

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2279 OF 2023
WITH
IN PERSON APPLICATION (L) NO. 2336 OF 2023
IN
WRIT PETITION (L) NO. 2279 OF 2023

Gaurav s/o Santoshkumar Dhaye

...Petitioner

Versus

State of Maharashtra & Ors

...Respondents

Mr Gaurav Dhaye, *Petitioner in person present.*

Mrs Uma Palsuledesai, AGP, *for Respondent No. 1-State.*

Mr Ashutosh Kulkarni, *with Gaurav Sharma, for Respondent Nos. 4 and 6.*

Mr Makrand Bakore, *for Respondent No. 5.*

**CORAM G.S. Patel &
 Dr Neela Gokhale, JJ.**

DATED: 1st February 2023

PC:-

SHEPHALI
SANJAY
MORMARE

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1. The Petitioner appears in person. He completed his LLB from Government Law College, Mumbai in 2022. He has his passing certificate dated 6th October 2022 issued by Mumbai University. As a law graduate, he applied for admission to the first year LLM programme (full time) under the OBC category in

Mumbai University. In that University, 4th Respondent invited applications for the LLM course by a notice dated 8th September 2022. The Petitioner applied. He was issued a login ID and a password. An examination was conducted on 28th September 2022. The Petitioner appeared at that examination and qualified. This was the LLM CET examination. He got 68 marks out of 100. The results were declared on 4th October 2022. His name was, the Petitioner says, reflected in the third merit list at Sr No 6. On 21st December 2022, the University called for a verification of documents of eligible candidates for the LLM (full time) two-year degree programme in the academic year 2022-2023. The names were of those in the third merit list. These candidates were to register online against payment of Rs 100/-. The time window for completing the registration process was from 22nd December 2022 to 28th December 2022. The Petitioner logged in and began uploading his documents. He paid the fees of Rs 100/-.

2. One of the required documents was called a Non-Creamy Layer or NCL certificate. The Petitioner did submit such a certificate. However, its validity was only until 31st March 2022, i.e., it was no longer valid at the time when the Petitioner uploaded it. While revising and checking the submission, the Petitioner realised this and immediately, on 28th December 2022, he applied for a renewal or a fresh NCL certificate. Against that application he was issued a valid receipt for that NCL certificate application. These certificates are issued by the Government of Maharashtra.

3. That very day, 28th December 2022, the Petitioner went to the law department at the Mumbai University to rectify this error. He submitted the receipt for the fresh NCL certificate. This was within the time window specified i.e., before the close of registrations on 28th December 2022.

4. The complaint is that the 6th Respondent did not allow the Petitioner to rectify this error saying that the date of a receipt for the application for NCL certificate “could not be the same as the date of admission”. He was asked to return the next day to discuss the matter. This, broadly, is the conspectus of the Petition.

5. If we take the averment in the Petition at face value that the rejection was on the ground that the receipt of the fresh application could not be the same date as the closing date of registration process, then the refusal is clearly wrong and cannot be sustained. There is no such requirement that the NCL certificate application must precede the registration process nor is it stated anywhere by how many days it should so precede it. Indeed, there can be no such requirement. .

6. We are told that the LLM degree course admissions have already closed. But we are also told that there are four available seats. The Petitioner sought admission in Group V (Criminal Law and Criminal Administration). There are no vacant seats in that group. There are four seats available in Group VI. Mr Kulkarni for the University points out that there are as many as 83 candidates, all

of whom had either not attached an NCL certificate or had outdated NCL certificates at the time of the application.

7. But the list, and we take it on record and mark it “X1” for identification with today’s date, is of those OBC candidates from Mumbai University whose forms were rejected “for non-production of *valid Non Creamy Layer Certificate or valid receipt* at the time of filling in the Google form for LLB admission 2022-2023”.

8. We do not see how the Petitioner could have been eliminated if he met the second alternative condition, namely, production of a valid receipt for an NCL certificate application. As we noted, there is no requirement that the receipt must predate the end of the registration process. That can never be a ground for rejection.

9. We also note that there is a separate list of about nine OBC candidates from universities other than Mumbai University.

10. At this stage, Mr Kulkarni is unable to say which of these OBC candidates in the list of 83 from Mumbai University have now got an NCL certificate or a receipt for an application for an updated NCL certificate or otherwise. Obviously, no steps seem to have been taken in that direction and perhaps that is understandable. The difference between these people on the list and the Petitioner is, *first*, that within the time window for registration the Petitioner did in fact have a receipt for an updated or renewed or fresh NCL certificate. *Second*, the Petitioner today does possess an NCL certificate duly issued to him.

11. Finally, there is of course the fact that it is the Petitioner who has moved this Court and he can hardly be denied the relief that he seeks in the facts and circumstances of the case on a theoretical possibility that someone else who has not troubled to come to this Court may have some other claim.

12. We accept the Petitioner's undertaking that he will take admission in Group VI. He said so himself and we have no reason to disbelieve him.

13. In these circumstances, we issue Rule, make it returnable forthwith and make it absolute in terms of prayer clauses (i) and (ii) but with the clarification that the admission of the Petitioner for the first year LLM course will be in Group VI.

14. Mr Kulkarni tenders a notice showing that admission has closed. This is taken on record and marked "X2" for identification with today's date.

15. We have made this order on the facts and circumstances of the case. We have not pronounced any greater or larger principle.

(Dr Neela Gokhale, J)

(G. S. Patel, J)