



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4892 OF 2025

Ameya S/o Manoj Ghogare
Age : 30 years, Occu. Education,
R/o. Ameya Hospital, Samtanagar,
Dharashiv, Tq. and District Dharashiv

.. Petitioner

Versus

1] The Union of India
Through the Secretary,
Ministry of Health,
New Delhi

2] National Medical Commission,
Pocket No. 14, 8, Phase – 1,
Dadadeo Mandir Road,
Block P, Dwarka,
New Delhi 110 077
Through its Secretary

3] The Maharashtra University of Health
Sciences, Nashik
Through its Registrar

.. Respondents

...
Senior Advocate for the petitioner : Mr. V.D. Hon i/by Mr. Ashwin V. Hon
Standing Counsel for respondent no. 1 : Mr. S.S. Deve
Advocate for respondent no. 2 : Mr. S.K. Kadam
Advocate for respondent no. 3 : Mr. S.B. Pulkundwar
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 9 APRIL 2025

ORDER (MANGESH S. PATIL, J.) :

Heard the learned advocate for the petitioner.

2. The petitioner is coming with following prayers :-

“(B) Hold and declare that the provisions of clause 8.4 of the Regulation 2023 as bad and void and unconstitutional and the same therefore, required to be struck down.

“(C) Issue a writ of mandamus or writ in the nature of mandamus to the respondents to reevaluate all three papers of the petitioner and to consider higher marks scored by the petitioner in those three subjects and thereafter, declare his result.”

3. Having appeared at MD (Pathology) winter - 2024 final examination and having failed with a margin of 4 marks, he is before us claiming the afore-mentioned reliefs and taking exception to clause 8.4 of regulation 2023 of respondent no. 2 – The National Medical Commission (**NMC**), whereby it has been provided that revaluation of the papers is possible only in case of two papers and not all the four papers.

4. Learned advocate for the petitioner would take us through the papers to demonstrate as to how the petitioner had cleared all the subjects having scored required minimum 40 marks but in aggregate, as against the minimum passing marks of 200, his aggregate score was 196. He submits that apart from the petitioner's confidence of having performed well, clause no. 8.4 of the notification dated 29.12.2023 is arbitrary and deprives a meritorious candidate from seeking revaluation of all the answer papers.

5. Mr. Kadam for respondent no. 2 - NMC having been served privately, opposes the petition by submitting that the petition is

an afterthought, having failed to secure bare minimum marks, the petitioner is now finding fault in clause no. 8.4. He must be aware about such regulation and cannot be allowed to take exception to it having appeared at the examination with open eyes.

6. We have considered the rival submissions and perused the papers.

7. True it is, as laid down in the matter of ***Tej Prakash Pathak and others Vs. Rajasthan High Court and others; (2025) 2 SCC 1*** (civil appeal no. 2634 of 2013 with connected appeals – judgment dated 07.11.2024) that the rules of the game cannot be changed after it was played.

8. However, admittedly, the notification was issued by respondent no. 2 on 29.12.2023. The petitioner appeared at the examination held in the year 2024 and having failed to secure minimum marks in aggregate, he even applied for revaluation. He is now finding fault with clause no. 8.4.

9. In an appropriate case, vires of the clause and its constitutional validity can be examined. However, here is a case where the petitioner having appeared at the examination pursuant to the post-graduate medical examination conducted in the light of Post Graduate Medical Education Regulations, 2023 dated 29.12.2023, is not entitled

to put up a challenge to the clause. It is clearly an afterthought and any such attempt needs to be nipped in bud.

10. The petition is dismissed in *limine*.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/