



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

WRIT PETITION NO. 5925 OF 2024

Sanjeevani Dhanraj Rajwade Vs. Medical Counselling Committee (MCC) through its Deputy
Director General (Medical Education) Govt. of India, Directorate General of Health Services, Ministry
of Health and Family Welfare, New Delhi and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. B.G. Kulkarni, Advocate for petitioner.
Mr. Nandesh Deshpande, Deputy Solicitor General of India for respondent No.1.
Mr. Gaikwad, Advocate for respondent No. 2.
Mr. D.V. Chavan, Government Pleader for respondent No. 3.

**CORAM : BHARATI DANGRE &
ABHAY J. MANTRI, JJ.**

DATED : 04-10-2024

The petition was mentioned by Mr. Kulkarni, the learned Counsel representing the petitioner in the wake of urgency and we allowed the circulation at 2.30 p.m. with a clear indication that the copy of petition shall be served upon the contesting respondents.

On due compliance, we have taken up the petition for hearing.

2. Mr. Chavan, the learned Government Pleader waive service of notice for respondent No. 3. Mr. Gaikwad, the learned Counsel waive service of notice for respondent No. 2. As far as respondent No. 1 is concerned, though the learned Counsel Mr. Nandesh Deshpande attempted to contact respondent No.1, he was unable to obtain instructions.

3. We have heard learned Counsel Mr. Kulkarni for the petitioner, who is facing a rather unprecedented situation, as on account of the shifting of the timeline declared between CAP-I round of the State Quota and the declaration of CAP-II round of State Quota, the petitioner, who was offered a seat in Indira Gandhi Medical College and Hospital (IGMC), Nagpur from the All India

Quota was unable to cancel the same and secure her seat allotted in the 2nd round of the State Quota on 1.10.2024 at 10.30 p.m.

4. The petitioner participated in the NEET UG process of 2024 and in the 1st CAP round meant for State Quota, on 31.8.2024 was allotted her Government Medical College and Hospital, Akola and she was allotted the Scheduled Caste (Woman) Seat.

In the round conducted at All India Level by the Medical Counselling Committee (MCC), DGHS, Ministry of Health and Family Welfare, Government of India, she was issued a provisional allotment letter on 19.9.2024 in Round II and this time, she was allotted a seat in IGMC and Mayo Hospital, Nagpur.

The allocated quota indicated her seat to be from Scheduled Caste Category.

5. On 26.9.2024, the Government of India, through the Directorate General of Health Services, published a notification, informing the candidates that the requests are being received from the under graduate candidates, who want to resign from their round I or round II seats, on account of various reasons and therefore, the competent authority has decided to allow resignation of such candidates up to 5.00 p.m. of 1.10.2024.

This resignation, was of course hedged with several stipulations stated in the notice being that round-I candidates should not be upgraded in round II and should resign from their seat without forfeiture of security deposit and freshly allotted candidates of round II, who joined their seat but now want to resign, can take their seat on forfeiture of security deposit and several other stipulations.

6. On 1.10.2024, the competent authority of Common Entrance Test Cell, Government of Maharashtra, which is responsible for filling up the State Quota Seats, published its notice No. 14 granting

extension for declaration of CAP II Selection List on account of some technical error and shifted declaration of the candidatures to 1.10.2024 after 6.00 p.m. and accordingly, it also extended the last date of joining of CAP-II for MBBS and BDS courses till 5.30 pm. of 6.10.2024.

7. The petitioner, got herself embroiled between these two notifications. Worth it to note that on 1.10.2024 at 10.23 p.m. she received communication about her provisional selection in CAP-II round and she was allotted Topiwala National Medical College, Mumbai, once again, a seat reserved for Scheduled Caste candidate.

This posed a tight spot situation for the petitioner, as though she got a college of her choice, the timeline for resignation from the I/II round was fixed at 5.00 p.m. of 1.10.2024.

8. Feeling helpless, the petitioner addressed frantic email communications requesting to extend the date of cancellation of seat of All India Quota to 2.10.2024 and her emails addressed to the authorities are part of the petition. Unfortunately, the petitioner did not receive any response and she was left with no other option than to knock the doors of this Court, seeking the specific relief of permitting her to cancel her admission in respondent No. 4 college by extending the cut of date i.e. in CAP-II (State Quota).

We find the difficulty on part of the petitioner to be a valid and genuine one as on account of pushing of the declaration of the selection list of CAP II by the MHCET to 1.10.2024 after 6.00 p.m. she find herself in a deadlock.

9. There are no instructions accorded to Mr. Deshpande, the learned Deputy Solicitor General of India on behalf of the respondent No. 1 and what we find, at this stage, that no harm shall be caused to any of the candidates if the petitioner is allowed to resign from her seat, which was allotted to her from All India Quota

since in any case, the petitioner satisfy the criteria for being allotted seat from State Quota and she is ready to accept the seat, that is allotted to her on 1.10.2024. The 2nd round of All India Quota is still open and there shall be definitely a candidate, who shall be in a position to accept said seat.

10. By exercising power available to us under Article 226 of the Constitution and since an exceptional scenario has emerged, where when the petitioner shall be put to extreme disadvantage if she is not allowed to resign from her seat allotted in IGMC, Nagpur and permitted to finalize her admission in the college which is already allotted to her and while doing so, we are conscious that it shall not cause any injustice to any other candidate, since the round is open upto 6.10.2024 till 6.00 p.m..

11. We direct the respondent No. 1 – Medical Counselling Committee (MCC), who conduct the counselling for the all India seats to accept the resignation of the petitioner from IGMC, Nagpur seat in the All India Quota and for that purpose, we direct the petitioner to forward email communication to respondent Nos.1 to 3 before 6.00 p.m. and upon such email being sent, it shall be assumed that the seat allotted to the petitioner in IGMC, Nagpur from All India Quota stand vacated.

It will be the responsibility of the MCC thereafter to reflect the vacancy of seat so that it will be available to candidates, who are aspiring for it.

12. Since we pass this order in presence of the learned Deputy Solicitor General of India, Mr. Deshpande, who is representing respondent No.1, we expect him to communicate this order orally and the respondent No. 1 shall act upon the oral communication.

Needless to state that after 6.00 p.m. on 4.10.2024, the

petitioner's eligibility to be admitted in the respondent No. 4 college is open and respondent No. 3 shall return the original documents which are deposited, on the request of the petitioner, to be presented to respondent No. 4 college.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)

R.S.Belkhede, PA.