

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9840 OF 2014

Amol N. Shinde & Others	 Petitioners
Vs.	
University of Pune & Others	 Respondents

Mr. Amol N. Shinde, Petitioner in-person, present.
Mr. Rajendra Anbhule for Respondent No.1.
Mr. Abhijeet A. Joshi for Respondent No.2.
Mr. Rui Rodrigues for Respondent No.3.
Mr. N.D. Sharma for Respondent No.4-UoI.
Mr. Rupesh K. Bobade with Mr. Amit Borkar for
Respondent No.7.
Mr. S.S. Panchpor, AGP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
M.S. KARNIK, JJ.

DATE : MARCH 06, 2019

P.C:

1. By this petition, the petitioners are challenging a policy decision that is taken by Savitribai Phule Pune University.
2. That decision is that, those who have educated themselves not through regular channels and modes but

Distance Learning Mode or from Open Universities would not be eligible to seek admissions to the regular courses and particularly the courses in Technology.

3. Now, in the affidavit that is filed by the Pune University, it is categorically stated that Section 65 of The Maharashtra Universities Act, 1994 permits the University to frame rules governing the conditions for admission to all courses. That power is unchallenged. In exercise of the powers vested in this University and by this law, it has prescribed conditions of eligibility and qualification for admission to various courses. The question, therefore, of lack of authority or power does not arise at all.

4. Further, the Ministry of Human Resource Development, Government of India, by its letter dated 29-7-2009, annexed to the petition as Exhibit-E, directed the Vice-Chancellor and Chairman of Distance Education Council of Indira Gandhi National Open University that it should immediately withdraw the permission given to various

institutions to conduct B.Tech./B.E. programmes through Distance Mode and to ensure that no student should be admitted to these courses. It is in view of this direction by the Ministry of Human Resource Development that the Shivaji University was informed that no University should offer any B.Tech./B.E. programme through Distance Mode. Naturally therefore, when a public notice was issued by the University Grants Commission, the Pune University took a policy decision not to admit students to this course.

5. The petitioners before us claim that they have been qualified for admission prior to this letter of the Ministry of Human Resource Development. They claim to have graduated or passed the Open University Exams/Distance Learning Courses in the year 2007. Hence, they say, they should be held eligible for admission.

6. Firstly, such a claim is made in a petition filed in the year 2014. For seven long years the petitioners did not deem it fit and proper to claim any relief and when the University

prohibited them from seeking admission, they continued to, according to them, wage a battle against such a policy which, they feel, is discriminatory. However, once a policy decision is taken by experts and the two channels of education, namely, Regular Mode and Distance Learning Mode are not comparable, then, we do not see any reason to interfere in our writ jurisdiction. The petitioners do not possess vested right, much less any fundamental right to pursue higher courses of learning when not qualified to seek admission therein. The academic bodies have prescribed the qualifications and eligibility criteria which they are empowered by law to do so. They have chosen not to allow the Open University students to seek admissions to regular courses and which are very competitive. Wherever permission to appear for competitive examinations is granted even to these students, they have availed such opportunities by competing for the courses together with other students. At a competitive examination held at the all India level, depending upon their rank and success, on merit they have even been admitted to the courses. We do not see how High Court can

prescribe any such course to be adopted and whenever there is an opportunity for those admitted to Distance Learning Courses to seek admission, the benefit of such policies can be derived, may not be by the petitioners, but other students. We can look into the issues at their instance in the event despite such opportunities being provided they were not admitted, or not granted a permission, or a chance to seek admission. Today, in academic decisions taken by experts, in the absence of any proof of *mala fides* or arbitrariness, this Court should not interfere in its writ jurisdiction. The writ petition is entirely misconceived and is dismissed.

(M.S. KARNIK, J.)

(S.C. DHARMADHIKARI, J.)