

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

WRIT PETITION NO. 1435 OF 2023

Vinayak S/o. Sopan Matre and Ors. ... Petitioners
versus
Government Polytechnic Pune and Ors. ... Respondents
.....
Mr.Mahaling M. Pandarge for the Petitioners.
Mr.Mihir R.Govilkar for Respondent No.2.
.....

**CORAM: NITIN JAMDAR AND
MANJUSHA DESHPANDE, JJ.**

DATE: 12 OCTOBER 2023

PC:

The five Petitioners, the students, are before us challenging the order dated 29 September 2022 passed by Respondent No.1- the Principal, Government Polytechnic, Pune. By the impugned order, the Petitioners-students of the Polytechnic, who have completed the sixth semester out of eight, have been expelled from the course.

2. The Government of Maharashtra introduced a scheme for Part-Time Diploma Programmes in Engineering and Technology under the Directorate of Technical Education. The programme was for four years duration with eight semesters. The scheme is catered for those who employed in Industry or Engineering establishments as

Technicians and could not avail of opportunities to undergo formal education. It was stated that in many establishments, it was necessary to have a higher professional qualification to rise beyond a certain position, and this was an opportunity provided. The courses were in Civil Engineering, Mechanical Engineering, Electrical Engineering, Electronics and Telecommunication, and Metallurgical Engineering. The eligibility for the first year was that the candidates should have passed the SSC examination in the prescribed subjects and two years ITI/NCTVT examinations after the 10th and must be presently in service or self-employed in a technical field in the Pune region.

3. The Petitioners-students took the admission for the academic year 2019-2020 and completed the sixth semester out of eight. On 8 March 2022, the Petitioners received notices for enquiry into the validation of the documents they had submitted at the time of admission to Part Time Diploma Course. On 17 March 2022, the Petitioners submitted the documents. On 16 September 2022, Respondent No.1 issued notices to all the Petitioners and gave them seven days to submit the submission. After that, the Petitioners received the order dated 29 September 2022 that their admissions were cancelled. The impugned order dated 29 September 2022 refers to the fact that there was a complaint that the Petitioners were not working on a technical post, but were working in the Municipal Corporation on class-4 posts such as sweeper, typist, etc. After re-verifying the documents, the enquiry committee concluded that

the Petitioners were not eligible as they do not possess the qualification of being a Technician and, therefore, proceeded to cancel the admission. It also states that the Petitioners had annexed the certificates of the private employers to show that they were working on the technical post, which turned out to be bogus.

4. We have heard Mr.Mahaling Pandarge, the learned Counsel for the Petitioners, and Mr.Mihir Govilkar, the learned Counsel for Respondent No.2, and perused the documents on record.

5. The certificates of the private employers which the Petitioners had annexed to their applications for admission in the year 2019-2020 were of much earlier duration. It is the Respondents' case, which finds credence is that the Petitioners were working in the Municipal Corporation. The Petitioners have stated that earlier the Petitioners were working on the posts of peon, sweeper, typist, mixer/ drug maker/ drug store drug maker. Therefore, the Petitioners, going by the nomenclature of their appointments, were not technicians as is required under the Rules for admission to this course. However, a few facts need to be noted. Regarding other qualifications, the Petitioners seem to possess them as this factum is not contravened before us. The question only would be whether the Petitioners were working and whether in service or self-employed in the Pune region. The Rules also stated that casual employment, employment as labour, peon, clerk, storekeeper, worker, helper, etc.,

and part-time employment is not accepted. However, we also need to note that this scheme was an opportunity for those who wanted to upgrade their career choices. We are also informed by the learned Counsel for the Petitioners that this scheme is ending, and this is the last batch.

6. On the last occasion, the learned Counsel for the Petitioners had taken time to file an additional affidavit stating that though the appointments of the Petitioners were under the nomenclature of the sweeper, peon, etc., the Petitioners were made to do work in various technical fields in the Municipal Corporation. They contend that, as a matter of fact, the Petitioners worked in the technical field. They contend that, that being the position, the Rules for eligibility in these facts and circumstances for the Petitioners' case be suitably interpreted. Even assuming that this interpretation is to be extended, factually, it will have to be determined as to whether this assertion of the Petitioners is correct or otherwise and, therefore, it would be appropriate that Respondent No.1 looks into this factual assertion and determines whether it is correct or otherwise. Thereafter, if Respondent No.1 is satisfied that the Petitioners indeed worked in a technical field irrespective of the nomenclature of their appointment orders, then Respondent No.1 will consider whether the case of the Petitioners can be covered in the phrase "employed in technical field" under the Rules.

7. Regarding the decision on both these two aspects, it will be for Respondent No.1 to decide. Affidavits filed by the Petitioners are on record. If the Petitioners want to file additional material to Respondent No.1 in furtherance of their above assertion, they shall do so within one week.

8. Accordingly, to enable reconsideration, the impugned order dated 29 September 2022 shall be treated as an interim order. Before taking a final decision considering the points highlighted in this order, the necessary final decision should be taken within four weeks from the date the order is uploaded.

9. The Writ Petition is accordingly disposed of.

10. We make it clear that our observations only indicate the area of scrutiny, and it is not to be considered on reflection of the merits of the Petitioners' case.

11. If the order is adverse to the Petitioners, then it is open to them to adopt such remedy as may be available in law.

(MANJUSHA DESHPANDE, J.) (NITIN JAMDAR, J.)