



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 4763 OF 2024

(Cynthia Julious Charlie

Vs.

The Vice Chancellor, Sant Gadge Baba, Amravati University & Ors.)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. K.V. Kothale, Advocate for the Petitioner.

Mr. Meet Thakkar, Advocate h/f Mrs. Gauri Venkatraman, Advocate for the Respondent No.1.

Mr. J.B. Kasat, Advocate for the Respondent No.2.

Mr. Aalap Palshikar, AGP for the Respondent No.3/State.

CORAM: AVINASH G. GHAROTE AND
ABHAY J. MANTRI, JJ.

DATED : 7th FEBRUARY, 2025

Heard.

2. The Petitioner seeks a direction to the Respondents to issue and hand over the marksheets of 6th and 8th semesters and the degree certificate of Pharmacy course which is claimed to have been completed by the Petitioner from 2014-2018 and so also compensation due to the delayed issuance of degree and marksheets.

3. The basis of the Petition is a communication dated 06.10.2022 issued by the Principal of the Respondent No.2/College (page 33), which states that the admission of the Petitioner was from the open category and she has paid

all the requisite fees to the college, on account of which the marksheets which have been withheld can be released/handed over to the Petitioner. This is a communication addressed by the Principal to the Registrar of the Respondent No.1. It is based upon this communication, the learned Counsel for the Petitioner contended, that the admission of the Petitioner to B. Pharm course, was not from the reserved Scheduled Tribe category, but from the open category, on account of which she is entitled for the declaration of the results of 6th and 8th semesters and marksheets for these examinations as well as degree certificate.

4. Mr. Kasat, learned Counsel appearing for the Respondent No.2, invites our attention to the communication dated 14.10.2024 (page 77) addressed by the Respondent No.2 to Registrar of the Respondent No.1, in reference to his earlier communication dated 06.10.2022 (page 33), by which it has been stated that this communication dated 06.10.2022, has been issued by him on account of a mistake and in ignorance of the judgment of this Court, and therefore, it should not be acted upon and treated as cancelled.

5. What is necessary to note, is that the Petitioner, claimed to belong to Scheduled Tribe 'Gond' and as such had secured admission in the B. Pharm course, in the Scheduled Tribe category. The tribe claim of the Petitioner was invalidated on 31.05.2017 by the Caste Scrutiny Committee. The Petitioner claimed, that since she had paid fees of the open category, the admission of the Petitioner was from open

category, and therefore, it be treated as such. Since this was declined, she had filed Writ Petition No.1610/2020 Cynthia Julious Charlie Vs. The Vice Chancellor and others before this Court, in which by the judgment dated 27.06.2022, her claim was rejected by rendering a finding, that she was admitted from a Scheduled Tribe category. The findings are as under:

“11. The eligibility criteria given in Annexure-III of the said brochure shows that for admission in the said course, a candidate should be an Indian National and should have passed the HSC (std.XII) examination of Maharashtra State Board of Secondary and Higher Secondary Education or its equivalent examination with subjects English, Physics, Chemistry and Mathematics/Biology and secured minimum 50% marks i.e. 150 marks out of 300 marks (minimum 45% marks i.e. 135 marks out of 300 marks in case of candidates of Backward class categories belonging to Maharashtra state only) in the subjects Physics, Chemistry and Mathematics/Biology (Maximum of marks obtained in Mathematics/Biology shall be considered for purpose of addition) added together. Admittedly, the petitioner had obtained 352 marks out of 650 marks i.e. 54.15%. At the same time, admittedly the petitioner’s admission was from reserved category i.e. Scheduled Tribe. Annexure-R-2 filed by the respondents is the list of the candidates admitted to the First Year of Four-Years Full-Time Degree Course in Pharmacy wherein the name of the present petitioner is appearing at serial No.19. Her admission was shown from Scheduled Tribe category. Thus it shows that admission of the petitioner was from the reserved category i.e. Scheduled Tribe category.

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13. The caste certificate of the petitioner was referred to the Caste Scrutiny Committee but the Caste Scrutiny Committee has rejected and invalidated the caste claim of the petitioner. The order of the Caste Scrutiny Committee is produced on record which shows that the petitioner failed to produce the documents to show that she belongs to ‘Gond’ Scheduled Tribe. The respondents have given an opportunity to the petitioner to produce valid caste certificate but she could not produce the same and,

therefore, in accordance of the rules provided by the Directorate of the Technical Education, her admission cannot be converted into Open category. This fact was already communicated by respondent No.2 to respondent No.3 by communication dated 04/05/2019.

14. The prayer of the petitioner is contrary to the rules and regulations framed by the Directorate of Technical Education. Hence we are unable to accept the contentions raised by the petitioner. Hence, writ petition deserves to be dismissed.”

6. The Petitioner, did not assail this judgment before the Hon’ble Apex Court, as a result of which, it has attained finality. The present Petition as indicated above, has been filed on the basis of above communication dated 06.10.2022 (page 33), which as indicated above, stands withdrawn by the communication dated 14.10.2024 (page 77).

7. Mr. Kothale, learned Counsel for the Petitioner, submits that the communication dated 06.10.2022 irrevocably demonstrates that the admission of the Petitioner was from the open category, and therefore, withholding of her result was incorrect, and therefore, she is entitled to be awarded a degree in B.Pharm.

8. In our considered opinion, this issue has already been raised and considered by the learned Division Bench in its judgment dated 27.06.2022, which in absence of any challenge thereto, has attained finality. The communication dated 06.10.2022 by itself, cannot give any rise to any cause of action to the Petitioner for the reason that the Principal of the Respondent No.2, is not a person who has granted admission to the Petitioner. The admission to the Petitioner

has been on account of the Centralized Admission Process (for short “CAP”), undertaken by the Directorate of Technical Education, Maharashtra State for the purpose of filling in the vacancies in the course of Pharmacy, for the entire State and it is in that process, since the Petitioner on the basis of her representation stated that she belongs to the Scheduled Tribe category, that the selection of the Petitioner was done based upon the number of marks secured by her. This is clearly indicated, by the CAP Round sheet at page 54, in which the name of the Petitioner is at serial No.19.

9. It is also material to note, that the Petitioner herself in her application (page 22), has stated the category of admission in which she sought herself to be admitted as a Scheduled Tribe (ST) candidate. This would categorically point out to us, that the Petitioner had applied for and sought admission in a seat reserved for a Scheduled Tribe candidate. Merely, for some reason that the Petitioner has paid fees for Open category, that by itself, cannot change the category in which the Petitioner has been granted admission.

10. Even otherwise all these questions have already been raised and decided in Writ Petition No.1610/2020 and they can be permitted to be raised again under the guise of communication dated 06.10.2022, by filing this Petition.

11. Mr. Kothale, learned Counsel for the Petitioner, has invited our attention to the judgment in *Miss. Lubna Shoukat Mujawar Vs. State of Maharashtra & Ors., Writ Petition No. 132/2017, decided on 09.05.2024*, in which the

admission granted to the Petitioner therein, to the MBBS course was cancelled on account of the OBC certificate granted to her being cancelled. In para 18, the cancellation of the admission which was based upon false, incorrect and suppression of information has been upheld, and therefore, is a proposition which is against the Petitioner.

12. Mr. Kothale, learned Counsel for the Petitioner, further relies upon the judgment in *Rakesh Sukanuji Dafade Vs. State of Maharashtra & Anr., Writ Petition No.3014/2004 and other connected matters, decided on 04.04.2014*, in which the Court has granted protection, to the service and education of the Petitioner therein on account of the fact, that there was no material or details to provide any lack of bonafide on the part of the candidates/employee/petitioners in securing caste/tribe certificates.

13. He also relies upon *Melwin Chiras Kujur Vs. State of Maharashtra & Ors., a decision by the Hon'ble Apex Court in Civil Appeal No.7054/2015 dated 14.09.2015*, in which though the tribe claim of the Petitioner was invalidated in the admission granted on its basis, was not denied.

14. In our considered opinion, such a claim ought to have been made by the Petitioner, to the Division Bench, which was considering the challenge in Writ Petition No.1610/2020. That having not been made and the decision having attained finality, it is not open for us to look into the reasons of the Division Bench while deciding Writ Petition No.1610/2020 and take a lenient view, by granting any

protection. It is equally necessary to note, that by getting admission in a seat reserved for Scheduled Tribe category, the Petitioner has deprived an eligible candidate, who would otherwise have secured admission to the course and completed education in that stream. We, therefore, do not see any reason to interfere in the instant Petition insofar as the claim of the Petitioner, for declaration of a result is concerned.

15. Insofar as the plea, that the Petitioner is entitled to compensation, we find that this is not a case that the Petitioner would be justified in claiming the same, on account of rejection of her tribe claim by the Tribe Scrutiny Committee and in light of what has been stated above, we do not see any reason to interfere in the present Petition.

16. The Petition is therefore **dismissed**. No costs.

17. Pending application/s, if any, shall stand disposed of accordingly.

(ABHAY J. MANTRI, J.)

(AVINASH G. GHAROTE, J.)