
(2015) 06 BOM CK 0174

In the Bombay High Court

Case No : Writ Petition No. 5615 of 2015

Suraj Ajay Deshmukh

APPELLANT

Vs

State of Maharashtra and Others

RESPONDENT

Date of Decision : 25-06-2015

Acts Referred:

Citation : (2015) 4 ALLMR 840

Hon'ble Judges : M.S. Shah, C.J;A.K. Menon, J

Bench : Division Bench

Advocate : Sandeep M. Phatak, for the Appellant; V.B. Thadani, AGP, Advocates for the Respondent

Judgement

1. Rule, returnable forthwith.

Learned A.G.P. waives service for the respondents.

By consent, heard learned counsel for the parties.

This petition is filed on 21 June 2015. The petitioner has prayed for writ of mandamus for directing respondent No. 2 - The Director of Medical Education and Research, Maharashtra State to include the petitioner's name in the list of the students claiming "Hilly Area Reservation" over and above the students from the Hilly areas who have already indicated in their online application, their claim under the Hilly area reservation.

2. The application form submitted by the petitioner on- line as far as back on 25 March 2015 (Exhibit-B). There was a specific column being Column No. 11 - I wish to claim reservation(s) under..... The petitioner had specifically mentioned in the said column "None". Again in item 15 MH-CET Details, item (a) reads as follows:-

"I want to claim reservation under...."

Again the petitioner had specifically mentioned "None". The petitioner's father

claims to have claims to have sent a letter dated 8 June 2015 (Exhibit-C) contending that although the petitioner had not claimed any reservation, the petitioner is residing in Satara which falls in Hilly Area Reservation Category. The petitioner contended that his case may be considered under the Hilly Area Reservation Category.

3. Even, thereafter, the petitioner submitted signed application form on 19 June 2015 wherein it was specifically mentioned against the column of reservation - "None" at two places. This form was signed without any protest despite the petitioner's father's letter dated 8 June 2015. Learned counsel for the petitioner places reliance upon the order dated 17 June 2015 in PIL No. 15407 of 2015 in support of the contention that in another case this Court permitted 5-students from the Hilly Area of Melghat to correct the mistake in their online application form.

4. The submission is misconceived. Perusal of the order dated 17 June 2015 itself would indicate that a social worker had reported that in Melghat region it is known that the large number of tribals in this area do not get adequate medical facilities as Doctors are not willing to go that area which fact has been noticed in a PIL pending before this Court. The five students had submitted online form through cyber cafe operator and the cyber cafe operator had not fill the column correctly claiming the reservation of Hilly Area quota. In that case, the students hail from the hilly tribal area of Melghat which is a socially, economically and culturally backward area and therefore, social worker in Melghat area sent email to this court. That is how the Court had taken the matter as a Suo Moto Public Interest Litigation.

5. We may also refer to relevant rule being Rule 6.4 in the MH-CET 2015 Information Brochure which reads as under:-

"6.4 The candidates desirous of claiming the constitutional and/or specified reservations must have claimed the same in the original online application form of MH-CET 2015, failing which the claim will not be entertained subsequently. A candidate belonging to backward class from Maharashtra state only, is eligible for claiming seat under reserved category. (Refer Annexure B).

6.4.1 If the caste validity certificate (CVC) is pending or Non creamy layer certificate (NCL) is pending, still the candidate must claim the Constitutional Reservation in original online application form. In case of non production of CVC/ NCL, the candidate will be automatically considered in general category at the time of preference form filing. Request for giving claim from general category to reserve category will not be entertained at any stage during the process.

6.4.2 Candidate desirous of specified reservation i.e. Person with Disability (PWD), Defence-1, Defence-2, Defence-3 Hilly Area, MKB and exemption under 4.7 and 4.8 must have claimed same in the online application form of MH-CET 2015, failing which the claim will not be entertained subsequently."

6. On the other hand, in the instant case, the petitioner has filed this petition through his father who himself is Doctor. Therefore, the petitioner cannot be allowed to claim the benefit of the order dated 16 June 2015 which was passed in an entirely different set of circumstances which warranted intervention of this Court in exercise of extra ordinary jurisdiction. Such intervention is not warranted in the facts of the present case. Further, it is noted that even though the petitioner may not get the benefit of Hilly Area Reservation, the petitioner is not precluded from taking his claim for admission from open merit category in Government Colleges or Private Colleges or seek benefit of reservation under category for which he is eligible again in the next year.

7. In view of the above, petition is dismissed. Rule is discharged.

8. Before parting with the matter, we cannot help making some observations about the Government Resolution dated 16 March 2004 issued by Medical Education & Drugs Department.

The object of giving students of hilly areas 3% reservation of seats in Health Science Courses is to take some affirmative action for the benefit of students who face the odds of studying in hilly areas to which people do not have an easy access. The people living in such areas do not have educational, medical and other infrastructural facilities which the people in other areas of the State have. Doctors and other health professionals, therefore, do not like to settle in such areas and even those in public employment do not like to serve in those areas. Hence, the object also appears to ensure that students of Hilly Areas, who secure admission to such reserved seats in Health Science Courses, would like to go back to serve those areas after finishing their studies and, therefore, the people in such areas would get the benefit of better medical and health facilities in future. This object would be defeated if a large number of districts and talukas are indiscriminately classified as hilly areas for the purpose of giving benefit of reservation for seats in Health Science Courses. The students in really inaccessible hilly areas without proper educational facilities such as Melghat, Taluka Chikhaldhara in Amravati District would not be in a position to compete with students from areas like Nashik Taluka (also notified as a hilly area) where educational and other facilities are available. Still, the number of districts and talukas, which are declared as hilly areas, in the Schedule to the Government Resolution dated 16 March 2004 notifying hilly areas in the State are in such large numbers that almost half the State of Maharashtra appears to be covered by the said Government Resolution. It would, therefore, be in the fitness of things if the State Government re-examines the issue as to which particular inaccessible hilly areas in the State deserve to be classified as hilly areas for the purpose of reserving seats in Health Science Courses. Of course, after restricting such benefit to really deserving areas, the State Government can require the students securing admission to Health Science Courses in such reserved seats to serve those areas after completing their studies and to take necessary benefits for this purpose.

A copy of this order shall be sent to the Chief Secretary to the Government of Maharashtra, the Principal Secretary in Medical Education & Drugs Department which has issued the GR., and the Principal Secretary, Public Health Department, for considering the observations in the preceding paragraph.