

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5918 PF 2022

- 1) Khalid Masud s/o. Shadul Choudhari .. Petitioners
Age.21 years, Occ. Student,
R/o. At Post Kuntur, Tq. Naigaon,
Dist. Nanded – 431709.
- 2) Mohammed Yousuf Khan
s/o. Mohammed Zafar Khan,
Age. 21 years, Occ. Student,
R/o. Mastanpura, New Mondha,
Nanded 431 602.
- 3) Ku. Sayali d/o. Yashwant Sable,
Age. 21 years, Occ. Student,
R/o. At Post Wasmata,
Wasmata Dist. Hingoli.
- 4) Mohammed Faraz Ali
s/o. Arif Ali
Age. 20 years, Occ. Student,
R/o. Degloor Naka Road,
Rahmat Nagar,
Nanded – 431604.
- 5) Mohammed Shoeb s/o.
Mohammed Younus,
Age. 21 years, Occ. Student,
R/o. Khadija Colony,
New Famous Function Hall,
Dist. Nanded – 431602.

- 6) Mohammed Junaid s/o.
Mohammed Tanvir,
Age. 21 years, Occ. Student,
R/o. Peer Burhan Nagar,
Nanded – 431602.

Versus

- 1) The State of Maharashtra .. Respondents
Through Secretary,
Department of Higher and
Technical Education, Mantralaya, Fort,
Mumbai – 32.
- 2) The Principal,
Mahatma Gandhi Mission's
College of Engineering,
New Airport, Hingoli Road,
Nanded, District Nanded,
Pincode : 431 605.
- 3) The Vice-Chancellor,
Dr. Babasaheb Ambedkar
Technological University,
Vidya Vihar, Lonere,
Taluka Mangaon, District Raigad,
Maharashtra, Pincode : 402 103.

Mr. A.A. Mukhedkar, Advocate for the petitioner.
Mr. S.B. Yawalkar, AGP for respondent No.1/State.
Mr. V.S. Kadam, Advocate for respondent No.2.
Mr. A.R. Borulkar, Advocate for respondent no.3.

**CORAM : RAVINDRA V. GHUGE &
ANIL L. PANSARE, JJ.**
DATED : 27.06.2022

JUDGMENT [PER : ANIL L. PANSARE, J.] :-

01. Rule. Rule made returnable forthwith. Heard by consent of the parties.

02. The petitioners are students of Bachelor of Engineering course. They have approached this Court with following substantive prayers :-

B] By issuing a Writ of Mandamus or any other appropriate writ or order of like nature, the respondent no.2-college may please directed to permit the petitioners to continue their education of third year B.Tech course (i.e. fifth and sixth semester);

C] The respondent nos.2 and 3 may please be directed to issue marks of memo to the petitioners, of the fourth semester examination of second year B.Tech course of Engineering, by issuing appropriate writ or order of like nature;

D] The respondent nos.2 and 3 may please be directed to permit the petitioners to fill examination form of fifth and sixth semester of third year B.Tech course of engineering and to appear for the said internal and external examination, by issuing appropriate writ or order of a like nature.

E] The respondent nos.2 and 3 may please be directed to permit the petitioners to complete their education of B.Tech course of engineering, by availing backlog benefits;

F] The letter dtd. 21-4-2022 issued by respondent no.2-College may please be quashed and set-aside, by issuing appropriate writ or order of like nature;

03. The petitioners have passed their first year examination in the academic year 2019-2020. They claimed to have passed their second year examination in the academic year 2020-2021. Each academic year consists of two semesters. The first year consists of first and second semester. The second year consists of third and fourth semester. According to the

petitioners, they have undergone and have passed fourth semester examination of second year B.Tech course. However, respondent No.2-College is neither issuing marks memo of said examination nor are the petitioners promoted to the fifth semester i.e. third year of B.Tech course.

04. The reason why the petitioners were not promoted to fifth semester finds place in the impugned letter dated 21st April, 2022 issued by respondent No.2-College. The petitioners were not even permitted to appear in the examination for the fourth semester, the reason being their low attendance and not completing the formalities relating to test/practical/term-work/submissions. The petitioners were directed to complete the formalities and the term-work for the fourth semester. They were directed to contact Head of Department along with their parents for getting the aforesaid work completed to make them eligible to appear for second year examination.

05. The learned Advocate for the petitioners made an unsuccessful attempt to convince this Court that the petitioners were not at fault. He contends that the petitioners were allowed to appear in the fourth semester examination and therefore the contents of the impugned letter dated 21st

April, 2022 are not correct. According to him, the petitioners have attended the college through online mode and therefore were allowed to appear in fourth semester examination, which was conducted, by respondent No. 3 – university.

06. These submissions were countered by Mr. S.B. Yawalkar, the learned AGP for respondent No.1/State, Mr.V.S. Kadam, the learned Advocate for respondent No.2 and Mr.A.R. Borulkar, the learned Advocate for respondent No.3. It is argued that the college did not permit the petitioners to appear for the examination, rather the petitioners were informed that they will not be allowed to appear for fourth semester examination due to their low attendance and for not completing the formalities, as enumerated in the impugned letter. It is then argued that the petitioners, without the knowledge of the College, have directly filled an online form for summer semester 2021 examination. The college had no control over filling forms online. The examination was conducted by respondent No.3 - University and therefore the college had no control over filling of form by the students including the petitioners. The college had already informed the university and its support staff regarding petitioners' ineligibility to appear for the fourth semester

examination. However, as the petitioners/students managed to fill the examination form online, so also to receive examination link from the university, they appeared in the online semester examination, though they have not completed practicals and have not completed internal submissions. Therefore, they were not given internal marks.

07. We have been informed that there are/were about 17 students, including the six petitioners, who were detained or not allowed to appear for the second year examination and were not promoted to third year. The other similarly placed students have taken re-admission in the second year course. If the petitioners are now allowed to take admission in the third year, other students who were detained and who have rightly taken re-admission in the second year, may also claim similar such relief. It is further pointed out that the third year course has substantially progressed and the petitioners cannot be now allowed to get admission and continue their studies in the third year with other students.

08. It appears to us that the petitioner-students are themselves responsible for their detention. Though the learned Advocate for the

petitioners argued that the petitioners were allowed to appear in fourth semester examination, because they have attended the course online, the pleadings in para 8 of the petition would indicate that the petitioners have admitted their low attendance. The petitioners have pleaded that they were in genuine difficulties for not attending some of the online classes. The difficulties were, such as, non-availability of internet, network disturbance, illness of parents etc. They have made request to the Head of Department to permit them to undergo semester examination. However, their request was turned down by the College.

09. These pleadings would amply clarify that the petitioners were aware of their low attendance. In the circumstances, though the petitioners managed to appear in the fourth semester examination, they will not be entitled to take admission in the fifth semester/third year course. The College has not awarded internal marks. Therefore, the results of the petitioners could not be declared. The petitioners have surreptitiously appeared in the examination. We deprecate such act of the petitioners. It will be, therefore, well advised to the petitioners to get themselves admitted in second year course and maintain discipline. The appeal made by the petitioners to

consider their case on sympathetic ground will only encourage indiscipline and therefore cannot be considered. Further, it would cause prejudice to the similarly placed 13 students.

10. There is, thus, no merit in the petition. It is liable to be dismissed and stands dismissed accordingly. Rule is discharged.

[ANIL L. PANSARE,J.]

[RAVINDRA V. GHUGE,J.]