



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.562 OF 2024**

Chal s/o Rajendra Thaware,
Age: 24 years, Occ. Student,
R/o Gajanan Nagar, Majalgaon,
Tq. Majalgaon, Dist. Beed.

..Petitioner

Versus

1. Dr. Babasaheb Ambedkar Marathwada
University, Chhatrapati Sambhajnagar,
Through its Registrar.
2. The Director Examination And Evaluation
Board, Dr. Babasaheb Ambedkar Marathwada
University, Chhatrapati Sambhajnagar.
3. Swatantrya Senani Ramrao Awargaonkar,
Law College, Beed,
Through its Principal.

..Respondents

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Mr. S. S. Gangakhedkar h/f Mr. D. S. Patil, Advocate for the Petitioner.
Mr. S. S. Thombre, Advocate for Respondent Nos.1 and 2.
Mr. C. V. Thombre, Advocate for Respondent No.3.

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

**JUDGMENT RESERVED ON :- 12th MARCH 2024.
JUDGMENT PRONOUNCED ON :- 19th MARCH 2024.**

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India seeking directions against respondent nos.1 and 2 to accept form and fees submitted by respondent no.3-College and undertake the process of re-evaluation and re-checking of the answer-sheets.

3. The petitioner contends that he was student of five years B.A., LL.B. Course and prosecuting his studies in 5th year with respondent no.3-College. He appeared for 10th / final semester examination conducted by the respondent-University in the month of April/May-2023. On 02.08.2023 results were declared, the petitioner is shown to be failed in the subject of Insurance Law (Optional Legal). The petitioner applied for photo copy of the answer-sheet of the subject in which he was declared failed. On 07.08.2023 he received photo copy of answer-sheet. After perusal of the photo copy it is noticed that he secured 26 marks in theory and 12 marks in practical. He has strong belief that he could have awarded more marks than what is reflected in the photo copy. According to the petitioner, he deposited fees for re-evaluation of answer-sheet in the subject of Insurance Law on 03.10.2023 with respondent no.3-College. Further, the petitioner submitted photo copy of the answer-sheet to respondent no.2 and requested him to declare the result as soon as possible. According to the petitioner, he has deposited requisite fees with respondent no.3-College for re-evaluation of Insurance Law answer-sheet. As such, he took necessary steps as per rules.

4. According to the petitioner, on 04.11.2023, respondent nos.1 and 2 declared result of re-evaluation on official website. Surprisingly there was no trace about his result. On enquiry he came to know that respondent no.3-College failed to deposit fees/charges within stipulated time with respondent nos.1 and 2. Resultantly, his request for re-evaluation is not considered. According to the petitioner, he is not at fault. It is the fault of either College or University Authorities. He made request to respondent no.2 to consider his case and declare the result accordingly. In this circumstance, the petitioner prays for the directions against the University.

5. Mr. Gangakhedkar, learned Advocate appearing for the petitioner submits that the results of the examination were declared on 02.08.2023. The petitioner applied for photo copy of the answer-sheet within five days of declaration of the result i.e. on 07.08.2023. After receipt of the answer-sheet he found that he secured 26 marks in the theory and 12 marks in the practical. The petitioner deposited fees with respondent no.3-College for re-evaluation of the subject. However, because of negligence on the part of the College authorities, fees could not be deposited within time. The student cannot be made to suffer for such wrong on the part of respondent no.3-College.

6. Mr. S. S. Thombre, learned Advocate appearing for the University vehemently opposes the petition. He would invite attention of this Court to the communication dated 11.12.2023 issued by the University to the College, thereby returning the Demand Draft dated 30.10.2023. He would submit that the College deposited the Demand Draft on 08.11.2023, whereas the result of re-evaluation was already declared on 04.11.2023. Therefore, Demand Draft received from the College has been returned. Since, the entire procedure as per rule was over, the University cannot reopen issue and permit re-evaluation at this stage.

7. We have heard the learned Advocates appearing for the respective parties and perused record. The University has prescribed the rules and procedure for re-counting of the marks and evaluation of the answer books. The Part-A deals with the “supply of photo copies of answer books to the examinee/s”. The facility is made available with intention to bring transparency in the examination system and ensure its credibility. The examinee is required to submit prescribed application duly signed by the examinee to the Principal of College alongwith requisite fees within five clear days from the date of

declaration of result of relevant examination. The rule prescribes that “any application received after expiry of last date is liable to be rejected without assigning any reason”. The obligation is cast upon the Principal of the College to forward the relevant information of the applicants through email/CD to the Controller of the Examination within eight clear days from the date of declaration of the result of relevant examination. The Principal is mandated to forward the Demand Draft alongwith application. The photo copies of the answer book is then made available to the students within 10 to 12 days from the receipt of the application.

8. The Part-B of the rules and procedure prescribes for re-counting of the marks which is available subject to the payment of the fee of Rs.50/-. In case any discrepancy on any count is found that can be corrected by the University with authentication by the Controller of Examination. Clause 4 provides that if any question or part thereof in the answer book is observed to be undervalued / unassessed, the same can be got valued from the same Examiner and additional marks can be awarded. The change is required to be informed to the examinee by way of Notification and corrected statement of marks.

9. The rules and procedure for re-evaluation of the answer book is provided in Clause (C), it requires that the applicant shall be routed through the College within five clear days from the date of issuance of the photo copies of answer book by the University. The examinee is eligible to apply for two answer books. The application alongwith prescribed fees shall be submitted by the examinee to the respective Colleges. In case, change of mark in subsequent assessment / revaluation is plus by more than 10%, the 75% of the fees is refundable. The Principal of College is under obligation to forward such application to the University alongwith fees collected through Demand Draft within

eight clear days from the date of issuance of photo copies. Thereafter, examination wise / subject-paper wise list of seat numbers needs to be forwarded by the College to the Examination Section. After receipt of applications the Vice Chancellor has to nominate the retired teacher or any other expert in the subject as a member of the Committee. The Committee so formulated requires to evaluate whether, *prima facie*, there is grievance warranting re-assessment of the answer book. The cases recommended by the Committee are required to be preferred to the teachers/experts in the relevant subject. If on re-assessment it is found that 10% plus marks more than original are secured by the examinee, the marks awarded by the subsequent examiner shall be awarded to the concerned examinee.

10. Looking to the aforesaid scheme, if we look to the facts of the present case, what can be noticed here is that the result of the main examination was declared on 02.08.2023. The petitioner made an application for photo copy on 07.08.2023. The University provided photo copy to the College. The respondent no.3-College published a Notification dated 27.09.2023 thereby informing the students to receive the photo copies and submit applications for re-evaluation during the period from 03.10.2023 to 07.10.2023. The petitioner has placed before us the receipt indicating that he had deposited the requisite fees with the College for re-evaluation of the answer-sheets on 03.10.2023 i.e. within the schedule prescribed in notice as published by the College. The University had granted time to deposit the applications alongwith fees with the University upto 12.10.2023. However, respondent no.3-College deposited the fees alongwith applications on 08.11.2023. By that time the result of the re-evaluation was already declared.

11. The aforesaid sequence of events clearly suggests that the petitioner who is final year law student has taken the necessary steps

for re-evaluation of the answer-sheet as per the University Regulations . Therefore, no fault can be found with the petitioner in the entire process. Apparently, respondent no.3-College belatedly deposited the fees alongwith applications of students on 08.11.2023 i.e. after declaration of the result of re-evaluation. In this background, the University returned the Demand Draft submitted by the College. The impugned order passed by university records similar reason.

12. Pertinently, the petitioner is a final year law student. His failure in the examination not only results in the loss of academic year, but also it would be lifelong stigma on his academic record. The University regulations provides the facility for re-evaluation as per prescribed the procedure. The obligations are cast upon the College to act as coordinator between students and University in the process. Petitioner would entitle to get re-evaluation of the answer-sheets by the University once he takes requisite steps in compliance of regulations. As stated above, there is no reason to find fault with the petitioner. It is respondent no.3-College, who acted in careless and negligent manner while discharging its duty as coordinator.

13. We find that petitioner cannot be put to disadvantage, when he deposited the requisite fees with the College within stipulated time. The failure of the College to transmit the re-evaluation fees to the University within stipulated time could have been condoned in the interest of the students. If necessary, the College could have been imposed penalty. In such situation, the University was expected to secure the interest of the students by penalizing the defaulting College. We find that negligence on the part of respondent no.3-College is unpardonable. However, the student cannot be made sufferer for wrong of the College. Therefore, we deem it proper to direct the University to accept the re-evaluation fees of the petitioner and carry re-evaluation of

his answer-sheets as prescribed under Rules. We also deem it proper to impose cost upon respondent no.3-College, who is responsible for sufferings of the students. Hence, we proceed to pass following order:

ORDER

- a. Writ Petition is partly allowed.
- b. The respondent nos.1 and 2 shall accept re-evaluation fees from the petitioner and carry re-evaluation of the answer-sheets of the petitioner within a period of one month from date of this order and declare and forthwith communicate the result of such re-evaluation to the petitioner.
- c. The respondent no.3-College shall pay cost of Rs.25,000/- (Rs. Twenty Five Thousand only) within period of ten days from date of this order, out of which Rs.15,000/- (Rs. Fifteen Thousand only) shall be deposited with the University and Rs.10,000/- (Rs. Ten Thousand only) shall be paid to the petitioner.
- d. Writ Petition is disposed of.
- e. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE