

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15381 OF 2024

Pradip Raju Jaybhavne }**Petitioner**

: **Versus** :

State of Maharashtra, through
its Department of Medical Education
and anr. }....**Respondents**

ALONGWITH

WRIT PETITION NO. 15382 OF 2024

Yogini Vivekanand Patil }**Petitioner**

: **Versus** :

State of Maharashtra, through
its Department and anr. }....**Respondents**

Ms. Pooja V. Thorat, a/w. **Mr. Amar Bodake**, for the Petitioners in both the petitions.

Mr. P.V. Nelson Rajan, AGP for State-Respondent No.1 in WP-15382-2024.

Ms. Dhruti M. Kapadia, a/w. **Ms. Bharti Gerella**, for Respondnet No.2-CET Cell.

CORAM : **SANDEEP V. MARNE, &
SMT. MANJUSHA A. DESHPANDE, JJ.**
(Vacation Court)

Dated : 28 October 2024.

P.C. :

1) Leave granted in Writ Petition No. 15381/2024 to amend the petition as per the draft amendment. Amendment to be carried out forthwith. Re-verification is dispensed with.

2) These are unfortunate cases where the Petitioners before us, who secured admissions in Medical Colleges for MBBS course in earlier CAP rounds, unfortunately and inadvertently selected Dental Colleges in further CAP round in their pursuit of securing admissions to Colleges of better choices. On account of application of Rules 11.1.9 and 11.1.9.1, they are now prohibited from participating in subsequent Online CAP Stray Vacancy Round. It appears that two Division Benches of this Court have granted interim reliefs in respect of similarly situated students in **Poonam Laxman Sherkhane V/s. The Union of India & Ors.**¹ passed by the Bench at Aurangabad on 21 October 2024 and **Anushka Dattaji Bhosale V/s. The State of Maharashtra & Ors.**² passed by the Principal Seat on 23 October 2024.

3) While we could have easily granted similar interim protection in favour of the Petitioners, Ms. Kapadia, the learned counsel appearing for CET Cell, would invite our attention to the Notice dated 27 October 2024 declaring the schedule for Online Stray Vacancy Round and according to Ms. Kapadia, the last date for submitting online preference/choice was till 27 October 2024 upto to 11.59 p.m. She would submit that, today the CET Cell shall declare the Select List for Online Stray Vacancy Round and that therefore now it is impossible for the CET Cell to consider the option of the

1 Writ Petition No. 11838/2024

2 Writ Petition No. 14059/2024

Petitioners for their participation in Online Stray Vacancy Round. She would submit that both the orders passed in the case of **Punam Laxman Sherkhane** and **Anushka Dattaji Bhosale** are passed before closure of online preference/choice form filling process and that therefore the said orders cannot be followed in the present petitions. She would also rely upon the order passed by the Vacation Court at Aurangabad Bench in **Vinay Navneet Londhe V/s. The Union of India & Ors.**³ on 26 October 2024 where the Vacation Court has declined grant of any interim relief considering the tight online schedule for completion of the Online Stray Vacancy Round, coupled with delay in approaching the Court resulting in administrative difficulties for the CET Cell.

4) We have considered the order dated 26 October 2024 passed in the case of **Vinay Navneet Londhe**. It appears that the main reason why this Court declined any interim relief in favour of the Petitioner therein, is the difference in the names of the Colleges chosen by him. In the present case, we find that there is a similarity in the names of educational institutions appearing in list of Medical and Dental Colleges. To illustrate, in the case of Pradeep Raju Jaybhaye (*Writ Petition No. 15381/2024*), he wanted to opt for 'Government Medical College, Nagpur', whereas he inadvertently opted for 'Government Dental College, Nagpur'. Similarly, in the case of Ms. Yogini Vivekanand Patil, (*Writ Petition No.15382/2024*), she wanted to opt for 'Topiwala National Medical College & Nair Hospital Medical College, Mumbai' but inadvertently opted for 'Nair Hospital Dental College, Mumbai'. Thus, in both the petitions there is similarity in the names of the Colleges. It is an admitted position that, both the Petitioners have secured admission for MBBS courses in other Medical Colleges and continued

³ WP(ST)-30692/2024

participation in further CAP Rounds only for bettering their choice of Colleges. It is therefore inconceivable that they would voluntarily opt for dental course later.

5) So far as the difficulties expressed by Ms. Kapadia about completion of the schedule for online preference/choice form filling process is concerned, we must observe that the petitions were mentioned before us on 25 October 2024 with a request to take up the same on 26 October 2024. However, because of the difficulty on the part of the Court to take up the petitions on 26 October 2024, the circulation was granted today. We do not want the Petitioners to suffer on account of difficulties on the part of the Court to take up the petitions on 26 October 2024.

6) In our view, the facts and circumstances of the present case appear to be similar to the one involved in **Punam Laxman Sherkhane** and **Anushka Dattaji Bhosale**.

7) We accordingly posted a query to Ms. Kapadia about the course of action that can be taken adopted in present cases, so that Petitioners do not suffer on account of Court's difficulty in taking up the petitions earlier. Ms. Thorat, the learned counsel appearing for the Petitioners would suggest that Petitioners be permitted to submit physical forms with direction to the CET, Cell to update the same in the software. Though, Ms. Kapadia initially expressed difficulties in opting for the said course of action, after taking instructions from her clients, she would fairly submit that if the Court issues a direction for acceptance of physical forms, the CET Cell shall update the option exercised by the Petitioners, notwithstanding the fact that the last date for submission of option is already over.

8) In that view of the matter, we direct the Respondent-CET Cell to forthwith accept the physical option forms from the Petitioners. Petitioners to submit their respective physical option forms in the office of the CET Cell by 1.00 p.m. today. The CET Cell shall forthwith open the access to the software and include the options exercised by the Petitioners therein and thereafter proceed to declare the Select List for Online Stray Vacancy Round by the end of the day.

9) It is clarified that this unusual course of action is adopted in the present cases only on account of the difficulty on the part of the Court to take up the petitions earlier and therefore these orders would not be treated as precedent in any other case.

10) It is further clarified that the Petitioners are being granted merely *ad-interim* relief and they shall not claim any equity in the event they secure admission in any particular College and their admission shall be subject to the final outcome of the petitions.

11) List the petitions before the Regular Court on **14 November 2024**.

12) The order is dictated in the open Court in the presence of the learned counsel appearing for the State CET Cell who shall ensure that this order is communicated to her clients forthwith.

13) All concerned to act on authenticated copy of this order.

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[MANJUSHA A. DESHPANDE, J.]

[SANDEEP V. MARNE, J.]