



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION (CIVIL) NO. 245 OF 2024
IN WP/11478/2024**

VAISHNAVI ASHOK RAJE

VERSUS

**THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

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Advocate for Applicant : Senior Advocate Mr. V.D. Sapkal i/by
Mr. Patil Sudhir D.

AGP for Respondent No.1/State in WP : Mr. V.M. Kagne

Advocate for Respondent No.2 in WP : Mr. S. G. Karlekar

Advocate for Respondent No.3 in WP : Mr. Suryog Wagh

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

DATE : 22 OCTOBER 2024

PER COURT :

. Heard the learned Senior Advocate Mr. Sapkal for the applicant who is the original petitioner, seeking review of our order dated 14.10.2024 passed in Writ Petition No.11478/2024, whereby we had dismissed it. We have also heard the learned advocate Mr. Karlekar for the respondent no.2/CET Cell, as also learned advocate Mr. Wagh for the respondent no.3/College.

2. Mr. Karlekar tenders across the bar a scanned copy of the affidavit which he has received in the light of exigency. It is taken on record. Even the learned advocate for the respondent no.3/College tenders across the bar its affidavit-in-reply.

3. The factual matrix can be summarized as under :

. The petitioner was seeking admission to a physiotherapy course (BPTh) through NEET-UG-2024 against a seat reserved for ST category. She was allotted the respondent no.3/College in a CAP round-I. She was unable to produce the caste validity certificate and the respondent no.3/College by resorting to Clause No.9.4.1 treated her as general category having failed to furnish caste validity certificate. Having not secured the bench-mark, she was declared by the College as not eligible for admission even from general category.

4. The learned Senior advocate Mr. Sapkal submits that the review petition has been preferred on the ground that in fact the petitioner had never reported to the College as was required by Clause No.9.4.1 read with Clause No.11.3.6.3. Consequently she ought to have been treated as a 'free exit' and should have been allowed to participate in the further grounds as a ST category candidate. Since she had subsequently obtained certificate of validity, she could have got a seat reserved for ST category on the basis of that caste validity certificate. However since it was not pointed out that she had not actually reported to the College, the order needs to be reviewed. He points out that even respondent no.3/College in its affidavit-in-reply admits and corroborates the petitioner's such improvised stand.

5. Learned advocate Mr. Karlekar for respondent no.2, based on the stand in the affidavit-in-reply, would question the bona fides and

alleges that it could be a matter of College and the petitioner/applicant acting hand in gloves. It is pointed out that the fact that the petitioner had not reported to the College physically was not the stand taken by her in the petition and it is by way of improvisation that for the first time in this review petition, she is coming with such a stand which corroborates the inference about collusion between the two.

6. Mr. Karlekar would further submit that realizing its mistake perhaps respondent no.3/College is now budging to the request of the petitioner, else there was no need an occasion for the College to upload Scrutiny Form. Since the College had uploaded petitioner's scrutiny form, it is a mistake of the College for which necessary action has been initiated by the respondent no.2. It is now deliberately siding with the petitioner.

7. Having considered the rival submissions and having perused the brochure as well as the respective stands in the affidavits-in-reply, it is evident that irrespective of the allegations being levelled against the petitioner and respondent no.3/College about there being some collusion between the two for the obvious reasons, one cannot ignore the fact that the College was, admittedly, supposed to upload the Scrutiny Form. There is specific space provided for signature of the candidate and it is only when the candidate is unable to produce a caste validity certificate at the time of physical verification of the documents that this Scrutiny Form is supposed to be uploaded by the

concerned College. The fact that respondent no.3 was able to do it even without there being any signature of the petitioner and without there being any objection or scrutiny undertaken by respondent no.2/CET Cell, we cannot countenance the stand being taken by respondent no.2. Rather these circumstances would indicate and corroborate the petitioner's stand that she was not physically present and ought to have been treated as a 'free exit'.

8. It is this peculiar circumstance which was conspicuously absent when we decided her petition, when the college was also not present to contest the petition. In our considered view, the aforementioned circumstances are eloquent enough to enable this Court to exercise the powers of review.

9. Once having seen and concluded about the petitioner having not reported to the respondent no.3/College, she ought to have been and even still deserves to be treated as a 'free exit', thereby making herself available for ongoing CAP-III round against a seat reserved for ST category, now that she even possesses a certificate of validity.

10. We are informed by the learned Senior advocate for the petitioner that she has already filled in requisite registration for a CAP-III round yesterday. Consequently, we direct that she may be permitted to go through the CAP-III round from ST category. Respondent no.2 shall take necessary steps immediately to enable her to do so.

11. The review application is allowed in above terms.

12. The learned advocate for the respondent no.2 shall immediately communicate this order.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb..