



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

WRIT PETITION NO.441 OF 2024

Nichite Devarshi Ravindra,
aged 21 years, A-103,
Jupiter Building, Ganga Road,
Shahapur Thane – 421 601.

..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

Mr. Mihir Joshi for the Petitioner.

Mr. Milind V. More, Addl. G. P. for Respondent Nos.1 & 2-State.

Mr. Manish Kelkar for Respondent No.3-University.

Mr. Suyog Nair. i/by. Mr. S. R. Rongre for Respondent Nos.4 and 5.

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

DATE : 30th APRIL 2024.

Judgment :- (Per Jitendra Jain, J.)

1. **Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner seeks to challenge the communication dated 11th October 2022 issued by the Respondent No.3-University holding the Petitioner ineligible for admission to F. Y. B.Sc. (IT) course for the academic year 2020-2021.

Brief facts are as under:-

3. The Petitioner cleared Higher Secondary Certificate Examination (H.S.C.) in February 2020 in Commerce Stream by scoring 69.54%. The subjects of H.S.C. Examination which the Petitioner wrote were English, Economics, Book Keeping & Accountancy, Organisation of Comm & Mgmt, Secretarial Practice, Information Technology (IT) and Environment Education. The Petitioner wanted to pursue degree course in Information Technology (IT) and therefore applied on 5th August 2020 to Respondent No.5-College. The Petitioner gave all the details as required alongwith the application form including the marks-sheet of H.S.C. Exam. The Respondent No.5-College granted admission to the Petitioner for B.Sc. (IT) course and forwarded all the documents to Respondent No.3-University.

4. The Petitioner cleared successfully with good grades I Semester, II Semester, III Semester and IV Semester during the period 2020-2022.

5. On 11th October 2022, i.e. after almost around two and half years of the Petitioner having taken admission, the Respondent No.3-University informed the Respondent No.5-College that the Petitioner was not eligible for admission to F. Y. B.Sc. (IT) course as per Ordinance No. 0.5051 since the Petitioner had not passed XIIth standard exam with Mathematics and Statistics which was mandatory requirement for admission to the said course. On 19th October 2022, the Respondent No.5-College requested the Respondent No.3-University to approve the eligibility of the Petitioner for B.Sc. (IT) programme. The Respondent No.5-College stated that the Petitioner had already cleared IV semester out of total VI semester till then and he had also studied Information Technology Subject at his XIIth standard. The Respondent No.5-College brought to the notice of Respondent No.3-University the hardships that would be caused to the Petitioner, if at the fag end of his course his admission is cancelled. The Respondent No.5-College also admitted that due to pandemic there was a lapse on their part to verify the documents uploaded by the students and they accepted the responsibility on this count. It is on this backdrop that the Petitioner before us is seeking quashing of communication dated 11th October 2022, whereby he is held to be ineligible to enroll for F. Y. B.Sc. (IT) course.

6. On 27th October 2022, the Petitioner moved this Court for interim relief and the Coordinate Bench of this Court granted interim relief by permitting the Petitioner to appear for V Semester Exam which were scheduled to begin from 23rd November 2022. Today when this matter was called out, we are informed that the Petitioner has successfully cleared balance V and VI semesters also with good grades and has completed the course of B.Sc. (IT). However, the Respondent No.3-University has not issued the marks-sheet and the degree since the petition was pending before this Court.

7. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondent and with their assistance have perused the documents annexed to the petition.

8. Admittedly, there is no dispute that the Respondent No.3-University had informed the Respondent No.5-College about the ineligibility of the Petitioner after two and half years of three years course. The Respondent No.5-College has admitted that it was error on their part on account of pandemic that they did not check the eligibility although the Petitioner along with the application form had filed the H.S.C. marks-sheet which clearly demonstrated that Mathematics and Statistics were not the subjects which the Petitioner had taken in H.S.C. Exam. However, the Petitioner did appear for Information Technology subject in his XIIth standard and also cleared all the VI semesters of the

B.Sc (IT) course with good grades. We are of the view that the Petitioner cannot be held responsible, on the present facts and moreso on successful completion of the course with good grades. The objection to the eligibility ought to have been taken at the beginning of the course and not at the end of the course. There is no allegation of any suppression on the part of the Petitioner by Respondent No.3-University and the Petitioner cannot be made to suffer on account of the error on the part of Respondent No.5-College in granting the admission and on the part of Respondent No.3-University in informing the Petitioner at the fag end of the course.

9. In similar situation, this Bench in the case of *Krupali Manoj Shinde vs. State of Maharashtra & Ors.*¹ had permitted the student to complete the course and directed the University to issue marks-sheet as well as the degree certificate. The Petitioner is also justified in relying upon the decision of this Court authored by His Lordship Justice Shri. B. R. Gavai (he then was), in the case of *Syeda Afiya Ahmad vs. Rashtrasant Tukadoji Maharaj Nagpur University and Others*².

10. In view of above and following the decision of this Court on very similar situation in the case of *Krupali Manoj Shinde (supra)* and *Syeda Afiya Ahmad (supra)*, the impugned communication issued by the Respondent No.3-University dated 11th October 2022 is quashed and set aside.

1 Writ Petition No.265 of 2024 dtd. 31st January 2024

2 2013 (1) Mh.L.J.

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

O R D E R

(i) Writ Petition is allowed in terms of prayer clause (a)

which reads thus:-

(a) The Hon'ble Court may be pleased to issue a writ of certiorari or a writ, order or direction in the nature of certiorari or any other writ or order to quash and set aside the impugned order dated 11.10.2022 passed by Respondent No.3 University whereby the Petitioner was held to be ineligible for admission into F. Y. B.Sc. in the academic year 2020-21;

(ii) The Respondent No.3-University is directed to issue marks-sheet as well as the degree certificate of his completing the B.Sc. (IT) course to the Petitioner within a period of four weeks from the date of uploading the present order.

(iii) Rule is made absolute in above terms.

[JITENDRA JAIN, J.]

[A. S. CHANDURKAR, J.]