

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

41 WRIT PETITION NO.3723 OF 2024

Sandeep Nivrutti Jinkalwad

Versus

The State of Maharashtra Through Secretary And Others

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Shri. Amit A. Mukhedkar, Advocate for the Petitioner

Ms. P. J. Bharad, AGP for the Respondent / State.

Shri. S. Y. Mahajan, Advocate for Respondent No.4

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CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.

Dated : JULY 14, 2025

PER COURT :-

. Heard finally at the admission stage with the consent of all the sides.

2. In the present Writ Petition filed under Article 226 of the Constitution of India, the Petitioner has made the following prayers:

“B] Record and proceeding may please be called for;

C] By issuing a Writ of Mandamus or any other Writ or order of a like nature, the respondent nos.1, 2, 4 to 6 may please be directed to refund to the petitioner, an amount of Rs.2,74,531/-, which was charged wrongly by respondent no.4 as full fees for engineering course;

D] To hold and declare that, the act of respondent no.4 of levying full fees of engineering course meant for an open category candidate, to the petitioner who is a reserved class category candidate belonging to 'Mahadeo Koli' caste falling in Schedule tribe category, is illegal, wrong, unreasonable and arbitrary.

E] The respondent no.4-college, may please be directed to pay to the petitioner, interest @ 18% p.a on Rs.2,74,531/-, to

be calculated from its payment to respondent no.4 i.e. from 13-9-2022 upto its actual refund, if so made by respondent no.4;

F] Pending, hearing and final disposal of the Writ petition, the respondent nos.1, 2, 4 to 6 may please be directed to deposit in the registry of this Honourable Court, an amount of Rs.2,74,531/-, which was charged wrongly by respondent no.4 to petitioner, as full fees for engineering course;

G] Any other relief deemed fit, may please be granted.”

3. The Petitioner was admitted as the student in the Respondent No.4 – Institute on the seat reserved for Scheduled Tribe category as he claimed to be belonging to ‘Koli Mahadev’ category. The Petitioner’s tribe claim was pending before the concerned Respondent No.3 – Scrutiny Committee. Since Respondent No.3 – Scrutiny Committee had invalidated the Petitioner’s tribe claim, he was apprehending coercive action by the Respondent No.4 - Institute and therefore, to protect his admission he approached this Court in Writ Petition No.4541 of 2017, in which the following order was passed on 03.05.2017.

“Notice to respondents, returnable on 19.06.2017.

Learned A.G.P. waives service of notice for respondent nos.1 and 2.

Respondent nos.3 and 4 shall permit the applicant to appear for examination and prosecute his studies without insisting for caste certificate and payment of full fees.”

4. The Petitioner had completed his degree from Respondent No.4 – Institute in the year 2020. The Petitioner was in need of the original documents, which were deposited with the Respondent No.4 – Institute.

The Respondent No.4 – Institute insisted for paying the full fees. As there was no validity certificate, the Petitioner paid the full fees which is meant for the Open Competition Seat. The Respondent No.4 - Institute returned the original documents to the Petitioner.

5. The Petitioner had challenged the order of Respondent No.3 – Scrutiny Committee invalidating his tribe claim, before this Court in Writ Petition No.9776 of 2021 which came to be allowed by order dated 13.09.2023. The operative order of the said Judgment reads as under:

“14. The Writ Petitions are partly allowed.

15. The impugned orders are quashed and set aside. The respondent- scrutiny committee shall immediately issue certificates of validity to the petitioners of ‘Koli Mahadav’ scheduled tribe. Those certificates shall be subject to the final outcome of Gajanan’s matter which the committee has decided to reopen.

16. The petitioners shall not be entitled to claim equities.”

6. Now, the Petitioner has approached this Court with the above referred prayers. The Petition is opposed by the State and Respondent No.4 – Institute. They have filed their respective Reply Affidavits on record. We have heard both the sides at length. Perused the papers on record.

7. Undisputedly, the Petitioner’s admission with Respondent No.4 – Institute was on the seat reserved for Scheduled Tribe candidate. It is not in dispute that as per the Government policy the Caste Validity

Certificate was to be submitted at the time of the admission. Initially the Respondent No.4 - Institute accepted the fees payable by the candidate belonging to reserved category, from the Petitioner. Pursuant to the order passed by this Court, the Petitioner completed his degree course from Respondent No.4 – Institute. Admittedly, Respondent No.3 – Scrutiny Committee validated his tribe Claim on 05.10.2023 pursuant to the order passed by this Court. However, in the meanwhile, the Petitioner paid the full fees to Respondent No.4 – institute on 13.09.2022 by giving undertaking that he will withdraw Writ Petition No.9776 of 2021 which was admittedly against the invalidation of his tribe claim. We failed to understand as to what bearing the said Writ Petition was having with the fees of Respondent No.4 – Institute. According to the Petitioner, he was left with no other option, but to give in writing such letter to the Respondent No.4 – Institute to pay the entire fees meant for the Open Competition Candidate and withdraw the said Petition. Needless to state that, it was not in the Petitioner's control to decide tribe claim which was pending with the Respondent No.3 - Scrutiny Committee. From Government Resolution dated 31.03.2016 the admission process and payment of fees was through online mode. According to the learned AGP, since the said online mode is no more in operation, it would not be possible to refund the fees to the Respondent No.4- Institute. From all these undisputed facts, we see no fault of the Petitioner to deprive him of refund of the fees which he had to pay for

getting his original documents back from the Respondent No.4 – Institute.

8. Learned A.G.P. expressed apprehension that this order may open flood gates for other Petitions and the State would be burdened with financial implications. In our view, there is no substance in such apprehension, for more than one reason. The Petitioner herein belongs to Scheduled Tribe. He had applied for a seat reserved for such category candidate. He was even granted admission reserved for such category candidate. The Petitioner's Tribe claim was turned down by the Scrutiny Committee. The Petitioner, therefore, approached this Court. This Court directed the Scrutiny Committee to grant validity to the Petitioner's Tribe Certificate. Before that, this Court, on Civil Application (No.6275/2017), had directed the Respondents herein to permit the Applicant to appear for the examination and prosecute his studies without insisting for Caste Certificate and payment of full fees. Since the purpose was served, on passing of the said order, the Writ Petition was withdrawn. On completion of his graduation successfully, the Petitioner secured a job. The employer insisted him to submit documents including his Tribe Certificate. Since the Certificate and other documents were with the Respondent No.4 – Educational Institute, the Petitioner approached them. The College

Principal appears to have insisted the Petitioner to give in writing that he would pay the entire fees and withdrew the Writ Petition. The Petitioner's promise to withdraw did not have any concern with the payment of fees. The said clause in writing submitted by the Petitioner appears to have been incorporated at the behest of College authorities.

9. In the peculiar facts and circumstances of the case, namely the Petitioner was granted admission on reserved category seat, challenging the order of the Scrutiny Committee turning down his claim, his Tribe claim to have been validated in a Writ Petition preferred by him, and it was not within his control to place before the authorities concerned the validity certificate regarding his Tribe claim within a time frame. The Petitioner, therefore, needs to be reimbursed of the fees he paid over and above the fees meant for reserved category. In view of the above, we proceed to pass the following order.

ORDER

- (i) The Writ Petition is allowed.
- (ii) The Respondent No.4 - Institute shall refund the fees to the Petitioner which they have charged as the Open Competition Candidate, by deducting the fees which is payable by the candidate belonging to the Scheduled Tribe candidate, within a period of eight (8) weeks.
- (iii) The Respondent Nos.1, 2 and 6 shall reimburse the Respondent No.4 – Institute in respect of the fees of the Petitioner, twelve (12) weeks thereafter.

- (iv) The Petitioner shall provide his Bank Account Number to the Respondent No.4 - Institute.
- (v) Petition stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP