



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 WRIT PETITION NO. 11948 OF 2024

GRISHMA NARENDRA KHAIRE

VERSUS

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

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Advocate for Petitioner : Mr. Navandar Manish N.

AGP for Respondent Nos. 1 & 2 : Mr. R.S. Wani

Advocate for Respondent No. 3 : Mr. S.G. Karlekar

Advocate for Respondent No. 4 : Mr. Girish Rane

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

DATE : 24 OCTOBER 2024

PER COURT :

The petitioner who was allotted respondent no. 4/ College in the last year's admission process and has even completed first year of the BDS Course has apparently resigned and has applied in fresh admission process through NEET-UG-2024 and even has been granted provisional allotment of a seat in respondent no. 5 – College for MBBS course.

2. The only prayer being made in this petition is to the effect that in spite of her request the college is not returning the documents viz. caste certificate, caste validity certificate, marks sheet of HSC and SCC, domicile and nationality certificates and even the college leaving certificate.

3. We have heard both the sides.

4. Learned Advocate for respondent no. 3 – CET Cell would advert our attention to the NEET-UG-2024 information brochure and precisely clause 20 which attracts disqualification for admission in that process. According to him, the petitioner having not resigned prior to the cut off date provided in the earlier admission process and having completed one year of BDS Course, stands disqualified from having admission through NEET-UG-2024. He would also submit that even there is a penalty clause contained in clause 16 for such subsequent cancellation resulting lapse of a seat with respondent no. 4 / College.

5. Learned Advocate for respondent no. 4 tenders across the bar affidavit-in-reply. He would submit that the petitioner having abundant the seat from respondent no. 4 / College, it would suffer a loss in as much as any other candidate would have continued to take education but the seat would now go vacant for three years. Such resignation of the petitioner has resulted in loss to respondent no. 4 / College. Irrespective of the submissions of the learned Advocate for respondent no. 3 / CET Cell, respondent no. 4 / College would be entitled to recover the penalty provided for in clause no. 16.

6. He would further submit that out of total scholarship received by the petitioner for the first year since she belongs to a reserved category, of Rs. 2,15,000/- she has merely deposited 60 % thereof in the account of the College and the remainder 40 % is

still to be deposited by her, which amount she has already received by way of a credit in her account. She is still to pay the remainder amount. Besides, she has to pay the hostel fees and the mess charges.

7. Apparently, there is no right in respondent no. 4 / College, irrespective of untimely resignation by the petitioner and the possible loss which it would suffer as the seat would go vacant for next three years, to have any lien over the documents. Needless to state that it would always be open for it to resort to appropriate remedy for recovering fees, damages including special damages. Same would be the case in respect of clause no. 16 which prescribes penalty for such resignation by a candidate after the cut off date. Whether it is applicable even to the Colleges like respondent no. 4 which is an unaided Private Medical Colleges would be an issue. Even for that purpose respondent no. 4 will have to resort to an appropriate remedy and recover the money from the petitioner. However, it cannot have any right to retain the documents under the pretext of the possible loss or the penalty recoverable, if any, under clause 16.

8. Learned Advocate for the petitioner submits that the petitioner is ready to deposit the remaining 40 % of the scholarship received by her and even the hostel and mess charges.

9. The upshot, irrespective of the right of respondent no. 4 to recover whatever damages it can recover, it cannot withhold the documents. The petitioner has been allotted a seat in the

current round of admission and today is the last date to confirm admission with respondent no. 5/College which has been allotted to her.

10. We allow the petition and direct the respondent no. 4 to return all the original documents and even issue a college leaving certificate to the petitioner on her depositing Rs. 20,3,750/-. It is made clear that all other issues including eligibility of the petitioner to resign at such a stage and to get admission under the NEET-UG-2024 in the respondent no. 5/College and the right of respondent no. 4 /College to recover penalty/ damages are kept open.

11. The matter being urgent was taken high on board and the order is dictated in open Court. The parties need not wait for even authenticated copy and shall act immediately. Their learned advocates shall inform their clients accordingly.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]