

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

WRIT PETITION NO. 13146 OF 2022

Kajal Shivaji Hivarkar

...Petitioner

Versus

Savitribai Phule Pune University through its
Secretary & Anr

...Respondents

Dr Uday Warunjikar for the Petitioner.

Mr. Tejesh Dande i/b. Mr Rajendra Ambhule for the Respondent
No. 1

Ms Kajal S. Hivarkar, petitioner in-person present.

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

DATED : 19th DECEMBER, 2022

P.C.:

1. The petitioner, is a student of respondent no. 2-college which is affiliated to the respondent no. 1-University. The petitioner has come out with claim for following reliefs in the present petition:-

(a) Be pleased to direct the respondent no. 1 herein to conduct the re-examination of the petitioner herein for the second year LL.B. Course for the reason mentioned in the petition herein.

(b) Be pleased to direct the respondent herein to declare the result of the petitioner herein as per the circular dated 28th July, 2022 issued by the respondent no. 1 as per Combine Marking System.

2. The petitioner is pursuing her degree education in the subject of law and has appeared for 2nd year of the 3 years law

course from the respondent no. 2-college. In the 1st semester it appears that she has scored comparatively better marks and was declared successful in the subjects in which she appeared, however, it is informed that in the 2nd semester subjects in which she has appeared viz. Labour and Industrial law, Jurisprudence, Law of Evidence, Vulnerable and Disadvantaged Groups and Criminal Law, Practical Training Paper II-Alternative Dispute Resolution System the petitioner appears to have failed in all the subjects.

3. According to the petitioner, in the internal marking system at institute level the petitioner has scored 18 out of 20 marks in the two subjects and 16 marks out of 20 marks in two subjects (i.e. internal marks) whereas in the marksheet, marking is shown in single digit. It is further claimed that the petitioner's performance if compared with earlier semester definitely in the marking pattern some error has occurred at examiner so also the university level.

4. Our attention is invited to the instructions issued by the respondent no. 1-University on 28/07/2022 so as to claim that instead of giving marks under each head viz. oral examination, practical examination, internal assessment and written examination unified marking system was adopted particularly

having regard to the students appearing during the Covid Pandemic in the exam conducted by respondent-University.

5. According to learned counsel for the petitioner, Mr. Warunjikar, the perusal of the marksheet would reflect that what has been awarded by the respondent-university is by adopting the practice of scaling down marks in proportion to one which is awarded by the University.

6. Mr. Dande learned counsel for the respondent holding for present respondent would support the decision of the University.

7. We have appreciated the submissions.

8. The claim put-forth by the petitioner that in internal marks in two subjects she has secured 18 marks out of 20 marks and 16 marks out of 20 marks as were awarded by the respondent no. 2-college is specifically denied. The university in its affidavit has stated that whatever marks are awarded are based on the internal assessment marks sent by the respondent no. 2-college and same are noted in the marksheet.

9. Apart from above, what can be noticed is the respondent-university has awarded independent marks apart from the marks which the petitioner got in the internal assignment carried out by the college as is reflected in the marksheet. As such, the decision

of the university as reflected in the communication dated 28/07/2022 of adhering to unified marking system and not the marking system by awarding marks under each head is duly adhered to.

10. In the aforesaid background, it cannot be said that the respondent-university has committed an error in the matter of declaring the petitioner unsuccessful in the second year of law course of summer 2022 examination.

11. Apart from above, the explanation tendered by the respondent-University particularly in paragraph no. 4(ii) so also paragraph no. 3 expressly explains the marking pattern adopted by the respondent-University. The marking pattern adopted by the respondent-university cannot be faulted with. Before parting, it will be worth to observe that awarding marks in the examination is an issue which is touching the internal discipline of the University. The Apex Court time and again has observed that in exercise of powers under section 226 Court should be slow in causing interference particularly in the cases like the present one wherein without any basis the petitioner has claimed award of higher marks in the internal examination.

12. As the issue pertains to the academic disciplines, this Court

refrains itself from causing interference.

13. The petition is devoid of merits and is accordingly dismissed.

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(SHARMILA U. DESHMUKH, J) (NITIN W. SAMBRE, J.)