

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

WRIT PETITION NO.1998 OF 2025

Dr. Balaji Ashok Bhise

...Petitioner

Versus

1. The State of Maharashtra
2. The Director of Medical Education
3. The Commissioner, State CET Cell, Mumbai
4. The Commissioner, Health Services
5. The Director of Health Services
6. Dr. Vikas Raghunath Dukare
7. Dean, Government Medical College

...Respondents

Mr. A. S. Khandeparkar, Senior Advocate a/w. Mr. Vikas Kolekar, Mr. Kunal Shirgire & Mr. Rohit Kamble for the Petitioner.

Mrs. Ashwaini A. Purav, Assistant Government Pleader for Respondent Nos. 1, 2, 4, 5 & 7

Mr. Sameer Khandekar for the Respondent No. 3

Mr. S. R. Ghanavat a/w. Mr. Ratan L. Adhe i/b. Mr. Mahesh K. Bhosale for the Respondent No. 6

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

DATED : 03rd APRIL 2025

JUDGMENT (Per M. M. SATHAYE, J):

1. By this petition under Article 226 of the Constitution of India, the Petitioner is challenging the Post Graduate (PG) Medical Course admission process for 'In-service' category and seeking directions to the Respondents to reserve a seat for the Petitioner for 'M.D. Medicine'. The Petitioner is also seeking compensation of Rs.2.00 Crore from the Respondents.

2. The case of the Petitioner is as under:-

2.1 The Petitioner is doctor, who has completed MBBS-DCH and who is serving as a medical officer, who has served in rural hospitals. He passed MBBS examination in the year 2011. The Petitioner appeared for NEET-PG examination held on 05/03/2023. Results were declared and Petitioner's name appeared at Serial No. 187. The Petitioner is belonging to NT-(C) category and claims to be eligible for admission to PG Course from that category coupled with in-service quota as also under Government Resolution (GR) dated 19/07/2023. According to him, 29 seats were reserved for Economically Weaker Section (EWS) category persons. The Petitioner found out that the Respondent No. 6 has obtained a bogus EWS certificate, who, on that basis, has succeeded in getting admission at Government Medical College, Miraj for PG Course of MD medicine as per selection list dated 07/10/2023.

2.2 The Petitioner filed a complaint on 20/10/2023 with the Respondent No. 3 about fraud committed by the Respondent No. 6. According to Petitioner, similar complaints are also filed by other person stating that some EWS certificates produced for admission to PG course from in-service quota are bogus. The Petitioner claims to be entitled to the admission to PG course of MD medicine in the place of the Respondent No. 6. According to the Petitioner despite representations, no inquiry is conducted by the Respondent Nos. 1 to 5 inspite of bogus EWS certificate used by candidates like Respondent No. 6.

2.3 It is contended that the Respondents have overlooked guidelines issued by the State Government, about calculation of income, while granting

EWS certificates. The Petitioner has made representations to the Respondent Nos. 2 to 4-Authorities by email as well as submitting hard copies on 03/11/2023. According to the Petitioner, the concerned Sub-Divisional Officer served a notice of hearing upon the Respondent No. 6 and after hearing, by detailed order dated 20/11/2023, the EWS certificate issued to the Respondent No. 6 has been canceled. It is further contended that the Respondent No. 6 had filed Writ Petition (ST) No. 36388 of 2023 before the Aurangabad Bench of this Court challenging the notice issued to him by the concerned SDO. That by suppressing material facts from the High Court initially, the Respondent No. 6 obtained protection-order in his favour. However, the Petitioner intervened in the said Writ Petition by filing an application and after hearing the Petitioner, the Court has dismissed the petition filed by the Respondent No. 6 under order dated 26/04/2024.

2.4 It is contended that this Court, at Aurangabad Bench, while dismissing the Petition of the Respondent No. 6, has directed the present Respondents to consider the case in accordance with prescribed rules and view taken by Hon'ble Supreme Court in the case of **National Medical Commission vs. Mothukuru Sriyah Koumudi and Others**¹. It is submitted that after the order of the High Court dismissing the petition of the Respondent No. 6, the Petitioner made several representations seeking action as per said order, however, no action is taken. The Petitioner has alleged collusion and it is contended that Respondents are deliberately keeping the Petitioner away from rightful admission to PG Course. It is further contended that for no fault of the Petitioner, his precious academic year has been lost and therefore he is entitled to compensation.

¹ (2021) 14 SCC 805

3. Senior Advocate, Mr. Khandeparkar appearing for the Petitioner submitted that the Petitioner was kept away from rightful admission to PG Course of MD Medicine and once the petition filed by the Respondent No. 6 is dismissed by this Court at Aurangabad Bench, on merits, the Petitioner ought to be given admission in place of the Respondent No. 6.

4. On the other hand, learned Counsel for the Respondent No. 3 – State CET cell, by referring to the affidavit-in-reply dated 11/03/2025, has made following submissions.

4.1 That the Petitioner had filed complaint against the Respondent No. 6 regarding EWS certificate for academic year 2023-24. That despite the fact that EWS certificate of the Respondent No. 6 was not canceled until 20/11/2024, the Petitioner made a false statement in this Court in earlier Writ Petition No. 13402 of 2023 that the EWS certificate issued to Respondent No. 6 is canceled on 19/10/2023. That order dated 20/11/2023, Aurangabad Bench of this Court had granted protection to the Respondent No. 6 and it is only on 26/04/2024 that the petition of the Respondent No. 6 was dismissed and by that time it was already brought to the notice of the Court that cut-off date is already over and there are other candidates who have scored more marks and who are higher in merit than Petitioner and therefore the Court directed appropriate decision to be taken about vacant seat. It is submitted that Respondent No. 6 is higher in merit than the Petitioner and therefore, the seat is converted to 'open' category and would be allotted to Respondent No. 6 because of higher merit.

4.2 It is submitted that Petitioner has applied from 'in-service' quota and has given declaration that if any information is found fraudulent or incorrect

or untrue or concealed, he will be liable for criminal prosecution and the Petitioner has in fact concealed his additional educational qualification and has made false statement to this Court and therefore, the Petitioner is liable for prosecution and debarred from participation in the ongoing process.

4.3 That the Petitioner has passed Diploma course in Child Care (DCH) and having already passed said diploma, the Petitioner is only eligible for course of MD-Pediatric as per Clause 8.12 of the NEET-PG Information Brochure and Clause 9 of GR dated 19/07/2023. Said clauses read as under:

“8.12 Candidates who have passed postgraduate diploma course will be eligible for admission to postgraduate degree course in the same subject only through NEET-PG 2024 (for exception, refer to clause no. 8.18.9.”

"९. ज्या वैद्यकीय अधिकाऱ्यांनी नियमित सेवेत रुजू झाल्यानंतर अथवा तत्पूर्वी एखाद्या विषयामध्ये पदव्युत्तर पदविका धारण केली असल्यास, अशा वैद्यकीय अधिकाऱ्यांना त्याच विषयाच्या पदव्युत्तर पदवी अभ्यासक्रमासाठी सर्वसाधारण गुणवत्तेनुसार प्रवेश घेता येईल. तसेच एक पदवी असलेल्या उमेदवारांना दुसऱ्या पदवीसाठी किंवा अन्य कोणत्याही पदविकेसाठी नोंदणी देण्यात येणार नाही.”

[Emphasis supplied]

Copies of applicable NEET PG brochure and said GR dated 19/07/2023 are produced on record.

4.4 It is contended that the State CET cell is established under Maharashtra Unaided Private Professional Education Institutes (Regulation of Admission and Fees) Act, 2015 and it is its duty and obligation to supervise and ensure that tests and admissions are conducted in a fair and transparent manner, strictly in accordance with applicable Rules, which Respondent No. 3 has diligently performed. It is submitted that Respondent No. 3 is mainly an implementing authority, who has published merit lists as

per applicable Rules. For academic year 2023-24, the Petitioner was placed below Respondent No. 6 in the merit list and therefore, Petitioner could not be allotted seat.

4.5 It is also submitted that for academic year 2024-25, the Petitioner is at Serial No. 279 as per provisional State merit list for 'in-service' quota and since the Petitioner has not filled the preference form for the stray vacancy round, seat cannot be allotted to him as per Rules and therefore, Respondent No. 3 is unable to offer or allot any seat to the Petitioner.

4.6 It is submitted that as on today, no seats are available for MD-Pediatric or MD-Medicine. The judgment of Hon'ble Supreme Court in **Ramkrishna Medical College & Research Centre v. State of Madhya Pradesh and others**² is relied upon.

4.7 It is submitted that the Petitioner is making false, frivolous and baseless allegations against the State CET cell alleging collusion and there is no cause of action for prayers made.

5. The Learned Senior Counsel for the Petitioner submitted in rejoinder that the ground of the Petitioner holding diploma in Child Care has not been raised earlier. He submitted that Petitioner must be compared with relevant year's merit list and cannot be compelled to compare merit as per present year's merit list.

REASONS AND CONCLUSIONS

6. We have considered the rival submissions and perused the record.

² (2024) SCC OnLine SC 3194

7. At the outset, it must be noted that in the judgments of **Islamic Academy of Education Vs. State of Karnataka**³ and **P. A. Inamdar Vs. State of Maharashtra**⁴, the Hon'ble Supreme Court, in unequivocal terms, has stressed upon requirement of 'merit based single standard / centralised process' for admission to courses in medical and other fields. In para 196 and 197 of **Islamic Academy's case (supra)**, it is observed as under :

“196. Technical profession in general and medical profession in particular in all countries and in all ages has been considered to be a noble profession. To acquire excellence, these professions demand a very high calibre, which criterion can be satisfied only by the meritorious students. If we want to achieve a very high standard which would be comparable to the standard of the developed countries, then merit and merit alone should be the basis of selection for the candidates.

197. Secondly, not only to maintain high standard of education, but also to maintain uniformity of standard, the right of selection of candidates for any professional course cannot be left to the discretion of any individual management. Efforts must be made to find out one single standard for all the institutions.”

[Emphasis supplied]

8. Maharashtra Unaided Private Professional Education Institutes (Regulation of Admission and Fees) Act, 2015, establishment of State CET Cell, rules framed such as NEET-PG brochure are all efforts to achieve above noble objective in the guiding light of judgments like the aforesaid. Therefore it is essential that we apply the Rules strictly and dispassionately.

9. Since it is provided under the applicable Rules stated in Clause 8.12 of NEET-PG brochure and Clause 9 of the GR dated 19/07/2023 (reproduced above), the Petitioner is not eligible for admission to PG course other than

³ (2003) 6 SCC 697

⁴ (2005) 6 SCC 537

MD-Pediatric because he has already completed PG Diploma course in Child Care. In that view of the matter, no fault can be found with the stand of the State CET cell that Petitioner cannot be granted admission to PG course of MD-Medicine.

10. Therefore the question that remains is whether the petitioner was illegally denied admission and therefore the judgment of **National Medical Commission (supra)** would help the Petitioner ? It is seen from the record that in Writ Petition No. 14475 of 2023 filed by present Respondent No. 6, he was granted protection by this Court on 20/11/2023, but his petition was ultimately dismissed on merits on 26/04/2024, holding that the case may be considered by State CET Cell in accordance with prescribed Rules and the view taken by the Hon'ble Supreme Court in **National Medical Commission (supra)**. It is further seen that this Court (Aurangabad Bench) was already informed that post reserved for EWS 'in-service' category falling vacant, will have to be transferred to the 'open' category. Also as pointed out by learned Counsel for Respondent No. 3, it has come on record that the Petitioner was lower in merit (Sr. No. 187) than Respondent No. 6 (Sr. No. 164) for academic year 2023-24. Therefore, it is clear that the Petitioner being a candidate from NT-(C) category as also having lower merit than Respondent No. 6, will not be able to stake claim to that post for academic year 2023-24, as the concerned seat has been transferred to the 'open' category.

11. Coupled with the facts and circumstances narrated above we also find that though the Petitioner was unable to secure any protective order on 31/10/2023 for himself in the Writ Petition No. 13402 of 2023 filed before the Principal Seat, the Respondent No. 6 was protected by interim order dated 20/11/2023 of this Court (Bench at Aurangabad) in Writ Petition

(Stamp) No. 36388 of 2023 (WP No. 14475/2023). Therefore it cannot be said that he was illegally denied admission.

12. In **National Medical Commission (supra)**, the Hon'ble Supreme Court has held that for PG or super-speciality medical courses, direction to create seat (supernumerary) or direction to increase annual intake capacity is impermissible. It is further provided that annual intake capacity is fixed by Medical Council of India (now National Medical Commission) which has to be strictly adhered to. Since the Petitioner was lower in merit than Respondent No. 6, even direction for admission in next academic year will not be justified. Therefore unfortunately, **National Medical Commission (supra)** will not advance the case of the petitioner.

13. The allegations of collusion by Respondents and Petitioner being deliberately kept away from particular PG Course, are in the realm of disputed questions of fact and we can not enter that aspect in writ jurisdiction. For the same reason, the Petitioner can not be granted any compensation as sought in the Petition.

14. In the aforesaid facts and circumstances and for the reasons narrated above, no interference is called for in writ jurisdiction. The Petition is accordingly dismissed with no order as to the costs.

15. All concerned to act on duly authenticated or digitally signed copy of this order.

(M. M. SATHAYE, J.)

(A. S. CHANDURKAR, J)