



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CIVIL APPLICATION NO. 4510 OF 2024
IN WP/14403/2023

SUJAL VENKATRAO GOVINDWAD
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...
Mr. C. R. Thorat, Advocate for Applicant.
Mrs. R. P. Gour, AGP for Respondent Nos.1 and 2 – State.
...

CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.

DATE : 30th APRIL, 2024.

ORDER :-

. Present application has been filed by the applicant for following
reliefs :-

"A. Be please to quash and set aside the impugned communication dated 24.04.2024 issued by the respondent No.4 Principal, Government Polytechnic, Beed, thereby cancelled the Examination Forms of the applicant for the Summer – 2024 Examination for Diploma in Computer Technology.

B. Be please to direct the respondent Nos.3 and 4 to allow applicant to appear for the Summer – 2024 Examination for Diploma in Computer Technology, as per the Hall Ticket issued for the Seat No.384928, 384949, 384844, for which the examination is

scheduled from 02.05.2024.

C. Be please to direct the respondent No.4 College to return all the original Mark-Sheets of the applicant for Diploma Course, which have taken back by the respondent No.4 on 25.04.2024 as per the impugned communication dated 24.04.2024.”

2. Heard learned Advocate for the applicant and learned AGP for respondent Nos.1 to 4.

3. We are aware of the fact that learned AGP is yet to get complete instructions, however, it appears that the impugned communication dated 24.04.2024 is the result of the communication dated 15.04.2024 by respondent No.3 to respondent No.4. The urgency now in the matter is that the exams of the applicant would start from 02.05.2024. We are not considering the prayer clause ‘C’ at this stage.

4. The background for the litigation is that respondent No.2 has rejected the tribe claim of the petitioner by judgment and order dated 31.10.2023 and it is under challenge in Writ Petition No.14403 of 2023. When the matter was taken up on board for the first time on 10.11.2023 and the notice was issued, it was for final disposal itself and till the next date, it was directed that no penal action should be initiated against the petitioner based on the order of invalidation. Learned Advocate for the petitioner submits that since at that time

there was no threat about not to allow the petitioner No.1 - present applicant for the examination, no other prayer was made.

5. It is to be noted that the notice for final disposal was made returnable on 22.12.2023, but on the date returnable it appears that the matter was not on board and till the circulation was granted in respect of present application i.e. on 29.04.2024, there was no attempt on the part of the applicant to get the matter listed. Merely by saying that there was no threat at that time when the notices were issued will not suffice the petitioner for not taking further steps. Ignorance of law is not an excuse and, therefore, it is presumed that the petitioner had the knowledge that he will not be allowed to appear for the examination when his tribe claim has been invalidated. The admission of the applicant appears to be from the tribe category. Therefore, within a period of three months definitely, the applicant could have approached this Court with the prayer that he should be allowed to appear for the examination. There need not have been formal order to that effect then.

6. Now, we are aware that the petitioner is student and his career is at stake. His substantial matter is pending and it will not be out of place to mention here that the real sister of the petitioner has been granted validity by this Court at Principal Seat in Writ Petition No.9226 of 2019 dated 21.08.2019, however, as regards the father's validity is

concerned, it has been stated by respondent No.2 that show cause notice for cancellation would be issued. With this background, we will have to grant permission to the petitioner to appear for the examination, which would be conducted in Summer – 2024 i.e. from 02.05.2024. Hence, the following order :-

ORDER

- I) The civil application is partly allowed.
- II) Respondent Nos.3 and 4 are directed to allow the applicant – petitioner No.1 to appear for Summer – 2024 Examination for Diploma in Computer Technology as per Hall Ticket No.384928, 384949, 384844, for which the examination is scheduled from 02.05.2024.
- III) The applicant to deposit cost of Rs.1000/- to the Library of Bar Association of Bombay High Court at Aurangabad on or before 03.05.2024.
- IV) Learned AGP is requested to communicate the order to respondent No.4.
- V) Parties to act upon an authenticated copy of this order.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm