

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

WRIT PETITION NO. 11015 OF 2019

Shifa Anjum Shaikh Haji

.. Petitioner

Versus

The State of Maharashtra and others

.. Respondents

Shri S. B. Bhosale, Advocate h/f Shri V. V. Ingale, Advocate for the Petitioner.

Shri S. B. Narwade, A.G.P. for the Respondent No. 1.

Shri S. G. Karlekar, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
ANIL S. KILOR, JJ.**

DATE : 18TH SEPTEMBER, 2019.

FINAL ORDER :

. Mr. Bhosale, the learned advocate for the petitioner submits that, the petitioner has cleared 12th standard examination in March-April 2018 and has appeared for the NEET examination in the year 2019. In the brochure the condition is provided that the candidate must have passed the subjects of Physics, Chemistry, Biology and English individually and must have obtained a minimum of fifty per cent marks taken together in Physics, Chemistry and Biology at the qualifying examination. The petitioner has secured 47.10% marks in Physics, Chemistry and Biology. According to the learned

counsel, untill the admission process of 2018-2019 such a condition was not incorporated. The petitioner has passed 12th examination in March-April 2018. Said condition would not apply to the petitioner.

2. Mr. Karlekar, the learned counsel for the respondent No. 3 submits that, the condition is incorporated pursuant to the notification dated 14th December, 2018 amending the Homeopathy (Degree Course) Regulation 1983.

3. The homeopathy (Degree Course) Regulation 1983 have a statutory force. The amendment is incorporated in the Regulation of 1983 under notification dated 14th December, 2018. It is submitted that, said regulations are also published in official Gazette pursuant to which the brochure is published in February 2019 incorporating the said condition. The amendment to regulation No. 4 reads thus :

2. In the Homeopathy (Degree Course) Regulations, 1983 (hereinafter referred to as the said regulations), in regulation 4.-

(a) in sub-regulation (I), the following proviso shall be inserted, namely :-
"Provided that -

(I) the candidate must have passed in the subjects of Physics, Chemistry, Biology and English individually and must have obtained a minimum of fifty per cent, marks taken together in Physics, Chemistry and Biology at the qualifying examination mentioned above

for unreserved candidates and forty per cent marks in respect of the Scheduled Caste, Scheduled Tribe and Other Backward Classes:"

4. It cannot be said that, the regulation is applied with a retrospective effect. The regulation is already published in December 2018 laying down the condition for admission to homeopathy course commencing from the academic year 2019-2020. Only because the petitioner has passed 12th Standard examination in March-April 2018, she cannot claim that said amendment is applied retrospectively. The petitioner was having the knowledge of the regulations. The petitioner could have applied for improvement, but the petitioner choose not to apply for improvement of 12th standard course.

5. Even otherwise, the Regulations of 1983 are not subject matter of challenge in the present writ petition. In absence thereof on that count also the grievance of the petitioner need not be considered.

6. In view of the above, the writ petition is disposed of. No costs.

[ANIL S. KILOR, J.]

[S. V. GANGAPURWALA, J.]