



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO.4307 OF 2024

Sanket Suresh Suryawanshi,
Age 20 yrs., Occ. Student,
R/o C/o Suresh Suryawanshi,
Alankarnagar, Purna, Parbhani,
Dist. Parbhani.

... Petitioner

... Versus ...

- 1 The State of Maharashtra,
Through it's Principal Secretary,
High Education Department,
Mantralaya, Mumbai – 32.
- 2 The Registrar,
Swami Ramanand Teerth Marathwada
University, Nanded.
- 3 Controller of Examination,
Swami Ramanand Teerth Marathwada
University, Nanded.
- 4 The Principal,
Shivaji Law College, Parbhani,
Dist. Parbhani.

... Respondents

...

Mr. M.P. Kale, Advocate for petitioner

Mrs. R.P. Gour, AGP for respondent No.1

Mr. U.S. Malte, Advocate for respondent Nos.2 and 3

...

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

DATE : 25th APRIL, 2024

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

1 Rule. Rule made returnable forthwith. Heard learned Advocates for the parties finally, by consent.

2 Present petition challenges the action and communication issued on 03.04.2024 by respondent No.2, whereby the whole performance of the petitioner has been cancelled.

3 The petitioner is a student of respondent No.4 college for B.A. LL.B. course. When he had given 4th Semester papers it is alleged that he had done some malpractice and the incident was reported. He had approached this Court by filing Writ Petition No.11032 of 2023 when action of cancelling whole performance of the petitioner was directed. This Court partly allowed the said petition and remanded the matter for decision afresh by considering the provisions in the Ordinance under the Maharashtra Public University Act including the common Ordinance on the examination matters issued by Swami Ramanand Teerth Marathwada University, Nanded. It is then stated that the respondent has now announced the examination of the 4th Semester.

In the meantime, the impugned order dated 03.04.2024 came to be communicated by respondent No.2 to respondent No.4 and in turn it was communicated to the petitioner, whereby it has been stated that the Vice Chancellor has taken a decision to confirm the earlier punishment that was given, thereby cancelling the whole performance of the petitioner.

4 Yesterday the matter was heard and even the proceedings of the Committee notings remarks of the Vice Chancellor were made available to this Court. Section 48 deals with powers and duties of Board of Examinations and Evaluation. Section 48 (5) (b) of the Maharashtra Public Universities Act, 2016 provides that -

“Such Committee shall submit its report and recommendations to the Vice-Chancellor, who may direct the Director, Board of Examinations and Evaluation, the disciplinary action to be taken against the person or persons involved in the malpractices, directly or indirectly, and the Director of Board of Examinations and Evaluation shall proceed to implement the decision of the Vice-Chancellor.”

The said section pre-supposes that Vice-Chancellor should apply his mind on the report submitted before him by the Committee and pass an order. Of course, it need not be stated that such decision has to be supported with reasons. In the notings, those were made available for inspection of this Court, we could not find the decision with reasons but only a nod to the

opinion expressed by the Committee and, therefore, the learned Advocate representing respondent No.2 was asked to take further instructions. Thereupon he is submitting today the noting by the Director of Examinations and Evaluation to the Vice-Chancellor, wherein there is reference to the queries made by this Court yesterday. The recommendation is then made that the said recommendation in view of Section 48(5)(a) of the Maharashtra Public University Act, 2016 and the remarks thereon are required to be recalled and a fresh decision is required to be taken, to which the Vice-Chancellor has accepted. The said letter is taken on record by marking Exh. 'X'.

5 In view of letter Exh. 'X' the matter deserves to be relegated to respondent No.2 for compliance of Section 48(5)(b) of the Maharashtra Public University Act, 2016.

6 The learned Advocate for the petitioner points out that from 30.04.2024 onwards the examinations of the 4th Semester are scheduled. The examination fees has been accepted by the University, and he also submits that under the orders of this Court the petitioner has given the examination of the 5th Semester, but his result is not declared as so directed by this Court. As the fees is also accepted by the University, the petitioner

should be allowed to appear for the examination, however, since the matter would be relegated, the result of the examination shall not be declared. Such directions are deserve to be given. Hence, we proceed to pass the following order.

ORDER

- 1 The Writ Petition stands partly allowed.
- 2 The impugned action and communication dated 03.04.2024 by respondent No.2 is hereby set aside.
- 3 The matter is relegated to respondent No.2 for the compliance as per Section 48(5) of the Maharashtra Public Universities Act, 2016.
- 4 Such compliance and decision be taken as early as possible and within a period of 15 days from today.
- 5 In the meantime, the petitioner be allowed to give examination of the 4th Semester, for which he has paid the fees.
- 6 The result of the said examination shall not be declared till the orders from this Court.

7 Liberty is given to the petitioner to appear before Vice-
Chancellor tomorrow, if he wants to appear voluntarily to put forth his side.

8 Rule is made absolute in the above terms.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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