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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3999 OF 2024

Mahesh Sitaram Raut, Age: 37 years,
R/o Lakhapur, Post: Morshi,
Tal: Brahmapuri, Dist: Chandrapur,
Presently lodged in Taloja
Central Prison, Raigad

.....Petitioner

Vs.

1. State of Maharashtra,
through National Investigation Agency
47, Peddar Road, Cymbals,
Malabar Hill, Mumbai,
Maharashtra- 400026
2. Siddharth College of Law,
Through its Principal,
Anand Bhavan, Dr. Dadabhai Naoroji Road,
Fort, Mumbai Maharashtra-400023
3. University of Mumbai,
Through the registrar,
123, M.G.Road, Kala Ghoda,
Fort, Mumbai, Maharashtra-400032

.....Respondents

Mr. Mihir Desai, Senior Advocate, with Ms. Pritha Paul, Ms. Rishika Agarwal, for the Petitioner.

Mr. Chintan Shah, i/b Mr. Sandesh Patil, for Respondent-NIA.

Mr. Vinod Chate, APP for the State.

Mr. Muzaffar Y. Patel, for Respondent No.2.

Mr. Rui Rodrigues, for Respondent No.3.

CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.

DATE : 19th SEPTEMBER, 2024.

P.C. :-

- 1) The Petitioner seeks a direction to the Respondent No.3-

University of Mumbai to grant him admission in the LL.B. course in the Respondent No.2-Siddharth College of Law in the Academic Year ('AY') 2024-25 for the LL.B. batch of 2024-2027.

2) The Petitioner is an accused (Original Accused No.5) in C.R.No.4 of 2018 dated 8th January 2018 registered at Vishrambaug Police Station, Pune under Sections 153-A, 505(1)(B), 117, 120-B, 34 of the Indian Penal Code, 1860 ('IPC') and Sections 13, 16, 17, 18, 18B, 20, 38, 39 and 40 of the Unlawful Activities Prevention Act, 1967. Charge-sheet is filed against the Petitioner and four other accused. Thereafter, the case was transferred to the National Investigation Agency ('NIA') and registered as FIR No. RC-01/2020/NIA/Mum. Two supplementary charge-sheets are filed and the case is presently pending before the Special Judge, City Civil & Sessions Court, Mumbai as Special Case No.414 of 2020. The Petitioner is currently detained in Taloja Central Prison, Navi Mumbai.

3) Mr. Mihir Desai learned Senior Counsel appears for the Petitioner, Mr. Muzaffar Y. Patel appears for the Respondent No.2-Siddharth College of Law and Mr. Rui Rodrigues appears for the Respondent No.3-Mumbai University. Mr. Chintan Shah represents the NIA and Mr. Vinod Chate, learned APP represents the State.

4) Mr. Desai submits that, the Petitioner appeared for the Maharashtra Common Entrance Test (CET) law examination pursuant to permission granted to him by the Special Court. He has passed the said

examination and is ranked at Sr. No. 95 in the final merit list of Maharashtra State Candidates. Through his sister, he participated in the CAP round process and his application was provisionally accepted. He was provisionally allotted a seat in Siddharth Law College. His sister paid the required fee to freeze the seat allotted to the Petitioner.

5) The Petition was mentioned for urgent orders, today being the last date of the institutional round for admission of students. According to Mr. Desai, the State CET Cell informed the Petitioner's sister that, the College is responsible for admission of the candidates and the CET Cell has no role to play in verification of documents for the purpose of admission. It is his contention that, the Petitioner is required to remain physically present for verification of his documents for the purpose of taking admission in the said College. Since the Petitioner is detained in Taloja Central Prison, he obviously is unable to remain physically present for the same.

6) Mr. Desai relied upon Order dated 21st September 2023 passed by this Court in Criminal Appeal No.232 of 2022 releasing the Appellant on bail in the aforesaid case on certain terms and conditions specified in the Order. He further submits that the NIA has preferred Special Leave Petition (SLP) before the Supreme Court assailing Order dated 21st September 2023 and the said Order is stayed pending final disposal of the SLP, Mr. Desai contends that, in the meantime, Right to Education being a fundamental right of every citizen, the Petitioner be allowed to take admission in the

Siddharth Law College.

7) Mr. Rui Rodrigues learned Counsel for the Mumbai University and Mr. Muzaffar Patel, learned Counsel for the Siddharth Law College vehemently opposed the Petition. Since the matter was taken up for hearing on the prayer of Mr. Desai seeking urgent orders, there is no written reply of the Respondents. Mr. Rodrigues, reserving his right to file written reply, submitted that LL.B. is a professional course and the University Rules require a candidate to have compulsory minimum attendance of 75% during every Academic Year. Obviously, the Petitioner being in jail will undoubtedly be unable to fulfill the requisite attendance requirement. He thus urged the Court to dismiss the Petition. He is bound to miss the oral professional lectures conducted in the College. In these circumstances, the Petitioner will not be allowed to appear for the examinations for want of minimum attendance and non-fulfillment of other requirements. Mr. Patel supported the contentions of Mr. Rui Rodrigues.

8) We have heard the learned counsels and perused the record with their assistance. Admittedly, the Petitioner was granted permission to appear for the CET examination by the Special Judge vide Order dated 6th March 2024. We perused the Order and find that no objection was raised by the Respondents before the Special Court. In fact, Mr. Prakash Shetty, the learned SPP submitted that appropriate orders be passed. Thus, the Petitioner appeared for the examination with escort.

9) The purpose of appearing for the CET examination was obviously to seek admission for the LL.B. course in a law college. He has passed the examination and is allotted a seat in the Siddharth Law College. There is no gainsaying at this stage in objecting to him being admitted in the College pursuant to having passed the CET examination and being allotted a seat in the College. Imprisonment does not restrict an individual's right to pursue further education. Denying the opportunity to take admission in the College despite a seat being allotted by following the due process as prescribed, is a violation of the fundamental right of the Petitioner. In these circumstances, we are inclined to allow the Petitioner to take admission in the LL.B. course in the Siddharth Law College for the AY 2024-25 for the batch of 2024-2027. Since the College requires physical presence of a candidate for verification of documents, we leave it to the College to consider permitting the authorized representative/next of kin of the Petitioner to physically attend the College and verify the documents or in the alternative, to take the signature of the Petitioner on the documents from the Taloja Central Prison.

10) In view of the foregoing, the Petition is allowed in terms of prayer clause (a).

10.1) However, we make it clear that by this Order, we have not granted any exemption to the Petitioner from satisfying any of the requirements of the University and the Siddharth Law College as other

candidates are ordinarily required so to do, as per prevailing rules and regulations. The University and the College are at liberty to refuse permission to the Petitioner from appearing in the examination for failure to satisfy the minimum attendance criteria or any other eligibility criteria. The Petitioner shall not claim any equity on basis of this Order.

11) Petition is allowed in the aforesaid terms.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)

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SHAMBHAVI
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