

Sequeira

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

*WRIT PETITION NO. 9301 OF 2016  
Along with  
CIVIL APPLICATION NO.1212 OF 2017*

Nikhilkumar Vinodbhai Thakker .. Petitioner / Applicant  
Vs

Principal,  
Oriental College of Law and others .. Respondents

Nikhilkumar V.Thakker, Petitioner in-person.  
Mr.Vinay J.Bhanushali, for Respondent No.1.

*CORAM : PRADEEP NANDRAJOG, C.J. &  
N.M.JAMDAR, J.*

*Date : 9 July, 2019.*

*P.C. :*

1. We have heard the Petitioner who appears in person and learned counsel for the first Respondent.

2. The Petitioner was admitted to the first year of the three years LLB course by the first Respondent affiliated to Mumbai University. He cleared the first two semesters in the first year and thus was admitted at the second year in May 2016. He cleared the III semester and problem arose with the IV semester.

3. As per the University Rules only those students could be admitted to take the written examination who had cleared the practical examination before the written examination.

4. The Petitioner was issued a hall ticket to take the written examination. He took the written examination. Result was not declared on the reason that at the practical examination minimum, cut-off prescribed to be declared passed was 40 marks out of 100. The Petitioner had obtained only 37 marks.

5. With reference to a chat on the whatsapp group Petitioner claims that he was informed that he had obtained 37 marks out of 100 marks in the practical examination as under -

| <u>Sr. No.</u>         | <u>Particulars</u>            | <u>Mark obtained</u>    |
|------------------------|-------------------------------|-------------------------|
| 1.                     | <i>Practical written Exam</i> | <i>28/60</i>            |
| 2.                     | <i>Journal</i>                | <i>04/10</i>            |
| 3.                     | <i>Oral</i>                   | <i>05/10</i>            |
| 4.                     | <i>Legal Aid workshop</i>     | <i>Absent/10</i>        |
| 5.                     | <i>Court visit</i>            | <u><i>Absent/10</i></u> |
| <b><i>Total :-</i></b> |                               | <b><i>37/100</i></b>    |

6. According to the Petitioner he was not absent at the Legal Aid workshop and was not absent at Court visits. In a nutshell, case of the Petitioner is premised on two distinct submissions. First, having been issued the hall ticket to take the written

examination it is obvious that he had obtained the minimum cut off marks in the practical examination. The second is that he was not absent either at the Legal Aid workshop nor at Court visits.

7. A mistake can be committed by any person. Merely because the Petitioner was permitted to take the written examination for the IV semester does not mean that it is conclusive evidence of he having cleared the practical examination.

8. From the whatsApp messages the Petitioner wants the Court to believe that marks for practical paper were awarded on the five parameters as disclosed by the Petitioner and as noted above.

9. This is not permissible in law.

10. The Respondents stand is clear. Evaluation for clearing the practical examination was on two parameters : A written practical test having 60 marks and a *viva voce* having 40 marks. In the former the Petitioner obtained 28 marks and in the latter 9 marks. The total was 37 which is less than 40 marks.

11. Thus, the Petition is dismissed.

12. In view of dismissal of the Petition the Civil Application does not survive and thus stands disposed of.

***N.M.JAMDAR, J.***

***CHIEF JUSTICE***