

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Writ Petition No.5642 of 2022

Bharat S/o Ramesh Waghmare

Versus

State of Maharashtra and others

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri Jitesh Duhilani, Counsel for Petitioner.

Smt. S.S. Jachak, Assistant Government Pleader for Respondent Nos.1 to 3.

Shri N.A. Gaikwad, Counsel for Respondent No.2.

Shri J.B. Kasat, Counsel for Respondent No.4.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 20th APRIL, 2023.

PC.:

1. Rule. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The petitioner claims to belong to 'Mang' Scheduled Caste and has been issued a validity certificate on 25-9-2008. While appearing in the Common Entrance Test for seeking admission to the Three-Year LL.B. Course, it was necessary for a candidate to upload the original validity certificate along with other documents. According to the petitioner, his original validity certificate was misplaced and hence, he uploaded the attested photocopy of the validity certificate. On that count, the Admission Regulating Authority on 16-12-2021 did not approve the admission of the petitioner to the Three-Year LL.B. Course for Academic Year 2020-21. On a review being filed by the College along with the petitioner, the Reviewing Authority refused to regularize the admission of the

petitioner. Being aggrieved, the petitioner has challenged the aforesaid action taken by the Admission Regulating Authority.

3. We have heard the learned counsel for the parties and perused the relevant documents on record. Undisputedly, the petitioner possesses the validity certificate that has been issued by the competent Scrutiny Committee on 25-9-2008. The same refers to the caste certificate dated 14-11-2003. Since the original validity certificate was misplaced by the petitioner, he uploaded the attested copy of the same. In the meanwhile, the petitioner obtained another validity certificate, which is dated 9-11-2021, that has been issued on the basis of the earlier validity certificate. Perusal of this validity certificate indicates that it refers to the same caste certificate that was verified while issuing the validity certificate dated 25-9-2008. It is thus clear that for all purposes, the petitioner was holding a validity certificate when he sought admission to the course in question.

4. Though at the relevant time, the Admission Regulating Authority could be said to be justified in not accepting the photocopy of the validity certificate, we find that it is not a case of the petitioner obtaining such validity certificate after securing admission. On the strength of the attested copy of the validity certificate, the petitioner was provisionally admitted to the Three-Year LL.B. Course after being issued the provisional allotment letter on 16-3-2021. The Admission Regulating Authority had acted upon the communication dated 9-9-2021 that was issued by the respondent No.3 much after the petitioner's admission. Be that as it may, the petitioner had been issued such

validity certificate long back on 25-9-2008 and the reason for uploading the attested photocopy thereof appears to be *bona fide*. In these facts, the ratio of the decision of the Hon'ble Supreme Court in *Dilip Vitthal Bambale and others Vs. Vinitkumar Motiram Totlod and others* (Civil Appeal Nos.11234-48 of 2017 decided on 6-9-2017) would not be attracted. Since that is the only reason for not approving the admission of the petitioner who has by now appeared in three semesters of Three-Year LL.B. Course, the petitioner cannot be deprived of his admission.

5. In view of aforesaid peculiar facts of the case, it is directed that the Admission Regulating Authority-respondent No.2 shall regularize the admission of the petitioner, since he always possessed the validity certificate dated 25-9-2008 much prior to his admission. Based upon such approval, the respondent Nos.3 to 5 shall take necessary steps.

6. It is made clear that the relief granted to the petitioner is in the peculiar facts of this case.

7. Rule is made absolute in aforesaid terms. No costs.

(M.W. CHANDWANI, J.)

(A. S. CHANDURKAR, J.)

LANJEWAR