

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

WRIT PETITION NO. 12668 OF 2017

Nikhil S/o Prakash Aher

... Petitioner

VERSUS

State of Maharashtra & Ors.

... Respondents

.....
Shri. G. A. Tambe, Advocate h/f Mr S. R. Bodade, Advocate for the
petitioner

Mr K. N. Lokhande, AGP for respondent/State
Mr M. N. Navandar, Advocate for respondent No. 2 and 3
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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATE : 12TH APRIL, 2018.

ORDER:

1. The learned counsel for the petitioner submits that, respondents No. 2 and 3 be directed to re-assess second time BOT-245 subject paper of the petitioner for 4th semester examination. According to Shri. G. A. Tambe, the learned counsel for the petitioner, the respondent has not allotted proper marks to the petitioner in the paper of BOT-245 subject. The petitioner had attempted the questions and answered correctly. Question No. 2 was

in two parts 2(i) & 2(ii). The marks are allotted only to question No. 2(i) and no marks are allotted to question No. 2(ii) though the same is attempted and the answer is correct. According to the learned counsel, the petitioner is not being given fair treatment by the respondents. Even in practical, the lowest marks are given to the petitioner. According to the learned counsel, the career of the petitioner is in jeopardy and the respondents be directed to re-assess the answer paper of the petitioner for the aforesaid subject, that would eradicate the suspicion and doubts. The respondents cannot be allowed to play with the career of the students. The learned counsel further submits that, question no. 3 is divided into A, B & C and proper marks are also not allotted to it. There would be no impediment for the respondents to re-assess the answer paper.

2. Mr Navandar, the learned counsel for respondent No. 2 submits that, the answer paper has been assessed. The marks have been given to each and every question attempted by the petitioner. The learned counsel submits that, the original answer paper is produced along with the affidavit. There is no illegality committed in assessing the answer paper. The petitioner had applied for re-evaluation of the theory paper course No. BOT-245 and after re-evaluation, three marks came to be increased from 37 to 40. The

petitioner had secured total 82 marks in the Semester End Examination of BOT-245 subject. The re-evaluation process is carried out by appointing subject teachers as evaluators at University Level. There are no *mala fides* on the part of the respondents.

3. We have considered the submissions canvassed by the learned counsel for the respective parties.

4. The answer paper is assessed by the experts in that particular faculty. The court is not an expert to judge the merits of the answers. The marks are given by the examiner upon his subjective satisfaction based on objective assessment of the answers. For Court, the answers would be all *greek and latin*. There are no *mala fides* as against examiner who has assessed the answer paper. The marks have been allotted to the answers attempted. Whether the marks allotted are less or not cannot be within the domain of this court as, the court is not an expert in that field. Once the marks are allotted by the examiner and the reevaluation is also done, it would not be within the realm of the court to consider the assessment made of the answer sheet.

5. The answer sheet is produced on record. The marks have been allotted by the examiner. It will not be possible for this Court to entertain the grievance of the petitioner. The writ petition is as such disposed of. No costs.

[A. M. DHAVAL]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Punde