

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

WRIT PETITION NO.5538 OF 2021

Atharv B. Shelkande

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mrs.Pranita P. Hingmire a/w Mr.Anukul B. Sethi for the petitioner.

Mr.N.C. Walimbe, AGP for the respondent nos.1 and 2-State.

Mr.Ravi Bharadhwaj a/w Mr.Hemant Kelkar a/w Mr.Deepak Pote i/by
Mr.Ajinkya M. Udane for the respondent no.3.

CORAM : R.D. DHANUKA

ABHAY AHUJA, JJ.

DATE : 24th November 2021

P.C.:-

. Rule. Learned AGP waives service for the respondent nos.1 and 2. Mr.Bharadhwaj, learned counsel waives service for the respondent no.3. By consent of parties, petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the e-mail dated 23rd May 2021 thereby cancelling the admission of the petitioner on the ground that the petitioner had not paid the outstanding academic fees of Rs.1,22,500/- till date and also on the ground that attendance was less than 75% and

continuous assessment was not completed for the academic year 2020-21. By the said e-mail, the petitioner was also informed that he may continue the course by taking fresh admission in next academic year 2021-22 and he will not be permitted to access any academic activity of the university in the academic year 2020-21 from the date of the said e-mail.

3. It is the case of the petitioner that the petitioner has paid the entire fees upto 5th semester. Payment receipt for the 5th semester is annexed at page 26 of the petition. In so far as the fees for 6th semester of 3rd year B.Tech. (Automobile) is concerned, admittedly the cheque in the sum of Rs.1,12,000/- issued by the petitioner in the name of the respondent no.3-university is dishonored for want of funds.

4. It is submitted by the learned counsel that in view of the said cheque having been dishonored, the respondent no.3 university stopped allowing the petitioner from attending the online lectures. However, the petitioner managed to attend classes for the first 10-15 days by sharing the links with other students who had paid fees for the 5th and 6th semester to the University.

5. The submission of the learned counsel is that none of these e-mails were received by the petitioner. The alleged e-mails had been sent to the e-mail id of the petitioner which had been dormant for the last one year. The petitioner came to know about cancellation of his admission for the first time when the State Government informed the Director of the respondent no.3-university and for appropriate action.

6. The petition is vehemently opposed by the respondent no.3 university by filing affidavit-in-reply and across the bar. Matter was adjourned on few occasions to enable the parties to settle the dispute amicably, however, the matter could not be settled.

7. Learned counsel for the university fairly invited our attention to the draft consent terms proposed to be entered into between the parties however did not materialise. Learned counsel, on instructions, states that even today, if the petitioner is ready and willing to pay balance fees of the 5th and 6th semester and undertakes to appear for continuous assessment/evaluation for the 5th semester of 3rd year B.Tech. within the timeline and in manner as prescribed by university, the respondent no.3 university is willing to accommodate the petitioner. On and upon successful completion of all pending exams of the 5th

semester, the petitioner shall be admitted to the 6th semester in terms with the Academic Calendar for the academic year 2021-22, which is starting January 2022 on the condition that the petitioner shall pay further fees on time and within the date prescribed from time to time, failing which the university shall be at liberty to take action in accordance with the rules with due notice to the petitioner.

8. Learned counsel further stated that the petitioner, in that event, will have to attend classes and complete all academic requirements as per University Policy and are required to give an undertaking as per policy of the University before rejoining the campus.

9. It is submitted that the petitioner shall abide by all the rules and regulations of the university relating to attendance, Unit Tests, practical exams and other mandatory academic requirements of continuous assessment and evaluation. Any deviation shall result in action in accordance with the rules.

10. Learned counsel for the petitioner, on the other hand, would submit that though the terms suggested by the respondent no.3 appears to be reasonable, unfortunately, her client has not accepted these terms.

11. We are not inclined to accept the submission of the learned counsel for the petitioner that the petitioner was not aware of the action proposed to be taken by the university for want of payment of fees and for other reasons. Learned counsel did not dispute that the cheque toward fees for the balance fees of 5th and 6th semester issued by the father of the petitioner was dishonored for want of funds. The petitioner also did not dispute that the petitioner did not complete the 75% attendance as per the rules of the university.

12. Be that as it may, in our view, the suggestions made by the learned counsel for the university, on instructions, deserves to be accepted in the best interest of the petitioner though he had committed default not only in payment of fees but also by not attending classes to the extent of 75%. We accordingly accept the statement made by the learned counsel for the respondent no.3 university and pass the following order :-

- (i) The respondent no.3 university to facilitate in conducting continuous assessment/evaluation for the petitioner and to allow the petitioner to appear for practical examination for the 5th semester of 3rd year B.Tech.
- (ii) If there is any balance amount towards fees is payable by the petitioner towards 5th and 6th semester of 3rd year, the same shall

be paid by the petitioner within one week which according to the University is in the sum of Rs.1,25,500/-.

- (iii) Upon completion of academic requirements and as per University Policy and upon completion of the practical exams and continuous assessment/evaluation, the university shall declare the result of the petitioner for the 5th semester.
- (iv) On and only upon successful completion of all pending exams of the 5th semester, the petitioner shall be admitted to the 6th semester in terms with the Academic Calendar for the academic year 2021-22, which is starting January 2022 and not otherwise.
- (v) The petitioner shall pay further fees on time and within the date prescribed from time to time without fail.
- (vi) The petitioner shall be required to attend classes and complete all academic requirements as per University Policy and shall be required to give an undertaking as per policy of the University before rejoining the campus. The petitioner shall render such undertaking as pointed out by the university within one week from the date of such communication.
- (vii) The petitioner shall abide by all the rules and regulations of the university relating to attendance, Unit Tests, practical exams and other mandatory academic requirements of continuous assessment

and evaluation. Any deviation shall result in action in accordance with the rules.

- (viii) In case of any deviation or breach, the respondent no.3 university would be at liberty to take such action as is permissible in law against the petitioner.

13. It is made clear that since there is composite fees for the 5th and 6th semesters, the petitioner shall pay the balance fees in the sum of Rs.1,25,500/-. It is made clear that the respondent no.3 would abide by the statement made before this Court only upon the petitioner paying the balance fees of Rs.1,22,500/- to the university within one week from today. In case of default on the part of the petitioner in paying the fees within the time prescribed, statement made by the learned counsel for the respondent no.3 university would stand withdrawn.

14. For the reasons recorded aforesaid, the impugned communication dated 23rd May 2021 cancelling the admission of the petitioner is substituted by aforesaid terms.

15. It is made clear that we have passed this order in the interest of the petitioner student and in the peculiar facts and circumstances of

this case and thus this order passed by this Court shall not be used as a precedent in any other matter.

16. Writ petition is disposed of in aforesaid terms. No order as to costs. Parties to act on the authenticated copy of this order.

ABHAY AHUJA, J.

R.D. DHANUKA, J.