has been allowed to attend the classes even of the first standard and even if the academic year has begun, she may be directed to be admitted against one vacant seat available with the respondent no.6 / School.

4. The learned Advocate for the respondent no.6 / School, on instructions, submits that indeed one seat from and out of 25% quota under the RTE Act is still vacant. He also submits that as a sympathy since the petitioner was a student of pre-primary section of the same School, the School has allowed her to attend the classes even for the first standard. He also submits that the petitioner's name stands at serial no.2 of wait list and the student at serial no.1 by name Pranjal Ambadas Ambhore has taken admission in some different School.
5. Learned AGP and the learned Advocate for respondent nos.4 and 5 strongly oppose the petition. They advert our attention to the fact that, merely because there is a seat vacant *per se* would not be sufficient to admit the petitioner. In fact, it has been expressly notified that any admission made contrary to the provisions would be liable to penalty. They would submit that once the dead line is passed, no admission can be made against the RTE quota and the petition may be dismissed.

6. There is no dispute about the modalities to be followed by the authorities and all the stakeholders as far as filling up of the 25% quota under the RTE Act. The modalities have been prescribed, the admission rounds take place through an online portal, the vacancies are disclosed and the admission have to be confirmed by the stipulated date. It has been expressly mentioned that no admissions can take place beyond the stipulated date for any reason whatsoever.
7. Once having noticed that stringent procedure needs to be followed while admitting the students against 25% quota, it would then be within the realm of the policy makers to address the loopholes, if any, in operation of the system. There could be some grey area. Even few such circumstances leading to the seats going vacant have been expressly mentioned in the affidavit-in-reply. If such is the state of affairs, the authorities and the policy makers would be well advised to consider these contingencies so that the benefit of the scheme could be extended to the maximum extent. It would be in nobody's interest to allow the seats to go vacant which would leave the policy at naught.
8. However, once having noticed that for whatever reason, the period for securing the admission against the 25% RTE quota is already over, in exercise of the powers under Article 226, we cannot entertain the request of the petitioner.
9. The writ petition is dismissed.

[NEERAJ P. DHOTE, J.]

[MANGESH S. PATIL, J.]

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