

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

WRIT PETITION NO.6788 OF 2014

[Dr. Saurabh s/o Damodhar Tumane .vs. Indira Gandhi National Open University, New Delhi 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 B.N. Jaipurkar, counsel for the petitioner,
Shri P.B. Patil, counsel for the respondent no.1 to 3,
Shri K.C. Deogade, counsel h/f Shri S.K. Mishra, counsel for the respondent no.4.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATED : MAY 08, 2015.

By this petition, the petitioner seeks a direction to the respondents to allow the petitioner to appear in the term-end examination of PGCOI course to be held in December, 2014 or June, 2015 by extending the validity of his registration till July, 2015.

The petitioner was admitted to the PGCOI course in July, 2011 and the registration of the petitioner to the said course was for a period of three years. A student, admitted to the said course, was required to complete the course within a period of three years or else seek re-admission.

On the first date of hearing, a submission was made on behalf of the petitioner that three years period would not expire in June, 2014 as communicated by the respondents to the petitioner as the respondents did not commence the course in June, 2011 due to lack of students and the course was commenced in July, 2012. It was stated that in the aforesaid set of facts, the validity period in respect of the registration of the petitioner should be extended till July, 2015.

The affidavit-in-reply on behalf of the respondent nos.1 to 3 is tendered in the court today. It is stated that when the petitioner took admission in the course, he was given an enrollment number and

was also allotted Program Study Centre i.e. Nair Hospital, Dental College, Byculla, Mumbai for all support services. It is stated in the affidavit that the self learning study material along with programme guide was provided to the petitioner immediately and the petitioner was required to study the material on his own and submit a log-book/practical book by completing the practical work in the hospital allotted to him. It is stated that the petitioner neither appeared at any written examination conducted by the respondents and also did not submit the practical book of having worked in Nair Hospital, Dental College at Mumbai till November, 2013. It is stated that a student is entitled to appear at the theory examination after completion of one year from the date of the admission to the programme. It is stated that seven other students were admitted in the programme in July, 2011 and all others, except the petitioner, have appeared at the examination and have passed the same. It is stated that the petitioner belatedly submitted the assignment in November, 2013 but never appeared for the theory examination during the three years. The petitioner also did not appear at the practical examination held in June, 2014 which the petitioner could have appeared, as a last chance. It is stated that the petitioner has not approached this court with clean hands and hence the petition is liable to be dismissed.

It appears, on hearing the learned counsel for the parties and on a perusal of the affidavit-in-reply, that the relief sought by the petitioner cannot be granted. The petitioner has come with a case that though he was admitted in July, 2011, the course commenced in July, 2012. The said fact is seriously disputed by the respondent nos.1 to 3. It is stated that, along with the petitioner, several other students were also admitted and all the students, who were admitted in the year 2011, have cleared the examination and are declared successful. Even assuming that the course commenced in July, 2012, as submitted on behalf of the petitioner, it is surprising that the petitioner did not appear at the written examination even once after July, 2012. The petitioner was prosecuting the MDS course and it appears that the petitioner was not serious in prosecuting the PGCOI course conducted by the respondent Open University. Also, it is necessary to note that it

is necessary for a student to study the material and prepare himself/herself for the written examination on his/her own and no tutorials are conducted by the respondent University to enable the students to appear at the written examination. Since the petitioner admittedly had the material in July, 2012, the petitioner was expected to appear at least for one written examination till he filed the present petition. Also, we find that the respondents have seriously disputed that the course did not commence in July, 2011 and have clearly asserted in the affidavit-in-reply that the course commenced in July, 2011 and all other students admitted in the year 2011 have successfully cleared the course. We find much force in the submission made on behalf of the respondents that the petitioner has approached this court only with a view to save the fees which the petitioner would be required to pay for fresh registration to the course.

In view of the aforesaid, we dismiss the writ petition with costs.

JUDGE

JUDGE