



Gaikwad RD

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6384 OF 2023

Dhanashree N Jagatap

...Petitioner

Versus

Union of India & Ors

...Respondents

Mr M. V. Thorat, *with Amar Bodke & Aninash Bailmare, for the*
Petitioner.

Ms Shehnaz V Bharucha, *i/b Rui Rodrigues & A. A. Ansari, for the*
Respondents No.1 & 2.

CORAM: MANISH PITALE &
DR NEELA GOKHALE, JJ.

DATED: 1st June 2023
(Vacation Court)

PC:-

1. Heard learned Counsel for the Petitioner. This Petition was listed on 19th May 2023 before this Court when it was recorded that since the date of examination was not yet fixed, there was no urgency in the matter and the Petition was directed to be listed on 7th June 2023. Liberty was reserved for the Petitioner to mention the matter in the event the examination date was fixed.

2. The learned Counsel appearing for the Petitioner submits that now the date on which the National Entrance Examination Test-Under Graduate (“NEET-UG”) for students from the State of

Manipur is fixed from 3rd June 2023 to 5th June 2023. The learned Counsel appearing for Respondent No.2, National Testing Agency, on instructions submits that the date is now fixed for 6th June 2023.

3. We are of the opinion that there is urgency in the matter and therefore, the Petition is taken up for consideration.

4. The grievance of the Petitioner in the present Petition is peculiar. It is stated that when the NEET-UG 2023 examination was held on 7th May 2023, the Petitioner appeared at the Respondent No.3 Center. Unfortunately, due to a mishap and rush in the queue, the Petitioner fell on the ground landing on her right wrist, resulting in dislocation of the wrist joint.

5. In this situation, the Petitioner was rushed to a nursing home for immediate medical examination and a medical certificate was issued upon x-ray being conducted, stating that the Petitioner had indeed suffered dislocation of her wrist joint. Copy of the medical certificate is placed on record. In this situation, the Petitioner reported back to the Examination Center at about 1:00 pm., where the Superintendent and Supervisor of Respondents No.2 and 3 agreed to provide a scribe to the Petitioner, since they had also witnessed the unfortunate incident. It is further stated that in the meanwhile the examination started at 2:00 pm. and as per the schedule, the time period of examination for all the students was 3 hours and 20 minutes. The process of arranging a scribe for the Petitioner took some time and eventually, the Petitioner started the examination paper at about 3:40 pm. It is further stated that the

Petitioner should also have been granted the entire time period of 3 hours and 20 minutes to complete the examination paper, but she was allowed to appear in the examination only till 5:20 pm. As a consequence, the Petitioner did not get the entire time period for completing the examination paper and she could not attempt the last part pertaining to subject Physics at all.

6. In these circumstances, the Petitioner raised her grievance but to no avail, due to which the Petitioner was constrained to file the present Petition.

7. It is stated in the Petition that although the NEET-UG examination is conducted only once every year, this year due to sudden outbreak of violence in the State of Manipur, for the students of the State of Manipur, the NEET-UG 2023 examination is being held separately and the next date of examination, as pointed out by learned Counsel for Respondents No.1 and 2, is 6th June 2023.

8. The learned Counsel for the Petitioner relies upon the judgment of the Supreme Court in the case of *Avani Prakash v National Testing Agency and Ors*¹ to contend that this Court may consider granting urgent interim relief to the Petitioner to appear in the examination to be conducted for the students from the State of Manipur, in the interest of justice. Attention of this Court is invited to paragraphs 40 and 45 of the said judgment.

1 (2023) 2 SCC 286.

9. When this Petition was called out in morning session, learned Counsel appearing for Respondents No.1 and 2 sought short adjournment to take instructions in the matter. We were of the opinion that in the peculiar facts of the present case, the Respondents may consider granting an opportunity to the Petitioner to appear for the examination.

10. Upon instructions, the learned Counsel appearing for Respondents No.1 and 2 submits that the Petitioner can be permitted to appear for the examination afresh, which is to be now conducted for the students of State of Manipur. It is specifically submitted that the Petitioner will be allowed to appear for the examination in all the subjects and that she shall not in any manner rely upon the attempt made by her in the said examination on 7th May 2023. It is further submitted that if this Court is inclined to give any interim directions in the present case, it may not be considered as a precedent for any other cases.

11. Considering the positive approach adopted by Respondents No.1 and 2, it would be appropriate that the Petitioner is permitted to appear for the NEET-UG 2023 examination from a Center available for the students from the State of Manipur. We are informed that such a Center is available in the city of Bangalore.

12. In view of the above, list this Petition for further consideration on 26th June 2023.

13. In the meanwhile, the Petitioner shall be permitted to appear for NEET-UG 2023 examination along with the students from the State of Manipur at a Center at Bangalore city. The Respondents No.1 and 2 shall take appropriate steps to facilitate the Petitioner in taking the said examination. The Petitioner shall file an undertaking within a week from today that she shall not rely upon the attempt she had given on 7th May 2023 for the NEET-UG 2023 examination. It is clarified that the Petitioner shall appear for the said examination, subject to further orders in the present Petition and that she shall not claim any equity in that regard.

14. It is further clarified that the result of the Petitioner shall be declared only upon an express order passed by this Court in that regard. The learned Counsel for Respondents No.1 and 2 assures that she shall inform the said Respondents about the order passed today.

15. Parties to act on authenticated copy of this order.

(DR NEELA GOKHALE, J)

(MANISH PITALE, J)

Digitally signed
by RAJU
DATTATRAYA
GAIKWAD
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