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

**WRIT PETITION NO. 3408 OF 2017
WITH
CIVIL APPLICATION NO. 731 OF 2017
IN
WRIT PETITION NO.3408 OF 2017**

Parakh Jaiprakash Shahal	]	
Age about 20 years, Occup:- Student	]	
Residing at Flat No.601, Sapphire Heights	]	
Near Centrium Mall, Lokhandwala Township	]	
Akruli Road, Kandivali East, Mumbai 400 101	]	
Maharashtra	]	...Petitioner

VS

1.	Thakur College of Science and Commerce,	]	
	Shyamnarayan Thakur Marg, Thakur	]	
	Village, Kandivali East Mumbai 400 202	]	
	Maharashtra	]	
2	University of Mumbai	]	
	through its Registrar at Fort, Behind	]	
	Mumbai High Court, Churchgate, Mumbai	]	
	3 P.J. Ramchandani Marg, Opposite Radio	]	
	400 020.	]	
3	State of Maharashtra,	]	...Respondents.

.....

Ms Purvi Shah, for the Petitioner.
Mr. V.N.Sagare, AGP for Respondent No.3.
Mr Arun Panickar for Respondent No.1.

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**CORAM : SHANTANU S. KEMKAR &
B.P.COLABAWALLA, JJ.**

10th APRIL, 2017.

ORAL JUDGMENT (Per B.P.Colabawalla J):

1 We must mention that only the Civil Application was on board today. However, by consent of parties, we have taken up the Writ Petition itself and heard the parties for admission.

2 By this Writ Petition, filed under Article 226 of the Constitution of India, the Petitioner seeks writ of certiorari for quashing the circulars dated 4th October, 2016 and 20th August, 2014 issued by Respondent No.2 (University of Mumbai).

3 The brief facts giving rise to the present Writ Petition are as under:-

- (a) The Petitioner has completed his schooling from Neerja Modi School Mansarovar, Jaipur, Rajasthan. This institution is affiliated to the International Baccalaureate Organization Geneva, Switzerland (for short “IB”). The Petitioner has accordingly, obtained a Character Certificate, Official Transcript, and a Transfer Certificate along with a Migration

Certificate certifying that the Petitioner was their student and he was appearing as a candidate for the IB Diploma program. Since the results of the IB Diploma are declared late in comparison to the admissions granted by the normal colleges that are affiliated to the Mumbai University, the Petitioner received from his school a predictive score to secure admission in the State of Maharashtra for admission to Bachelor of Management Studies (B.M.S.). Accordingly, the Petitioner made an application to Respondent No.1 - College as they were accredited and recognized by Respondent No.2 for the said degree course. Accordingly, Respondent No.2 - University, by its letter dated 11th June, 2014 informed the Petitioner that the Petitioner has been *prima facie* considered eligible for admission to the first year B.M.S. Degree course for the academic year 2014-15 subject to the condition that he must pass the IB Diploma as shown in the predicted mark-sheet. The Petitioner was, therefore, requested to contact the concerned college which is affiliated to Respondent No.2 for obtaining provisional statement of eligibility as well as admission. Thereafter, a circular dated 20th August, 2014 was issued by Respondent No.2 wherein it was resolved that all students registered for the IB Diploma program with core requirements

and awarded a minimum of 24 points would be considered for determining the eligibility. In other words, if a student secured less than 24 points, he/she would not be considered to be eligible.

- (b) Be that as it may, on the basis of the predictive scores that were submitted by the Petitioner, Respondent No.1 - College granted admission to the Petitioner on the payment of Rs.22,975/-. It is the case of the Petitioner that this admission was not a provisional one, but was in fact an un-provisional admission. Thereafter, the Petitioner received his final IB Diploma Certificate on 1st August, 2014 which was then submitted to Respondent No.1. It is the case of the Petitioner that he has appeared for four consecutive semesters for the said course from the year 2014-15 and 2015-16 and has been issued mark-sheets for each semester wherein he has secured good grades.
- (c) It is in these circumstances that the Petitioner was surprised to note that by a letter dated 4th October, 2016 Respondent No.2 informed the Principal of Respondent No.1 - College that as per the documents submitted by the it on 3rd October, 2016 and after verifying the same, the Petitioner was not eligible for admission to the said degree course. The

College, therefore, was directed to inform the Petitioner accordingly. It is in these circumstances that the Petitioner is before us in our writ jurisdiction under Article 226 of the Constitution of India challenging the cancellation of his admission as well as the circular dated 20th August, 2014.

4. In this factual backdrop, Ms Purvi Shah appearing on behalf of the Petitioner contended that the circulars dated 20th August, 2014 as well as 4th October, 2016, for cancellation of admission of the Petitioner is misconceived, bad-in-law and untenable. She submitted that if Respondent No.1 had not given confirmed admission to him, he would have sat for IB Diploma examinations once again to get the relevant scores which in all takes six months without wasting his crucial two years of educational life. She submitted that if at this juncture, the Petitioner was declared in-eligible for the said course it will have impact on his entire career as he will be not considered for any prospective employment by the employers as he will be considered as unfit due to the inadvertent mistake of Respondent Nos.1 and 2. She submitted that the admission of the Petitioner was not provisional as can be seen from the

receipt that has been issued by first Respondent No.1 – College whilst accepting his fees. She ,therefore, submitted that the cancellation of the Petitioner's admission is wholly untenable in law and ought to be set aside and the Petitioner be allowed to appear for the last year B.M.S. exams and thereafter continue the course.

5 We have perused the papers and proceedings in the Writ Petition as well as the annexures thereto. On carefully going through the documents that have been annexed to the Petition, we are unable to agree with the submissions of Ms Shah. It is not in dispute that in the final marksheet of the IB Diploma program, the Petitioner secured only 15 points. This is clear from page 40 of the paper-book. Before this result was declared, the University of Mumbai had granted permission to the Petitioner to seek an admission in the first year B.M.S. Course on the condition that he must have fully passed in the IB Diploma as shown in the predictive marksheet. This itself would go to show that the admission secured by the Petitioner was a provisional one and/or conditional. We, therefore, find no merit in the argument of

Ms Shah that the admission secured by the Petitioner was complete and/or non-provisional, and therefore, could not be cancelled. What is pertinent to note is that the circular dated 20th August, 2014 categorically states that the student who is passing out from the IB Diploma program, has to secure a minimum of 24 points to be considered eligible for admission to any college affiliated with 2nd Respondent University. Admittedly, the Petitioner has not secured the minimum required 24 points, but has secured only 15 points, as can be seen from the mark-sheet issued on 1st August, 2014. We, therefore, find that the grievance made by the Petitioner in this Writ Petition is wholly misconceived. The Petitioner has not secured the required marks, to be eligible for the B.M.S. Course, and therefore, we find nothing wrong in his admission being cancelled.

6 Though the said circular dated 20th August, 2014 has been impugned in this Writ Petition, we find absolutely no ground in the Writ Petition for impugning the said circular. The University has laid down certain minimum criteria for admitting a student that comes from an I.B.

Diploma, and wants admission to any college affiliated to the University of India. On going through the said circular, we do not find that it is, in any way, perverse and/or contrary to law, requiring our interference in writ jurisdiction under Article 226 of the Constitution of India. In fact, when the matter was argued by Ms Shah, she fairly did not even canvass any argument impugning the said circular dated 20th August, 2014.

7 In view of the foregoing discussions, we find no merit in this Writ Petition. It is, accordingly, dismissed. However, in the facts and circumstances of the case, we leave the parties to bear their own costs. In view of disposal of the Writ Petition, nothing survives in the Civil Application and the same is disposed of accordingly.

(B.P.COLABAWALLA J.) (SHANTANU S. KEMKAR J.)