

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1628 OF 2023
WITH
IN PERSON APPLICATION (L) NO. 13909 OF 2023
IN
WRIT PETITION NO. 1628 OF 2023

Yash Sanjay Bajaj s/o Sanjay Hiralal Bajaj	...Petitioner
<i>Versus</i>	
Dean Topiwala National Medical College	...Respondent

Mr Yash S Bajaj, *for the Petitioner.*
Mr Sagar Patil, *for the Respondent-MCGM.*
Dr Mali, *(Nair Hospital), is present.*

CORAM G.S. Patel &
Neela Gokhale, JJ.
DATED: 12th June 2023

PC:-

1. We disposed of the Petition by an order of 5th June 2023 which read thus:

“1. Mr Patil appears for the MCGM. On instructions he states that there has been some misunderstanding or miscommunication. His instructions are to say that if the Petitioner pays the necessary amount i.e. makes the deposit

of Rs.10,000/-, the college authorities will accept the amount without protest and without qualification and the documents of the Petitioner will be released.

2. There is evidently some urgency since documents have to be released by this evening.

3. All concerned will act on production of an authenticated copy of this order.

4. The Petition is disposed of in these terms. No costs.”

2. The amount of Rs. 10,000/- was an ad hoc amount indicated by a Vacation Bench of which one of us was a member (Justice Neela Gokhale). That order was dated 1st June 2023 and it read thus:

“1. Heard the Petitioner in Person. It is the grievance of the Petitioner that Respondents have unauthorisedly withheld the documents of the Petitioner, which is causing grave prejudice to him.

2. The Petitioner has completed M.B.B.S. from the Respondent No.1-College, which is run by the Respondent No.2-Municipal Corporation. It is stated that the documents of the Petitioner are being withheld on the ground that he failed to pay hostel fees along with penal charges as per the demands made by the Respondents. It is stated that the Petitioner could not pay hostel fees due to financial constraints. It is further submitted that the penal charges are stiff and while original amount due is only Rs.6,000/-, along with the penal charges, it comes to about Rs.44,000/-. It is the contention of the Petitioner that withholding of documents in such a manner amounts to blackmailing tactics and, therefore, this Court may grant urgent interim directions in the matter.

3. It is pointed out that the Petitioner urgently needs his documents for undertaking mandatory rural service and also for admission to post-graduate course, counselling for which is scheduled in the first week of June, 2023. It is further stated that as per the statute governing Respondent No.2-Corporation, maximum penalty on any unpaid bill can be at the highest 24% p.a. 4. Ms. Vandana Mahadik, learned counsel appearing on behalf of the Respondent No.2-Corporation submits that withholding of documents is justified in view of the huge amount due towards hostel fees. It is stated that the penal charges are being levied as per the circular of the Respondent No.2-Corporation.

5. Having considered material on record, we are of the opinion that even if certain amount with penal charges may be due from the Petitioner, withholding of documents in such a manner does not appear to be appropriate. Question as to whether the Petitioner is liable to pay amount along with penal charges can be decided in the Writ Petition, but for the present, we are inclined to grant interim relief, subject to appropriate directions.

6. In view of the above, the Respondent No.1-College shall release the documents of the Petitioner, upon the Petitioner furnishing proof of having deposited amount of Rs.10,000/- towards hostel fees. Upon such proof of having deposited the amount being produced by the Petitioner, the Respondents shall release the documents forthwith.

7. List the Petition for further consideration on 10th July, 2023.

8. Parties to act on an authenticated copy of this order.”

3. The Petitioner had expressed some anxiety and so we released our order of 5th June 2023 urgently that very day and required the Petitioner to pay Rs. 10,000/-, then complete the

formalities and obtain his documents. There is no dispute that the Petitioner paid Rs. 10,000/- although this is only an adhoc amount and the demand of the MCGM is for a much larger amount. The contentions on both sides about the additional amount are left open. We can pass no order in that regard since we have already disposed of the Petition.

4. But the Petitioner today complains that despite having paid Rs. 10,000/- he was not given the documents.

5. Mr Patil for the MCGM has taken instructions. He makes two submissions. The first is that for the return of the documents the MCGM required a short application in a prescribed format. Mr Patil himself had personally explained this to the Petitioner. The Petitioner never filed such an application. The second complaint is that there is an official municipal register and this is to be maintained by the municipal authorities. The register is a dispatch book. In some circumstances that we do not claim to understand, the Petitioner is alleged to have made an entry at Sr. No. 420 in his own handwriting and against his own signature on 5th June 2023 at 5.10 pm.

6. The Petitioner denies that the entry is in his handwriting. In any case, the Petitioner states that he has made a handwritten application on 5th June 2023 and delivered it to the MCGM asking for the issuance of an internship certificate and other related documents.

7. According to Mr Patil, and this is now proving to be an incredible waste of the High Court's time, this application is not actually entered into the MCGM because it was after office hours. But a stamp has been obtained by the Petitioner and that is what is being shown to the Court.

8. We refuse to waste one further minute on this. The Petitioner's application of 5th June 2023 re-endorsed today will be accepted by Mr Patil. His officers are present in Court. Except for the internship certificate, the other documents are to be returned to the Petitioner by the end of the day tomorrow, 13th June 2023.

9. As regards the internship certificate, Mr Patil states on instructions that this will be processed along with approximately 110 other candidates whose applications are also pending. Mr Patil says there is no reason why the Petitioner should be given priority or should jump the queue. That submission is correct and is accepted.

10. No further applications will be entertained.

(Neela Gokhale, J)

(G. S. Patel, J)