

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9847 OF 2017

Dipesh Vinod Dhankani

..Petitioner

Versus

**Institute of Company Secretaries
(ICSI) and another**

..Respondents

Mr. M. M. Vashi i/by M. P. Vashi Associates for the Petitioner.

Mr. G. V. Aiman for the Respondent No.1.

Mr. R. A. Rodrigues for the Respondent No.2.

**CORAM : B. R. GAVAI &
SANDEEP K. SHINDE, JJ.
DATE : 9th OCTOBER, 2017**

PC.

1] Rule. Rule made returnable forthwith. Heard by consent.

2] The Petitioner has approached this Court being aggrieved by the communication (page No.16 which is sms) received on the Petitioner's mobile, which reads thus :-

“Dear DIPESH your Registration Request is rejected.”

3] The Petition arises out of peculiar facts and circumstances. The Petitioner has appeared for examination in Bachelor in Mass Media (BMM) course conducted by the Respondent No.2 – University in the month of March, 2017.

4] The Petitioner had applied for the Company Secretaries course for which the necessary qualification is passing a graduation examination. However, the rules of the Respondent No.1 permit the provisional admission to be taken if a candidate has appeared for the graduation examination, but the result is not declared. The only rider is that such a candidate should submit the mark-sheet within six months from the date of original admission.

5] The Petitioner in the present case in accordance with rules of the Respondent No.1 was admitted. According to the rules, he was required to furnish his Mark-sheet by 24th August, 2017. However, the Petitioner could not submit his mark-sheet by 24th August, 2017 and as such he received sms on his mobile which is reproduced herein above. As discussed hereinabove, as Petition arises out of peculiar facts and circumstances. The mess created by the Respondent No.2 – University in resorting to online process of assessment of answer sheets is without making necessary arrangement for the same. Day in and day out, we are coming with many Petitions with regard to the grievances of the students on the said count. We are required to pass various orders directing the University to extend the last date of admission, since the result of the students were not declared.

6] In the present case also, the Petitioner's result was declared on 27th August, 2017. The last of submission of mark-sheet was on 24th August, 2017. As such, it was beyond the control of the Petitioner to have submitted his mark-sheet prior to 24th August, 2017. It is also relevant to the email sent by the Vice President of the Respondent No.1, which reads thus :-

“Please take a note of this and extend the date for bombay university students.
Non declaration of result is a issue here.
Send suitable communications to students.”

No doubt, that the learned counsel for the Respondent No.1 is justified in saying that in cancelling the admission of the Petitioner failing to submit his mark-sheet within a period of six months from the original admission. However, at the same time, we cannot loose sight of the ground realities. The Petitioner cannot be penalize on account of the mess created by the Respondent No.2 – University.

7] In that view of the matter, we find that in the peculiar facts and circumstances of the case, the Petition deserves to be allowed. It is further to be noted that in the result which declared by the Respondent No.2 – University the Petitioner has been declared as successfully received around 61% marks. If we accept the technical approach of the

(16) -WP-9847-17.doc.

Respondent No.1 and denial relief to the Petitioner, we find that we will be playing with the career of the meritorious student who is not at fault. In that view of the matter, rule is made absolute in terms of prayer clause (a) and (b).

[SANDEEP K. SHINDE, J]

[B. R. GAVAI, J]