

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14954 OF 2024

Anushka Dattaji Bhosale

...Petitioner

Versus

State of Maharashtra through its Department of
Medical Education & Drugs & Anr

...Respondents

Mr. Pooja V. Thorat, a/w Amar Bodke, Kiran Singh, Trisha Choudhari, for the Petitioner.

Mr. Sameer Khedekar, a/w Bharti Gerella, for Respondent-State CET Cell.

Mr. Dhruvi Kapadia, AGP, for Respondent-State.

**CORAM : B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.**
DATE : OCTOBER 23, 2024

PC :

1. The above Writ Petition is filed seeking a direction to the State CET Cell (Respondent No.2) to make the Petitioner eligible for participating in the subsequent Centralized Admission Process (“**CAP**”) round and/or stray vacancy round conducted by the State CET Cell after CAP round 3 in accordance with her merit and preferences.

2. The facts in the present case are very peculiar. The Petitioner

passed her SSC examination in the year 2021 by scoring 100%. Thereafter, in the HSC examination in the Science faculty, she passed the same by securing 78% in February, 2023. Since the Petitioner was desirous of pursuing health science courses, she appeared for NEET-UG-2023. In this examination the Petitioner scored 560 marks out of 720 marks and was allotted a seat in a private medical college. However, as the Petitioner's family could not afford the fees of the private college, the Petitioner decided to appear for NEET-UG-2024 with a view to secure a medical seat in a medical Government college. Accordingly, the Petitioner appeared for NEET-UG-2024 and her result was declared on 26th July 2024, where she scored 641 marks out of 720 marks. The Petitioner's rank was at Serial No.13448 under the General Merit Category.

3. Thereafter, the Petitioner registered for participating in the admission process for the 15% All India Quota conducted by the Medical Counseling Committee, New Delhi, and the 85% State quota conducted by the Respondent-State CET Cell. For the purpose of admission to the 85% State quota, the State CET Cell has published an information brochure stating the rules for conducting the Centralized Admission Process.

4. Since the Petitioner belongs to the SEBC category and has been issued the necessary Caste Certificate, Cast Validity Certificate and the Non-Creamy Layer Certificate, she registered and filled the form under the said category. In CAP round 1 the Petitioner gave a preference for 36 medical colleges and was allotted a seat in “Government Medical College, Kudal, Sindhudurg” under the 85% State quota. The Petitioner accordingly joined the said college at Sindhudurg by paying the appropriate fees and submitted the original documents. However, the Petitioner was interested in participating and continuing in betterment in CAP round 2. Therefore, she did not submit the Status Retention Form as set out in Rule 11.1.5 of information brochure, and instead participated in CAP round 2 by filling in the necessary fresh choices for round 2. In CAP round 2 the Petitioner gave preferences for 18 medical colleges and was allotted the “Government Medical College, Ratnagiri” under the 85% State quota. Accordingly, the Petitioner collected her original documents and fees from the “Government Medical College, Sindhudurg” and submitted the same to the “Government Medical College, Ratnagiri”.

5. Even after this, the Petitioner was interested in participating and continuing for betterment in CAP round 3. She, therefore, again did

not submit the Status Retention Form as set out in the Rule 11.1.5 of the information brochure, and filled her fresh choices/preferences of Medical Colleges for CAP round 3. This is where the problem started. In CAP round 3 she gave preferences of 16 colleges. Out of these 16 colleges, 15 colleges were medical colleges and one college was a Dental college. In CAP round 3, the Petitioner was allotted the “Government Dental College, Chhatrapati Sambhajinagar”. According to the Petitioner, whilst filling out the preferences for CAP round 3 it was an error on the part of the Petitioner for listing the Dental college as one of the colleges of her choice. It is the case of the Petitioner that in fact what she wanted to opt for was the “Government Medical College, Chhatrapati Sambhajinagar” and not the “Government Dental College, Chhatrapati Sambhajinagar”. Since the name of the college was the same, and the Dental colleges and the Medical colleges all form part of one list from the drop down menu on the online portal, this mistake has crept in. The Petitioner was never desirous and is not desirous of joining the dentist stream. It is because of this difficulty the Petitioner seeks the relief that the Respondent-State CET Cell be directed to make the Petitioner eligible for participating in stray vacancy round conducted by the State CET Cell after CAP round 3 in accordance with her merit and preferences.

6. It appears that the scheme for admission to Medical / Dental courses, once a particular student is allotted a college in any of the CAP rounds, they cannot participate in the stray vacancy round. The stray vacancy round is only available to students who have not joined any college in either CAP round 1 or CAP round 2 or allotted a college in CAP round 3.

7. After going through the Petition as well as the record placed before us, including the preferences selected by the Petitioner in CAP round 1 as well as CAP round 2, it is clear that the Petitioner has never opted for any dental college. It is quite apparent that it was always the intention of the Petitioner to seek admission only to the medical course and not to a dental course. Because the name of the Dental college and the Medical college was the same, namely, “Chhatrapati Sambhajinagar”, this mistake has crept in. In fact what is pertinent to note is that in CAP round 2, in the list of preferred colleges, the Petitioner had in fact opted for the “Government Medical College, Chhatrapati Sambhajinagar”. It is only that in the CAP round 3 and because of the name of the college being the same that the Petitioner by mistake included in CAP round 3 the “Government Dental College, Chhatrapati Sambhajinagar” instead of “Government Medical College,

Chhatrapati Sambhajinagar”. This clearly appears to be an inadvertent error. We do not think that for this mistake a student’s entire career ought to be jettisoned.

8. We find that a Division Bench of this Court (the Aurangabad Bench) in almost identical facts have, albeit as and by way of ad-interim relief, directed the concerned Respondent to take the necessary steps so as to allow the Petitioner-student to participate in the stray vacancy round which is now scheduled on 25th October, 2024. This decision of the Division Bench of the Aurangabad Bench is in the case of ***Punam Laxman Sherkhane v. The Union of India Through Directorate General of Health Services and others*** (Writ Petition No.11838 of 2024 decided on 21st October, 2024).

9. Considering the aforesaid circumstances, and following the decision in the case of **Punam Laxman Sherkhane (supra)**, we are of the view that even in the present case, as and by way of ad-interim relief, directions ought to be issued to the Respondent No.2-State CET Cell to take necessary steps so as to allow the Petitioner to participate in the stray vacancy round. It is accordingly so ordered.

10. We may hasten to add that this order is passed in the peculiar

facts and circumstances of the present case and as and by way of an ad-interim relief. It is clarified that the Petitioner shall not be entitled to claim any equity and her admission, if any, shall be subject to the outcome of the Petition.

11. Since this order is dictated in the open Court in the presence of the learned Advocate appearing on behalf of the Respondent No.2-State CET Cell, the said learned Advocate shall ensure that this order is communicated to his client immediately.

12. We now place the above matter on 14th November, 2024.

13. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN, J.]

[B. P. COLABAWALLA, J.]