

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.15257 OF 2024
IN
WRIT PETITION NO.9662 OF 2021

Manish Narendra Khairnar .. Petitioner
Versus
The State of Maharashtra Dept and ors .. Respondents
...

Mr.Anandsingh Bayas for the petitioner.
Mr. Sachin Gite for respondent no.5.
Ms. Sulbha Chipade, AGP for the State.
Dr. Govind Sangwai, I/C Deputy Director, Directorate of Technical Education, M.S.Mumbai.

CORAM: BHARATI DANGRE &
ASHWIN D. BHOBE, JJ.
DATED : 7th JANUARY, 2025

P.C:-

1. The present application is taken out by the petitioner/applicant, who has approached this Court, raising a challenge to the invalidation of his claim as belonging to 'Koli Mahadev- Scheduled Tribe' by the Caste Scrutiny Committee, by its order dated 26/11/2020.

It is not in dispute that the petitioner was granted provisional admission in the course of B. Pharmacy on 14/01/2021, and the Writ Petition filed by him was finally heard on 23/03/2021, and the order passed by the Caste Scrutiny Committee was set aside and the matter was remanded to the Committee for due consideration

in the wake of the specific observation made in the said order.

Pursuant to the claim being remanded, once again the committee passed an order on 23/01/2022 rejecting the claim and it is the specific case of the petitioner before us in the Writ Petition that the order of the committee is erroneous, as it has failed to attach due weightage to the validity granted to his father as well as other blood relations.

2. The petition is pending for admission, and we are keen to hear it finally, upon the Caste Scrutiny Committee filing its affidavit in reply as well as producing before us the record and proceedings of the Scrutiny Committee.

3. Pending the hearing of the petition, an Interim Application filed by the petitioner, seeking a direction to the respondent no.5, the Maratha Vidya Prasark Samaj College of Pharmacy, a Government aided institute of Nashik, to issue him the original mark-sheet and the degree certificate of B. pharmacy, as according to the learned counsel for the petitioner his result is duly declared, on completion of his curriculum.

The prayer in the application is pressed for in the wake of the fact that the petitioner is informed to be admitted in M.E. Biotechnology course in Birla Institute of Technology & Science, Pilani Hyderabad and it is also submitted that since no reservation policy is applicable in the said institute, he has been selected on merit.

The difficulty posed by him is before his admission is confirmed, he is required to furnish the original mark-sheet and

degree certificate of B. Pharmacy, so that the admission in M.E. Biotechnology is confirmed or else he faces a threat of the admission being cancelled.

4. We have heard the learned A.G.P. Ms. Chipade, representing respondent nos.1 to 4, and the learned counsel Mr. Gite, appearing for respondent no.5.

Mr. Gite do not deny that since the claim of the petitioner was remanded to the committee for reconsideration, when his admission continued with the respondent no.5 college, he had paid the fees, applicable to open category candidate. He also do not dispute that on completing the 4 year of the curriculum his result was duly declared along with other candidates.

5. Undisputedly, the admission of the petitioner was provisional and if we come to a conclusion that he do not belong to Koli Mahadev- Scheduled Tribe and as he had claimed the seat belonging to Scheduled Tribe, then he will be required to suffer the consequences, which shall include depriving him of the degree, which he had acquired on getting admitted to a seat that was reserved for Scheduled Tribe.

However, till the time we take up this petition for hearing and since now he is moving ahead to the post-graduation degree without the baggage of he being a Scheduled Tribe, we deem it appropriate to permit him to progress ahead and direct the respondent no.5 to issue him the original mark-sheet and degree certificate of B. Pharmacy for availing the benefit for his admission to the post-graduation course.

This is however subject to a rider that if upon hearing of the Writ Petition, we uphold the impugned order of the committee invalidating his claim belonging to Koli Mahadev, he shall suffer the necessary consequences as per the decision of the Apex Court in case of *Chairman and Managing Director FCI and ors vs. Jagdish Balaram Bahira and ors*¹ and as per Section 10 of the Maharashtra Act XXIII of 2001.

6. As a result of above, the Interim Application is allowed by directing respondent no.5 to issue the original mark-sheet and the degree certificate of B. Pharmacy course, which he has undergone though admitted on the seat reserved for Scheduled Tribe within a period of one week from today.

As far as the Writ Petition is concerned, since it also involves an issue whether Scrutiny Committee has a power to review and from a decision of Division Bench of this Court, a Special Leave Petition is pending before the Apex Court, we permit the parties to circulate the petition depending upon the outcome of the SLP, in terms of the order dated 5/01/2024.

(ASHWIN D. BHOBE, J)

(BHARATI DANGRE, J)

¹ (2017) 8 SCC 670