

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6698/2022

Mr. Aryan s/o Akhilesh Singh Banafer .vs. The Commissioner, State CET
Cell, Mumbai and Others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. M. Bhangde with Dr. Milind Bulari, Advocates
for petitioner.

Ms N. P. Mehta, A.G.P. for respondent nos. 2 and 3.

CORAM : SUNIL B. SHUKRE & ANIL L. PANSARE, JJ.

DATE : 21.10.2022

Heard learned counsel for the petitioner.

2. We find that the petitioner has found himself to be in an extremely unfortunate situation, owing to the loss of his parents, at the very young age. The petitioner's mother died on 02.12.2014, while his father died on 04.04.2017. At the time of death of his father, the petitioner was hardly 15 years old and till that time, he was residing in Nagpur and was also receiving the education in Nagpur. Due to the sudden and an unexpected turn of events, the petitioner was required to take shelter of home of his maternal uncle and, therefore, he shifted to Bhopal for being under the care of his maternal uncle. The petitioner has also

obtained domicile certificate showing that he is domicile of the State of Maharashtra. But, the petitioner could not complete his Board education in the 10th and 12th standards from the State of Maharashtra, due to his staying under the care of his maternal uncle at Bhopal. The petitioner completed his 10th and 12th standards Board education from Bhopal. It is this situation of completion of the 10th and 12th standards Board education from the State of Madhya Pradesh, which has created the difficulty for the petitioner in aspiring for taking admission to the M.B.B.S. from the 85% Maharashtra State quota. The requirement for seeking admission in the Maharashtra State quota is, that the petitioner must have passed the 10th and 12th standards Board examinations from any recognized institute in the State of Maharashtra. This condition, as we see, is not being met by the petitioner and, therefore, the petitioner is before this Court.

3. According to Mr. Bhangde, learned counsel for the petitioner, the view taken by the coordinate bench of this Court at Principal Seat at Mumbai in *Ms. Priya Kedar Gokhale and anr. vs. The State of*

Maharashtra, through Ministry of Education,¹ dealt with the similar fact situation. It appears, rather, it squarely covers the issue involved in the present case, for the Division Bench has observed, the Rules in question i.e. Rules 5(1)(A)(vi) and (vii), Rule 5(1)(B) and 5(1)(C) of the Maharashtra Educational Institutions (Regulation of Admission to Full Time Professional Undergraduate Medical and Dental Courses), Rules, 2016, are not *ultra vires*, but, are required to be read down to provide relaxation or exemption to those candidates who are born in Maharashtra and whose parents are domiciled in Maharashtra but, due to fortuitous circumstances, as for example, the parents being in the service of the Government and being posted outside the State of Maharashtra. And, accordingly, the Division Bench granted relaxation/exemption to the petitioners involved therein.

4. According to us, *prima facie*, the case of the petitioner here stands even on a better footing than the petitioners in that case, as in that case, the petitioners' parents were alive and in the present case,

¹ Writ Petition No.8539/2022, decided on 12.09.2022

the parents of the petitioner are not alive and it was the fate of the petitioner, having been orphaned, that he was compelled to complete his Board education of the 10th and 12th standards from the State of Madhya Pradesh, which is, prima facie, another kind of fortuitous circumstance.

5. Issue notice for final disposal to the respondents, at the admission stage, returnable after four weeks.

6. Ms Mehta, learned A.G.P, waives service of notice for respondent nos. 2 and 3.

7. Meanwhile, there shall be interim relief in terms of prayer clause (5), until further orders, which reads thus:

“5) During the pendency of the instant petition, direct the respondent to allow the registration of the petitioner considering his case as exception to the condition prescribed in Rule 5(1)(A)(vi) and (vii) of the Maharashtra Educational Institutions (Regulations of Admission to Full Time Professional Undergraduate Medical and Dental Courses), Rules, 2016 (Annexure 22-A) and Clause 4.5 and 4.6 of the Information Brochure (Annexure -22) as the petitioner is an orphan.”

8. We request the learned A.G.P. to communicate this order to the respondent nos. 2 and 3. We further request the respondent nos. 2 and 3 to communicate the same to the respondent nos. 1 and 4.

Copy of this order be given to the learned A.G.P.

(Anil L. Pansare, J.)

(Sunil B. Shukre, J.)

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