



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15277 OF 2022

.. Petitioner

Vs.

1. State of Maharashtra
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai – 400 032.
2. Directorate of Ayush,
Maharashtra State having its
Office at Government Dental
College Building, 4th Floor,
St George's Hospital Compound,
P.D. Mello Road, Fort, Mumbai-1.
3. Admission Regulating Authority
Maharashtra State through its
Secretary, having its office at
New Excelsior Building, 9th Floor,
A.K. Nayak Marg, Opp.CSMT Station,
Fort, Mumbai – 400 001.
4. District Caste Certificate Scrutiny
Committee, Mumbai Suburban
District, through its Member-Secretary,
having its office at Collectorate,

5th Floor, Near Government Colony,
Bandra (W), Mumbai – 400 051.

5. Maharashtra University of Health
Sciences, through its Controller
of Examinations, having its officer
at Mhasrul, Nashik, Dist. Nashik.

6. Motiwala (National) Homeopathic
Medical College and Hospital
Through its Principal, having its
office at Gangapur-Satpur Link Road,
Nashik – 400 012.

.. Respondents

- Mr. R.K. Mandadkar a/w. Ms. Komal Gaikwad & Ms. Priyanka Shaw,
for the Petitioner.
- Mr. S.B. Kalel, AGP fo Respondent No.1–State.
- Mr. Sameer Khedekar, for Respondent No.3.
- Ms. Shaba N. Khan i/b. Mr. R.V. Govilkar, Senior Advocate for
Respondent No.5–MUHS.

**CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ**

DATE : 6th SEPTEMBER, 2023

ORAL JUDGMENT (PER : SUNIL B. SHUKRE, J.)

1. Rule. Rule made returnable forthwith. By consent of learned
counsel for the respective parties heard finally.

2. The case of the petitioner is that even though validity certificate
was ready on 24.07.2019, it was delivered to her on 17.02.2020, which

endangered her admission to BHMS Degree Course offered by Respondent No.6 College. It is her further case that the cut-off date for submission of the validity certificate was of 30.09.2019 and if the validity certificate had been delivered to her well in time, the petitioner would have submitted the same on or before 30.09.2019 to the concerned authorities, but she could not do so for the delay caused by the Scrutiny Committee in delivery of the validity certificate to her.

3. The case of the petitioner is fully substantiated by the stand taken by the Scrutiny Committee in its Affidavit-in-Reply dated 13.01.2023. This reply has been sworn in by Smt. Ujwala Sapkale, Member Secretary of the District Caste Certificate Scrutiny Committee, Bandra (W), Mumbai – 400 051 and it has been filed on behalf of the Scrutiny Committee at Bandra (W), Mumbai. This Scrutiny Committee as informed and it is also stated in the reply, comprises the Chairman and two members, one of whom is a Member Secretary. Thus, there are three members in the Scrutiny Committee. The Scrutiny Committee admits that the decision that caste claim of the petitioner was valid, was taken on 24.07.2019, but due to unsustainable reasons, notices were sent to the petitioner to submit additional documents. Ultimately, the Scrutiny Committee admits in Paragraph 6 to the effect, *“I say and submit that once the Caste Claim is held to be validated by the Committee by its Meeting dtd.24.07.2019, again issuing Notice and again demanding documents is without jurisdiction. I tender my unconditional apology for that and in future, we will take abundant precaution in respect of that”*. This is a clear cut admission given by the Scrutiny Committee about it itself being responsible for delay in delivery of the caste validity certificate to the petitioner.

4. In Paragraph 7 of the reply, the Scrutiny Committee has given another similar admission when it says *“I again say and submit that, the earlier Committee inadvertently send the above said Notices when there is no power of review to the Committee once the Caste Validity Certificate is granted”*.

5. It would be clear from the admissions given by the Scrutiny Committee that it was solely responsible for belated delivery of caste validity certificate to the petitioner and if that is so, this would be a case wherein petitioner cannot be permitted to be punished for the mistake or illegality, whatever one may choose to say by the Scrutiny Committee. There may be a cut-off date prescribed for submission of the validity certificates by the aspiring candidates, but in a case like this, where the delay in delivery of the validity certificate lay completely at the doorsteps of the Scrutiny Committee, such deadline cannot be operated in a manner as to cause injustice to a deserving candidate like the petitioner. In such a case, in our considered view, the equity would tilt heavily in favour of the petitioner, and therefore, we are of the further view that this petition deserves to be allowed with following directions:-

(i) The petition is allowed with cost imposed upon each of the members of the Scrutiny Committee for creating a situation of extreme stress and inconvenience for the petitioner.

(ii) The impugned order dated 26.06.2020 is hereby quashed and set aside.

(iii) Respondent Nos.2, 3 and 5 are directed to grant approval to the admission of the petitioner to the BHMS Degree Course offered by Respondent No.6 College from the date on which she

was admitted to the course within two weeks from the date of the order.

(iv) The Chairman and the members of the Scrutiny Committee, who had taken decision to validate the caste claim of the petitioner on 24.07.2019 and who were responsible for belated issuance of the validity certificate to the petitioner, shall pay jointly and severally cost of Rs.3 Lacs to the petitioner within a period of eight weeks from the date of the order, failing which same shall be recovered from the salary of the said Chairman and the members of the Scrutiny Committee and made over to the petitioner within a period of four weeks from the date of the default committed by them.

(v) Learned counsel for the petitioner, upon instructions, submits that the cost may be paid to **“Tata Memorial Hospital”** on behalf of the petitioner. We direct the then Chairman and the members of the Scrutiny Committee to issue cheque of Rs.3 Lacs in favour of **“Tata Memorial Hospital”** on behalf of the petitioner accordingly.

(vi) Original record be returned to the learned AGP for its being handed over to the concerned Scrutiny Committee.

6. Rule is made absolute in the above terms. No costs.

7. Writ Petition is disposed of.

[**FIRDOSH P. POONIWALLA, J.**]

[**SUNIL B. SHUKRE, J.**]