

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.8075 OF 2016

Vijay s/o. Shivaji Rodge,
Age : 18 years, Occ.Education,
r/o. Ridhora, Tq. Shengaon,
Dist. Hingoli ..Petitioner

Vs.

1. Maharashtra State Board of
Secondary and Higher Secondary
Education, Pune,
Latur Division Board, Latur
2. Maharashtra Junior College,
Majage Nagar, Latur,
Tq. and Dist. Latur
(Respondent no.2 deleted
as per order dated 08.8.16) ..Respondents

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Mr.D.M.Shinde, Advocate for petitioner

Mr.Surekha Mahajan, Advocate for respondent no.1

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : DECEMBER 20, 2016**

ORAL JUDGMENT :

Heard.

2. Rule. Rule made returnable forthwith.
- With the consent of the parties, the petition is

taken up for final disposal at the admission stage.

3. The petitioner is praying for quashment of the communication/order issued by respondent no.1 on 17.06.2016 rejecting the request made by the petitioner on 14.06.2016 for issuance of the revised mark memo of H.S.C. examination.

4. The petitioner had appeared for H.S.C. examination conducted by respondent/Board in February, 2015. The petitioner secured 397 marks out of total 650 marks. The petitioner could not reach the benchmark of 50% marks in P.C.B. group. As such, availing the facility declared by the board for improvement of performance, the petitioner appeared for H.S.C. Examination in October, 2015 again. The petitioner secured more than 50% marks in October, 2015 examination. However, he failed to exercise his option to claim revised mark memo within one month from the date of declaration of the result or within six months

from the date of declaration, subject to payment of amount prescribed by the board.

5. The petitioner approached the board by tendering an application on 14.06.2016 and requested for issuance of a revised mark memo of H.S.C. Examination conducted in October, 2015. The request made by the petitioner has been turned down by the board relying upon the policy framed by the board on 03.11.2012. The policy prescribed by the board mandates a candidate seeking to improve his performance, to exercise his option within one month of the declaration of result. It is further prescribed that a candidate is entitled to exercise his option after lapse of one month from the date of declaration of result, subject to payment of penalty of Rs.100/-. It is further prescribed that a candidate is also entitled to exercise his option upto six months from the date of declaration of the result subject to payment of penalty of Rs.200/-.

6. In the instant petition, the petitioner tendered the application on 14.06.2016, which is beyond the period of six months. As such, placing reliance upon the policy framed by the board, the request of the petitioner has been turned down by the board. The petitioner has reappeared for the H.S.C. examination in October, 2015 with a view to improve his performance and is successful in crossing the benchmark of 50% in P.C.B. group.

7. The request made by the petitioner for issuing revised mark memo should not have been turned down merely on account of technical reasons. The object behind prescribing the policy by the board to permit a candidate to reappear for H.S.C. examination is to facilitate him to improve his performance so that he becomes eligible to compete for admission to professional courses. The said object ought to be taken into consideration while interpreting the policy. The insistence on exercise of option by a candidate to claim revised

mark memo within one month from the date of declaration of result or after one month upto six months, subject to payment of penalty shall have to be construed liberally. The relevant policy declared by the board, which mandates a candidate, facilitating him to reappear for the H.S.C. examination with a view to improve his performance, and to exercise his option within six months from the date of declaration of the result to claim revised marks memo shall have to be considered as directory and strict compliance of the time frame prescribed under the policy of the board shall not be insisted upon. The petitioner has approached the board seeking the revised mark memo merely one month late beyond the time frame prescribed by the board. Considering the object behind the policy formulated by board, the time frame prescribed for exercise of option shall have to be extended in given facts and circumstances of case.

8. In view of above, we are of the considered opinion that the instant petition deserves to be allowed and the same is accordingly allowed. The communication issued by the board on 17.06.2016 rejecting the application of the petitioner dated 14.06.2016 for issuance of the revised mark memo of H.S.C. Examination conducted in October, 2015, is quashed and set aside. The respondent – board is directed to issue a revised mark memo of the examination conducted in October, 2015, to the petitioner forthwith.

9. The petitioner undertakes to deposit necessary charges/fees/penalty with the board.

10. Rule made absolute accordingly. There shall be no order as to costs.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]

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