

(1996) 06 BOM CK 0001

In the Bombay High Court

Case No : Writ Petition No. 2833 of 1996

Deepak Chavan

APPELLANT

Vs

Competent Authority for the purpose of admission to the
Engineering Courses, Govt. Engineering College, Pune and
others

RESPONDENT

Date of Decision : 13-06-1996

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1997 Bom 1 : (1997) 1 MhLj 370

Hon'ble Judges : V.K. Barde, J;B.N. Deshmukh, J

Bench : Division Bench

Advocate : V.J. Dixit, for the Appellant; A.M. Kanade, for the Respondent

Judgement

B.N. Deshmukh and V.K. Barde, J.—The learned Counsel for the petitioner states that for the present relief, Respondent No. 2 is not a necessary party. The relief claimed against Respondent No. 2 may be asked for at the appropriate time.

2. In view of this request for deleting the name of Respondent No. 2 allowed.

3. Rule, returnable forthwith. Heard Shri Dixit and Shri Kanade, Government Pleader.

4. The only point agitated in this writ petition is based on certain requirements provided for the in the Rules for admission to Engineering Courses.

5. The petitioner claims to belong to Tokre Koli, Scheduled Tribe. In the Rules for admission framed this year to Engineering Courses; and probably also in the Rules relating tot he Medical courses, it is provided that the candidate claiming to belong to the category of Scheduled Caste, Scheduled Tribe etc., shall produce certificate of caste validity issued by Director, Social Welfare (Caste Certificate Scrutiny Committee) and Chairman Scheduled Tribes Caste Certificate Scrutiny Committee and Director T. I., Pune as the case may be. It is further provided that the application which do not accompany such validity or verification certificate

issued by the competent committee will not be considered as applications for the reserved categories. As the Petitioner is claiming in the reserved category of Scheduled Tribes, as belonging to Tokre Koli, the caste claim of the Petitioner is pending before the committee for verification. The duly verified certificate, therefore, could not be produced along with the application. On the basis of the present Rules, the application of the petitioner till today was not accepted in the reserved category of Scheduled Tribe. The Petitioner apprehends that as it is obligatory under the Rules, though the application of the petitioner is filed along with the certificate issued by the Taluka Executive Magistrate, the same will not be accepted by the authorities to consider the claim of the petitioner for admission in First Year Engineering course in the category of Scheduled Tribe.

Our attention is invited to the decision of this court in writ Petition No. 2890 of 1995 with Writ Petition No. 3104 of 1995 decided on 4-7-1995, where in the rules of admission framed last year came up for consideration and where similar provision was made in respect of the reserved category candidates. We have already directed the authorities that the attachment of the certificate obtained from the Taluka Executive Magistrates in respect of caste, tribe etc., should be considered as sufficient for considering the claim of the candidate in the particular reserved category and provisional admission in that reserved category should be given on the basis of merits. It is further directed that such provision admission, as observed by the Supreme Court in Kumari Madhuri Patila and another Vs. Addl. Commissioner, Tribal Development and others, , will be subject to the result of the scrutiny committee and, in case if a final decision is taken in the matter and a caste certificate is held to be in correct or false, admission shall stand cancelled.

6. The decision in Writ Petition No. 2890 of 1995 was taken up in the Supreme in Civil Appeals Nos. 3413-14 of 1996 (arising out of SLP (C) Nos. 20399-20400/95 by the State of Maharashtra. The Supreme court by the it order dated 9th February 1996 in this regard has observed as follows:-

".....We, therefore, confine the direction given by the High Court only to be this extent that the certificates may be produced along with the application for admission and the direction that they should also be produced at the of interview is set aside..."

In view of this position, the provision in the rules for admission framed this year either for Engineering Courses for Technical /Courses and or for Medical and of or for Medical and other allied courses requiring the candidates to submit along with the application forms the caste validity certificate issued by the Director Social Welfare (Caste Certificate Scrutiny Committee) and Chairman, Scheduled Tribes Caste Certificate Scrutiny Committee and Director, T. R. and T. I., Pune, as the case Director T. R. and T. I., Pune, as the cast may be, is violative and contrary to the direction given by this Court, as confirmed to the extent indicated above by the Supreme Court. In fact, the rule should have been suitably amended having regard to the decision of this Court and of the Supreme Court. On the

contrary, overlooking the observation of this Court, and of the Supreme Court, the State Government is still emphasizing and the has made it obligatory on the candidates to produce the caste validity certificate issued by the authorities mentioned in the rules and has made the same a precondition for accepting the application forms for considering the claim of the candidates in a particular reserved category. We direct that the said provision made in the rules shall not be insisted upon.

7. We again make it clear that the application, accompanied by the caste certificate issued by the Taluka Executive Magistrate, should be held to be sufficient for considering the claim of a candidate of in a particular reserved category. The admission so granted will be provisional, subject to the result of the Scrutiny Committee. If the caste claim is held to be illegal and the caste certificate is invalidated by the Scrutiny Committee finally, then the admission will also and stand cancelled.

8. Shri Kanade, learned Government Pleader, has stated before us that he will inform, this decision to all the concerned for giving admission to Engineering, Technical /Medical and other allied Courses.

9. Shri Dixit at this stage contended that the rules for admission are published and the point raised in the petition affects thousands of student in the State. He, therefore, submitted that it is desirable that the State Government should give wide publicity to this order of this Court. Shri Kandae, learned Government Pleader, a has submitted before us that the he will ask the Publicity Department to give the widest Publicity as far as possible to so that not a single candidate applying for admission to these courses in the reserved category should a suffer.

10. Rule absolute accordingly. No order as to costs. Hamdust allowed.

11. Rule made absolute.