



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

1032 WRIT PETITION NO. 9817 OF 2024

SAMIKSHA NANASAHEB GAIKWAD

VERSUS

THE STATE OF MAHARASHTRA THROUGH MEDICAL
EDUCATION AND DRUGS DEPARTMENT AND OTHERS

...

Advocate for petitioner : Mr. Nikhil S. Jaju
AGP for the respondent – State : Mr. V.M. Chate
Advocate for respondent no. 2 : Mr. M.D. Narwadkar
Advocate for respondent no. 3 : Mr. Sagar S. Vidwans

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 10 SEPTEMBER 2024

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both the sides.

2. The petitioner is waiting for being admitted to a college through MH-Nursing CET – 2024, which process is being undertaken by the respondent - State Common Entrance Test Cell, Mumbai.

3. The petitioner alleges that she was allotted respondent no. 3 - college and was supposed to report the college and secure admission by 6:00 pm of 31-08-2024. She had approached respondent no. 3 at around 5:30 pm but the college refused to undertake the process and thereby deprived her of the admission. She

is coming with a prayer that a writ of *mandamus* be issued directing the respondent no. 3 - college to give admission to her.

4. It is being pointed out that the brochure of the State Common Entrance Test Cell, Mumbai *inter alia* expressly stipulates in clause 13.16 as under :

*“13.16 After the first round, Competent Authority may conduct subsequent CAP round(s), and separate preference shall be required to be filled by the candidate. For these subsequent computerized CAP round(s) those candidates who are (a) selected but not joined, (b) a filled status retention from and (c) joined and resigned after allotment of seat(s) (Annexure-P) will not be considered eligible for further CAP round(s) of the admission process. **However such a candidate who does not have any seat in hand shall be considered eligible for institutional level round.**”*

5. Learned advocate Mr. Narwadkar for the respondent no. 2 - State Common Entrance Test Cell submits that in the light of this stipulation, having failed to secure admission in the first round in the college allotted to the petitioner, the only option for her would be to now wait for admission through institutional level round.

6. Learned advocate for the respondent no. 3 submits that the petitioner had not approached it before 6:00 pm of 31-08-2024.

7. The question, whether the petitioner had or had not approached the respondent no. 3 - college before the deadline, has

now become a disputed question of fact which we cannot undertake scrutiny of.

8. The fact remains that in spite of allotment of a college, the petitioner has failed to secure admission with the respondent no. 3 before the deadline. As is submitted in clause 13.16, she would still be able to secure admission in the institutional round. The respondent no. 3, in the circumstances, cannot be directed to admit her in the college on the basis of seat allotted in the first CAP round when already the second CAP round is also over. The only avenue open to the petitioner is, now to seek admission through the institutional level round.

9. The petition is dismissed.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/