

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
W.P. NO. 4202 OF 2017
WITH
CIVIL APPLICATION NO. 1744 OF 2018
IN
W.P.NO. 4202 OF 2017**

Kumar Ravindra Virendra .. Petitioner

Vs.

VPM'S Thane Municipal Corporation
Law College and Ors. .. Respondents

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Mr. Gaurav Bhawnani with Kranti L.C. and Sangram
Chinnappa Advocate for Petitioner

Mr. Manoj J.Bhatt Adv. for Respondent No.1
Ms. Rimi Jain I/b R.A. Rodrigues for Respondent - University

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**CORAM : B.R.GAVAI AND
M.S.KARNIK, JJ.**

DATED : OCTOBER 17, 2018

ORAL JUDGMENT [PER B.R.GAVAI, J.]:

1 Rule. Rule made returnable forthwith. Heard finally by consent of parties.

2 The Petitioner has approached this Court being aggrieved by the order dated 24.3.2017 vide which the

Respondent No.1 has cancelled the admission of the Petitioner for post-graduation i.e. 1st Year LL.B. Course. The Petitioner after passing his Bachelor of Arts Examination, had applied for admission to LL.B. Course. After he cleared the Central Entrance Test (CET), he was allotted to the Respondent No.1 – college. However, it appears that as per the directions issued by the Respondent No.2 – University, since the Petitioner had secured 42.4% of the marks in third year of his Graduation, his admission came to be canceled. Being aggrieved thereby, the present petition has been filed.

3 It appears that the admission is canceled on the ground that as per the relevant Rules of Respondent No.2 – University, candidates should have obtained minimum 45% of the marks in the last year of his graduation examination. It appears that the Petitioner had secured 42.4% of the marks in the third year of his graduation. However, the Petitioner has secured 56.83% of the marks in first year, 55.83% of the marks in the second year of graduation. Thus, the average of the Petitioner's marks comes to 51.68%.

4 The Division Bench of this Court had an occasion to consider the said issue. It will be relevant to refer to the following observations of the Division Bench in its order dated 27.9.2018 in Writ Petition No. 10781 of 2018, which read thus:

“Perusal of the said Rule would reveal that in order to secure an admission in the first year LLB Course, a candidate should be graduate and/or post-graduate in any faculty, discipline of knowledge of any University in Maharashtra or institution and an open category candidate must have scored minimum 45% marks in aggregate. This is further clarified by stipulating that 45% marks for all the parts of the degree examinations taken together. The requirement prescribed is of 40% marks in case of candidates belonging to SC and ST category.”

5 It will be further relevant to refer to the following observations of the Division Bench:

“The rules aims to fix the minimum level inform 45% of marks and the marks are to be counted

by taking into consideration the aggregate score of the candidate throughout his degree course which includes first, second and third year of a degree course. If this is the object which the Rule seeks to achieve, we fail to understand the reasoning of Respondent no.2 in holding the Petitioner ineligible only on the ground that in the new course of the Bombay University, a class / degree is to be awarded a candidate only on the basis of the marks in the final year examination. We see no logical justification in the said restriction and therefore we are inclined to allow the Writ Petition.”

6 The facts in the present case are almost identical. The admission of the Petitioner is denied only on the ground that he has secured less than 45% of marks in the final year examination. However, if the average of the marks of the Petitioner for all the three years of degree examination is taken together, it comes to above 45% of marks i.e. 51.68%.

7 In the result, the petition is allowed. The impugned order is quashed and set aside.

8 The Respondents are directed to admit the Petitioner and regularize his admission for LLB Course.

9 Rule is made absolute in above terms with no order as to costs.

10 Civil Application No. 1744 of 2018 does not survive and is disposed of accordingly.

M.S.KARNIK, J.

B.R.GAVAI, J.

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