

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6132 OF 2019

Shri Mhallappa Shivyogi Satpute ...Petitioner.
Versus
Shivaji University, Kolhapur & Anr. ..Respondents.

Mr. Ashok B. Tejane for the Petitioner.
Mr. Vikram N. Walawalkar for the Respondent Nos.1 & 2.

CORAM : NITIN W. SAMBRE &
SHARMILA U. DESHMUKH, JJ.

Date : December 22, 2022.

P. C. :

1. The Petitioner has come out with the following prayers :

- "b) the Respondents be directed to declare the Petitioner as pass in the second year LLB course of Shivaji University in the year April 2001 and be directed to give corrected mark list declaring the Petitioner as pass.*
- c) the Respondents be directed to declare the Petitioner as Pass in the 3rd year Special LLB Course in April 2001 of Shivaji University, Kolhapur.*
- d) In the alternative to prayer c) the Petitioner be given equivalence in the 3rd year LLB Special Course to give exam of any other subject instead of Civil Procedure Code."*

2. Counsel for the Petitioner, Mr. Tajane strenuously urged that once the Petitioner has secured 40 marks in the subject of Jurisprudence in March 1998 examination in LL.B, it was incumbent

on the authorities to consider the same in the subsequent years for declaring him as pass. The prayer is opposed by Mr. Walawalkar for the Respondents, as according to him, the Petitioner has appeared in the subsequent examination in the very same subject and as such he is estopped from raising the aforesaid point.

3. After appreciating the submissions, it appears that the Petitioner is seeking declaration that he be declared as pass in LL.B. examination, particularly in the Jurisprudence subject in the examination of March 1998. The Petitioner was declared unsuccessful though he had secured 40 marks in the said subject. As such, he appeared in 2001 in the very same paper of the 2nd year LLB examination. In the said examination, he secured 33 marks and he was declared unsuccessful. As such, he again applied for the same examination in October 2002, however, he remained absent at the time of said examination.

4. From the conduct of Petitioner, what can be noticed is, for declaring him successful in 2nd year LLB, he has approached this Court after the lapse of almost more than 17 years.

5. Though Mr. Tajane, counsel appearing for the Petitioner relied on certain communications issued by the State Government and the University, that will hardly of any consequence so as to bring

the issue within limitation. The petition suffers from delay and latches.

6. Apart from above, the fact remains that the Petitioner has appeared in subsequent examinations. Rightly so claimed by Mr. Walawalkar, it estopped him from claiming that he be declared successful based on the marks obtained in the earlier examination held in March 1998, particularly when he had appeared in the subsequent examination for the same subject.

7. In this view of the matter, the petition is devoid of any merits and the same is accordingly dismissed.

[Sharmila U. Deshmukh, J.]

[Nitin W. Sambre, J.]