



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

WRIT PETITION NO.5141 of 2023

Vansh Prakash Dolas

vs.

The Ministry of Education and the Ministry of Health and Family Welfare, Government of India, through its Secretary , New Delhi and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri K.V.Kothale with Shri V.A.Kothale, Counsel for petitioner.
Shri N.S.Deshpande, Deputy Solicitor General of India for respondent nos. 1 and 3.
Shri R.M.Bhangde, Counsel for respondent no.2.
Shri N.S. Khubalkar, Counsel for respondent no.5.
Ms N. P. Mehta, Assistant Government Pleader for respondent no. 6

CORAM :- A.S.CHANDURKAR AND MRS. VRUSHALI V. JOSHI, JJ.

DATE :- 5th SEPTEMBER 2023

Heard.

2. The challenge raised by the petitioner in this writ petition is to the communication dated 09.08.2023 issued by the respondent no.6-College informing the petitioner that as his father was working with the Border Security Force - BSF outside the State of Maharashtra and has not been transferred in the State of Maharashtra, the petitioner is not eligible to seek admission under Clause 4.8 of the Information Brochure for admission in NEET-UG-2023.

3. The petitioner's father is serving with the BSF on the post of Head Constable (GD). He is presently posted at District Pathankot (Punjab). The petitioner is a domicile of the State of Maharashtra. He has completed his S.S.C. and H.S.C. education outside the State of Maharashtra. Having participated in the admission process in NEET-UG-2023, the petitioner was issued a provisional selection letter in CAP-1 and was allotted the respondent no.6-College. After completing necessary formalities and paying amount of Rs.13,500/-, he was informed by the impugned communication dated 09.08.2023

that his admission was being cancelled. Being aggrieved, the petitioner has challenged the said communication.

3. Having heard the learned counsel for the parties and having perused the documents on record, it is seen that Clause 9.4.4 of the Information Brochure requires a candidate to claim admission in the defence category by giving such option in the online application form. Said Clause 9.4.4 insofar as it is relevant reads as under:

“9.4.4 Children of Defence Personnel (DEF): Refer Annexure-C)

The candidate should have claimed the Defence Category Claim in the original online application form. Request for Defence category claim after submission of application form will not be granted.”

4. It is not in dispute that when the petitioner submitted his application online, he did not select any specified reservation which was mandatorily required to be done as per Clause 9.4.4. On this count, the candidature of the petitioner has been found to be not satisfying the requirements of Clause 4.8 of the Annexure-C which pertains to Children of Defence Personnel. His application form indicates that he wanted to claim exception as provided by Clause 4.8 but he failed to select the specified reservation that was necessary to have been indicated in the original online application form. Clause 9.4.4 specifically states that request for defence category claim after submission of the application form would not be considered. For aforesaid reason when the petitioner himself did not select any specified reservation, he is now precluded from making such claim after submission of the application form. Hence, by virtue of Clause 9.4.4 such request after submission of the application form cannot be granted. It is thus clear that the candidature of the petitioner cannot be considered from the defence category. For this reason, we find that the impugned communication does not warrant interference.

5. It may be stated that the learned counsel for the petitioner sought to urge that even though Annexure-C refers to Indian Army Act, Indian Navy Act and Indian Air Force Act, the claim of the petitioner was not liable to be defeated on the ground that there is no mention in Annexure-C to members of the BSF. Since the petitioner failed to opt for admission from any specified reservation quota, it is not necessary to go into this aspect. For the same reason, the petitioner cannot be granted any relief that has been prayed for by relying upon the decisions in *Archana Sudhakar Mandulkar vs. Dean, Government Medical College, Nagpur* [1986 All MR Online 419], *Rajiv Purshottam Wadhwa vs. State of Maharashtra* [(2001) 1 BOM L R 1] and **Writ Petition No.8539 of 2022** (*Ms. Priya Kedar Gokhale and anr. vs. The State of Maharashtra and others*) decided on 12.09.2022 at Principal Seat Mumbai.

6. In view of aforesaid, there is no case made out to interfere in writ jurisdiction as the relief sought by the petitioner cannot be granted. The writ petition stands dismissed. No order as to costs.

At this stage, the learned counsel for the petitioner prays for continuation of the *ad-interim order* order dated 11.08.2023. The prayer is opposed by the learned counsel for the respondent no.5-State CET Cell by submitting that on 01.09.2023, the respondent no.6-College has issued a relieving order to the petitioner since the petitioner was allotted another Medical College as per the Selection List.

In view of aforesaid, there is no occasion to continue the *ad-interim order*. The prayer is rejected.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)