

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PRACHI PRANESH
NANDIWADEKAR

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WRIT PETITION NO.148 OF 2024

1. Vinayak Sopan Matre
Age : 29 years, Occu. Service,
Residing at Building No.2, Room No.38,
P.M.C. Colony, Pandav Nagar,
Shivajinagar, Pune – 16.
2. Raj Ramesh Pawar
Age : 25 years, Occu. Service,
Residing at J 305, 3rd floor,
Dyneshwar Society,
Shankar Maharaj Vasahat, Chavan Nagar,
Satara Road, Pune – 43.
3. Aashpak Rajjak Mulani
Age 36 years, Occ. Service,
Residing at Survey No.7/1/1,
Opposite Shivaji Building,
Shindenagar, Old Sangvi,
Pune – 411 027.
4. Raju Vikram Dhakane
Age : 37 years, Occ. Service
Residing at Flat No.1, Jivhala,
Near SBI Bank,
besie Shwetayan Palace Society,
Samarth Nagar, New Sangvi,
Pune – 411 061.
5. Vishal Pandurang Kamble
Age 41 years, Occ. Service,
Residing at 221/P, Shivdarshan,
Sahakarnagar, Parvati,
Pune – 09.

.. Petitioners

Versus

1. The Principal
Government Polytechnic Pune,

Vidyapeeth Marg, Shivajinagar,
Pune – 16.

2. The Director,
Maharashtra State Board of
Technical Education Mumbai,
Government of Maharashtra,
Mumbai -01.

3. The Director,
Technical Education
Government of Maharashtra,
Mumbai -01.

.. Respondents

Mr.Mahaling N. Pandarge for the petitioners.

Mr.N.C. Walimbe, Addl. G.P a/w Mrs.R.A. Salunkhe, AGP for respondent
nos.1 to 3.

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

Date on which the Arguments were heard : 10th April 2024
Date on which the Judgment is pronounced : 17th April 2024

Judgment (Per Jitendra Jain, J.) :-

. Rule. Mr.Walimbe, learned Additional Government Pleader
waives service for respondent nos.1 to 3. By consent of the parties, the
petition is heard finally.

2. By this petition filed under Article 226 of the Constitution of
India, the petitioners seek quashing of the order dated 18th November
2023 issued by respondent no.1-Government Polytechnic, Pune

(Polytechnic) whereby the admissions of the petitioners are sought to be cancelled.

3. **Brief facts are as under : -**

- (i) Respondent no.1-Polytechnic conducts 8 semesters part time course leading to Diploma Programmes in Engineering and Technology under the directions of respondent no.3-Director of Technical Education.
- (ii) In 2019, the petitioners applied for the aforesaid course pursuant to the prospectus issued by respondent no.1-Polytechnic. The petitioners applied for the said course based on qualification prescribed in B.1 of the said prospectus. The petitioners also attached the requisite experience certificates in Proforma-E along with the application.
- (iii) The petitioners obtained admissions after verification of all the documents and interview organised by respondent no.1-Polytechnic. As on today, the petitioners have already completed 6 semesters out of the 8 semesters course over the period 2019-2021.
- (iv) On 8th March 2022, the petitioners were served with a notice issued by respondent no.1-Polytechnic for re-verification of the documents filed at the time of admission. The petitioners made

their submissions on 17th March 2022.

- (v) On 29th September 2022, the petitioners received an order passed by respondent no.1-Polytechnic cancelling the admissions of the petitioners from the academic year 2019-20 for the aforesaid course.
- (vi) The petitioners challenged the aforesaid order by filing a Writ Petition in this Court which was numbered as Writ Petition No.1435 of 2023. On 12th October 2023, the Co-ordinate Bench of this Court disposed of the said writ petition by directing respondent no.1-Polytechnic to examine whether the petitioners worked in the technical field irrespective of post to which they were appointed and if so, then respondent no.1-Polytechnic to consider whether the case of the petitioners can be covered in the phrase “employed in technical field” under the Rules.
- (vii) Pursuant to the above order, the petitioners filed affidavits along with the documents in support of their contention that they satisfied the eligibility criteria required for seeking admission to the aforesaid course. The petitioners also filed affidavits of persons who had issued the experience certificate.
- (viii) On 18th November 2023, respondent no.1-Polytechnic cancelled

the admissions of the petitioners on the ground that the petitioners could not satisfactorily answer the questions asked on technical issues and further the petitioners did not produce any document showing that they worked in technical field.

4. It is on this backdrop that the petitioners are before us seeking quashing of the said communication dated 18th November 2023 whereby the admissions of the petitioners are cancelled.

Submissions of the Petitioners :-

5. The petitioners submitted that at the time of admission in the year 2019, they had filed all the documents including the certificate of experience and it is only after verifying the same and after conducting the interview that the admission was granted. The petitioners have completed 6 semesters out of 8 semesters and have scored good marks in all the semesters. The petitioners further submitted that they had filed the affidavits of the persons who had issued experience certificates before the Committee set up pursuant to the order of this Court dated 12th October 2023 in Writ Petition No.1435 of 2023. The petitioners submitted that no enquiry was made with sponsors by respondent no.1 for ascertaining whether the certificates were genuine. The petitioners submitted that the respondents have not verified the technical

background as directed by this Court nor have they considered the documents filed pursuant thereto and therefore, the impugned order is bad-in-law. The petitioners submitted that the part time diploma course has been introduced for those who have wanted to upgrade their career choice and since the petitioners have successfully completed 6 semesters out of 8 semesters, they should be permitted to complete the balance 2 semesters.

Submissions of the Respondents :-

6. Per contra, the respondents submitted that it is on the basis of complaint received that the enquiry was initiated against the petitioners and it was found that the certificates issued were not genuine. The respondents further submitted that the petitioners could not answer the technical question before the Interview Committee set up by respondent no.1-Polytechnic to comply with the directions issued by the High Court vide order dated 12th October 2023. The respondents, therefore, submitted that since the petitioners do not satisfy the basic eligibility criteria of having experience in technical field, the present petition is required to be dismissed.

7. We have heard the learned counsel for the petitioners and the respondents and with their assistance have perused the documents

annexed to the petition, reply affidavit and the rejoinder filed by the parties.

Analysis and Conclusions:-

8. This is the second round of litigation challenging cancellation of admissions by respondent no.1 of the petitioners. In the first round of litigation in Writ Petition No.1435 of 2023, this Court had passed the following operative order : -

“6. On the last occasion, the learned Counsel for the petitioners had taken time to file an additional affidavit stating that though the appointments of the Petitioners were under the nomenclature of the sweeper, peon, etc., the Petitioners were made to do work in various technical fields in the Municipal Corporation. They contend that, as a matter of fact, the Petitioners worked in the technical field. They contend that, that being the position, the Rules for eligibility in these facts and circumstances for the Petitioners' case be suitably interpreted. Even assuming that this interpretation is to be extended, factually, it will have to be determined as to whether this assertion of the Petitioners is correct or otherwise and, therefore, it would be appropriate that Respondent No.1 looks into this factual assertion and determines whether it is correct or otherwise. Thereafter, if Respondent No.1 is satisfied that the Petitioners indeed worked in a technical field irrespective of the nomenclature of their appointment orders, then Respondent No.1 will consider whether the case of the Petitioners can be covered in the phrase "employed in technical field" under the Rules.”

9. This Court in the aforesaid order directed the respondents to factually determine whether the petitioners have worked in the technical field so as to be eligible for the course and it was for ascertaining this factual determination that the matter was remanded

back with a direction that if respondent no.1 is satisfied that the petitioners had indeed worked in the technical field irrespective of nomenclature of appointment order then respondent no.1 will further consider whether the petitioners can be covered in the phrase “employed in technical field” under the Rules.

10. Pursuant to the above, the petitioners filed their affidavits stating their work experience in the technical field and also enclosed the documents in support thereof. The petitioners also filed affidavits of the persons who issued the experience certificates. Respondent no.1 constituted a Committee for ascertaining the technical knowledge of the petitioners. In the report dated 18th November 2023, the observations of the Committee with respect to the questions asked to the petitioners are annexed. As per the said report, the petitioners could not answer the basic relevant questions which are pertinent for a person to have knowledge of and who intend to complete Diploma in Engineering Course.

11. In our view, this Court had directed respondent no.1 to ascertain whether the petitioners had worked in the technical field and if yes, whether the same can be covered in the phrase “employed in technical field” under the Rules. The direction of this Court was not to

test the technical knowledge of the petitioners but to verify whether the petitioners had actually worked in technical field prior to enrolling for the said course. These directions have not been complied with by respondent no.1 before passing the impugned order cancelling the admission.

12. The petitioners have filed the affidavits and annexed the certificates of the persons with whom they had worked and further have also filed affidavits of such persons issuing experience certificates. The experience certificates certified that the petitioners had worked in the technical field. There is no enquiry made by respondent no.1 with the persons who had issued these certificates for ascertaining whether they are genuine and therefore, the statement made in the affidavits of the petitioners and persons issuing the experience certificates will have to be accepted and the said certificates cannot be said to have been proved false.

13. It is also important to note that as per Clauses A.5 and A.6 of the prospectus of respondent no.1, it is stated that candidates shall be processed strictly on merit marks and the candidates would be considered as per the experience and the nature of work in particular field at the time of application and if the Committee is not satisfied

with the performance in the interview then the admission of such candidate will be refused. In the instant case, the petitioners have been admitted to the course only on compliance of Clauses A.5 and A.6 of the prospectus. If at that point of time, the Committee taking interview was satisfied with the eligibility of the petitioners, then today they cannot contend otherwise. The process contemplated in Clauses A.5 and A.6 is required to be conducted at the time of admission and not after completion of 6 semesters out of 8 semesters course.

14. As per Clause D.2 of the prospectus, the Principal of respondent no.1 is responsible for effecting the admission subject to overall supervision of the respondent no.3. As per Clause E.6 of the prospectus, the candidate will have to appear before the Committee for technical interview and verification of the original certificate. As per Clause E.7, it is stated that the interview will consist of verification of original documents and validity of experience certificate and knowledge of candidate in his/her field. If any of this information is found to be false then the candidate will not be considered for admission. In the instant case, the petitioners were admitted which can only be on the basis that the documents were verified and found to be genuine and the respondents were satisfied with the knowledge of the petitioners. This process is also required to be undertaken by respondent no.1 at the time

of admission and not after completion of 6 semesters out of 8 semesters.

15. As per Clause E.8, it is stated that if subsequent to the admission and any information supplied is found to be false or incorrect then respondent no.1 has right to cancel the admission from inception and fees paid would be forfeited and appropriate criminal action will be taken against the candidate including expulsion. In the instant case, the petitioners have filed experience certificates and affidavits of the persons issuing such certificates. No enquiry has been made by respondent no.1 on these certificates and therefore, the documents go uncontroverted and cannot be said to have been found false. The results of the interview to test knowledge does not fall under this clause and even otherwise as observed by us above, the result of the interview has to be tested at the time of admission and not on completion of 6 semesters out of 8 semesters. Therefore, the respondents cannot contend that the documents have been found to be false. Petitioner Nos.2 and 4 have also filed certificate from Municipal Corporation. The impugned order dated 18th November 2023 is also not on the basis that experience certificate has been obtained by fraud.

16. It is also important to note that the petitioners have attended all 6 semesters and have appeared all exams conducted by

respondent no.1 for these 6 semesters. The mark-sheet annexed to the petition shows that the petitioners have passed with good marks in all these 6 semesters. If that be so then we wonder as to how respondent no.1 today can contend that the petitioners have no basic knowledge about civil engineering field when they themselves have granted good marks to these petitioners in the exam conducted by them. The mark-sheet stands good even today. Therefore, on this count also, the stand taken by respondent no.1 does not appear to be proper.

17. The respondent no.1-Polytechnic contended that they had provisionally admitted these petitioners and on receiving complaint, an enquiry was initiated and it was found that the documents were false. We have already observed that in the absence of any enquiry made against the persons who issued the certificates and further these very persons having filed the affidavits in support of the experience certificates, the stand taken by respondent no.1 is misconceived. Respondent no.1-Polytechnic have not shown us any document that the petitioners were admitted on provisional basis and assuming that the admission was on provisional basis, the same could not have been granted for a period of 6 semesters out of 8 semesters. The provisional admission ought to have been confirmed and the petitioners ought to

have been informed about their eligibility/ineligibility at the earliest or at least much before expiry of 1st or 2nd semesters. It is too late in the day for the respondents to contend otherwise. Respondent no.1 has not given any explanation for the delay in cancelling the admission on the ground specified therein.

18. For the reasons stated above, the order dated 18th November 2023 cancelling the admission of the petitioners is quashed and set aside and the respondents are directed to permit the petitioners to complete their course. If the said course is discontinued or 2019 batch was the last batch then respondents would conduct special exams for the petitioners for the remaining 2 semesters.

19. The writ petition is allowed in terms of prayer clause (a) which reads thus :-

“(a) That this Hon’ble Court may please to pass necessary writ order or direction in like nature and pass writ on certiorari thereby passing order of quashing and setting aside the order dated 18.11.2023 issued by the respondent no.1.”

JITENDRA JAIN, J.

A.S. CHANDURKAR, J.