

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

WRIT PETITION NO. 8185 OF 2019

Laxmi Mahendrapratap Yadav

... Petitioner

V/s.

Maharashtra State Board of
Secondary and Higher Secondary
Mumbai Division, Vashi & Ors.

... Respondents

Mr. S.P. Dighe for the Petitioner.
Mr. Kiran Gandhi a/w Mr. Akash Kothari I/b M/s. Little & Co. for the
Respondent No.1.
Ms. M.S. Shrivastava, AGP for Respondent/ State.

**CORAM : AKIL KURESHI, &
S.J.KATHAWALLA, JJ.**
DATE : 30th JULY, 2019

P.C.:

1. With the consent of learned Counsel for the parties, heard the petition for final disposal.
2. The petition is filed by a student whose request for providing a mark sheet pursuant to her attempt at improving her marks under Class Improvement Scheme in HSC science stream examination came to be rejected.
3. The Petitioner had appeared in HSC science stream

examination conducted by Maharashtra State Board of Secondary and Higher Secondary School for which mark sheet was issued in February 2014. The Petitioner was not satisfied with her result. The Board had formulated a scheme under which such a student would have another attempt for improving marks and depending upon the result of such second attempt, would choose to retain the original mark sheet or return the original mark sheet and opt for afresh mark sheet to be issued pursuant to the second attempt.

4. In the original result, the Petitioner had scored around 60% marks (390 out of total 650 marks). In the second attempt, she secured 412 marks out of total 650 marks, which comes to 68.38%. This result was declared in July 2015. The Petitioner applied for issuing mark sheet pursuant to the second attempt under a letter dated 22.03.2016, which was a communication forwarded by the Principal of her college to the Divisional Secretary, Maharashtra Secondary Board of Secondary and Higher Secondary Education. This communication was not responded by the Board. The Petitioner has therefore, filed this petition seeking direction to the Respondents to accept her option and to issue the mark sheet pursuant to the examination she undertook in February 2015. The Petitioner relies

on a Judgment of this Court dated 09.07.2018 in Writ Petition No. 6901 of 2018 in the matter of **Ankit Arunkumar Sharma v/s Maharashtra State Board of Secondary and Higher Secondary Education & Ors.**, in which under similar circumstances, appropriate directions for issuance of mark sheet were issued.

5. Learned Counsel for State Board submitted that the scheme envisages a period of 7 days for a student appearing for second time to exercise the option whether to retain the original mark sheet or to return the same and to secure the mark sheet pursuant to the second examination. In the present case, the Petitioner had applied after much delay. The Board was therefore, within its right not to issue the mark sheet.

6. Learned Counsel for the Petitioner, however, placed heavy reliance on the decision of this Court in case of Ankit Arunkumar Sharma (supra) and submitted that the application of the Petitioner ought to have been accepted. It was forwarded by the College of the Petitioner. The Board did not even respond to it. He further submitted that the Petitioner at relevant time was young student and was not aware about her legal rights. Only when the decision of this

Court in case of Ankit Arunkumar Sharma (supra) was published, the Petitioner sought advised and filed the present petition.

7. We do not see any impediment in issuing directions as prayed for. This Court in the case Ankit Arunkumar Sharma (supra) has observed as under:

“ 11. We clarify that the Board shall not be bound in every case in future to release the mark sheets and contrary to the Regulations. Since the petitioner has opted to go by the appearance under the Class Improvement Scheme, the petitioner would be entitled to obtain the mark sheets of this attempt which show that the petitioner has secured 69.54% marks. The Petitioner must return the earlier mark sheet or the old mark-sheet provided to him in relation to his appearance at the February/March 2016 examination.”

8. The Petitioner appeared second time and improved her performance in the relevant examination which was permitted as per scheme formulated by the State Board. There is no reason to deprive her of the fruits of her efforts.

9. Under the circumstances, the Respondents are directed to issue the mark sheet of the Petitioner in tune with the result of the

examination she undertook in February 2015 in the HCC science stream conducted by the Board. If the Petitioner makes an application to the Board with a cost of Rs.1000/- and returns the previous mark sheet of the examination of February 2014 within two weeks from today, fresh mark sheet may be issued within four weeks from the date of receipt of copy of such application.

10. Writ Petition is disposed of accordingly.

(S. J. KATHAWALLA, J.)

(AKIL KURESHI, J.)