



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6147 OF 2022

Sunita D/o. Vaijinath Lokhande
Age : 28 Years, Occu. Student,
R/o. Bhimnagar Osmanabad,
Dist. Osmanabad.

... Petitioner

VERSUS

1. Principal
Srimati Sushiladevi Salunkhe
College of Education, Osmanabad,
Tq. & Dist. Osmanabad.
2. Director
Board of Examination & Evaluation
Dr. Babasaheb Ambedkar Marathwada
University, Aurangabad,
Tq. & Dist. Aurangabad.
3. Principal
D. B. F. Dayanand College of Arts
and Science, Solapur,
Tq. & Dist. Solapur.
4. Director
Board of Examination & Evaluation
Punyashlok Ahilyadevi Holkar Solapur
University, Solapur,
Tq. & Dist. Solapur.

... Respondents

Mr. V. B. Jogdand Patil, Advocate for Petitioner
Respondent Nos.01 & 02 is served
Mr. S. S. Gangakhedkar, Advocate for Respondent No.03
Mr. A. S. Kulkarni, Advocate for Respondent No.04

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

DATE : 09/01/2024

JUDGMENT [PER S.G. CHAPALGAONKAR, J] :-

1. The petitioner approaches this court under Article 226 of the Constitution of India seeking direction against the respondent Nos. 1 and 2 i.e Principal, Smt. Sushiladevi Salunke College of Education and Director, Board of Examinations and Evaluations, Dr. Babasaheb Ambedkar Marathwada University, to declare her result of 1st Year B.Ed., to which she appeared. The petitioner has further prayed for directions against respondent No.3 i.e. D.B.F. Dayanand College of Arts and Science, Solapur, to re-issue transference certificate to the petitioner and further seeks directions against respondent No.4 i.e. Director, Board of Examinations and Evaluation, Punyasholk Ahilyadevi Holkar University, Solapur to issue migration certificate showing petitioner to be “pass” student. The petitioner also claims compensation of Rs. 50 Lakhs from the respondents for mental and physical torture suffered and educational loss suffered by her owing to harassment caused by the acts of respondents.

2. The contention of the petitioner is that she was admitted in respondent No.3 Dayanand College, for M.Sc. Course in the year 2019. She appeared for respective examinations of 1st and 2nd year and cleared all subjects in March, 2020. She was declared as “Pass” and the mark sheet indicating clearance of all subjects was issued to her. Thereafter,

the petitioner got admission in B.Ed. Course with respondent No.1 college which falls within the jurisdiction of Dr. Babasaheb Ambedkar Marathwada University. The petitioner sought Transference Certificate from Dayanand College of Arts and Science at Solapur which was issued to her on 22.1.2021. While getting admission in B.Ed. Course, she had given undertaking to furnish migration certificate from respondent No.4 University. The petitioner appeared for B.Ed. Examination. However, respondent No.4 issued communication asking her to produce Migration Certificate. Thereafter, respondent Nos. 1 and 2 withheld the result of 1st year B.Ed. Under the pretext that the respondent No.3 has cancelled the transference certificate of the petitioner. As such, she is not entitled for admission in the next academic year. The petitioner contends that subsequently, she made a complaint regarding cancellation of her Transference Certificate to the University authorities. Thereupon, the Inquiry Committee was appointed. The Inquiry Committee did not afford her sufficient opportunity to explain her stand and submitted a biased report observing that the petitioner has not cleared all subjects of M.Sc. and the mark sheet produced by her is a fake document.

The contention of the petitioner is that during the pandemic period, the physical marks sheets were not given to the students. The list of passed and failed students was forwarded to the College and marks memos in the form of ledger paper was handed over to her, which clearly depicts that she was declared as passed. Consequently, the respondent No.3 College issued Transference Certificate and the petitioner was admitted to B.Ed. Course with respondent No.1 college and also appeared in the 1st year examination. At this stage, respondent Nos. 3 and 4, based on the biased Inquiry Report, taking the stand that

petitioner has failed to clear M.Sc. Course. As such, it is urged on behalf of the petitioner that the writ petition be allowed in terms of the prayer clauses as indicated above.

3. The respondent Nos. 3 and 4 have submitted respective affidavits in reply. The petitioner filed rejoinder to those affidavits. The contention of the respondents is that , petitioner had in fact failed in the M.SC. Part I, Semester II. However, she was allowed to keep next term i.e. (ATKT). Although the petitioner cleared her 3rd and 4th Semester, she failed to clear the subjects of M.Sc. Part I Semester II. The mark sheet relied upon by the petitioner is a fake document. On the basis of such fake document, taking disadvantage of the Pandemic situation, she obtained Transference Certificate from respondent No.3 and got admission in B.Ed. Course with respondent No.4 college which falls within the jurisdiction of respondent No.4 University. The University had received complaint from the petitioner. Taking serious note of the same, the University had constituted a 3 member Committee to inquire into the complaint of inconsistency in the document of the petitioner. The committee had issued notice to the petitioner. On her appearance, her statement is recorded. Similarly, the statement of other persons who were involved in the process have been recorded and on full fledged inquiry, conclusion is drawn that the petitioner has prepared a false document in the form of ledger mark sheet, which is inconsistent with the original record of the University. The respondent No.3, based on misleading and false representation of the petitioner issued her Transference Certificate without following due process as per the University guidelines. It is, therefore, urged that the petition is liable to be dismissed.

4. We have heard the learned advocates for the respective parties at length, perused the documents and considered the contentions in the pleadings. It is not in dispute that the petitioner was admitted to M.Sc. Post Graduate Degree course with respondent No.3 College which is affiliated to Punyashlok Ahilyadevi Holkar University at Solapur. The record indicates that the petitioner appeared for her 1st Year M.Sc. Semester-II examination in March, 2019. She failed in the subjects of Quantum Mechanics and Electro Dynamics. Although status is shown as “fail” in her Statement of Grade, she was allowed to keep terms (ATKT). In October, 2019, the petitioner again appeared for aforesaid two subjects. However, she was declared as failed. Thereafter, the petitioner again appeared for those subjects in March, 2020 vide Seat No. 517231 and declared as “fail” in both the aforesaid subjects.

5. We have perused the so called mark sheet of the petitioner for October, 2020. It appears that it is a computer generated document without seal and signature of any authority of the University. It shows status of the petitioner as “pass”. Apparently, there is nothing to show that said document has been issued by the University or college or even it is downloaded from the official website of the University. The inquiry in respect of aforesaid document was caused by the University. The Inquiry Committee, after giving opportunity of hearing to the petitioner and after verification of the University record, concluded that the said document is inconsistent with the University record. The statement of the petitioner, recorded before the Committee shows that she gave evasive answers against most of the important questions put to her. The report of the Committee puts some adverse remarks against the college for issuing the

Transference Certificate without following the set procedure under the University guidelines.

6. Having regard to the totality of the facts and circumstances on record and disputed questions of facts, we are of the considered view that when the petitioner has not cleared all the subjects of the M.Sc. Course and raised her claim, based on unauthenticated document, there is no reason for us to consider her prayers in the petition filed in writ jurisdiction of this court under Article 226 of constitution of India. We find no substance in the writ petition. Same is dismissed in-limine.

[S.G. CHAPALGAONKAR, J]

[SMT. VIBHA KANKANWADI, J]

grt/-