

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11950 OF 2015**

Abhishek Vinod Pote

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

Ms. Pooja V. Thorat, i/b. Mr. M.V. Thorat, for the Petitioner.
Ms. Sushma Bhende, AGP, for Respondent No. 1.

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**

DATED: 13th January 2016

PC:-

1. After having heard Ms. Thorat appearing on behalf of the Petitioner and perusing the Petition with her assistance, we are disinclined to exercise our writ jurisdiction so as to assist the Petitioner to clear one subject. The Petitioner in the factual averments has accepted the fact that having joined the Ayurvedic College at Satara in the year 2010 for pursuing the BAMS degree course, in 2010-2011 he appeared for six subjects in the first year out of which four subjects were divided into Part-1 and Part-2, whereas rest of the two subjects had only Part-1.

2. The Petitioner has passed his first year examination in February 2013 and thereafter took admission in the second year of

the said course in May 2013. It is common ground that the second year students have to undergo one and half year of study and then appear for an annual examination. In that year also, there are six subjects and for going to the third year one is required to pass in minimum four subjects and the rest of the two subjects can be carried forward (adhering to Allow to Keep Terms - ATKT system). That is how the candidate can be admitted in the third year of the course. The same pattern with regard to the subject parts is followed and the Petitioner appeared for a subject Dravyaguna which was divided into two parts. The first paper carries 90 marks and the second paper also carries the same marks. The student is required to obtain minimum 50% aggregate marks to pass the subject.

3. As stated in paragraph 4 of the Petition, the Petitioner noted on a declaration of the result and a perusal of the examination paper that he secured 42 and 38 marks in Part-1 which were allotted by two different examiners. The 42 being the highest, in view of the Policy/Ordinance, were considered. In Part-2 of the subject, one examiner gave the Petitioner 46.5 and other examiner gave 47.

4. According to the Petitioner, the examiner who gave 46.5 marks has erroneously not given two marks to Question 1F, whereas the other examiner has given two marks for the said question. The Petitioner after verification of the entire answer book arrived at a conclusion that the examiner who gave zero marks for Question 1F ought to have assigned him two marks. The mark-sheet is referred to.

5. We do not see how in such circumstances, the Petitioner's Advocate relies upon the Policy as contained in the Maharashtra University of Health Sciences Procedure of double evaluation (Evaluation and Re-Evaluation) system of assessment of theory answer books pertaining to all under graduate and post graduate courses.

6. Upon perusal of the relevant rule, and particularly Rule 4 setting out the procedure for assessment, we are unable to agree with the Advocate that the said direction/Rule 4(x) would enable the Petitioner to obtain marks more than the one assigned to Question 1F. The rule cannot be read in this fashion for it speaks of marks in the subject/paper. It does not speak of any specific question/s.

7. In these circumstances and when total marks have to be obtained for the bare minimum required to Keep Terms and to enter the third year, then, the Petitioner having miserably failed to obtain the same cannot be assisted in our writ jurisdiction. In policy matters and that too framed by Academic Bodies, this Court should be slow to interfere with the decision of the concerned experts. Bearing that principle in mind, we proceed to dismiss this Writ Petition.

8. The Writ Petition is dismissed.

(G. S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)