

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION (L) NO.30923 OF 2021**

Akhil Shaji And 3 Ors. .. Petitioners
v/s.
The State of Maharashtra & 3 Ors. .. Respondents

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Mr. Arvind Tiwari, a/w. Mr. Atal Bihari Dubey and Mr. Rahul Mishra
i/b. Mr. Gaurav Pandey, for the Petitioners.

Mr. S.B. Gore, AGP, for State/Respondent No.1.

Mr. Sameer Khedekar, for Respondent No.2.

Mr. Rui Rodrigues, a/w. Mr. Jainendra Sheth, for Respondent Nos. 3
and 4.

Mr. Mihir Desai, Senior Advocate, a/w. Mr. Swaraj S. Jadhav, for
Respondent Nos. 7 to 10.

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**CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.**

DATE : 15 MARCH 2022

P.C:-

We have heard this matter for some time. The Petitioners
are the students, who belong to the category of 'Children of Indian

Workers in Gulf Countries' (CIWGC) and, according to Rule 7.5 of the Information Brochure, issued under the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions & Fees) Act, 2015, there is reservation of seats upto 15% for the students belonging to such categories as CIWGC, OCI/PIO (Overseas Citizen of India/Person of Indian Origin) and Foreign Student (FS). Such reservation of seats is to the extent of 15% of the sanctioned Intake Seats. The Rule clarifies that out of such 15% reservation of seats, 1/3rd seats shall go to CIWGC and 2/3rd seats would go to OCI/PIO or FS candidates. The Rule further clarifies that if any vacancies remain in any of these categories, then those vacancies could be filled-up by giving admission to the students, firstly, belonging to CIWGC or OCI/PIO/FS, as the case may be. The Rule also clarifies that even after interchanging vacancies between these categories, some vacancies remain, then they can be filled-up by selecting candidates or the students belonging to the category of NRI (Non Resident Indian).

2. The grievance of the Petitioners is that the vacancies, which had remained to be filled-up from the candidates belonging to OCI/PIO or Foreign Students, though should have been filled-up by choosing the students belonging to CIWGC Category, were filled-up from NRI candidates.

3. It appears to us that the whole issue has arisen because of allocation of quota of seats to NRI candidates while fixing the Seat Matrix by CET Cell. While fixing the Seat Matrix, CET Cell could have clarified that allocation of certain quota to NRI candidates was subject to the order of preference prescribed in Rule 7.5 of the Information Brochure, but that was not done and, resultantly, the seats, which could have been filled-up by selecting the candidates belonging to CIWGC Category, were filled-up by selection of candidates belonging to NRI category. In order to save the academic studies of the candidates already admitted and also protect the interest of the Petitioners, learned Counsel for Respondent Nos. 3 and 4 has given a suggestion that consideration could be given to admission of the Petitioners in the next Academic Year. Learned Counsel for the Petitioners submits that if Respondent Nos. 3 and 4 are ready to admit the Petitioners in the next Academic Year to the Masters of Management Studies (MMS) Degree Course, the Petitioners would be agreeable. We are of the view that purpose of this petition shall stand served by issuing necessary directions to the parties to the petition.

4. In view of the peculiar facts and circumstances of the petition, following order is passed in order to meet the ends of justice:

- (i) The Petitioners shall be granted admissions in the CIWGC Category in the forthcoming Academic Year 2022-23 in

Respondent No.4 Institute, in the Masters of Management Studies (MMS) Degree Course based on the eligibility as confirmed in the procedure for admission for the Academic Year 2021-22 for CIWGC Category, and in respect whereof they will be covered by the same fees structure, as applicable in the current Academic Year;

- (ii) Consequently, admissions of Respondent Nos.5 to 10, in the NRI Category in Respondent No.4 Institute, shall remain unaffected and are deemed to be regular for all the purposes connected therewith;
- (iii) In the light of these directions, learned Senior Advocate for the Petitioners in Appellate Side Writ Petition No.1868 of 2022, on instructions, seeks to withdraw the Petition. However, he requests to keep the question of law in the said petition open, for future consideration. Accordingly, the petition would be disposed of as withdrawn by keeping the question of law open in Appellate Side Writ Petition No.1868 of 2022 by passing a separate order;
- (iv) It is made clear that since the present order is being passed in the peculiar facts and circumstances of these matters, it is not to be treated as a precedent;

(v) Parties to act on an authenticated copy of the order.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)