

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7994 OF 2024

Nishigandha Deepak Patil

..... Petitioner

VERSUS

**Shree Indrapal Baburao Chaugule Law
College, Bhiwandi, Dist. Thane & Ors.**

..... Respondents

Mr. Sangarsh Apte a/w. Mr. Dinesh R. Sonawane for the Petitioner.

Mr. Akshay R. Shinde a/w. Mr. Jayesh R. Ninde for the Respondent
No.1.

Mr. Manish Kelkar for the Respondent No.2.

Mr. Sameer Khedekar for the Respondent No.4.

Mr. Ketan Joshi, 'B' Panel Counsel for the State.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 25th NOVEMBER, 2024

P.C. :-

Rule. Rule made returnable forthwith and by consent of
parties, taken up for final hearing.

2. The petitioner, who is a student, has filed this writ petition under Article 226 of the Constitution of India seeking an order for quashing and setting aside communication dated 8th December 2021 issued by the respondent no.4 (Admissions Regulating Authority) and the communication dated 9th February 2023 issued by the respondent no.5 (Directorate of Higher Education, Maharashtra) and also a further direction to the respondent no.2 (University of Mumbai) to release the marksheet for the 6th Semester and the Degree Certificate of the petitioner.

3. It is a claim of the petitioner that after she completed her graduation, she appeared for the State CET Test for the three year L.L.B. Course in the year 2020. Through the CAP Round, she secured admission in the respondent no.1 college under the Other Backward Class (for short OBC) Quota. Thereafter she paid the college fees and submitted the requisite documents. As it was the pandemic period, she attended college classes via online. In August 2021, she was informed that at the time of admission, she had failed to submit the Caste Validity Certificate

and Non- Creamy Layer Certificate, which was mandatory to secure admission in the reserve quota and that she has to submit the same. The petitioner accordingly applied for securing the Caste Validity Certificate through Online on 3rd September 2021. She duly received the Caste Validity Certificate on 28th September 2021, which she submitted alongwith Non-Creamy Layer Certificate on 14th October 2021 to the college.

4. She completed her 1st, 2nd and 3rd Semester examinations through Online mode due to pandemic and she physically appeared for the 4th Semester examination. After she completed her two years of L.L.B. Course, she got admission in the Third Year of L.L.B. She received her examination hall tickets for 5th and 6th Semester, from the University of Mumbai and accordingly she appeared for the examination. In due course she cleared 5th and 6th Semester and she also received the original marksheet for passing the 5th Semester examination. However, for passing the 6th Semester she received only soft copy of her marksheet by Online from the respondent no.2 – University of Mumbai. As she

desired to pursue further studies and also to appear for judicial examination, she needed the original copy of her 6th Semester examination. Pursuant thereto on 17th August 2023, she visited the respondent no.2 – University of Mumbai, to collect her 6th Semester marksheet. At that time, she realized that the respondent no.2 – University of Mumbai, had not yet validated her admission. After detailed enquiry with the University Staff and college authority, she was made to understand that her admission was not confirmed and is likely to be cancelled, as she had failed to submit the Caste Validity Certificate and Non-Creamy Layer Certificate before the ‘cut-off date’.

5. Since the petitioner had completed her 3 year L.L.B. Course, she secured admission in L.L.M. Course at the respondent no.3 – M. S. Law College. However, the respondent no.3 college has put her to the knowledge that her admission is provisional and had asked her to submit the original copy of the marksheet immediately so as to continue with her L.L.M. Course. Hence, the present petition is filed by petitioner to challenge the high

handed action of the respondents.

6. Mr. Sangarsh Apte, learned counsel for the petitioner submitted that the petitioner had secured an admission for L.L.B. Course during the pandemic period i.e. in August 2020 in OBC quota. Due to the pandemic, the petitioner could not submit her Caste Validity Certificate and Non- Creamy Layer Certificate in time. There was no fault on the part of the petitioner for submitting the said certificates in time. The respondents allowed the petitioner to complete her three year L.L.B. Course and infact she was also permitted to get admission for L.L.M. Course. In the interest of justice, the impugned communication issued by the respondents needs to be quashed and set aside and the respondent no.2 – University of Mumbai be directed to handover the original degree and original marksheet of the 6th Semester to the petitioner.

7. Mr. Akshay R. Shinde, learned counsel appeared for the respondent no.1 and submitted that the respondent no.1 college

had actually no grievance against the petitioner and if the respondent no.2 issued the 6th Semester marksheet to the petitioner, and also the respondent no.4 withdraws the impugned communication, the respondent no.1 would have no objection.

8. Mr. Manish Kelkar, learned counsel appeared for the respondent no.2 – University of Mumbai and submitted that the University has acted as per its policy and they accordingly issued the impugned communication as the Caste Validity Certificate and Non- Creamy Layer Certificate were not submitted by the petitioner on time. Hence, he opposed the present writ petition.

9. Mr. Sameer Khedekar, learned counsel appeared for the respondent no.4 – Admissions Regulating Authority and submitted that the respondent no.4 had no option but to issue the impugned communication, as the petitioner had not submitted the Caste Validity Certificate and Non- Creamy Layer Certificate in time. He opposed the present writ petition.

10. Mr. Ketan Joshi, 'B' Panel Counsel appeared for the State and submitted that as the CET Cell - respondent no.5 had issued the communication dated 8th December 2021, based on which the respondent no.5 issued the communication dated 9th February 2023. He opposed the present writ petition.

11. We have heard the learned counsel for both the sides and through their help, we have considered the documents on record.

12. It is a matter of record that the petitioner took admission for L.L.B. Course in the month of August 2020 during the pandemic period. In the month of August 2021 when the petitioner was directed to submit her Caste Validity Certificate and Non- Creamy Layer Certificate, the petitioner applied for the same through Online method and, as soon as both the certificates were received by the petitioner, she submitted the same to the respondents. However, it is the case of the respondent no.4 that the said Caste Validity Certificate and Non- Creamy Layer Certificate were not submitted by the petitioner within the "cut-

off date”. Therefore, even the Higher Education Department has directed the respondent no.4 CET Cell to take further action against the petitioner as the documents were not submitted within the cut-off date. If the University of Mumbai – respondent no.2 decides to take action against the petitioner, pursuant to the communication issued by the respondent no.4 and respondent no.5, the respondent no.2 – University of Mumbai would have to treat the admission of the petitioner to the L.L.B. Course as not approved.

13. It is a matter of record that the petitioner has already completed her three year L.L.B. Course. It is nobody’s case that the petitioner does not belong to OBC Category. Neither it is anybody’s case that the petitioner doesn’t fall under the ‘Non-Creamy Layer Category’. The documents to that effect have already been issued to the petitioner which are not under challenge. The only issue is that the said two documents are not submitted by the petitioner within the “cut-off date”.

14. It is a matter of record that the petitioner has secured admission in August 2020 and the pandemic period started from March 2020 and continued till February 2022. During the pandemic period the petitioner had submitted her documents. She was allowed to complete her three year L.L.B. Course, which she successfully completed, and only at the stage of issuance of hard copy of last semester i.e. 6th Semester, she has been intimated of her admission of L.L.B. Course as not approved. Taking into consideration the peculiar facts of this case and in the interest of justice, we feel it appropriate that the communication dated 8th December 2021 issued by the respondent no. 4 – Admissions Regulating Authority and the communication dated 9th February 2023 issued by the respondent no. 5 – Directorate of Higher Education, needs to be quashed and set aside and the petitioner be issued her 6th Semester L.L.B. marksheet and Degree Certificate.

15. Hence, the following order is passed :-

- (i) Rule is made absolute in terms of prayer clauses

(a-1) and (b). The said prayers reads as under :-

(a-1) The Hon'ble Court may issue a Writ of Mandamus or any other appropriate writ, setting aside the order passed by R. No. 4 (ARA) dt. 8/12/2021 and the order passed by R. No.5 (DHE) dated 9/2/2023 annexed as Exh.'G' at page 30 and 37-38.

(b) The Hon'ble Court may issue a Writ of Mandamus or any other appropriate order directing Respondent No.2 to immediately release the Mark Sheet for the 6th Semester and the degree certificate.

16. The parties to act on the authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]