

---

**(2021) 06 BOM CK 0056**

**In the Bombay High Court**

**Case No :** Civil Application (Caw) No.800 Of 2021 In Civil Writ Petition No.326 Of 2020

Kuldeep S/O. Sanjay Deshmukh

APPELLANT

Vs

State Of Maharashtra

RESPONDENT

---

**Date of Decision :** 18-06-2021

**Acts Referred:**

Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis) Nomadic Tribe, Other Backward Classes And Special Backward Category (Regulation Of Issuance And Verification Of) Caste Certificate (Amendment) Act, 2018 — Section 3, 4, 4A

**Citation :** (2021) 06 BOM CK 0056

**Hon'ble Judges :** Sunil B. Shukre, J;Anil S. Kilor, J

**Bench :** Division Bench

**Advocate :** N.C. Phadnis, A.A. Madiwale, Atul Pande, N.S. Khubalkar

**Final Decision :** Disposed Of

---

**Judgement**

1. Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The petitioner is seeking directions from this Court to the respondent Nos.4 and 5 to accept his Examination Form for 8th Semester examination of

Engineering Course and to permit the petitioner to appear in this examination with his result to be declared in the due course.

3. The petitioner has been admitted to the odt Engineering Course in the year 2018 against a seat reserved for Other Backward Classes (OBC)

candidate. The petitioner did not possess any caste validity certificate of his belonging to OBC category, when he submitted his online application. The

petitioner had also not submitted along with his application any proof of making of application by him to the concerned Caste Scrutiny Committee for

issuing a validity certificate. But, for some reasons only known to the authorities, the petitioner was permitted to take part in the admission process,

staking his claim against the seat reserved for OBC category.

4. The petitioner, in due course, was given admission to the graduate Engineering course on a seat reserved for OBC category and was permitted to

attend the classes. There was a deadline prescribed by the regulating authority before which the student like the petitioner was required to produce

before the authorities the caste validity certificate. This deadline, as per the communication dated 12. 07.2018 (Page No.30) was of 30.08.2018. It is

an admitted fact that the petitioner failed to produce before the authorities his caste validity certificate on or before this deadline and the petitioner

produced the same on 02.04.2019, much after the deadline. While all these violations were going on, the respondents were happily allowing the

petitioner to pursue his Engineering course and take his semester examinations till a stage arrived, when the petitioner was required to appear at 7th

semester examination. At this stage, the petitioner was obstructed by the authorities, was not allowed to submit his Examination Form for 7th semester

examination. Thus, at such a belated stage i.e. the stage which had reached after the petitioner had cleared all his six semester examinations that the

petitioner was required to approach this Court for redressal of his grievance.

5. This petition was filed by the petitioner on 13.01.2020 and on 17.01.2020 notice was issued for final disposal. On 07.10.2020, this Court considering

all the relevant facts and circumstances of this case, directed the respondent-University to accept the Examination Form of the petitioner provisionally,

subject to clearance of the Joint Director and permit the petitioner to appear for such examination, which appearance was also made subject to the

decision in this writ petition.

6. Shri Pande, learned counsel appears for respondent No.4-university and submits that result of the petitioner in respect of the 7th semester

examination has been withheld in compliance with the order passed by this court dated 07.10.2020 and is yet to be declared But, he also submits that

an appropriate order in the matter may be passed.

7. Shri A.A. Madiwale, learned AGP submits that an appropriate order in this matter may be passed by the respondent No.1 to 3.

8. Shri Khubalkar, learned counsel for the respondent No.6 submits that before

the order is passed, a due consideration to the amendments carried out to the Maharashtra Scheduled Castes, Scheduled Tribes, De-Notified Tribes (Vimukta Jatis) Nomadic Tribe, Other Backward Classes and Special Backward Category (Regulation of issuance and Verification of) Caste Certificate (Amendment) Act, 2018 (for short "the Act of 2018") be given. He further points out that by these amendments, Section 4A has been introduced to the said Act and the provisions made therein would show that a candidate seeking admission on a reserved seat, either has to submit his caste validity certificate at the time of making of application, or at least a proof to the effect that he has made an application for issuance of validity certificate to the concerned Scrutiny Committee. He further submits that these provisions also show that it would be necessary for such a candidate to produce his validity certificate to the admission authorities, in any case, on or before the specified date. In the present case, the specified date was of 30.08.2018 and on failure to do so, his admission on such a seat is deemed to be cancelled and such a candidate could be considered as a person eligible for admission to the professional course from the open category, if that is possible.

9. We have gone through the provisions contained in Section 4A with the assistance of learned counsel for respondent no.6 and we are of the view that the learned counsel for the respondent No.6 is right in his submission that a candidate who does not possess a caste validity certificate at the time of making an application for his admission, is at least required to produce a proof of his having made an application for issuance of caste validity certificate and such person is also required to produce his caste validity certificate before the admission authorities, in any case, on or before specified date, which date in the present case is of 30.08.2018. Both the requirements of Section No.4A, in the present case, have not been fulfilled and what emerges on record is that since inception, the petitioner could not have been permitted to participate in the admission process and if permitted the candidature of the petitioner at least should have been treated as cancelled by giving deeming effect in terms of sub- section 3 of Section 4A of the Act of 2018. But, this was not been done by the admission authorities and the petitioner was permitted to pursue his Engineering studies, right up to the six semester examination. These authorities have also not given any intimation

to the petitioner that upon his failure to produce the caste validity certificate on or before the 30.08.2018, his admission to the Engineering course had been deemed to be cancelled and that he was liable to be considered for pursuing the studies from the open category in accordance with law, which is the requirement of sub- section 4 of Section 4A of the Act of 2018. This was also not been done by the admission authorities.

10. Thus, what we find here is, making of mistakes not only by the petitioner but also by the authorities, this is our at least prima facie impression at this stage. That being so, now it is too late in the day for the authorities to make any attempt to disturb the effort of the petitioner in pursuing the Engineering course.

11. Accordingly, we partly allow the application and direct the respondent No.4 and 5 to accept the Examination Form submitted by the petitioner for 8th semester examination of Engineering course, and also permit him to appear at this examination, after declaring the result of his 7th Semester examination forthwith and subject to the condition that the petitioner has cleared the 7th Semester examination and also the further condition that if he appears at this 8th Semester examination, his final result of that examination shall not be declared without seeking prior permission of this Court.

12. Accordingly, the application is disposed of.

Writ Petition No.326 of 2020 leave to amend the petition with its prayer clause is granted.

Amendment be carried out forthwith.

Stand over to two weeks for final disposal.