



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

980 WRIT PETITION NO. 7168 OF 2024

RUSHIKESH UDHAVRAO MUTKULE
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS DEPARTMENT OF EDUCATION AND ANOTHER

AND
981 WRIT PETITION NO. 7174 OF 2024

YOGESH SHIVKUMAR BIRADAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS DEPARTMENT OF EDUCATION AND ANOTHER

...
Advocate for petitioner in both WPs : Mr. Mayur M. Subhedar
AGP for the respondent – State : Mr. N.G. Batule
Advocate for respondent no. 2:Ms. Nayana D. Patil h/f. Ms. Surekha Mahajan
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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 12 JULY 2024

ORAL ORDER (MANGESH S. PATIL, J.) :

Heard both sides.

2. The petitioners who had appeared for class improvement examination under class improvement scheme for HSC examination being conducted by respondent no. 2 – board, are aggrieved by the fact that the board has not been issuing them marksheets.

3. Learned advocate Ms. Patil h/f. Ms. Mahajan for respondent no. 2 – board, on instructions, submits that the scheme contemplates a specific procedure to be followed to enable the

students to obtain the marksheet. She adverts our attention to clause no. 10 of the scheme which mandates a student to approach the school / college within a month of declaration of the result and to exercise the option for having the marksheet of the first examination or in respect of the performance in the examination conducted for the purpose of improvement. She would submit that since the petitioners had not exercised this option, and have never approached within a period of first one month or with late fees thereafter during next five months, the board cannot issue marksheets.

4. Certainly, if the scheme provides for some timeline, it is always imperative for any student to stick to the timeline. There is nothing on the record to demonstrate that the petitioners had approached the school / college within a month of declaration of the result or even for a period of five months thereafter.

5. However, it is to be borne in mind that it is not that respondent no. 2 – board does not possess the record, rather the board still maintains results of the petitioners. If this be so, if it is not a matter of loss of record or something, when the board possess the record in respect of the performance of the petitioners in the latter examination, in our considered view, the petitioners cannot be denied to have the marksheets as per their option, *albeit*, they are to be blamed for the delay. No fault can be found with the board in insisting

for the scheme to be implemented strictly in terms of the norms / guidelines.

6. Incidentally, a co-ordinate division bench in the matter of Soheb Sageerali Khan Vs. The State of Maharashtra and others (writ petition no. 926 of 2024 – principal seat – original side) by order dated 1 April 2024 in similar set of circumstances conceded to a similar request.

7. Considering the afore-mentioned facts, we allow the writ petitions and direct respondent no. 2 – board to issue the marksheets in respect of the HSC examination at which the petitioners appeared in July 2023.

8. The petitioners shall surrender the earlier marksheets. The petitioners shall deposit Rs.1000/- (Rs. One Thousand) each, with the board.

9. The petitioners shall approach respondent no. 2 – board on 15 July 2024 and the board shall immediately on receipt of Rs.1000/- each, issue the marksheets to the petitioners, to enable them to secure admissions.

10. Parties to act on an authenticated copy of this order.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/