



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

922 WRIT PETITION NO.1565 OF 2023

Smita Chandankumar Datwani,
Age 23 yrs., Occ. Student,
R/o Balbhim Chowk, Karanja Road,
Beed.

... Petitioner

... **Versus** ...

- 1 The State of Maharashtra,
Through its Secretary,
Higher and Technical Department,
Mantralaya, Mumbai – 32.
- 2 Dr. Babasaheb Ambedkar Marathwada University,
Through its Registrar,
University Campus, Aurangabad.
- 3 Board of Examinations and Evaluation,
Dr. Babasaheb Ambedkar Marathwada University,
University Campus, Aurangabad,
Through its Director.

... Respondents

...

Mr. S.V. Dixit, Advocate for petitioner

Mr. P.S. Patil, AGP for respondent No.1

Mr. V.G. Deshmukh, Advocate h/f Mr. S.S. Tope, Advocate for respondent
Nos.2 and 3

...

**CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.**

DATE : 10th JANUARY, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 The petitioner was the student of Master of Commerce course from Balbheem College, Beed. She appeared for 4th Semester Examination in April, 2022. The result was declared. She had secured 92.90%. Her college had received letter on 05.09.2022 from respondent No.2 – University informing that the photocopy of the answer books facility is given to the students to verify the assessment and then to apply for rechecking. In pursuance to the said letter she applied for the photocopy of the answer sheets on 07.09.2022 of Quantitative Techniques and International Business subjects. As per Rule 11 formulated by the University in respect of supply of photocopy of the answer book, the photocopy should have been provided within a period of 10-12 days after the receipt of the application from the concerned college. Accordingly, such photocopy ought to have been made available to the petitioner within the stipulated period. She was in contact with the authorities, but she could not get the photocopies within time. It was provided after about 120 days. She got the knowledge on 10.01.2023 that the University had declared merit list. She was placed in second rank.

She, therefore, approached the Dean of the University on 11.01.2023 as she was expecting more marks and then sought rechecking of her answer book. In the rechecking her marks got increased by 32 and the result was declared that she has scored 94.7%, which was the highest in the merit. On the basis of the said evaluation she ought to have been declared as first in the rank in the merit list and also should have been awarded gold medal. She made application to the Grievance Redressal Mechanism, but she was informed on 13.01.2023 that she is not eligible for getting benefit of the change in the order of merit list. While rejecting her request respondent No.3 has relied on Part (C) Rule 14 of Grievance Redressal Mechanism. But, according to the petitioner, the said rule is not applicable, as there was no delay on her part to approach the Grievance Redressal Forum. In fact, it was the mistake on the part of the University and the College to supply her the photocopy. Therefore, she has sought following prayers :

“(A) For a writ of certiorari, order or directions in the nature of certiorari, calling for record and proceedings of letter dated 13.01.2023 issued by Director of respondent No.3, be called for and after examining legality, validity and propriety thereof, letter dated 13.01.2023 issued by Director of respondent No.3 be quashed and set aside.

B) For a writ of mandamus, order or directions in the nature

of mandamus, directing respondent nos.2 and 3 to revise order of merit and place petitioner on first rank in the said order of merit as petitioner has scored highest marks and further give gold medal (medal of merit) to petitioner.”

2 Say has been filed by one Ganesh Raybhan Manza, the Deputy Registrar, Examination and Evaluation, Dr. Babasaheb Ambedkar Marathwada University, Aurangabad. The other facts are admitted, however, reliance has been placed on Part (C) Rule 14 of Grievance Redressal Mechanism and it is said that according to the said rule, the petitioner is not eligible for getting benefits of the order of merit on the ground that her marks have been increased under the revaluation rules. The merit list was already declared. He has quoted the rules to support his contention and prayed for the dismissal of the writ petition.

3 The petitioner has filed re-joinder and almost reiterated the same facts and submitted that there was no delay in declaration of result after her application for re-evaluation and, therefore, the said rule is not applicable.

4 Heard learned Advocate Mr. S.V. Dixit for the petitioner, learned AGP Mr. P.S. Patil for respondent No.1 and learned Advocate Mr. V.G. Deshmukh holding for learned Advocate Mr. S.S. Tope for respondent Nos.2 and 3. In order to cut short, it can be stated that both the parties have made

submissions in support of their respective contentions.

5 Certainly, a fact will have to be mentioned that the petitioner was a meritorious student and it is a progressive sign in the society that girls are taking higher education and fighting for their rights. The petitioner stood second in the merit list when the initial declaration of the result was given. However, she was confident that she would have got more marks than given to her and, therefore, it appears that she had applied for supply of photocopy of the answer sheets within time. It appears that those photo copies have been supplied belatedly. That means, not as per Rule 11(A) of Part A of respondent No.2 – University prescribing for supply of photocopies of the answer books to the examinee. After the photocopy was supplied to her, she has immediately applied for re-evaluation and then her answer books appears to have been re-evaluated and there was substantial increase in her marks. The first rank person got 94.50%, but after evaluation increased she got 94.7% and, therefore, she claimed that since she would be first in the rank she deserves the same as well as the gold medal. In ordinary parlance she was right in considering the same, but when it comes to rules, the rules should prevail. Rule 14 of Part (C) of Grievance Redressal Mechanism runs thus -

“14. This Grievance Redressal Mechanism shall be seemed to be an

additional facility provided to the student/examinee with a view to improve their result of the preceding University examination and any delay in the declaration of result under this additional facility due to any reason what so ever shall not confer any right for any admission to higher class, merit, medals, scholarships etc.”

Definitely, there would have been some intention in making the said rules. We need not go into the same in detail, because the validity is not challenged. It is not contested by the petitioner that the Grievance Redressal Mechanism itself has been introduced as an additional facility to the students. When she has received certain benefits under this Rule which created the Grievance Redressal Mechanism, now, she cannot challenge one of its rule. It appears that she wants to interpret and to show as to how the said Rule 14 is not applicable to her case, but the simple reading of the said rule would show that it was formulated with an intention to protect the actions taken or the results declared before a person approaches Grievance Redressal Mechanism. Any delay in declaration of results under this additional facility due to any reason whatsoever will not confer any right on any person. The delay of whatsoever nature includes delay on the part of anybody and especially the University. Therefore, the merit list that was declared by respondent No.2 – University was in fact, protected under the said rules.

respondent No.2 that in that year as there were no sponsors, gold medal has not been conferred/given to anybody. When such statement was made, learned Advocate for the petitioner submitted that at least respondent No.2 should publish the fresh merit list. As aforesaid, the earlier merit list is protected under the said Rule. In other words, increase in marks in re-evaluation has not given any right to the petitioner to get the merit list published in revised manner. Under such circumstance, we do not find any illegality or error in the impugned communication. Case is not made out for issuing any kind of writ. Petition, therefore, stands dismissed.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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