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

938 CIVIL APPLICATION NO.10952 OF 2023
IN WP/2765/2022

SHITAL BABRUWAN THAKUR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

....

Mr T. M. Venjane, Advocate for Applicants;
Mr V. M. Kagne, A.G.P. for Respondent Nos.1 & 2
Mr U. S. Malte, Advocate for Respondent No.3

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 15th September, 2023

PER COURT:

1. The Applicants'/Petitioners' validity claims have been rejected by the Competent Scrutiny Committee. They have approached this Court for challenging the same in the Writ Petition. By the first order dated 24/02/2022, passed in Writ Petition No.2765/2022, they are protected against criminal and adverse action.

2. The learned Advocate for the Applicants/Petitioners submits that, the promotional pay-scale may be granted to Applicant No.3 until the legality of the order of the Committee,

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refusing validity certificates to the Petitioners, is tested. He relies upon an interim order passed by this Court at the Nagpur Bench, dated 12/04/2023, in Writ Petition No.5675/2021, filed by **Rekha Ranganath Shinde Vs. the Vice-Chairman/Member-Secretary, Scheduled Tribe Caste Certificate Scrutiny Committee, Chaprashipura, Amravati and others**, wherein promotional benefits have been granted, pending decision in the Writ Petition.

3. In somewhat similar circumstances, the Aurangabad Bench had passed an order on 04/02/2022 in Writ Petition No.326/2019, granting admission to the student, whose claim for validation was refused and it was held that the Petitioner was not entitled for the validity certificate. The Maharashtra Health University carried the said interim order of this Court in Special Leave Appeal (Civ.) No.866-867/2022 (Maharashtra University of Health Science Vs. Madhavi Ramrao Thakur and others.), wherein the Hon'ble Supreme Court held vide order dated 31/01/2022, as under :-

“Applications for exemption from filing c/c of the impugned judgment and official translation are allowed.

The impugned orders are only interlocutory order(s) and we would normally loath to interfere with the same but it amounts to giving relief to the respondent whose

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admission itself is doubtful as she has not been found to be entitled to validity certificate.

Issue notice.

In the meantime, there shall be stay of operation of the impugned order(s).”

4. In view of the above, since grant of interim orders are matters of discretion of each Court and taking into account the view of the Hon’ble Supreme Court in the above reproduced order dated 31/01/2022, we are not inclined to allow this Civil Application as it would result in granting service benefits to Applicant no. 3, when his claim of belonging to a reserved category is itself doubtful. **The Civil Application is, therefore, rejected.**

5. Needless to state, if Petitioner No.3 succeeds in the Writ Petition, he would be entitled for all service benefits with retrospective effect.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

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