

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 15373 OF 2024
IN
WRIT PETITION NO. 104 OF 2018**

Mimonee Rakesh Kumbhare. ... Petitioner.

Versus

State of Maharashtra & Ors. ... Respondents.

Mr. R.K. Mendadkar a/w. Ms. Priyanka Shah, for the Petitioner.

Mr. S.H. Kankal, AGP, for Respondent Nos. 1, 2, 4 and 5.

Ms. Pallavi Dabholkar, for Respondent No. 3.

Mr. Vikas Mali, for Respondent No. 6

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

DATE : 4th DECEMBER, 2024

P.C. :

1. The Petitioner secured admission to the MBBS course by making a claim of belonging to the Halba (Koshti), Scheduled Tribe, category. When the Petition was heard by this Court on 8th January, 2018, an order was passed granting ad-interim relief in terms of prayer clauses (e) and (f).

2. Prayer clauses (e) and (f) read as under :

“(e) Pending hearing and final disposal of this petition, the Respondent no. 3 to 5 be restrained by an order of injunction from relying upon and /or giving effect to and or taking any adverse action against the petitioner on the basis of impugned judgment and order dated 12th December, 2017 passed by the Respondent no. 2 committee and the admission of the petitioner in the respondent no. 4 college be kindly ordered to be continued.

“(f) Pending hearing and final disposal of this writ petition, the respondent no. 3 and 4 be directed to allow the petitioner to prosecute her studies in the MBBS degree course under reserved category of scheduled tribe, allow her to appear for the forthcoming examinations and also to declare results from time to time in accordance with law.”

3. After the ad-interim relief was granted, there has not been a further hearing in this matter, even for confirmation of the ad-interim order. By order dated 4th August, 2023 this Court directed that the matter be listed for final hearing on 14th September, 2023. Office objections were not removed in the Writ Petition, thereby placing the matter in the defective category. Until today, the final hearing has not taken place.

4. Now the Petitioner, whose claim has been invalidated in

2018, desires to secure admission to the Post Graduation Course on the basis of the interim orders. The law on this point is now settled in *Chairman and Managing Director, Food Corporation of India v/s. Jagdish Balaram Bahira reported in (2017) 8 SCC 670*. At this rate, the Petitioner would be continuing with her education without a validity certificate and if eventually it turns out that she was not entitled to such a validity certificate, a candidate who actually belongs to the reserved category and who could have obtained a seat for the PG Course, would be deprived of the PG education.

5. In view of these circumstances, we are not inclined to grant interim relief for permitting the Petitioner to get an admission to the PG Course, though her claim of Halba Schedule Tribe category, has been invalidated. The **Interim Application is disposed off.**

6. When we called upon the learned Advocate for the Petitioner as to whether he is willing to have this Petition listed on a particular date for final hearing, his immediately reply was that this matter is at a pre-admission stage and he is ready to argue on admission.

7. In these circumstances and in view of the statement, **Writ**

Petition No. 104 of 2018 is admitted. Respective Counsel waive service on Rule.

8. At the request of the learned Advocate for the Petitioner, list the Writ Petition on **2nd January, 2025** for **“final hearing”**. Matter to be called out after fresh admission board.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)

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SANDEEP
TALWALKAR

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ARUNA SANDEEP
TALWALKAR
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