

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5229 OF 2019**

Bhavana Ahire

...Petitioner

Versus

Mathurabai Thorat Dental College & Institution
Amrutnagar Koliwadi & Anr

...Respondents

Mr M Desai, *with Vijendra Mishra, for the Petitioner.*
Mr RV Govilkar, *for Respondent No. 2.*

**CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ**
DATED: 7th June 2019

PC:-

1. Mentioned. Not on board. Urgency made out.
2. The Petitioner has not fulfilled the criteria of passing the examinations so as to qualify for a Bachelors' degree in Dental Surgery.
3. The Petitioner is not allowed to take an examination in the 4th year and which is stated to be commencing from 11th June 2019

on the ground that the first three years have not been cleared within the period specified in the Rules.

4. The argument is that this is an amended Rule and would not apply to the Petitioner. Applying it would contravene the mandate of Article 14 of the Constitution of India.

5. We are not impressed by this argument for more than one reason. Firstly, this is a purely academic matter. An academic body which is comprising of experts in the field has devised a mechanism whereby a student enrolled for this course has to clear it within a outer time limit failing which he is not entitled to the Bachelors degree or held to be fit for conferring such a degree. Unless such a decision of experts devised by them for qualifying oneself for appearing at a professional exam is palpably arbitrary or mala fide, the Writ Court does not interfered therein.

6. Secondly, we find that the Petitioner cannot build an argument on the principle of retrospectivity. It is not a question of retrospective effect but a question of upholding academic standards.

The merit and academic standards cannot be diluted for the benefit of one student who has not been able to clear the first three years of this course even after being admitted in it in the year 2010-2011. We are in 2019. Allowing such a student to now take the examination for the 4th year would mean this court interferes with the policy decision although it is not found to be arbitrary and mala fide. Further, that policy upholds merit and the academic standards set for the degree. The Petitioner cannot say that being admitted prior to the Rule being brought into force that rule has no application to her. That means no time limit applies. It means that she is entitled to complete the course at her own will and in her own way irrespective of how many years this might take. Admittedly, she was undergoing studies when the Rule came in to effect. She had not completed her last year for the degree course when the Rule was brought into force. She was but in the 3rd year, and also could not complete it in the required limit set by the Rules. Hence, for advancing to a higher academic year she was admittedly not eligible. The Rule caught up with her and it must catch up. We do not think

that any argument of arbitrariness or inequality much less discrimination can be upheld given these facts and circumstances.

7. In fact the communication from the Dental Council of India, a copy of which is at page 22 of the paper book, is the background of the Rules. That Rule is plain and simple. It says that if a student does not complete the BDS course in all the subjects within nine years, including one year compulsory rotatory residential internship from the date of admission, that student shall be discharged from the course.

8. We do not think that the nine-year period prescribed is in any way unreasonable or unfair or militates against any academic standards already set. The Petitioner has by this Petition intends to stretch the admission granted to her beyond the period of nine years and we do not think we should permit this.

9. The Petition is devoid of merits and it is dismissed.

(G. S. PATEL, J)

(S. C. DHARMADHIKARI, J)