

(2024) 12 BOM CK 0050
In the Bombay High Court
Case No : Writ Petition No. 16552 Of 2024

Arya Sandip Tarar

APPELLANT

Vs

National Testing Agency (Nta) And Ors

RESPONDENT

Date of Decision : 18-12-2024

Acts Referred:

Constitution of India, 1950 — Article 226
Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis),
Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation
of Issuance and Verification of) Caste Certificate Act, 2000 — Section 6(4)

Citation : (2024) 12 BOM CK 0050

Hon'ble Judges : A.S. Chandurkar, J; Rajesh S. Patil, J

Bench : Division Bench

Advocate : Priyal G. Sarda, Pramod S. Kumbhar, Rui Rodrigues, Swapnil S.
Kamble, Dhruti Kapadia, Akshay Shinde

Judgement

A.S. Chandurkar, J

1] Rule. Rule made returnable forthwith and heard learned counsel for the parties.

2] The petitioner who claims to belong to Mali – Other Backward Class is aggrieved by the denial of admission at the First Year MBBS Course by the respondent no.7 – College at the Institutional Level Stray Vacancy Round 2024 -2025 that was conducted pursuant to the National Eligibility-cum-Entrance Test – NEET, Undergraduate 2024. It is the case of the petitioner that she was eligible under the NEET-UG, 2024, results of which were declared on 26/07/2024. She sought admission at the respondent no. 7- College and her name was reflected in the general Waiting List under the Institutional Level Stray Vacancy Round. The documents required to be submitted amongst others included the Caste Certificate and the Caste Validity Certificate. Since the petitioner was possessing the Validity Certificate dated 19/10/2022 issued by the District Caste Scrutiny Committee, Amravati, she submitted the said Certificate alongwith the Caste

Certificate issued by the Sub-Divisional Officer, Morshi dated 08/08/2024. According to the petitioner, she was not granted admission at the said College on the ground that the date of the Caste Certificate referred to in the Caste Validity Certificate was different from the one submitted by her. In this backdrop, the petitioner has approached this Court under Article 226 of the Constitution of India.

3] Mr. Priyal Sarda, learned counsel for the petitioner submitted that it was undisputed that the petitioner belonged to the Other Backward Class since the Caste Validity Certificate was issued to her. Though a reference in the said Caste Validity Certificate was to Caste Certificate No.40062168962 dated 21/09/2021, the said Certificate could not be furnished as the same had been misplaced. On account of non-availability of old data, she could not get a duplicate Caste Certificate. Hence the petitioner had submitted a fresh Caste Certificate dated 08/08/2024. It was submitted that once the Validity Certificate was issued by the Scrutiny Committee, the status of the petitioner of belonging to the caste mentioned therein was established and the insistence on production of the Caste Certificate was a mere formality. The petitioner could not be denied admission on that count. To substantiate his contention, the learned counsel for the petitioner relied upon the decision in the case of S. Krishna Sradha vs. The State of Andhra Pradesh & Others, AIR 2020 SC 47. It was submitted that the petitioner having approached the College prior to the cut off date which was 05/11/2024, she could not have been denied admission on this pretext. It was therefore prayed that appropriate relief be granted to the petitioner.

4] Ms. Dhruti Kapadia, learned counsel appearing for respondent no.6 – State Common Entrance Test Cell relied upon the affidavit-in-reply filed on behalf of the said respondent and submitted that since the cut off date for granting admission had been crossed and there was no vacant seat available, the petitioner could not be granted admission.

Mr. Akshay Shinde, learned counsel appearing for respondent no.7 - College relied upon the affidavit-in-reply and denied that the petitioner was deliberately denied admission as alleged. On the ground that the original Caste Certificate was not submitted, the petitioner was denied admission. The Caste Certificate referred to in the Validity Certificate was not submitted by her and a different Caste Certificate had been submitted. It was further submitted that since all seats had now been filled-in, no relief could be granted to the petitioner. All adverse allegations made by the petitioner were denied by the College.

5] We have heard the learned counsel for the parties at length and we have gone through the documents placed on record. The material on record indicates that the petitioner possesses a Caste Validity Certificate issued by the Competent Authority in terms of the provisions of Section 6(4) of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of Issuance and Verification of) Caste Certificate Act, 2000. The exercise of verification of the

caste claim is undertaken on the basis of a Caste Certificate issued to such person. The issuance of Validity Certificate indicates that the claimant has proved the claim of belonging to the caste mentioned therein. On perusal of the Validity Certificate dated 08/08/2024, it is seen that the Caste Certificate dated 21/09/2021 issued by the Sub-Divisional Officer was relied upon by the petitioner. This Caste Certificate was verified by the Scrutiny Committee after which the Validity Certificate was issued to her. As per the check-list of documents that are required to be submitted by a student seeking admission at the First Year MBBS Course, copy of the Caste Certificate as well as Caste Validity Certificate has to be submitted. Since the petitioner was not in possession of the Caste Certificate dated 21/09/2021, she obtained another Caste Certificate from the Sub-Divisional Officer, Morshi dated 08/08/2024. The subsequent Caste Certificate too indicates that the petitioner belongs to Mali caste. The Validity Certificate dated 19/10/2022 certifies that the petitioner's claim of belonging to Mali caste was found to be valid. It is therefore clear that the social status of the petitioner is not in doubt. The only technicality that comes in the way of the petitioner is the submission of subsequent Caste Certificate dated 08/08/2024 alongwith Validity Certificate dated 19/10/2022. It is for this reason that the College had denied the petitioner her admission.

6] In the aforesaid factual background, we do not find it necessary to go into the issue as to whether the petitioner was deliberately denied admission or that higher fees were demanded from her. The only reason furnished by the College for not admitting her is the non-production of Caste Certificate dated 21/09/2021 that finds reference in the Validity Certificate issued by the Scrutiny Committee. For this reason, the petitioner has missed the bus. The cut off date for securing admission was 05/11/2024 and as of today there are no vacant seats available where the petitioner can be accommodated pursuant to the Institutional Stray Vacancy Round. The interests of justice however require grant of appropriate relief to the petitioner as she has been denied of her admission on a ground which can be easily explained. In this regard, we may refer to the recent decision of the Supreme Court in Vansh s/o Prakash Dolas vs. The Ministry of Education and the Ministry of Health and Family Welfare and Others, 2024 INSC 235. We may refer to the paragraph 27 of the decision in Vansh s/o Prakash Dolas (supra) in which the Supreme Court has observed as under:-

"27. This Court in the case of S. Krishna Sradha v. State of Andhra Pradesh and Others [(2017) 4 SCC 516] 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.

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.

13.3. In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.

13.4. Grant of the compensation could be an additional remedy but not a substitute for restitutorial remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any

relief of admission in the same academic year.

13.5. It is clarified that the aforesaid directions pertain to Admission in MBBS Course only and we have not dealt with post graduate medical course."

(emphasis supplied)

Following the ratio of that decision, this Court in Writ Petition No.17047 of 2024 (Mashalkar Prasad vs. Terna Medical College & Hospital) decided on 28/11/2024 has granted restitutive relief to the said petitioner on being satisfied that the said petitioner had been denied admission. We are inclined to follow a similar course since it is now informed that there are no vacant seats available at the College and that the cut off date for seeking admission has crossed.

7] In that view of the matter, it is held that the petitioner is entitled to be admitted at the First Year MBBS Course at the respondent no.7 – College under the Institutional Stray Vacancy by directing creation of a supernumerary seat. The petitioner would be liable to pay tuition fees and other fees as payable by a student who has secured admission in the Institutional Stray Vacancy Round. To enable steps for regularizing the petitioner's admission, the College shall forward the necessary proposal in that regard to the respondent nos. 4 to 6 as well as National Medical Commission, New Delhi. If such proposal is forwarded, the concerned parties shall consider the same in the peculiar facts of the present case referred to above.

8] Rule is made absolute in the aforesaid terms leaving the parties to bear their own costs.