



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

Writ Petition No. 12129 Of 2024

With

Civil Application No. 12060 Of 2024
in Writ Petition No.12129/2024

Grishma d/o Nanrendra Khaire
Age : 18 years, Occupation-Student,
Permanent R/o C-32, Methila Apartment,
Shivaji Complex, Mankapur,
Nagpur, Dist. Nagpur.

.. Petitioner

Versus

1. The Commissioner of State Common
Entrance Cell,
8th Floor, New Excelsior Building, A.K. Nayak Road,
Fort, Mumbai – 400001.
2. The Admission Regulatory Authority
Duly constituted by the
Commissioner of State Common
Entrance Cell,
8th Floor, New Excelsior Building, A.K. Nayak Road,
Fort, Mumbai – 400001.
3. Dr. N.Y. Tasgaonkar Institute of
Medical Sciences, Karjat
District Raigad,
Through its Dean.

.. Respondents

- * Mr. Sachin S. Deshmukh h/f Mr. Majit S. Shaikh,
Advocate for the Petitioners.
- * Mr. S.G. Karlekar, Advocate for Respondent Nos. 1 and 2.

**CORAM : S.G. MEHARE AND
SHAILESH P. BRAHME, JJ..**

RESERVED ON : 10th FEBRUARY 2025

PRONOUNCED ON : 20th FEBRUARY 2025

J U D G M E N T (Per Shailesh P. Brahme, J.) :

1. Rule. Rule is made returnable forthwith with the consent of the parties.

2. Petitioner belongs to Scheduled Caste Category and she secured 533 out of 720 marks in NEET-UG for 2024-2025. She was allotted a seat in Respondent No.3/College for M.B.B.S. She was denied admission as she did not report the College within stipulated time. She has approached this Court seeking direction to confirm her seat in the Respondent No.3/College.

3. It is expedient to disclose the background of this petition. Petitioner was allotted B.D.S. College which was at Hingoli in the year 2023-2024. She had submitted original documents. She did not continue with the said College and appeared for NEET-UG 2024. She was issued a letter allotting a seat provisionally in the Respondent No.3/College. Her earlier College at Hingoli from which she had resigned withheld her documents. Being aggrieved she had to file Writ Petition No.1194/2024. It was disposed of by order dated 24.10.2024 with a direction to return all the original documents. After collecting the documents, when she reached Respondent No.3/College, time for reporting was over.

4. It was represented that the seat was vacant and she could be accommodated to it by extending time. In the vacation elaborate order was passed on 31.10.2024. Considering the developments that the seat matrix for CAP round – III was published on 25.10.2024. The declaration of the list of online vacancy was scheduled on 28.10.2024. The direction to accommodate her in the Respondent No.3/College was denied. She preferred Civil Application No.12060/2024 and solicited order on 05.11.2024 representing that till 04.11.2024 one seat reserved for SC (woman) was displayed to be vacant. The direction was issued restraining the Respondents from allotting seat in any manner which was allotted to the Petitioner provisionally. Later on it was transpired that no seat was available and already incumbent joined the Respondent No.3/College.

5. Respondent Nos.1 and 2 have filed affidavit-in-reply on record. It is contended that no seat was available on 05.11.2024. The Petitioner is disqualified as she abandoned her BDS Course. It is not possible to accommodate her either in the Respondent No.3/College or in any other College.

6. Respondent no.3/College did not cause the appearance despite service of notice for final hearing. It is not disclosed to us as to who is the candidate joining the Respondent No.3/College against the seat which was provisionally allotted to the Petitioner. That person is not party to the petition.

7. Learned Counsel for the Petitioner has placed on record

brochure of NEET-UG 2024. It is canvassed that Petitioner is wrongly denied the admission and there was no mistake on her part. She was entitled for extension of time and there is discrimination at the instance of Respondents for not extending time. On 04.11.2024 up to 07:00 pm., a vacancy of SC (woman) was displayed and thereafter prohibitory order was passed on 05.11.2024. Respondent No.3/College wrongly admitted a student against seat allotted to the Petitioner. The said College is liable for the action. It is further submitted that the disqualification is not automatic and there is no decision by Maharashtra University of Health Sciences, Nashik till this date.

8. It is submitted that this is a rarest case where indulgence of this Court is necessary for creating a post to accommodate the Petitioner or to permit the Petitioner to be adjusted in the next year by reducing one seat of the Respondent No.3/College. It is contended that in the alternative petitioner is entitled to compensation. Reliance is placed on the judgments in the matters of **S. Krishna Sradha Vs. State of Andhra Pradesh and Others**, (2020) 17 SCC 465; **Ramkrishna Medical College Hospital and Research Centre Vs. State of Madhya Pradesh and Others**, Special Leave Petition (C) No.11785/2024; **Vansh s/o Prakash Dolas Vs. The Ministry of Education and the Ministry of Health and Family Welfare and Others**, Special Leave Petition (C) No.26179-26180/2023.

9. Mr. S.G. Karlekar appearing for Respondent Nos. 1 and 2 has canvassed submission as per his affidavit-in-reply. He has

placed reliance on **Pallavi Manohar Dalvi and Others Vs. State of Maharashtra and Others**, 2022 DGLS(Bom.) 1475 and **Mahatma Gandhi Missions Institute and Others Vs. State of Maharashtra and Others**, 2008(5) Bom.C.R. 545.

10. Having heard both sides, at the outset, we have to appreciate that the Petitioner is a meritorious candidate and belongs to a reserved category. She could have secured admission under normal course of circumstances. It is conundrum as to why she did not get a seat prior to CAP round – III having scored 533 out of 720 marks. It is also not understood as to what prevented her in approaching Respondent No.3/College immediately, after being allotted a seat provisionally vide letter dated 20.10.2024. When 24.10.2024 was the last date for reporting Respondent No.3/College, she could have promptly reported and secured the seat. Instead of personally going to the College at Hingoli for collecting the documents and thereafter rushing to the Respondent No.3/College, beyond the cut of time, she could have secured admission first with the Respondent No.3/College and requested to grant time for submitting the documents.

11. It has been strenuously argued by learned Counsel Mr. Deshmukh that she was not at fault and the Respondent no.3/College deliberately denied the admission. In the matters of admissions to Under Graduate Medical Course, time line is sacrosanct. The student and the parents have to be alert otherwise they have to face irresistible situation. It would not

possible for the Writ Court to extend time line or to create a seat under normal course of circumstances. It is the centralized admission process which is complex. The norms stipulated in the brochure governing the process are fixed by the experts. The Writ Court cannot cause indulgence just on the basis of sympathies or equities. We are faced with such a situation.

12. We have to accept the statements of Mr. S.G. Karlekar and rely on his affidavit that no seat is available with the Respondent No.3/College or at any place to accommodate the Petitioner. Respondent No.3/College is not before us despite of service of notice. A candidate who is allotted a seat which was provisionally allotted to the Petitioner is not party before us. We are unable to grant relief of restoring admission to the Petitioner by canceling the admission of the student who is not party to the petition. The academic year of M.B.B.S. has already begun.

13. Petitioner failed to report the Respondent No.3/College in time. It is not her case that on 24.10.2024 she reported in time but the Respondent No.3/College denied her admission. It is not disclosed by her the time and date when she reported the Respondent No.3/College. Though she was armed with provisional allotment letter, no right was created for admission in the Respondent No.3/College. We find that she failed to make out a case that the Respondent No.3/College deliberately denied her admission though she was punctual in reporting the College.

14. It is contended by the Petitioner that up to the evening of

04.11.2024, there was vacancy of two seats including one for SC (woman). On 05.11.2024, interim direction was issued by the learned vacation Judge restraining the Respondents from admitting a student. When those orders were passed, Respondent No.3/College was not before the vacation Court. It is not clear as to when incumbent was allotted a seat in the Respondent No.3/College to which the Petitioner was taking claim. Neither the College is before us, nor the concerned student. In all probabilities, the said student might have been allotted the seat before the vacation Court could pass orders on 05.11.2024. We are unable to fix any liability on the Respondent No.3/College.

15. Our attention is adverted to the provisions of brochure of NEET-UG-2024 to buttress the submission that it was not permissible to allot seat to the incumbent. We have gone through the notes appended to Clause Nos. 11.1.9 as well as letter dated 24.07.2023. We have also considered order passed by the coordinate bench at Principal Seat on 25.10.2024 in Writ Petition No.12646/2024. We need not address an issue of validity of allotment of seat to a person in the Respondent No.3/College for which the Petitioner is staking claim. In the absence of College and in absence of any specific challenge in the petition, we cannot entertain the submissions in this regard.

16. It is emphasized by learned Counsel Mr. S.G. Karlekar that Petitioner has already incurred disqualification as per Clause of NEET-UG-2023 which is as under :

11.2.4. DISQUALIFICATION FOR ADMISSION

.The candidate who was allotted a seat in any course under MUHS Nashik in previous year(s) and who vacates/ abandons it after availing the said seat, has completed such a period of course which would result into lapse of the said seat.

.Maharashtra University of Health Sciences, Nashik shall take the decision regarding eligibility and granting of the term of selected candidates. The selection of a candidate by the Competent Authority at a later date does not place onus to accord approval for grant of term.

17. The Petitioner was allotted seat in a College at Hingoli for B.D.S. in 2023-2024 which was abandoned by her. As she was required to file petition for getting back the documents from the said College and she was paid the scholarship also, it is apparent that admission was confirmed and thereafter it was abandoned. There is every possibility of incurring disqualification. It is up to the Maharashtra University of Health Sciences, Nashik to take further action to decide eligibility of the Petitioner. We are not pointed out any further action taken against her. Simultaneously we cannot come to definite conclusion that due to disqualification, Petitioner was ineligible to participate in the admission process of 2024-2025 and consequentially allotment of seat to her in the Respondent No.3/College was bad in law. It is left open for competent authority.

18. We have already recorded that petitioner failed to prove that she was being denied a seat deliberately and the Respondent No.3/College is liable for the action. The petitioner is also failed to make out any rarest of the rare case to issue direction to create a post for her. The admission process is regulated by brochure of NEET-UG-2024. We have not come

across any provision for creating a seat, albeit in exceptional circumstances or awarding compensation. In view of Clause No.1.6 of the brochure, the performance in the entrance test is valid only for the academic year for which the NEET examinations were held i.e. 2024-2025. There is no promise for admission for the subsequent years. We find that no case is made out for awarding compensation.

19. Petitioner relied on the judgment of **S. Krishna Sradha** (supra). The ratio is laid down in paragraph no.12 and 13. Applying parameters stated in paragraph no.12 and the paragraph no.12.1, we are of the considered view that petitioner failed to make out a case that she was illegally denied the admission and there was no fault on her part.

20. Petitioner further relied on the judgment in the matter of **Ramkrishna Medical College Hospital and Research Centre** (supra), Special Leave Petition (C) No.11785/2024;. We have gone through paragraph no.21 of the judgment. We find that it is not a fit case to direct creation of a seat for the petitioner for this academic year.

21. Further reliance is placed on the judgment in the matter of **Vansh s/o Prakash Dolas** (supra). We have considered paragraph nos. 22 to 28. In that case appellant was illegally deprived from his rightful admission in the first year of M.B.B.S. He was allotted a seat which was cancelled without following due procedure of law. In that contest referring to various judgment, it

was held by the Apex Court that the student was entitled to restoration of his seat in the next year and the compensation was also awarded. The facts of the case in hand are distinguishable. The benefit of the judgment cannot be given to the petitioner in the present case.

22. Mr. Karlekar relied on the judgment of the **Pallavi Manohar Dalvi** (supra). We have considered paragraph no.19 of the judgment. We have already recorded that the petitioner failed to report the college in time and the respondent no.3/College cannot be held liable for any lapses. Further reliance is placed on the judgment in the matter of Mahatma Gandhi Missions Institute and Others (supra). There is no dispute that brochure is a complete and composite document for entrance examination, declaration of result, general instructions and method of admission. It is binding on the stake holders.

23. We find that we are unable to grant any relief to the petitioner. Writ Petition is dismissed. Rule is discharged.

24. Civil Application stands disposed of.

[SHAILESH P. BRAHME]
JUDGE

[S.G. MEHARE]
JUDGE

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