

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7750 OF 2021

Late Bhausahab Hiray SS Trust's
Dr. Baliram Hiray College of Architecture
Through its Principal ..Petitioner
Versus
Union of India and Ors. ...Respondents

Mr. Y. S. Jahagirdar, Senior Advocate i/b Mr. Shailendra S. Kanetkar, for
the Petitioner.

Mr. A. R. Gole, for the Respondent No.1.

Mr. N. K. Rajpurohit, AGP for Respondent – State.

Mr. Shrinivas Bobde a/w Wesley Menezes, Mr. Steven Anthony, for the
Respondent No.3.

Mr. S. S. Patwardhan a/w Mr. B. R. Mandlik, for the Respondent No.5 -
State Common Entrance Test Cell.

**CORAM: R. D. DHANUKA AND
R. N. LADDHA, JJ.**

DATE : 10th DECEMBER, 2021

P.C. :

1. Pursuant to the liberty granted by this Court the petitioner has
amended the writ petition and has impugned the decision dated 29th
November 2021 passed by the respondent No.3 – Council of Architecture.

By the impugned order passed by the respondent No.3 the intake capacity of the petitioner is reduced from 160 to 120.

2. By our earlier order dated 8th December 2021, we had directed the office to place this matter on board under the caption of 'ad-interim relief' today after amendment is carried out by the petitioner in this writ petition thereby impugning the said order dated 29th November 2021 passed by the respondent No.3

3. Mr. Bobde, learned counsel for the respondent No.3 states that the copy of the amended petition has been served upon the respondent No.3 by the petitioner yesterday evening at 7:00 p.m. and thus no reply could be filed by the respondent No.3

4. Mr. Jahagirdar, learned senior counsel for the petitioner on the other hand invited our attention to the Revised Admission Notice for B. ARCH. for the Academic Year 2021-22 issued by the State Common Entrance Test Cell, Maharashtra State, Mumbai, dated 7th December 2021 and would submit that according to the said schedule the last date of display

of Provisional Vacant Seats for CAP Round-II is 11th December 2021. He submits that if the matter is adjourned to next week as suggested by the learned counsel for the respondent No.3, the claim of the petitioner to admit the petitioner in the intake capacity of 160 and not 120 would become infructuous in view of the last date being 11th December 2021 for display of Provisional Vacant Seats for CAP Round-II.

5. Learned Senior Counsel for the petitioner, on instructions, states that if the petitioner is allowed to give option to the students to opt for remaining 40 seats also, which are the subject matter of the impugned order dated 29th November 2021 without prejudice to the rights and contentions of both the parties and by continuing the ad-interim order passed by this Court directing the petitioner not to admit those 40 students till the next date, no prejudice will be caused to the respondent No.3 or the other respondents.

6. Mr. Bobde, learned counsel for the respondent No.3 opposes this part relief pressed by the petitioner at this stage, on the ground that the order passed by the respondent No.3 reducing the intake capacity of the petitioner from 160 to 120 is fully justified and even if the petitioner is

allowed to give option to the students to opt for those 40 seats also at this stage, it will amount to grant of final relief at this stage, which shall not be permitted. He further states that if the students opt for any of 40 seats pursuant to the ad-interim order if passed at this stage and if the writ petition is dismissed ultimately the interest of the 40 students who opt for those 40 seats would be seriously prejudiced.

7. Respondent No.3 could not file the reply in view of service of the amended copy of the petition yesterday evening at 7:00 p.m. At the same time, if the matter is adjourned to next week, the relief of the petitioner to admit the students on these remaining 40 seats, which is the subject matter of the impugned order dated 29th November 2021 including the interim relief would become infructuous.

8. At this stage in view of this peculiar situation, we have heard the learned counsel on this limited ad-interim relief to obviate the situation of the writ petition becoming infructuous. In our *prima facie* view the order which we propose to pass would not cause any prejudice to any of the respondents.

9. Considering this situation, we pass the following order:-

ORDER

- (i) We direct the respondent No.5- State Common Entrance Test Cell to permit the students to opt for the petitioner –College also in respect of the 40 seats, subject to the further orders that may be passed by this Court on the next date;
- (ii) On the website of CET, it should be made clear that the writ petition filed by the petitioner in respect of the impugned order passed by the respondent No.3 dated 29th November 2021 reducing the intake capacity of the petitioner from 160 to 120, is pending consideration before this Court;
- (iii) It shall also be made clear that even if the students opt for this College in respect of those 40 seats over and above 120 seats, the petitioner is not allowed to grant admission during the pendency of this petition, till the next date;
- (iv) It is made clear that this order is passed in view of the peculiar circumstances. Neither the students who give option for those 40 seats nor the petitioner shall claim any equity;
- (v) Ad-interim order passed by this Court to continue till the next date.

10. Respondent No.3 is the only contesting party in this petition. The other respondents do not propose to file any reply. Mr. Bobde, learned counsel for the respondent No.3 undertakes to file an affidavit-in-reply to the amended copy of the petition on or before 13th December 2021 by 5:00 p.m. and would serve a copy thereof on the petitioner's advocate as well as on the other respondents' advocate simultaneously.

11. Place the above petition High on Board on 14th December 2021.

12. Parties to act on the authenticated copy of this order.

[R. N. LADDHA, J.]

[R. D. DHANUKA, J.]