

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

WRIT PETITION NO. 6901 OF 2018

Ankit Arunkumar Sharma

... Petitioner

Vs

1 Maharashtra State Board of Secondary
and Higher Secondary & Ors.

... Respondents

Mr. S.P. Dighe for the Petitioner.

Mr. Anuj Jaiswal i/b Little & Co. for the Respondent No.1.

Mr. Shailesh Chavan for the Respondent No.2.

Mr. S.B. Kalel, AGP, for the Respondent-State.

**CORAM : S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

MONDAY, 09TH JULY, 2018

P.C. :

1 The petitioner appeared for the HSC Examination in February, 2016. The results were published in the month of June, 2016 and the petitioner secured 363 marks out of 650. That is 55.85%. That is taken to be enough to clear this examination. In other words, the petitioner is a candidate who has passed or cleared his examination.

2 Since the petitioner was desirous of prosecuting further studies, he was advised to re-appear for the examination so as to improve his performance. He did that and again gave a re-examination of the same course (HSC) in February, 2017. That his appearance at this examination is undisputed and that is clarified by the mark-sheet copy of which is Exhibit-B. In that examination the petitioner secured 69.54% marks, namely, 452 out of 650. That this is both a clearing of the examination and a better result therefore follows and in the hope that the petitioner can obtain these mark-sheets to be supplied to the competent authority so that he can then pursue his dream of higher studies, resulted in the petitioner making an application to supply him with the mark-sheet.

3 Respondent No.1 (Board) intimated by the impugned letter that as per the Rules and Regulations it cannot supply the mark-sheets. There is a delay of six months. There are no provisions by which that can be condoned.

4 The net result of all this is that though the petitioner has appeared for a Common Entrance Test for the courses (Undergraduate) in the State of Maharashtra, in the absence of these mark-sheets he may not be able to fulfill his dream. That is how this petition.

5 An affidavit-in-reply has been filed on behalf of the Board affirmed by the Divisional Secretary and it reiterates the stand taken by it in the impugned letter dated 31st May, 2018. However, the Board says that in consultation with the Standing Committee and the State Government, Notification No.4218 dated 5th June, 2008, it implemented the Class Improvement Scheme. The option to improve the performance and obtain better class is thus the hallmark of this Scheme. Once that is allowed, then, the Board prescribed fees / charges for release of the result of this class improvement. The fees / charges are approved by the Board through its Standing Committee on 3rd November, 2012. The explanation in paragraph 5 is that the delay can be condoned only upto the period of six months and not beyond the same.

6 Then, the powers to make such Scheme and Regulations are enumerated but we have no dispute nor the petitioner doubting the same.

7 It is only because the Board, according to the petitioner, has taken a rigid stand that this writ petition has been necessitated.

8 We have perused the Regulations carefully. The Board says it does not have the power to release the improved mark-sheet or make any modification to the mark-sheet after the period of six months. In that the Resolution of the Standing Committee dated 3rd November, 2012 is reiterated.

9 On a perusal of these documents and which are annexures to this affidavit-in-reply, we do not see how the Board in the peculiar facts and circumstances can rely on the stipulation of six months for we find that the Board allows a class improvement. The very purpose of the Scheme is to improve the performance or give an opportunity to the student to improve it at least. That he can therefore, better his performance in the

earlier attempt and the result of such better performance also has to be communicated to him is apparent from a reading of this scheme. If that is the purpose and object sought to be achieved, then, merely because more than six months have elapsed, the Board could not have refused the request. It could have relied upon its wider powers so that the results can be obtained. The Board can never derive any pleasure in retaining the mark-sheets. There is no request made to alter that mark-sheet or make any change or modification therein. It was to provide the mark-sheet as it is and which contains the result of the subsequent appearance at the class improvement or the attempt to class improvement.

10 If such is the request made, then, in the facts and circumstances of this case, we direct the Board to provide the petitioner with his mark-sheets. If the petitioner pays to the Board a sum of Rs.1,000/-, then, the results as contained in the mark-sheets and the mark-sheet themselves be provided to him.

11 We clarify that the Board shall not be bound in every case in future to release the mark sheets and contrary to the

Regulations. Since the petitioner has opted to go by the appearance under the Class Improvement Scheme, the petitioner would be entitled to obtain the mark-sheets of this attempt which show that the petitioner has secured 69.54% marks. The petitioner must return the earlier mark-sheet or the old mark-sheet provided to him in relation to his appearance at the February / March, 2016 Examination.

12 The Writ Petition is disposed of in these terms.

SMT. BHARATI H. DANGRE, J.

S.C. DHARMADHIKARI, J.