

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L.) NO. 3587 OF 2018

Bhakti Subhash Achrekar .. Petitioner
Vs.
State of Maharashtra & Ors. .. Respondents

Ms.Sonal along with Mr.Harshad S. Achrekar and Mr.Amar Mishra for petitioner.

Ms.Jyoti Chavan, AGP for respondent Nos.1 and 5.

**CORAM : B.R. GAVAI &
M.S. KARNIK, JJ.
DATE : 24TH OCTOBER 2018**

ORAL JUDGMENT (PER B.R. GAVAI, J.) :

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

2 The facts in the present petition are similar to the facts involved in Writ Petition No.10363 of 2018 decided by this Court on 9th October 2018.

3 Based on the marks obtained by the petitioner in CET Examination, respondent No.5-college has given provisional admission to the petitioner. However, it appears that in the CET Examination Form, the petitioner has entered '82.29 Percent' as marks obtained in the last year of her Graduation course. However, respondent No.2 noticed the fact that the average marks secured by the petitioner in the three years of Graduation course were '78.65 percent'. On this ground, the admission of the petitioner has been

cancelled by respondent No.2.

4 The issue is no more *res-integra*. In Writ Petition No.10363 of 2018, we have observed that on account of disparity in the procedure followed in different universities on the issue as to which marks are to be taken into consideration as the marks obtained in the Graduation, whether the marks obtained only in the final year or average of the marks secured in all the years, the students are suffering unnecessarily. In some Universities, marks obtained only in the last year are considered as marks obtained in the Graduation and some of the Universities consider the average of the marks obtained in all the years examinations, as marks while granting a degree. In the present case, petitioner is belonging from OBC category and no other candidate from the merit list is going to be affected by the admission of the petitioner. We are also informed that no prejudice will be caused to any of the candidate, if the Petition is allowed.

5 We are of the considered view that hyper-technical approach should not be adopted while giving admission to the students to various courses and one uniform mechanism needs to be followed for the procedure of admission. The instructions for admission should be more clear to avoid any confusion to the students.

6 In view of above, we are inclined to allow the petition. The petition is allowed. Respondents are directed to regularize the admission of the petitioner for the first year LL.B. Course.

We find it appropriate that at least in all the Universities, which are under the control of State of Maharashtra, there should be some uniform practice as to whether the average marks are to be considered or as to whether only marks obtained in the final year are to be considered as marks obtained in a Graduation, so that such unnecessary situations are avoided.

7 We also expect the respondent No.2, not to act in a hyper-technical manner and deny the admission to the meritorious candidates only on the ground of inadvertent error committed by them while entering the marks in the Graduation

8 Rule is accordingly made absolute in the above terms.

(M.S. KARNIK, J.)

(B.R. GAVAI, J.)