IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 892 OF 2016

Ankur Durgesh Shahi	}	**Petitioner**
versus		
Controller of Examination	}	
University of Mumbai	}	
and Ors.	}	**Respondents**

Mr. Ashutosh Kaushik with Mr. Alok Pandey i/b. M/s. Kaushik and Co. for the petitioner.

Mr. Rui Rodrigues with Mr. Asadullah Shaikh for the respondents.

CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.

DATED :- APRIL 1, 2016

P.C. :-

1) The petitioner has applied for writ of mandamus directing respondent no. 1, namely the Controller of Examination, University of Mumbai and respondent no. 3 University to issue a corrected mark-sheet declaring the petitioner as passed in paper 5, namely, Business Economics-VI in a time bound manner.

2) The petitioner claims that he appeared in his 6th and final semester of 3 years' Bachelor of Commerce degree course (B. Com.) through Mumbai University at an affiliated college, in the month of April, 2015. The course has to be completed in 6

semesters. Since 6th and final semester of the 3 year B. Com. degree course concluded in an examination held in April, 2015, the petitioner claims that he discovered on the website of the University that results of this semester examination are available on-line, but he noticed that he was awarded only 33 marks in paper 2, which he describes as "Financial and Auditing-XI Cost Accounting". The petitioner was certain and confident that he would not have failed in the said paper and applied for revaluation of the marks in this paper on 7th July, 2015. In the meanwhile, the petitioner applied and pursued the first year Master in Commerce degree course for academic year 2015-16 with the same affiliated college and he also enrolled himself for post graduate diploma in Accounting and Finance course in another private institution. The petitioner then states that the respondents declared the revalued marks of individual subject on 11th September, 2015, the petitioner was awarded 35 marks in paper 2. Thus, on revaluation, he passed in paper 2 Financial Accounting and Auditing-XI-Cost Accounting.

3) On an inquiry with this college, he was informed that the revalued and corrected mark-sheet would be issued somewhere in March, 2016. The petitioner, therefore, did not make any attempts, but waited till he received this mark-sheet.

Upon receipt, he noticed that the status in the mark-sheet was depicted as failed in Business Economics-VI. The result sheet, which was shown earlier, did not in any manner indicated that the petitioner had failed in Business Economics-VI, which is paper 5, but had cleared the subject with 47 marks. Thus, instead of making a correction only in relation to the marks in Financial and Auditing-XI Cost Accounting, the alteration has been made even in relation to Business Economics-VI (paper 5) and the petitioner is now shown failed in this subject, but passed in the earlier one pursuant to revaluation. If such a discrepancy continues, the petitioner will not be able to pursue his Master degree and the diploma course. His educational career would be seriously jeopardised.

4) This petition was mentioned in the morning session and on account of urgency, namely, commencement of examination from 4th April, 2016, we orally directed that Mr.Rodrigues appearing for the university should appear and after taking instructions.

5) Mr. Rodrigues states that the petitioner can contact the Controller of Examination/respondent no. 1 before closure of the office hours today itself and the Controller of Examination will make every endeavor to sort out the issue and redress the

grievance of the petitioner. The petitioner is also free to attend his office in the earlier hours tomorrow, namely 2nd April, 2016. Mr. Rodrigues also points out that from the annexures to the petition, it is not possible to ascertain as to whether the petitioner had indeed cleared the Business Economics-VI (paper 5) in the first appearance/earlier and secured 47 marks. Similarly, from the records, it is not possible to find out as to which paper the petitioner terms as Financial and Auditing-XI-Cost Accounting. Therefore, a scrutiny and verification and comparison with the original mark-sheet/result sheet and mark-list alone would sort out this issue.

6) Having noted the limited dispute and of fact, it is not possible to entertain the writ petition. It is for the authorities to redress the grievance of the petitioner and by calling for all the records in relation to his appearances in the subjects and at the concerned examination/semester. Let that be done by the Controller of Examination earliest by 2nd April, 2016 and if the petitioner has indeed cleared the subject Business Economics-VI (paper 5) at the earlier appearance, then, his result/mark-list be accordingly corrected and corrected certificate be issued to him. If the petitioner, on revaluation, has cleared the Financial and Auditing-XI-Cost Accounting (paper 2), then, even that correction

should be made. The corrected documents may also be issued. If the petitioner has indeed cleared the degree examination as claimed by him, then, we see no difficulty for the petitioner to pursue his Master degree. Surely, then the petitioner is not required to appear at the examination of the B. Com degree final year. If the 6^{th} semester and final examination to commence from 4^{th} April, 2016, but as the petitioner claims he has cleared the said examination, then, he is not required to appear there at again. If he has not cleared it and there are still some papers which he has to clear or there are some subjects which he has yet to clear, then, if the rules and regulations permits, he can appear for the examination.

7) With the aforesaid directions, the writ petition is disposed of.

8) The parties to act upon an authenticated copy of this order.

(G.S.KULKARNI, J.) (S.C.DHARMADHIKARI, J.)