

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.610 OF 2022

Ku. Pooja D/o Sureshrao Guhe,
Aged about 27 years, Occ. Nil,
R/o. Devi Nagar, Vadali Bus Stop,
Near Mahalaxmi Jewellers,
Camp Road, Amravati,
District Amravati. **PETITIONER**

..V E R S U S..

1. Bar Council of Maharashtra & Goa,
Through its Secretary, 2nd Floor,
High Court Extension,
Fort, Mumbai – 32.
2. Sant Gadge Baba Amravati
University, through it's Registrar,
Camp Amravati.
3. Vinayak Vidhi Mahavidyalaya,
through its Principal, Near New
Express Highway, Chatritalav
Garden, Amravati. **RESPONDENTS**

Mr. Raheel Mirza, Advocate for Petitioner.
Mr. R. L. Khapre, Senior Advocate with Mr. K. P. Mahalle,
Advocate for Respondent 1.
Mr. J. B. Kasat, Advocate for Respondent 2.
None for Respondent 3.

CORAM: **ROHIT B. DEO AND M. W. CHANDWANI, JJ.**
DATE: **21st JULY, 2023.**

ORAL JUDGMENT: **(PER ROHIT B. DEO, J.)**

Heard. Rule. Rule made returnable forthwith by

consent of the learned counsels for the parties.

2. The petitioner, who belongs to the O.B.C. category secured 41.16% marks in the 12th standard examination, on the basis of which she sought and secured admission to the LL.B. (5 years) course in the third respondent college. Petitioner claims that she completed the five years course by clearing the LL.B. final examination conducted in Summer, 2019. Petitioner further claims that the second respondent University issued her degree certificate dated 20.12.2019.

3. Petitioner sought enrollment with the first respondent Bar Council of Maharashtra and Goa (Bar Council). The enrollment is refused on the ground that the petitioner could not have secured admission to the LL.B. (5 years) course since the minimum eligibility for O.B.C. candidate is 42% marks in the 12th standard examination. These are broad facts on the basis of which the petitioner is seeking direction that she be enrolled by the first respondent Bar Council of Maharashtra and Goa.

4. At the very outset, we may observe that from strict legalistic perspective, we cannot fault the first respondent which

has complied with the rules and regulations of enrollment.

5. However, we will have to be alive to the fact that the petitioner student cannot be faulted either. It does not appear to be the case of the respondents that she suppressed any material fact or that she secured admission in the LL.B. course by dubious means.

6. In similar, if not identical situation, the Coordinate Bench observes thus in ***Azim Pashalal Kani v. Bar Council of India & Ors.*** :

17. A Division Bench of this Court in case of Syeda Aufya Ahmad (supra) has held that the Petitioners therein having completed substantial part of their course, admission could not be cancelled at the fag end on the ground of not completing the eligibility criteria of admission in terms of Ordinance 16 of 2009. In that matter, the Petitioner was admitted to MCA course in a college, possessing post graduate diploma in Computer Science and Applications, though not securing 50% at graduate level. This Court after adverting to large number of judgments of Supreme Court and this Court held that the Petitioner having secured admission after verifying the Petitioner's eligibility, it was the bounden duty of the University to verify the question of eligibility of the Petitioner at the very threshold. It is not as if the Petitioners have

withheld material documents regarding their eligibility. On account of misdeed or negligence on the part of the respondent College or University, the Petitioners, who have undergone substantial part of their course, cannot be penalised at the fag end of their course. In our view, the facts before this Court in the said judgment apply to the facts of this case. It is not the case of the Respondent No. 3 that the Petitioner has suppressed that the Petitioner had secured less than 45% marks in Higher Secondary Certificate Examination. No such objection about eligibility of the Petitioner to get admission was raised by the Respondent no. 3- College or by the Shivaji University, Kolhapur at any point of time before completion of the entire course of the said five years by the Petitioner. The said objection regarding the eligibility of the Petitioner has been raised for the first time by the Bar Council of India after more than a year of the Petitioner having conferred with the five years LL.B course degree. In our view, on this ground also the Bar Council of India could not have refused the enrollment of the Petitioner as an advocate.

7. In the light of the view taken by the Coordinate Bench *supra*, and which view accords with the earlier exposition, we are inclined to allow the petition.

8. We must record in fairness to the learned Senior Advocate Mr. Khapre, that he did vehemently oppose the petition

on the ground that the issue touches the maintenance of educational and professional standard.

9. We clarify that this order shall not be treated as a precedent and is passed in the glaring facts of the case, which are that the petitioner has spent five precious years of her life pursuing the LL.B. course and we are told that she has cleared the final LL.B. examination with flying colours.

10. The third respondent college is not appearing though served.

11. We would be failing in our duty if we do not observe that it is the third respondent college which is at fault for not complying with the rules and regulations. Mr. Kasat who appears for the University tells us that the college did not submit the relevant information at the appropriate time which would have enabled the university to verify the eligibility and to initiate immediate measures. We accept the statement.

12. We direct the third respondent college to deposit costs of Rs.25,000/- (Rupees Twenty Five Thousand) with the Bar

Council of Maharashtra and Goa within the next four weeks, failing which the second respondent shall initiate appropriate coercive and punitive measures.

13. The petition is disposed of in the aforestated terms.

(M. W. CHANDWANI, J.)

(ROHIT B. DEO, J.)

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