

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

40 WRIT PETITION NO.9344 OF 2018

SWATI SANTOSH NHASADE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. S. R. Choukidar h/f Mr. V. S. Panpatte,
Advocate for the Petitioner.

Mrs. G. L. Deshpande, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
A. M. DHAVALA, JJ.**

DATED : 28th JANUARY, 2019.

PER COURT:-

1. The petitioner seeks benefit of grace marks as per the scheme laid down under the decision of respondents dated 24.07.2018.

2. Mr. Choukidar, learned counsel submits that the petitioner had appeared for the Summer-2018 Examination. In the subject of Fluid Mechanics-I, the petitioner secured 33 marks. The result was declared in June-2018. The petitioner again appeared for re-examination in June-2018. However, could secure less marks than that was secured in the Summer-2018 Examination. The petitioner had secured 33 marks in Fluid Mechanics-I for Summer-2018 Examination. In re-examination

the petitioner secured 23 marks. As per the scheme of grace marks under notice dated 24.07.2018, the petitioner is entitled for 12 grace marks either every quarter or at once. The same be made also applicable for Summer-2018 Examination. Within one month the re-examination was held and almost simultaneously after, the results of Summer-2018 Examination were declared. The learned counsel submits that there is no propriety in not applying the said scheme to Summer-2018 Examination.

3. The learned counsel submits that subsequently now the petitioner has also cleared Fluid Mechanics-I subject of the second year. The petitioner has also appeared for first semester of fourth year and has cleared. Under the orders of this Court dated 13.08.2018, the petitioner was allowed to attend the classes. The petitioner attended the classes. Thereafter, appeared for the first semester of fourth year and has cleared the same. The benefit of the same be accorded to the petitioner.

4. The learned A.G.P. submits that notice dated 24.07.2018 is not applicable to the petitioner.

5. The Rules under the notice dated 24.07.2018 specifically states that the same is applicable from re-examination 2018 Examination.

There are no other Rules apart from the Rules under notice dated 24.07.2018 as applicable to the petitioner. The Rules have come into effect for the purpose of re-examination 2018 examination. If the Rules do not permit applicability of it to Summer-2018 examination, it will not be possible for this Court to direct against Rules. The Rules will have to be abided and followed.

6. The notice dated 24.07.2018 categorically states that decisions have been taken in the eighth meeting of academic council convened on July 21; 2018 that these Rules are applicable from Re-exam 2018 examination. In view of that the arguments of the learned counsel for the petitioner that the same be made applicable for Summer-2018 examination cannot be upheld and needs to be discarded.

7. Under the orders of this Court dated 13.08.2018, the petitioner was allowed to attend the classes. It appears that the petitioner was allowed to appear for first semester of fourth year examination also and as contended by the petitioner, the petitioner has cleared the first semester of fourth year examination.

8. It is for respondents to consider the case of the petitioner as far as the eligibility of the

petitioner is concerned for appearing in first semester of fourth year examination. Of course, if they have powers to do so and if it is permissible as per Rules.

9. In case it is permissible for respondents as per Rules and the policy to consider the case of the petitioner, then the respondents shall consider the case of the petitioner considering the order dated 13.08.2018 of permitting the petitioner to attend the classes.

10. If such a representation is given by the petitioner, the respondents shall take decision upon it within a period of one month from the date of representation.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE