

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.6003/2015

Diksha d/o Meghraj Bhaisare and others

...Versus...

**Rashtrasant Tukadoji Maharaj Nagpur University through its Registrar, Nagpur
and others**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.M. Sudame, Advocate for petitioners
Shri N.S. Khubalkar, Advocate for respondent no.1
Shri V.P. Marpakwar, Advocate for respondent nos.2 and 3
Shri J.B. Kasat, Advocate for respondent no.4

**CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.**

DATE : 26.11.2015

By this petition, the petitioners challenge the action on the part of the respondent nos.3 and 4 in marking the petitioners as absent for their internal assessment.

It is stated on behalf of the petitioners that though the petitioners have attended the classes for a period of more than 90 days in the second semester and they have passed the first semester examination as per the rules of A.T.K.T., the petitioners have been marked absent for internal assessment in the subject of English. It is stated that the petitioners have been marked absent only in the subject of English and in all other subjects the petitioners have secured minimum marks for being successful.

The respondent nos.2 and 3 have filed an affidavit-in-reply. It is stated in the affidavit-in-reply that the Principal of the college has misconducted himself and there are several administrative and financial irregularities. It is stated that a charge-sheet has been issued against the Principal Shri Nimishe and the enquiry is in progress. It is stated that though the Principal, Shri Nimishe is a lecturer in Physics, he has wrongly evaluated and given internal marks to the students in English subject for the academic Session 2014-15. It is stated that the Society is ready to evaluate the performance of the students on the basis of their attendance and the other criteria including their performance in the other subjects and award them appropriate internal marks for English subject.

Shri Kasat, the learned Counsel for the respondent no.4 refutes the allegations made on behalf of the Management and submits that the respondent had conducted a written examination as there was no teacher to teach the subject of English in the college and on the basis of the said examination, marks were allotted to the students. It is stated that since the petitioners did not appear at the said examination, they were marked as absent.

On hearing the learned Counsel for the parties, we find that in the circumstances of the case, the relief sought by the petitioners needs to be granted. The Management has volunteered to evaluate the performance of the petitioners by considering their performance in the other subjects. Also, it is notable that a departmental enquiry is initiated by the Management against the Principal. Though, we are not concerned with the correctness or

otherwise of the conduct of the departmental enquiry or the charges made therein, suffice, it to state that the petitioners have secured passing marks in the internal examination in all the other subjects and they are wrongfully marked absent in the subject of English.

Hence, by accepting the statement made on behalf of the respondent nos.2 and 3 that appropriate marks would be awarded to the petitioners in the internal examination for the subject of English, we dispose of the writ petition with a direction to the Management to inform the marks secured by each of the petitioners to the respondent no.1 – University, within a period of two weeks for appropriate action. The respondent no.1 – University is directed to accept the marks awarded by the Management to the petitioners in the subject of English.

Order accordingly. No costs.

JUDGE

JUDGE

Wadkar