

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
WRIT PETITION NO. 6197/2022

(NIKITA SURESH KUYATE THR. HER GUARDIAN ANIKET SURESH KUYATE **VERSUS** STATE OF
MAHARASHTRA & ANOTHER)

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

Court's or Judge's order

Shri A.P. Wachasundar, counsel for the petitioner.
Shri A.S. Fulzele, Additional Government Pleader for the R-1.
Shri N.A. Gaikwad, counsel for the R-2.

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

DATE : FEBRUARY 03, 2023.

Heard.

The petitioner having passed her higher secondary examination was desirous in seeking admission for further studies. To enable her to pursue her further studies she was required to appear at the MHT-CET examination that was held on 18.08.2022. The results of the said examination were displayed on the website of MHT-CET on 15.09.2022. According to the petitioner she downloaded her result on 15.09.2022 at 6.29 p.m. Her total percentile score was shown to be 99.9469425. It is the case of the petitioner that since she desired to participate in the admission process and the last date for seeking admission was 04.10.2022 she downloaded a copy of her score card for the purposes of counseling. On 28.09.2022 at 5.57 p.m. after she downloaded the score card her total percentile was shown as 8.7583305. The petitioner having answered the entire question paper contends that she being a bright student it was not probable that she would fare so badly in the said examination to secure total percentile score of 8.7583305. On 30.09.2022 the petitioner is stated to have made a representation in that regard to the Commissioner, State Common Entrance Test Cell. Since no further steps were taken in that regard and as the last date for admissions was 04.10.2022, she approached this Court on 03.10.2022 by filing the present writ petition praying that the Authorities be directed to accept the score card dated 15.09.2022 and permit her to participate in the admission process of counseling and admission for the Engineering course for the Academic Year 2022-23.

On 04.11.2022 by an interim order the respondents were directed to permit the petitioner to participate in the counseling and admission process for the Engineering course on the basis of her percentile score of 99.9469425. This interim direction was subject to final outcome of the writ petition. Civil Application (W) No.2757 of 2022 has been filed by the respondent no.2 praying that the interim order dated 04.11.2022 be vacated.

It is submitted by Shri A.P. Wachasundar, learned counsel for the petitioner that the initial score card dated 15.09.2022 having been downloaded from the official website of the State CET Cell there was no reason to deny admission to the petitioner to participate in the admission process on the basis of said score. Being a meritorious student she could not be deprived of further studies on the ground that in the score card dated 28.09.2022 it was shown that her score was 8.7583305. Having made representation to the State CET Cell on 30.09.2022 and thereafter on 07.11.2022 the State CET Cell ought to have responded the same and permitted her to participate in the admission process. Despite the interim order dated 04.11.2022 the petitioner was deprived of participating in the admission process. Reference was made by the learned counsel to the provisions of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admission and Fees) Act, 2015 to urge that there was no justification in the stand taken by the respondents of denying an opportunity to the petitioner. Notwithstanding the fact that a complaint had been made by the State CET Cell to the Cyber Cell as regards the two score cards, this Court could entertain the writ petition and consider granting relief to the petitioner. Reliance was placed on the decision in *Babubhai Muljibhai Patel Versus Nandlal Khodidas Barot & Others* [(1974) 2 SCC 706] in that regard. It was thus submitted that the petitioner be permitted to participate in the admission process further so as to ensure that she did not lose an academic year.

Shri N.A. Gaikwad, learned counsel for the State CET Cell opposed the aforesaid submissions. He submitted that the CAP Round II was completed on 03.11.2022 while the interim order passed by this Court was on 04.11.2022. It was for that reason that the interim order could not be complied with since the admission process had been completed. It was further submitted that though the petitioner intended to participate in the admission process, the petitioner had not got herself registered with the State CET Cell between 21.09.2022 to 04.10.2022. The registration was mandatory and in the absence of such registration there was no question of participating in the admission process. The matter with regard to availability of two score cards had been referred to the Cyber Cell for investigation with regard to the authenticity of the same. On these counts, it was submitted that the petitioner was not entitled for any relief having failed to register herself in the admission process.

We have heard the learned counsel for the parties and we have perused the documents on record. At the outset it must be noted that the registration of a candidate for participating in the admission process conducted by MHT-CET 2022-23 was mandatory as per the brochure published by the State Common Entrance Test Cell. As per the schedule such registration of applications and uploading of required documents by a candidate was to be done between 21.09.2022 to 04.10.2022. Undisputedly the petitioner failed to register her name with MHT-CET to enable her to participate in the admission process. In absence of such registration that was mandatory in nature, there would be no question of considering the aspect whether the petitioner would be entitled to seek admission on the basis of the score card dated 15.09.2022.

The stand taken by the State CET Cell that the CAP Round II concluded on 03.11.2022 and hence the interim direction dated 04.11.2022 could not be complied with is also material. There cannot be any reason to find fault with the State CET Cell on that count.

We therefore find that since the petitioner failed to register herself with the MHT-CET for participating in the admission process for Academic Year 2022-23 she would not be entitled to seek such admission in the said Academic Year. For that reason the prayers made in the writ petition cannot be granted.

Insofar as the grievance with regard to two score cards being made available on the website is concerned, we note that the State CET Cell has lodged a report with the Cyber Cell seeking investigation in the matter. It is expected that the State CET Cell would pursue the said matter and take it to its logical end. At the conclusion of such investigation if any rights accrue in favour of the petitioner on the premise that her percentile score of 99.9469425 as on 15.09.2022 is correct, she would be at liberty to take such steps as are permissible in law for securing her interest.

With these observations the writ petition is dismissed with no order as to costs. Pending civil application is also disposed of.

(MRS. VRUSHALI V. JOSHI, J.)

(A. S. CHANDURKAR, J.)

APTE