

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

WRIT PETITION NO. 5449 OF 2017

Priscilla Rebecca Rodrigues, Age 33]
years, Indian inhabitant residing at A-303,]
Goodwill Gardens, Sector 8, Kharghar, Navi]..
Mumbai, Dist. : Thane-410210] **Petitioner**

Versus

1. **The Registrar, University of Mumbai**,]
having its office at University Building,]
M.G. Road, Fort Campus Fort,]
Mumbai 400 032.]
2. **The Controller of Examination**,]
University of Mumbai, Examination]
Section, M.J. Phule Bhavan, 1st Floor, Room]
No. 36, Vidyanagari Kalina Campus, Santacruz]
(East), Mumbai 400 098.]
3. **The Principal, Mahatma Gandhi Mission's**]
Law College, Sector 8, Phase-II, Nerul,]..
Navi Mumbai – 400 706] **Respondents**

Mr. Manoj Shirsat a/w. Mr. Abhay Wadhwa I/b Saliyar Mogili for petitioner.
Mr. Rui Rodrigues, for respondent No.1.

**CORAM : R. M. BORDE &
N.J. JAMADAR, JJ.**

DATE : 26TH JULY 2019

ORAL JUDGMENT (PER R.M. BORDE, J.) :

1. Rule. Rule made returnable forthwith and, with the consent of the learned counsels for the parties, the petition is taken up for final disposal at the admission stage.

2. The petitioner, after securing the degree of Bachelor of Commerce, got herself admitted for the three years' LL.B. decree course in the respondent No.3-Mahatma Gandhi Mission's Law College, Navi Mumbai during the academic year 2015-2016. According to the petitioner, she appeared for the 1st Semester of the first year LL.B. examination and was declared to have passed the said examination. The petitioner appeared for the 2nd Semester of the first year examination conducted in May-2016. According to the petitioner, though she appeared for the theory and practical-I examinations, the result of the petitioner for the first year's 2nd Semester was not declared by the respondent No.1-University along with the other students. According to the petitioner, she had cleared the practical-I and the theory papers. However, because of the lapses on the part of the respondent No.3-College in forwarding the marks secured by the petitioner in the practical and theory examinations to the University, the University took step of withholding the 2nd Semester's result of the petitioner. The petitioner continued to enquire and took instructions in the same college

and appeared for the 3rd Semester of second year LL.B. examinations. However, the results of the second year's 3rd Semester examination was withheld for the reasons known to the University. The petitioner was also permitted to appear for the 2nd year's 4th Semester, so also 3rd year's 5th and 6th Semester of the LL.B. examination. The results of the 4th, 5th and 6th Semester examinations were declared by the University and the petitioner was stated to have passed in the theory as well as in practical examinations. As a result of the action of the University of withholding the result of May 2016, first years' 2nd Semester examination, as well as the second year's 3rd semester examination, the petitioner could not secure the LL.B. degree and, resultantly, could not apply for registration with the Bar Council as an Advocate.

3. The reasons assigned for the failure of the University to declare the results for the first year's 2nd Semester examination conducted in May 2016 is attributable to the lapses on the part of the respondent No.3-College in transmitting the details of the marks secured by the petitioner in practical examinations. It is the contention of the University that the list tendered by the respondent No.3-College to the University containing the marks of the students shows the petitioner's marks as blank. The concerned college transmitted the communication on 3rd

August 2016 requesting the University to condone the delay in submitting marks of five students. It is contended that the delay in transmitting the marks within the prescribed time frame is attributable to the staff members of the college who negligently missed to mention the names of the students and the disciplinary action has already been taken against the members of the staff, who are responsible in committing the lapses. So far as the petitioner is concerned, it is informed by the College that she has secured 45 marks in practical examination.

4. The University, however, did not consider the request of the college and, vide communication dated 20th December 2016, proceeded to inform the concerned college that the request of the law college declaring the results of the students cannot be considered favourably and the same has been rejected.

5. The petitioner, relying on a Regulation 4439 framed by the University contends that the University ought not have been taken action of withholding the results of the examinations of the students on account of the lapses attributable to the Law College. Regulation 4439 framed by the University reads thus :-

R 4439 : *No candidate will be admitted to and allow to appear at the Examinations to be conducted at the end of the Second, Fourth and Sixth Semester of 3 year LL.B. Course and of Sixth, Eighth and Tenth Semester of 5 years LL.B. Course, unless he has successfully passed the Examination in 'Practical Training Paper/s' for the respective Semesters to be conducted by the respective Colleges affiliated to the University of Mumbai on behalf of the University, with minimum of 40% of the Marks."*

6. The learned counsel appearing for the University submits that it is obligatory for the concerned Law College to communicate the marks secured by the students in the Practical examinations within the time frame prescribed by the University and, in any case, before the declaration of the results of the theory papers in order to avoid any manipulation in recording the marks.

7. In the instant petition, considering the marks secured by the petitioner in the theory as well as practical examinations, there does not appear any room for drawing an inference that such contingency exist. It is merely because the delay caused by the concerned law college in informing the marks secured by the students in practical examination to the University the result of the petitioner has not been declared. Apart from this, there was absolutely no reason for the University to withhold the results of the 2nd Semester and 3rd Semester and proceed to declare the results of 4th , 5th and 6th Semester examinations. In the instant

matter, if the petitioner was permitted to appear for the 4th , 5th and 6th Semester examinations and the University has even proceeded to declare results of the said examinations, there was absolutely no logical reason to withhold the results of the first year's 2nd and Second year's 3rd Semester examinations.

8. In the circumstances, according to us, the lapses committed by the concerned college which are not attributable to the student, shall not be a cause to penalize the student. We, therefore, direct the respondent-University to declare the results of the petitioner of the first year's 2nd Semester and the Second year's 3rd Semester examinations forthwith.

9. It is noticed by us that in spite of service of summons, the respondent No.3-College has not caused appearance in the matter. The negligence of the College in not responding to the notice of the Court and refusing to co-operate with the Court in the matter of administration of justice is required to be taken note. The petitioner in the instant matter, has been put to prejudice on account of lapses committed by the respondent no.3-college. In the circumstances, as recorded above, we deem it appropriate to penalize the respondent No.3 by directing it to deposit a sum of Rs. 50,000/- as costs. An amount of Rs.25,000/- be deposited with the University within a period of four

weeks from today. Whereas, the balance amount of Rs.25,000/- be paid to the petitioner-student within the time stipulated as above.

10. The University shall proceed to declare the results of the petitioner for the first year's 2nd Semester as well as the second year's 3rd Semester LL.B. examinations and also release the mark-sheets of the 4th, 5th and 6th Semester forthwith.

11. Rule is accordingly made absolute. However, there shall be no order as to costs.

[N.J. JAMADAR, J.]

[R.M. BORDE, J.]