

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITION (ST) NO. 7794 OF 2026**

Alefiyah Kachwala ...Petitioner  
Versus  
Holy Family Hospital, Mumbai ...Respondent

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Mr. Haider Tapia, a/w Mr. Shashank Palayala, for Petitioner.  
Mr. Yogesh Naidu, a/w Ms. Eden R. Seth, Mr. Talha Siddiqui, Mr. Deep Bopardikar, and Ms. Subiya Kazi, for Respondent No. 1.  
Mr. Dhananjay B. Deshmukh, a/w Mr. Snehil Rai, for Respondent No. 3.  
Ms. Deepa Punjani, a/w Mr. Neeraj Yadav, for Respondent No. 5.

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**CORAM : R. I. CHAGLA AND  
ADVAIT M. SETHNA, JJ.**

**DATED : 28<sup>th</sup> APRIL, 2026**

**P.C.:-**

1. By this writ petition the Petitioner has sought for grant of admission to the Petitioner in Respondent No.1 Holy Family Hospital, Mumbai for the current academic year 2026-27.
2. We have heard the learned counsel appearing for the Petitioner as well as the learned counsel appearing for Respondent No. 1 – Holy Family Hospital, Mumbai. This is a very unfortunate case where the Petitioner has at all times displayed bona fides in applying for a seat at Respondent No. 1 - Hospital, namely in Obstetrics and Gynaecology under the DNB quota. She had been allotted a seat in the said quota during the Stray Vacancy Round, as that seat had been shown as vacant. She had also, within the stipulated

time, attended the office of Respondent No. 1 - Hospital for making payment of fees towards the seat allotted to her.

3. However, it appears that, on account of an “inadvertent error” on the part of Respondent No. 1 Hospital, the Petitioner was shown as ineligible, and the seat had, in fact, been allotted to Respondent No. 5, for which online verification had not been completed.

4. Respondent No. 1 Hospital admitted that the said seat was erroneously shown as vacant in the Stray Vacancy Round, as it had already been allotted to Respondent No. 5 in Round 3, and online verification remained to be completed, by virtue of which the seat was incorrectly reflected as vacant.

5. The learned counsel for the Petitioner has relied upon the decision of the Supreme Court in *National Medical Commission vs. Mothukuru Sriyah Koumudi & Ors*<sup>1</sup>. In that case, Respondent No. 1 had passed the final year MBBS examination in January 2019 and was thereafter awarded the degree of Bachelor of Medicine and Bachelor of Surgery on 11 June 2020. She appeared for the All India National Eligibility-cum-Entrance Test (NEET) PG Examination, 2020, on 5 January 2020 and secured an All India Rank of 93,563 with 327 marks. She was called for counselling and was granted provisional admission to the MS (General Surgery) course in the Mop-up Phase (MQ)-P3 on 28 July 2020 and was allotted to Respondent No. 2

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1. (Civil Appeal No. 3940 of 2020)

College under the Management Quota. As per the provisional allotment order, she was required to report before the Principal of Respondent No. 2 College by 4:00 PM on 30 July 2020. She approached Respondent No. 2 College on 29 July 2020 and 30 July 2020 for submission of certificates and payment of tuition and other fees. Despite her presence, her admission was not completed. On 30 July 2020, the last date for admission into PG medical courses was extended till 30 August 2020 pursuant to directions issued by the Supreme Court. She attempted to meet the Chairman of Respondent No. 2 College on 7 August 2020 but was not permitted to meet the Chairman. She accordingly filed a writ petition seeking a declaration that the denial of admission to her in the PG Medical Course 2020–2021 was illegal.

6. The Supreme Court, in the said decision, considered that although the last date for admission had been extended to 30 August 2020, Respondent No. 2 – College was not inclined to grant admission to Respondent No. 1 for the academic year 2020–2021. The Court further held that Respondent No. 5 might not have known that the denial of admission to Respondent No. 1 was illegal.

7. The Supreme Court, on the facts, found that Respondent No. 2 College had adopted unfair means to deprive Respondent No. 1 of admission to the PG course. Respondent No. 1 had lost one precious academic year for no fault of her own, for which she was entitled to

compensation from Respondent No. 2 College. She was held entitled to admission to the MS (General Surgery) course in the next academic year 2021–2022 and to be accommodated in a seat allocated to Respondent No. 2 College. Accordingly, the Supreme Court directed that one seat in the MS (General Surgery) course from the Management Quota of Respondent No. 2 College be granted to the Respondent No.1 in the next academic year 2021–2022.

8. The Learned counsel appearing for the Petitioner has sought similar relief as granted by the Supreme Court in the above-mentioned decision.

9. The learned counsel appearing for Respondent No. 1 Hospital submitted that no seats are available other than one seat in Pediatrics. He further submitted that the Petitioner chose not to participate in Round 3 and instead participated in the Stray Vacancy Round. It was in Round 3 that Respondent No. 5 had been allotted the seat, which the Petitioner now claims is required to be granted to her on the ground that it was shown as vacant in the Stray Vacancy Round and allotted to her during that round.

10. He submitted that this occurred due to an inadvertent mistake in showing the seat as vacant in the Stray Vacancy Round, whereas in fact the seat was not vacant. He further submitted that he has no objection if this Court directs Respondent No. 1 Hospital to keep aside one seat in the said course for the next academic year 2026–2027 to be granted to the Petitioner.

11. We have considered the submissions. We find that the Petitioner's case deserves to be considered for the relief sought, particularly since, despite no fault of her own, she has been deprived of a seat at Respondent No. 1 Hospital to which she would otherwise have been entitled and which had, in fact, been allotted to her in the Stray Vacancy Round, but for the inadvertent error in showing the seat as vacant when it had already been allotted to Respondent No. 5.

12. Accordingly, in the peculiar facts and circumstances of the case, and following the decision of the Supreme Court in *National Medical Commission* (supra), we direct Respondent No. 1 Hospital along with Respondent Nos. 3 and 4 to keep aside one seat in Obstetrics and Gynaecology under the DNB quota for the Petitioner for the next academic year 2026–2027. The fees payable by the Petitioner for the said seat shall be the same as that applicable had the seat been allotted to her in the previous academic year (2025–2026).

13. At this juncture, learned counsel appearing for the Petitioner would request that the fees and security deposit paid by the Petitioner be refunded to her. Accordingly, we direct the concerned Respondents to refund the fees and security deposit already paid by the Petitioner to Respondent No. 3 for the academic year 2025–26.

14. We expect that the Respondent Authorities shall act with utmost care, caution and circumspection in matters of admission to such coveted seats in

higher education/professional courses so that there is no injustice meted out to any genuine student/candidate, more particularly, on account of procedural lacunae/errors.

**15.** The writ petition is disposed of in the above terms. No costs.

**[ADVAIT M. SETHNA, J.]**

**[R.I. CHAGLA, J.]**