

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

WRIT PETITION NO. 16746 OF 2024

Mamasahab Mahadeo Padule)
Age: 45 years, Occ: Medical Practitioner,)
R/at. Podule Vasti, Chandaj,)
Taluka: Madha, Dist: Solapur) Petitioner.

VERSUS

- 1) Sonajirao Kshirsagar Homeopathy)
Medical College, Beed)
Sonajirao Kshirsagar Homeopathic)
Medical College, Vidyanagar, W, Beed)
Beed 431122)
- 2) State Common Entrance Test Cell)
Maharashtra)
8th floor, New Excelsior Building)
A.K. Nayak Marg, Fort, Mumbai 400 001)
- 3) The Maharashtra University of)
Health Sciences)
Vani Dindori Road, Mhasrul Gaon)
Nashik, Maharashtra 422004)
- 4) Sub Divisional Officer (Revenue))
Madha Division Kurduwadi)
- 5) The Director, of Social Welfare Cultural)
Maharashtra State, Pune-I)
- 6) State of Maharashtra)
Through the Government Pleader)
- 7) The Secretary Caste Certificate)
Scrutiny Committee)
Pune Division, Pune) Respondents

Ms. Shraddha S. Pawar for the petitioner.
Mr. Suryajeet P. Chavan for Respondent No.1-College
Mr. Yashodeep Deshmukh a/w. Ms Vaidehi Pradeep & Mr. Aniket Jadhav for
Respondent No.2
Mr. S. B. Kalel, Assistant Government Pleader for Respondent Nos. 4 to 7

**CORAM : A. S. CHANDURKAR &
M. M. SATHAYE, JJ.**

DATED : 9th JANUARY 2025

ORAL JUDGMENT (PER M. M. SATHAYE, J):

1. Rule. Rule is made returnable forthwith. Heard finally by the consent of the parties.
2. This Petition is filed by a student aspiring for the Post Graduation – M.D.(Homeopathic) Course. The Petitioner is seeking directions to the Respondent No. 1 - College and the Respondent No. 2 - State Common Entrance Test (CET) Cell to keep his seat reserved and further directions to admit him to the said Course under reserved category. The Petitioner belongs to Dhanger (29) Caste - Nomadic Tribe (C). The caste certificate dated 06/08/1997 bearing no. 216/1997 was issued by the concerned Sub-Divisional Officer certifying that the Petitioner belongs to the said tribe. The concerned Scrutiny Committee on 14/10/1999 issued the Validity Certificate to the Petitioner. However, the number of the Caste Certificate stated in the Validity Certificate was different from the Caste Certificate issued to the Petitioner. For this reason, the Petitioner was found ineligible in continuing with admission to the said post graduate course.
3. Notices were issued in this Petition on 14/11/2024 and the Petitioner

was permitted to continue his education, subject to the outcome of the Petition. By order dated 19/12/2024 passed in this Petition, the Respondent No. 7 (Secretary, Caste Certificate Scrutiny Committee, Pune Division, Pune) was directed to verify the original Caste Certificate of the Petitioner and indicate further steps for correction.

4. The Respondent No. 2 CET Cell filed affidavit-in-reply affirmed on 26/12/2024. Learned Counsel for the Respondent No. 2, relying on the said affidavit submitted as under. That the Petitioner failed to indicate that the ad-interim relief was granted to him on 14/11/2024. That in the letter dated 21/11/2024 under which the Respondent No. 2 was served, it was merely mentioned that the hearing is scheduled on 28/11/2024 and there was no mention of interim relief. That thereafter the matter was moved without prior notice and further continuation of the ad-interim order was secured. That the Petitioner was allotted the Respondent No. 1-College on 29/10/2024 in CAP-3 round and thereafter, he was required to abide by terms and conditions of the admission. That though the Petitioner reported to the College, he did not submit original Caste Verification Certificate. That for not fulfilling essential requirement of submission of documents, which is solely the Petitioner's responsibility, the Petitioner is no longer eligible to claim the allotted seat. That the Petitioner does not have vested right in the allotted seat without complying the condition of necessary document submission within timeline. That in the subsequent rounds of admission, the seat allotted to the Petitioner, has been allotted to the next meritorious candidate as per schedule.

5. In these circumstances, on 07/01/2025, the learned Counsel for the Respondent No. 2 was granted time to take instructions as to whether there

are any vacant seats available for the said course for academic year 2024-25. Today we are informed that no vacant seat is available with the Respondent No. 1-College and all the seats are filled up.

6. The learned Counsel for the Petitioner has produced on record the Affidavit of the Petitioner dated 24/12/2024 and a Caste Validity Certificate dated 18/12/2024 in which the correct number and date of his original Caste Certificate is mentioned. The same is taken on record and marked as “Exhibit-X” (collectively). Therefore, it appears that the Petitioner has approached the Caste Scrutiny Committee in the meantime and has obtained a corrected Caste Validity Certificate, thereby removing the discrepancy in the number of Caste Certificate, which has led to the present situation.

7. Learned Counsel for the Petitioner submitted that for no fault of the Petitioner, the seat which was allotted to him has been now allotted to somebody else and if this Court does not intervene, the Petitioner would lose an opportunity to continue with his post-graduate course, when the seat was allotted to him under normal process.

8. Learned Counsel for the Petitioner has relied upon the judgments of the Hon’ble Supreme Court in the case of **Vansh s/o Prakash Dolas vs Ministry of Education & Ministry of Health & Family Welfare and Others¹**, **Mashalkar Prasad vs. Terna Medical College & Hospital & Ors.²** and **Arya Sandip Tarar vs. National Testing Agency (NTA) and Others³**. She further submitted that this is an exceptional circumstance, where for no fault of the Petitioner, only because the number of the Caste Certificate was wrongly

1 2024 SCC OnLine 342

2 Writ Petition No. 17047 of 2024 Ord. dt. 28/11/2024.

3 2024 SCC OnLine Bom 3821

mentioned on the Validity Certificate, the Petitioner is about to lose his valuable academic year in the post graduation course. She prays for interference.

9. We have considered the submissions and perused the record.

10. From the facts and circumstances narrated above, we find that merely because the number of the Caste Certificate was wrongly mentioned in the Validity Certificate, the seat allotted to the Petitioner in CAP-3 round, well in time on 29/10/2024, could not be confirmed and the Petitioner was required to knock the doors of this Court. Necessary correction in the Caste Validity Certificate has now been issued and the Petitioner is holding the Validity Certificate with correct number on his Caste Certificate.

11. In case of **Vansh s/o Prakash Dolas (supra)**, the Hon'ble Supreme Court has considered the concept of 'restitutionary relief or restitutive justice' and relying on the case of **S. Krishna Sradha vs. State of Andhra Pradesh & Ors.**⁴ has held as follows:

"27. This Court in the case of *S. Krishna Sradha v. State of Andhra Pradesh* examined the issue of wrongful denial of admission in a medical course, and propounded the theory of 'restitutive justice' by holding as below :-

"13. In light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:

13.1 That in a case where candidate/student has approached the court at the earliest and without any delay and that the question is with respect to the admission in medical course all the efforts shall be made by the court concerned to dispose of the proceedings by giving priority and at the earliest.

4 (2020) 17 SCC 465

13.2. Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal right expeditiously without any delay and there is fault only on the part of the authorities and/or there is apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right of equality and equal treatment to the competing candidates and if the time schedule prescribed - 30th September, is over, to do the complete justice, the Court under exceptional circumstances and in rarest of rare cases direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats and such admissions can be ordered within reasonable time, i.e., within one month from 30th September, i.e., cut off date and under no circumstances, the Court shall order any Admission in the same year beyond 30th October. However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled”

12. Following the same, this Court has granted restitutive reliefs in the case of **Mashalkar Prasad (supra)** and also in **Arya Sandip Tarar (supra)**. We are inclined to follow the similar course in the present case also.

13. On facts, we find that the Petitioner was allotted the seat on 29/10/2024. He then approached the college with documents but the discrepancy was pointed out. He then requested on 06/11/2024 to allow his admission based on the available documents, which was refused. The Petitioner had requested that he would require some time for necessary correction of the error that had crept in the Validity Certificate. The

Petitioner then immediately filed this petition on 12/11/2024. Thereafter, under the order of this Court he was permitted to continue his education subject to the outcome of this Petition. Assuming that the Respondent No. 2-State CET Cell was not informed about the interim relief, since the admission process has proceeded and the Petitioner's allotted seat has been now allotted to some other meritorious candidate, it was not for the fault of the Petitioner, but solely because the Validity Certificate was issued with wrong number of the Caste Certificate.

14. Since the Petitioner has now received corrected Validity Certificate, we put a specific query to learned Counsel for the Respondent Nos. 1 & 2 whether the last date of joining the course is already over. We are informed that such cut-off date is 13/01/2025 and is not yet over. In that view of the matter, we find that this is a fit case to exercise our extra-ordinary writ jurisdiction under Article 226 of the Constitution of India.

15. Hence, we allow the petition and pass the following order :

(a) It is held that the Petitioner was deprived of getting admission at the MD Homeopathy Course at the Respondent no.1 College for want of proper Validity Certificate.

(b) Since the Validity Certificate initially issued to the petitioner has now been rectified, the Petitioner would be entitled to be admitted to the said Course.

(c) Since the cut-off date for grant of admission is 13/01/2025 and as all seats sanctioned at the Respondent no.1 College have been filled up, it is directed that the Respondents

shall create one additional seat at Respondent no.1 College to which the Petitioner would be admitted in the NTC Category in terms of the provisional selection letter.

(d) Thereafter, the Respondents shall take necessary steps and make a request to the National Council for Homeopathy for regularizing the admission of the Petitioner. This aspect shall be considered in the light of the observations made in the judgment.

(e) In addition, steps shall be taken to ensure that the seat at which the Petitioner would be admitted, would be treated as one reserved for the candidates from Nomadic Tribe (C) Category.

16. Rule is made absolute in the aforesaid terms. No order as to the costs.
17. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)