



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

918 WRIT PETITION NO. 11476 OF 2024

MADHURA MILIND CHAUDHARI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS

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Advocate for the Petitioner : Mr. Kolpe Mahendra B.
AGP for Respondent No. 1 : Mr. V.M. Kagne
Advocate for Respondent No. 2 : Mr. Anandsingh Bayas
Advocate for Respondent No.4 : Mr. S.K. Kadam

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CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.

DATE : 15.10.2024

PER COURT :

The petitioners, who are from the M.B.B.S. batch of 2021-2022, admitted in the month of February/March-2022, having failed to clear first year of M.B.B.S. in spite of having made four attempts, which are permissible, are seeking writ of mandamus for holding of a mercy attempt.

2. We have heard both the sides.

3. As far as regulations of 2019 are concerned, there cannot be any challenge to those regulations since the Supreme Court has now in a matter arising from the judgment and order of the Delhi High Court has confirmed its validity by dismissing the appeal.

4. Admittedly, as per the regulations, a candidate is entitled to have four attempts at the first year M.B.B.S. examination. Admittedly, the petitioners have exhausted all such attempts in the examinations conducted in January/February-2023, the second attempt in the form of supplementary examination conducted in the month of May-2023, third attempt in the winter of 2023, and another supplementary attempt in the examination held

in 2024. Having failed to clear the first year M.B.B.S. the petitioners and their learned advocate are now seeking to take exception to the short duration, within which the supplementary examinations were conducted and are now endeavouring to point out as to how it could not have been done in light of the regulations. We discard their such stand being an after thought.

5. So far as the discrimination being argued by the learned advocate in respect of some earlier batches, who were granted a mercy attempt in the wake of pandemic, in our considered view, there cannot be any comparison. The authorities, for the reasons, which appealed to them in the wake of pandemic had taken the decision and even allowed a mercy attempt for a batch, obviously, to meet the peculiar and unprecedented situation. The petitioners, who have been admitted to the first year M.B.B.S. course, after the pandemic was over, in the year 2021-2022 batch, cannot resort to such argument of discrimination, when the cases are not like. It is not a matter of likes being treated unlike. It would be inappropriate for this Court to exercise writ jurisdiction under article 226 of the Constitution of India and issue any writ of mandamus, as is being prayed for by the petitioners, for holding of a mercy attempt.

6. Incidentally, a similar stand and the request in the matter of one **Kimaya Uttam Dhumale Vs. Union of India Through its Secretary and others in Writ Petition No. 4269/2023**, has been rejected by a coordinate division bench on 13.04.2023. We are in respectful agreement with the observations and the reasoning resorted to in that order.

7. The writ petition is dismissed.

(SHAILESH P. BRAHME, J.)

(MANGESH S. PATIL, J.)