



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.265 OF 2024

Krupali Manoj Shinde,
aged 20 years, occupation: Student,
1st Floor, 8/14 Vishwas Niwas, Acharya
Donde Marg, Mumbai – 400 012

..Petitioner

Versus

1. State of Maharashtra,
Through the Principal Secretary,
Higher & Technical Education
Department, Mantralaya, Annex,
Mumbai – 400 032.
2. The Director of Higher Education,
Maharashtra State, Central Building,
Pune, District – Pune.
3. The University of Mumbai,
Through its Registrar
123, Mahatma Gandhi Road,
Kala Ghoda Fort, Mumbai – 400 032.
4. Modern Education Society,
Through the Secretary, having its
address at 19, Late Prin, V. K. Joag Path,
Wadia College Campus, Pune – 411 001.
5. D. G. Ruparel College of Arts, Science
and Commerce, through its Principal,
Senapati Bapat Marg, Opp. Matunga
Road Station (W. R.), Mumbai – 400 016.

..Respondents

Ms. Devyani Kulkarni, for the Petitioner.

Mr. Milind More, Addl. G. P. for Respondent Nos.1 and 2 (State).

Mr. Manish S. Kelkar for Respondent No.3.

Mr. Suyog U. Nair i/by Mr. S. R. Ronghe for Respondent No.5.

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

DATE : 31st JANUARY 2024

JUDGMENT: (per Jitendra Jain, J.)

1. By this Petition under Article 226 of the Constitution of India, the Petitioner has challenged communication dated 15th October 2022 issued by the Respondent No.3-University to Respondent No.5-College informing that the Petitioner is not eligible for pursuing B.Sc degree course for the academic year 2020-2021 as per the Ordinance No.0.2145 which required XIIth passed in Science Stream.

2. **Briefly facts are as under :-**

3. In February-2020, the Petitioner passed Higher Secondary Certificate Exam in Commerce Stream, in which she had two papers of Mathematics & Statistics and Economics. She cleared her exam with 83.38% marks.

4. On 6th August 2020, the Petitioner made an application for admission to FY-B.Sc course for academic year 2020-2021 to Respondent No.5-College. In the said application form, she disclosed details of her XIIth Standard Exam including the fact that she has cleared the said exam in Commerce Stream. In FY-B.Sc course she selected Mathematics & Statistics as her subjects. Based on the said application, Respondent

No.5 granted admission for the said course FY-B.Sc for academic year 2020-2021.

5. On 20th November 2020, Respondent No.5 forwarded to Respondent No.3 application of the Petitioner along with documents on the basis of which the admission was granted.

6. Meanwhile, the Petitioner cleared Semesters I, II, III and IV upto the date of filing the Petition and today we are informed that she has also cleared balance two Semesters and in all the three years she appeared for exam in Mathematics & Statistics and Economics.

7. On 15th October 2022, that is, after two years from the date of receipt of all the documents by Respondent No.3-University, Respondent No.5-College was informed by Respondent No.3-University that the Petitioner is not eligible for pursuing FY-B.Sc degree course as per the Ordinance No.0.2145 which required her to be XIIth passed in Science Stream.

8. On 19th October 2022, Respondent No.5-College in a letter addressed to the Respondent No.3-University requested for approving the eligibility of the Petitioner. Respondent No.5 admitted in the said letter that through oversight of its staff, verification process was not carried out properly and the admission was granted. However, Respondent No.5 stated that the Petitioner has scored good marks in

Mathematics & Statistics and Economics in the first and second year of the degree course of B.Sc. and therefore requested Respondent No.3 to grant her eligibility by considering welfare of the student and also to save the entire two years spent by the Petitioner in pursuing the said course.

9. It is on this backdrop that the present petition is filed seeking to challenge the communication dated 15th October 2022 declaring her as ineligible for B.Sc. degree course.

10 On 27th October 2022, the Petitioner moved this Court for interim relief and this Court was pleased to grant the same, whereby the Petitioner was allowed to appear for balance semesters exams of B.Sc. course. We are informed that as of today, she has already cleared her 3 years degree course successfully.

11. The Petitioner submits that admittedly there is no mis-declaration or non-disclosure in the admission form filed for seeking admission in the B.Sc degree course. She had submitted all the documents which showed that she has cleared XIIth standard exam from Commerce Stream with Mathematics & Statistics and Economics as two of the papers. In the B.Sc degree course also in all the 3 years, she opted for Mathematics & Statistics and Economics papers and cleared with good marks. The Petitioner submits that for no fault of her and that too

after a period of 2 years from the grant of admission, Respondent No.3 has declared her ineligible which is unfair. The Petitioner submits that Respondent No.3 in the facts of her case should not have declared her ineligible. The Petitioner further submits that Respondent No.5 in letter to Respondent No.3 admitted that the mistake was on the part of the College. The Petitioner, therefore, submitted that looking at the facts of the her case, she should be declared as successfully completed B.Sc degree course and the communication dated 15th October 2022 be quashed.

12. Respondent No.5-College admitted its mistake, but since the Petitioner has scored goods marks in the subjects of Mathematics & Statistics and Economics and which was also her subjects in XIIth standard and in the light of the fact that she has completed course successfully, supported the submissions made by the Petitioner.

13. Per contra, Respondent No.3 opposed the petition and submitted that the Petitioner did not clear the minimum admission requirement as per Ordinance No.0.2145. Since, she was not from Science stream and out of 4 subjects, she only appeared for Mathematics & Statistics and Economics in Commerce Stream, therefore, she is ineligible. Furthermore, Respondent No.3 submitted that it was the responsibility of Respondent No.5 for scrutinizing the documents and

Respondent No.5 having admitted the mistake on their part, the fault lies with Respondent No.5. However, Respondent No.3 does not dispute that as of today, the Petitioner has completed the course successfully with good marks.

14. We have heard the learned counsel for the Petitioner and the Respondents and with their assistance have perused the documents.

15. Admittedly, as of today, the Petitioner has completed her B.Sc. Degree course in Mathematics & Statistics and Economics with good marks. These were also her subjects in XIIth Commerce stream. It is not the case of Respondent No.3 that the Petitioner had suppressed in her admission form any material fact, which is found to be false. Respondent No.5 has owned the mistake and responsibility on their part in processing the application of the Petitioner. Therefore, in our view, in the facts of the present case, when no fault lies with the Petitioner, moreso, on her successfully completing the course, the action of Respondent No.3 to declare her ineligible at the fag end of the course would be unfair.

16. The Petitioner had taken Mathematics & Statistics and Economics exam in XIIth standard and she continued with the same subjects in B.Sc. degree course, which she has completed successfully with good marks and same has not been disputed, but on the contrary,

Respondent No.5 has admitted about her scoring good marks in these subjects. These are the subjects which very few students take and this Petitioner having completed her course in these subjects is a major achievement and, therefore, it would be unfair to now put the clock back which would only result into waste of good talent merely for lack of degree when she has cleared her exams with good marks. Furthermore, Respondent No.3 almost took 2 years to communicate the ineligibility of the Petitioner. Had Respondent No.3 communicated the said ineligibility before the completion of first semester, the Petitioner would not have spent time, energy and money in completing her course and that too in these subjects, which very few students take and which are very important subjects. In the minimum admission requirement for degree course of Science, a student should have appeared in XIIth Standard in 4 out of these 7 subjects namely Physics, Chemistry, Biology, Mathematics & Statistics, Geography, Economics, Geology, Psychology. Admittedly, the Petitioner had taken exam in Mathematics & statistics and Economics in her XIIth standard. In our view, this would also be a factor in favour of the Petitioner in the facts of the present case.

17. The Petitioner is justified in relying upon the decision of this Court in the case of *Vinayak Uttam Hirave vs. Ideal College of Law & Anr.*¹ wherein similar circumstances, the student was allowed to

1 2024 SCC Online Bom 47

complete the course.

18. In view of above, we pass the following order:-

O R D E R

- (i) Writ Petition is allowed.
- (ii) The Respondent No.3-University is directed to issue Mark-Sheet as well as the Degree Certificate to the Petitioner consequent upon her clearing the Bachelor of Science Course successfully.
- (iii) Necessary steps be taken within a period of four weeks of receiving copy of this judgment. Rule is made absolute.

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)