

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

963 WRIT PETITION NO. 10372 OF 2016

ABASAHEB TULSHIRAM KEKAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Shri. Vithal M. Chate, Advocate, for petitioner.

Shri. A.S. Shinde, Assistant Government Pleader,
for respondent No.1.

Smt. Surekha Mahajan, Advocate, for respondent
No.2.

Shri. B.B. Bhise, Advocate, for respondent No.3.

Shri. D.J. Choudhari, Advocate, for respondent
No.4.

**Coram: T.V. NALAWADE &
SANGITRAO S. PATIL, JJ.**

Date: 8 March 2017

ORDER:

1) The petition is filed for declaring that the petitioner has passed in H.S.C. Examination held in February-March 2016. Both the sides are heard.

2) It appears that the petitioner had appeared for HSC Examination held in February-March 2015. Mal-practice was found on the part of the petitioner and due to that his entire performance was cancelled and further he was prevented from appearing in one examination viz. the examination of October 2015. It appears that he applied for appearing in the examination of February-March 2016 and that application was forwarded to the Board by his college. In accordance with the Form, the Board allowed him to appear in six subjects. Admittedly the petitioner did not appear for examination of the Environment Education and this examination was to be conducted by the college itself. As he did not appear in that examination, the marks memo was issued to show that he had failed in the said subject.

3) It appears that initially, in the marks memo of February 2016 examination, by mistake exemption was shown as against Environment

Education subject. It is the case of the petitioner that he had appeared for the examination of Environment Education subject but the marks of this subject are not shown and it was not his fault. The submissions made show that the Principal of the College forwarded the form only in respect of six subjects with the presumption that the petitioner was exempted from appearing in the Environment Education subject. It appears that there was specific communication from the Board with the College informing that the petitioner was not only debarred from appearing in one examination but his entire performance was cancelled. It was necessary for the college to forward the application showing that the petitioner was appearing for all the subjects and not to inform to the Board that he was exempted in one subject. In view of these circumstances this Court holds that it is not possible to give relief as claimed in the petition. It appears that subsequently in February 2017 examination the petitioner

appeared for the aforesaid subject and he got through that subject also. Thus it is the mistake of the college and the petitioner may claim appropriate relief as against the College by approaching the Civil Court. The petition stands dismissed.

Sd/-
(SANGITRAO S. PATIL, J.)

Sd/-
(T.V. NALAWADE, J.)

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