



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

WRIT PETITION NO. 5871 of 2023

Chaitali Mahadeo Jude

vs.

The State of Maharashtra through the Secretary, Higher and Technical Education,
Mantralaya, Mumbai 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 V .N.Patre, Advocate for petitioner.

Ms N. P. Mehta, Assistant Government Pleader for respondent nos.1 & 4.

Shri N. S. Khubalkar, Advocate for respondent no.2.

Shri R. D. Bhuibhar, Advocate for respondent no.3.

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

DATE :- 26th SEPTEMBER 2023

P. C.

Heard.

2. The petitioner challenges the communication dated 31.08.2023 issued by the second respondent-Competent Authority, State Common Entrance Test Cell, cancelling the petitioner's admission for failure to upload the validity certificate that was issued to the petitioner.

3. The petitioner participated in the MHT-CET admission process conducted by the second respondent and sought allotment of seat reserved for candidates from the Scheduled Tribe category. The petitioner claims to belong to 'Andh'-Scheduled Tribe and she was issued a validity certificate on 04.07.2023. She received the validity received on 11.07.2023. On 27.07.2023 the petitioner was issued a receipt-cum-acknowledgment of confirmation of her admission to the First Year Under Graduate Technical Courses in Engineering and Technology for the year 2023-24. In the said receipt, it was stated as under:

"The SC, ST, VJ/DT - NT(A), NT(B), NT(C), NT(D), OBC, SBC and EWS candidates who submitted receipt of Caste/Tribe Validity Certificate, Non-Creamy Layer

Certificate, EWS Certificate during registration, physical document verification and confirmation period should upload and verify original Caste/Tribe Validity Certificate, Non-Creamy Layer Certificate, EWS Certificate at FC and submit original certificate to the admitted institute on or before third round last date of reporting otherwise these candidates admission will get automatically cancelled and shall be considered as Open category candidates for next institute level round provided candidate fulfill eligibility criteria for open category.”

After depositing the requisite fees the petitioner's admission was confirmed on 27.07.2023. In the said communication the Clause reproduced hereinabove has been repeated. The list of eligible candidates came to be displayed on 30.08.2023. However, the petitioner's name did not figure therein. On 31.08.2023 the petitioner was communicated that her admission was cancelled for failure to upload the validity certificate. Prior thereto on 18.08.2023 the petitioner was informed through e-mail that her admission has been cancelled from the S.T. category and that she could pursue her admission in the Open category. Being aggrieved, the present writ petition has been filed on 04.09.2023.

4. Shri V. N. Patre, learned counsel appearing for the petitioner submitted that it was necessary for the College where the petitioner was granted admission to upload the validity certificate. Since the validity certificate was submitted to the College, the petitioner was under *bona fide* impression that this would be done by the College. Without any notice or intimation to the petitioner, the second respondent cancelled the petitioner admission for failure to upload the validity certificate. This was contrary to Clause 9(5) of the Information Brochure published by the second respondent. It is thus submitted that the petitioner ought to be admitted in the Scheduled Tribe category.

5. Shri N. S. Khubalkar, learned counsel appearing for the second respondent opposed the aforesaid submissions by pointing out that in each document issued to the petitioner it had been clearly indicated that the validity certificate was required to be uploaded by the candidate. The petitioner having failed to do so, her admission was automatically cancelled in the Scheduled Tribe category and she was eligible to seek admission in the Open category. Inviting attention to the pleadings in the writ petition, it was submitted that the petitioner had admitted that she carried a wrong impression that it was the College that was required to upload the validity certificate. The cut off date being 25.08.2023, there was considerable delay in approaching the Court. Since the candidate herself was at fault, she was not entitled for any relief. Reliance was placed on the decision in *Chandigarh Administration and another vs. Jasmine Kaur and others* [2015 AIR (SC) 34] in support of his contentions. It is thus submitted that the writ petition deserves to be dismissed.

6. Having heard the learned counsel for the parties and having perused the documents on record, we find that in the light of this specific stipulation in the receipt-cum-acknowledgment as well as the document confirming the petitioner's admission it was the duty of the candidate to upload the validity certificate. The petitioner was possessing the validity certificate when her admission was confirmed and therefore, it was necessary for her to have uploaded the same. The College where the petitioner got admission has not been given the responsibility of uploading such validity certificate. Clause 9(5) of the Information Brochure relied upon by the learned counsel for the petitioner merely requires the College/Institution to verify the required documents and upload the admission of the candidate. This was done by the College/Institution. Thereafter the requirement of uploading the validity certificate was the responsibility of the concerned

candidate. It is pertinent to note that though the petitioner was communicated about cancellation of her admission on 18.08.2023, she has not acted diligently. She had filed the writ petition only on 04.09.2023. In this regard, attention is rightly invited to the pleadings in the writ petition by the learned counsel for the second respondent. In ground no.(iii) it has been pleaded as under:

“(iii) It is submitted that, the college informed the father of the petitioner that, the respondent no.2 sent the email on email ID regarding cancellation of the admission due to failure to submit the original document of Tribe Validity certificate. It is submitted that, the father of the petitioner due to oversight did not check the email id. The father of the petitioner is not use to with the information technology, therefore could not receive the knowledge regarding the cancellation of the admission. The father, after information from the respondent no.4, checked his email id and also the text message sent to him on 30.08.2023, at that time he came to know that, the message was sent on 18.08.2023 by the respondent no.2, informing him regarding cancellation of admission.”....

Similarly, in paragraph 8 in the writ petition, it has been pleaded that the petitioner was under *bona fide* belief that the validity certificate would be uploaded by the College. We find that there is no clause in the relevant documents which requires the College to upload the validity certificate. It is solely the responsibility of the concerned candidate to do so. The observations in paragraph 3 of the decision in *Jasmine Kaur and others* (supra) support the contentions of the learned counsel for the second respondent.

7. Though we have sympathy for the petitioner who possesses the validity certificate, she has been deprived of her admission due to her own folly of not uploading the validity certificate within the stipulated time. There is no provision for any belated submission. In these circumstances, no relief can be granted to the petitioner. The writ petition is therefore dismissed. No costs.

We may only observe that in case any seat from the Scheduled Tribe category lies vacant, the respondents can consider whether the petitioner can be accommodated therein.

(MRS. VRUSHALI V. JOSHI, J.)

(A.S.CHANDURKAR, J.)

Andurkar.