



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

WRIT PETITION (WP) NO.5814 OF 2024

- 1) Vaibhav S/o Krishna Tambekar,
Aged about 18 years, Occupation:
Student, R/o.Near Hirva Talav,
Mangalwaripeth, Umred, Tah. Umred,
District-Nagpur.

.... Petitioner(s)

// VERSUS //

- 1) State Common Entrance Test Cell,
Maharashtra State, Mumbai, through
its Chairman, 8th Floor, New Excelsior
Building, A.K. Nayak Marg, Fort,
Mumbai-400001.
- 2) V.S.P.M.S. Madhuribai Deshmukh
Institute of Nursing Education,
Nagpur, through its Principal, Digdoh
Hills, Hingna Road, Nagpur-440019.
- 3) Directorate of Medical Education &
Research Through its Chairman, 4th
Floor, Government Dental College &
Hospital, Saint George Hospital
Compound, Railway Station, Near
CSMT, Fort, Mumbai-400001.

Amendment carried
out as per Court's
order dt. 9.10.2024

... Respondent(s)

.....

Mr. A.R.Ingole, Advocate for petitioner.
Mr. N.A.Gaikwad, Advocate for respondent No.1
Mr. Rohan Deo, Advocate for respondent No.2.

.....

CORAM : BHARATI DANGRE & ABHAY J. MANTRI, JJ.
DATE : 09.10.2024

ORAL JUDGMENT : (PER : BHARTI DANGRE, J)

1. At the outset, the learned counsel for the petitioner seek liberty to amend the cause title of petition by adding the Director of Medical Education and Research, Mumbai as respondent No.3.

We grant necessary permission and permit the petitioner to carry out the amendment forthwith. Re-verification is dispensed with.

2. **Rule.** Rule is made forthwith. Heard finally by the consent of the parties.

3. The petitioner, being desirous and duly qualified to be admitted in the B.Sc. Nursing course, participated in the State Common Entrance Test (CET) conducted by the respondent No.1 and on clearing the same, filled in the application and was allotted CET Roll number for consideration of his candidature in the admission process from Scheduled Caste (SC) category.

In the CET examination, the result of which was declared on 19.06.2024, the petitioner secured percentile score of 98.73 and filled in the preference form.

In round-II of the admission process, he was allotted a seat reserved for SC candidate in the respondent No.2-V.S.P.M.S. Madhuribai Deshmukh Institute of Nursing Education, Nagpur, based on his merit and preference.

The allocation of the said college in favour of the petitioner is evident from the list published on conclusion of round-II, when the petitioner was allotted a seat in the respondent No.2 college from the State quota.

4. According to the petitioner, for seeking admission in the respondent No.2 college, he had to submit Demand Draft (DD) of Rs.16,604/-, but 7th and 8th September, 2024, there were public holidays and the bank was closed on 9th September, 2024 and therefore, he could not submit the DD and was denied the admission. It is the specific contention of the petitioner that for reasons beyond his control, he could not furnish the DD and therefore, he had to lose his admission.

5. Mr. Gaikwad, learned counsel representing the respondent No.1 has placed before us notice No.17 published by the State Common Entrance Test Cell Maharashtra State, Mumbai on 25.09.2024, declaring the schedule for online registration and CAP rounds.

Upon notice being issued to the respondent No.2 college, Mr. Rohan Deo, learned counsel, marked his

appearance before us and according to him, the petitioner had to report to the college and deposit the fees between 4th to 9th of September 2024, but the petitioner did not take any steps on 4th, 5th and 6th September, 2024. It is his specific contention that it was also open for him to deposit a cheque and subsequently replace the same by DD.

6. On 8th October 2024, Mr. Deo, learned counsel, made a statement before us that the college has filled in 97 seats but 3 seats are in balance and they are to be filled in by the respondent No.1, out of which, 2 seats are from the Open category, whereas, 1 is from S.E.B.C. category.

We, therefore, directed the petition to be re-notified today for obtaining necessary instructions by Mr. Gaikwad, the learned counsel, for respondent No.1, as regards the position on merits and Mr. Gaikwad, in the morning hours has placed before us Provisional Seat Matrix for B.Sc. (Nursing) course in Govt./Govt. Aided/Corp./Private/Minority Colleges for the 5th round. He has also placed before us a quota-wise list of first and last admitted candidates in Nursing Government Aided Colleges and as far as the respondent No.2-college is concerned, we have noticed that there is not a single seat vacant for SC category.

However, since Mr. Ingole, the learned counsel representing the petitioner, on previous date, had made a

categorical statement before us, which we have recorded in our order dated 8th October 2024, that the petitioner is ready to take up a seat from Open quota.

7. In light of this statement, we assessed the position of the petitioner, since by no stretch of imagination, we intend to offer admission to the petitioner by depriving admission to a person, who has scored more marks than him.

We have perused the data submitted by Mr. Gaikwad, from which we have noted, in specific that the last candidate admitted from the Open category in the respondent No.2 college, has secured a percentile of 97 and his ranking is 889.

As against this, the petitioner has secured a percentile as 98.7 and his ranking is 399.

8. We had noted that the petitioner, despite securing a percentile score and offered a seat in the respondent No.2 college in round-II, did not furnish the DD and has candidly admitted that he was unaware that even a cheque could have been furnished, if the bank was closed on 7th and 8th September 2024, due to the public holidays and the bank being closed on 9th September, 2024.

We do not, therefore, find it appropriate to deny the benefit of admission to the petitioner in the B.Sc. Nursing course and since we are today informed that a seat from the Open category in respondent No.2-college is not filled in till

date, we deem it appropriate to allow the petition by directing that the petitioner, who is kept away from a seat in B.Sc. Nursing course, merely on the ground that he was unable to pay the fees in time and we deem it appropriate to allow the writ petition by directing the respondents to confirm his admission from the Open category in the respondent No.2-V.S.P.M.S. Madhuribai Deshmukh Institute of Nursing Education, Nagpur and we had already passed the operative part of the order and directed to be uploaded, which shall be read as a part of this order to the following effect :-

“As directed by us, Mr.Gaikwad, representing the respondent No.1 has produced before us the relevant data reflecting the quota-wise list of first and last admitted candidate in Nursing Government aided Colleges upto round four.

Since Mr.Deo, learned Counsel appearing for the respondent No.2 has made a categorical statement before us that out of 100 seats available 97 seats were filled in whereas 03 seats were vacant of which 01 was belonging to S.E.B.C. category and 02 seats of Open category remained unfilled.

Mr.Gaikwad, has placed before us the chart has also reflected the position in respect of respondent No.2 V.S.P.M.S. Madhuribai Deshmukh Institute of Nursing Education, Nagpur and we have taken note of the fact that no seat from Scheduled Caste category in the said College is vacant. However, when we turn our attention to the Open category candidates, who are admitted in

the said College, we have noted that the candidate with the percentile of 99 with rank of 153 was admitted being with the highest score, whereas candidate with the lowest score in the Open category was the one at merit list 889 with percentile at 97. As far as the petitioner is concerned, since he has scored 399 ranking with 98.7 percentile, for the reasons separately recorded, we direct the respondent Authority to allot the seat of Open category V.S.P.M.S. Madhuribai Deshmukh Institute of Nursing Education, Nagpur before the declaration of the list of fifth round, which is scheduled tomorrow.

The aforesaid directions shall be implemented by the respondent Nos.1 and 2, and in addition, since we permitted the petitioner to implead Director of Medical Education and Research as respondent No.3, the directions shall also bind the respondent No.3.”

9. The Rule is made absolute in the above terms. No costs.

[ABHAY J. MANTRI, J]

[BHARATI DANGRE, J]