

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11304 OF 2022

Mr. Dattatray s/o Ramrao Sherkhane,
Age 69 years, Occ. Ex-Service man/Student,
R/o. H.No. R2-2215/2, Madne Nagar,
Ambajogai Road, near LIC Office
Taluka and District Latur,
At present 1, Goverdhan Residency,
Behind Vits Hotel, Vedant Nagar,
Tq. & Dist. Aurangabad.

... Petitioner

VERSUS

- 1) The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education,
Government of Maharashtra
Mantralaya Mumbai-400032.
- 2) The Vice Chancellor,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad
University Campus,
Tq. & Dist. Aurangabad.
- 3) The Commissioner And Competent Authority
State CET Cell,
8th Floor, New Excelsior Building,
A.K. Nayak Marg, Fort,
Mumbai-400001.
- 4) The Directorate of Higher Education
Maharashtra State Pune,
Through Joint Director,
Central Building Pune-411001.
- 5) The Registrar,
Dr. Babasaheb Ambedkar Marathwada University
Aurangabad, University Campus
Tq. & Dist. Aurangabad.
- 6) The Principal,
Dr. Ambedkar College of Law,
Nagsenvana, Tq. & Dist. Aurangabad.
- 7) The Chairperson,
Students Grievance Redressal Cell,
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad, University Campus,

Tq. & Dist. Aurangabad.

... Respondents

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Advocate for the Petitioner : Mr. Pankajkumar S. Magar
 Addl. G.P. for Respondent nos. 1 to 4 : Mr. M.M. Nerlikar
 Advocate for Respondent No. 3 : Mr. S.G. Karlekar
 Advocate for Respondent Nos. 2, 5 & 7 : Mr. S.S. Thombre

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

DATE : **01.12.2023**

ORDER : (PER : MANGESH S. PATIL, J.)

Heard. Rule. Rule is made returnable forthwith. At the joint request of the parties the matter is heard finally at the stage of admission.

2. The petitioner is aggrieved by the communication dated 13.04.2022 issued by the respondent no. 4-Director of Higher Education, Maharashtra State, cancelling his admission to the five year LL.B. course to which he was admitted by the respondent no. 6-college, on the ground that he had completed his qualifying examination of standard 12th or H.S.C. from out of Maharashtra and was not eligible in view of Rule 5(1)(ii)(a) of Admission Rules, 2017.

3. Learned advocate for the petitioner would submit that the petitioner's parents are residents of and domiciled in Maharashtra. He is also a domicile of Maharashtra. He had completed his SCC or 10th standard examination from Maharashtra. He did his Diploma in Engineering at Vadadora (Gujrat), since he was in the army and was posted at the relevant time at Vadadora. Diploma in Engineering is equivalent to the qualifying examination of HSC for admission to the five year LL.B. course in Maharashtra. He cannot be denied of securing the admission and completing the course in the State of Maharashtra. He would place reliance on the decision in the matter of **Meenakshi Malik Vs. University of Delhi and ors.; A.I.R. 1989 Supreme Court 1568**; and the decision of a division bench of this Court in the matter

of **Ms. Priya Kedar Gokhale and another Vs. The State of Maharashtra and others**; in Writ Petition No. 8539 of 2022 (Principal Seat) decided on **12.09.2022**. The learned advocate, would, therefore, submit that the impugned communication cancelling his admission may be quashed and set aside.

4. Per contra, the learned A.G.P and learned advocate Mr. Karlekar for the respondent no. 3 would submit that the specific rule contained in the Admission Rules, 2017 is not being challenged by the petitioner. In the absence of any such challenge, it is a matter which does not require any adjudication. The rule requires the qualifying examination i.e. H.S.C. to be passed in the State of Maharashtra. Admittedly, the petitioner had passed the qualifying examination from out of Maharashtra. Even if he was in the employment of the Union and was posted at Vadadora that would have no bearing. A similar provision was under challenge in the matter of **Rajiv Purshottam Wadhwa Vs. State of Maharashtra; (2001) 1 Bombay Law Reporter 1**, and **Ms. Priya Kedar Gokhale (supra)**. This Court has upheld the vires of similar provisions. Consequently, there is no illegality committed by the authorities in cancelling petitioner's admission. Mr. Karlekar would also buttress his arguments by referring to the following decisions :

- (1) **Rajdeep Ghosh Vs. State of Asam and Ors; A.I.R. 2018 Supreme Court 3832.**
- (2) **Yash Kumar Waghmare Vs. The State of Maharashtra and others in W.P. 12210/2021 decided on 23.12.2021.**
- (3) **Nibir Jyoti Das Vs. State of Maharashtra and ors; 2021 DGLS (Bom) 297.**
- (4) **Pallavi Manohar Dalvi & Ors. Vs. State of Maharashtra & Ors; 2022 DGLS (Bom.) 1475.**

5. As is cursorily mentioned herein above, the petitioner has not put up any challenge to the specific clause in the Admission Rules, 2017 which expressly provide that the qualifying examination equivalent to HSC should have been cleared from the State of Maharashtra. This is apart from the fact

that similar provisions in respect of admissions to other professional courses which were the subject matter of challenge before the coordinate benches of this Court have been held to intra vires. Even in the matter of **Ms. Priya Kedar Gokhale (supra)**, this Court had expressly observed that there could not be any challenge to the vires of the rule.

6. Once having noticed that the issue is no more *res integra*, the stipulation providing for passing of qualifying examination from the State of Maharashtra as an essential requirement for securing admission to the five year LL.B. course by virtue of clause 5(1)(ii)(a), cannot be faulted with. The impugned communication cancelling the petitioner's admission cannot be said to be illegal.

7. It is pertinent to note that in fact, the petitioner is to blame himself for the precarious condition he is in. Though he was not eligible and was not seeking admission from 'Type-A' category which was available only to the individuals completing the qualifying examination from the State, still he had filled in the form/application from that category and could get the admission. Precisely for this reason, in spite of the fact that some water has flown under the bridge inasmuch as he was granted admission and could even complete a part of the course, he is not entitled to have any relief on the ground of equity.

8. The Writ Petition is dismissed.

9. Rule is discharged.

(NEERAJ P. DHOTE, J.)

(MANGESH S. PATIL, J.)

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