

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

WRIT PETITION NO. 9845 OF 2015

PRIYANKA BABANRAO SUKTE. ..PETITIONER.

VERSUS

**DR. BABASAHEB AMBEDKAR
MARATHWADA UNIVERSITY
THROUGH ITS CONTROLLER OF
EXAMINATIONS AND ANOTHER. ..RESPONDENTS.**

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**Advocate for Petitioner : Mr.Gore Ravindra Vitthal
AGP for Respondents/State: Mr. S.G. Chapalgaonkar.**

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CORAM : S.S. SHINDE & P.R.BORA, JJ.

Dated: 12th JANUARY, 2016.

PER COURT :-

1. This petition has been filed with the following prayer:

“B] By issuing writ of mandamus or direction in the like nature, the respondent no.1 may kindly be directed to issue the marksheet and passing certificate in respect subject of 4th semester i.e. Web Fundamentals-I (Paper Code-316AT) in B.Sc. Computer Science Course as revaluation result did not depict petitioner's real performance.”

2. The learned Counsel for the petitioner submits that since the petitioner secured admission in the year, 2009, the Circular dated 31st May, 2013 issued by the Director, College and University Development Corporation would not apply to the case of the petitioner inasmuch as, admission of the petitioner was prior to issuance of the said circular. He invited our attention to the reported judgment of this Court in the case of ***Ganesh Manik Funde vs Mumbai University through its Legal Department Mumbai & Ors.***¹ and in particular, paragraph 7 thereof and submits that, in the facts of that case, this Court has taken a view that, the circular dated 24th September, 2002 cannot apply to the petitioner therein as he obtained admission prior to that i.e. on 8th September, 2002. Therefore, according to the learned Counsel for the petitioner, the petition deserves to be allowed.

3. On the other hand, learned Counsel for the respondent No.1, relying upon the averments in the affidavit-in-reply and the contents of the circular dated 31st May, 2013, would urge that the petition is devoid of any

1 2013 BCI(O) 1088;

merits and the same may be dismissed.

He submits that since the petitioner appeared for the examination and marks have been assessed out of 50, the petitioner was supposed to secure minimum 20 marks. However, the petitioner secured 13 marks. Therefore, the learned Counsel for the respondent No.1 submits that, this Court may not invoke extraordinary writ jurisdiction.

4. We have heard learned Counsel for the petitioner and learned Counsel for respondent No.1. With their able assistance, perused pleadings in the petition, annexures thereto and affidavit-in-reply filed by respondent No.1 and the judgment relied upon by the Counsel for the petitioner.

5. In our opinion, since the petitioner secured 13 marks out of 50 marks, and not having secured 20 marks as required, is not entitled for any relief. The fact that, the petitioner had written the examination paper out of 50 marks, is not in dispute. If, we consider the said question paper being of 30 marks, the petitioner was supposed to secure 13 marks. Admittedly, the petitioner was aware that,

the petitioner has appeared in the written examination which was out of 50 marks. Therefore, we are not inclined to entertain the petition.

Hence, the petition stands rejected.

(P.R.BORA, J.)

(S.S. SHINDE, J.)

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