

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

WRIT PETITION NO. 7191 OF 2014

Ruchali D/o Dilipkumar Khobragade

-vs-

Rashtrasant Tukdoji Maharaj Nagpur University, Nagpur and another

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Ms R. Inamdar, counsel for the petitioner.
Mr.Arun Agrawal, counsel for the respondent No.1.
Mr.Sachin Sambre, counsel for the respondent No.2.

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

DATE : 19.03.2015.

By a petition filed on 17/12/2014, the petitioner has sought a direction to the respondent No.1-University to admit the petitioner in the respondent No.2-College in the third year bachelor of Engineering Course.

The petitioner was admitted to the bachelor of Engineering Course in the respondent No.2-College in the academic session 2011-12. The petitioner appeared at the first year examination in April-May 2012, but could not clear the same. In 2012-13, the petitioner did not attend the college. On the basis of the benefit of A.T.K.T., the petitioner was admitted to the second year of B.E.Course i.e. in the third semester in April-May, 2013. When the petitioner appeared at the third semester examination, there were some uncleared subjects in the first year B.E.Course. The petitioner cleared the third semester, but still was unable to clear some of the subjects in the first year when the results of the Winter 2013 examination were declared. The petitioner appeared in Summer 2014 for the fourth semester examination and also in the remaining subjects of the first year examination. After

the results of the first year were declared on 25/07/2014, the petitioner again failed to clear one subject of the first year B.E. Course. Since the petitioner had again failed in one of the subjects of the first year, the petitioner applied for revaluation. The results of the revaluation were declared on 13/11/2014 and the petitioner was declared to have passed in the said paper of the first year examination. Since the petitioner had not cleared the first year examination, the petitioner was not entitled to be admitted in the fifth semester of the third year B.E.Course.

It is the case of the petitioner that though the petitioner was not entitled to seek admission to the fifth semester of the third year engineering course, she was permitted by the respondent No.2 College to attend the classes. Since the results of the first year examination were declared on 13/11/2014 and the petitioner was declared to have passed in the first year examination and was entitled to get admission to the third year of the degree course, the petitioner has filed the instant petition on 17/12/2014 seeking a direction to the respondent No.1-University to admit the petitioner in the third year in the respondent No.2-College.

Shri Agrawal, the learned counsel for the respondent No.1-University opposed the prayer made by the petitioner in the instant petition. According to the learned counsel, the petitioner was not eligible for the admission to the fifth semester course in view of the provisions of Ordinance No.27 of 2008 as amended by Ordinance No.6 of 2010. It is submitted that the academic calendar was published and admission could have been secured in June-July, the last date of admission being 25/09/2014. It is stated that no admission to any of the years of the B.E.Course could have been made after the cutoff date i.e. 25/09/2014. It is

stated that the regular fifth semester academic session 2014-15 was over by the time the petitioner filed the writ petition and during the pendency of the writ petition, the examinations to the fifth semester were conducted and the sixth semester classes are in progress. It is stated that the petitioner would be entitled to be admitted in the third year of the B.E.Course only in the academic session 2015-16.

Shri Sambre, the learned counsel for the respondent No.2-College, submitted that the petitioner had applied for revaluation and since the revaluation results of the first year examination were not declared, the College, in good faith, permitted the petitioner to attend the classes till 25/09/2014. It is informed to this Court by the learned counsel for the respondent No.2-College that since the petitioner was not admitted in regular course or even provisionally, the attendance of the petitioner could not be maintained by the respondent No.2-College. It is stated that as per the revised schedule of the University, the classes for the fifth semester commenced from 16/06/2014 till 20/09/2014 which included the first mid-test and the practical internal test. It is stated that the second mid-test was conducted between 22/09/2014 to 27/09/2014 and the University practical examinations commenced on 06/10/2014 and the session of the fifth semester ended on 20/10/2014 as per the circulars of the University.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner in the instant petition cannot be granted. A direction to the respondent No.1-University could not be issued, in the circumstances of the case, to admit the petitioner in the third year of the B.E. Course in the respondent No.2-College in a petition filed on 17/12/2014. The petitioner could not have been admitted to the third year of the B.E. Course even provisionally in the

academic session 2014-15 as she had failed to clear one of the subjects of the first year of the B.E.Course. It is stated in paragraph No.9 of the writ petition that after the revaluation results were declared, the petitioner approached the respondent No.2-College and sought admission to the third year as the respondent No.2-College had permitted the petitioner to attend the classes and to participate in the practicals of the fifth semester. It is, however, not averred in the writ petition as to when the petitioner started attending the classes and till what date the classes were attended by her. There is absolutely no record whatsoever in regard to the attendance of the petitioner in the fifth semester of the B.E.Course. Though, it is stated in the reply of the respondent No.2-College that the College had permitted the petitioner to attend the classes till 25/09/2014, it is not stated as to when such permission was granted. Also, it is fairly stated on behalf of the respondent No.2-College that since the petitioner was not even provisionally admitted, the attendance of the petitioner was not recorded by the College. It would be, therefore, difficult to hold that the petitioner had attended the classes of the fifth semester and had completed, both tutorials and practicals. Even otherwise we are doubtful whether a college can permit the students to attend the classes to which they are not entitled to be admitted. At least, such attendance cannot be said to be legal and binding on the University. Much has been said on behalf of the petitioner about the mistake and the negligence on the part of the University in belatedly declaring the revaluation results in the case of the petitioner and the illegality committed by the University in declaring the petitioner as failed when the first year paper was valued in Summer 2014 examination. We find that it is necessary for the University to declare the revaluation results before the cutoff date for admission to the

courses in the College. However, the failure on the part of the University to declare the revaluation results in this case before the cutoff date would not result in the issuance of the direction to the University to admit the petitioner in the fifth semester of the B.E.Course, in the petition filed in December, 2014, when the fifth semester course was completed by then and there is no record of the petitioner attending the College. One of the Ordinances of the University clearly provides that 75% attendance is a must for entitlement of a student to appear at the examination and discretionary powers are granted to the management of the colleges to condone the deficiency in attendance if the deficiency ranges between 60% to 75%. A go by would be given to this Ordinance and all the other relevant Ordinances if the relief is granted in favour of the petitioner. The petitioner cannot solely blame the University. The petitioner had failed in the first year examination not once, twice or thrice, but had failed on more occasions than that. Merely because the petitioner has just passed with boundary line marks after revaluation in the last subject of the first year, the petitioner cannot be permitted to put the entire blame on the University of having checked her paper wrongly at the time of initial valuation. Be that as it may, in the facts of the case, it would not be possible for this Court to issue a direction to the University to direct the admission of the petitioner in the third year of the B.E.Course in the academic session 2014-15 when the said year is already over.

In the result, the writ petition fails and is dismissed with no order as to costs.

JUDGE

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