

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 17954 OF 2024**

Navdarshan B. Chorge V/s. Maharashtra University of Health Science, Nashik & Ors.	... Petitioner ... Respondents
--	---------------------------------------

Mr. Pradeep J. Thorat i/b Ms Aditi S. Naikare for the Petitioner.
Mr. Sachindra B. Shetye, Mr. Manish Borhra and Mr. Akshay
Pansare for the Respondent No.1.

**CORAM : M.S. KARNIK &
 N.R. BORKAR, J.J.
DATE : 3rd JULY, 2025.**

P.C.

1. Heard learned counsel for the petitioner, learned counsel for respondent No.1. Private notice on respondent Nos,2 and 3 has already been served.

2. By this petition under Article 226 of the Constitution of India, the petitioner *inter alia* has prayed the following relief:

“(a) That this Hon’ble Court be pleased to issue a Writ of Mandamus or any other Writ in the nature of Mandamus directing the Respondents to publish the Result of the 3rd Year BDS examination for which the Petitioner has appeared in Summer, 2024 and to permit the Petitioner to appear for further examination.”

3. By order dated 7th April 2025, this Court passed the following order:

*"1] The learned counsel appearing for Respondent No.1 on instructions submits that the Petitioner's result of Third Year B.D.S. course would be declared by tomorrow, without prejudice. Statement is accepted.
2] Subject to declaration of such result and its outcome, Respondent No.1 shall permit the Petitioner to take further steps.
3] It is made clear that declaration of the Petitioner's result is without prejudice to the rights and contentions of Respondent No.1.
4] All concerned to act on duly authenticated or digitally signed copy of this order."*

4. Learned counsel for the petitioner submitted that the petitioner's result has been declared and he has passed the third year B.D.S. course. However, the petitioner is not being permitted to attend the regular lectures though his admission continues in respondent No.2 college. It is the contention of learned counsel that the action of the respondents on the basis of amended regulations is not justified as the amended regulations published by the respondent No.1 is not applicable to the petitioner. It is submitted that the petitioner having been admitted in the BDS course in the year 2013-14 will be governed by the Rules which were existing at the time of his admission and the amended Regulation No.13/2015 will not be applicable. It is further submitted that the petitioner was permitted to continue his 1st year BDS course beyond period of 3 years from the date of admission and was not discharged from the said course in the year 2016-17 and therefore, after completing his 2nd year BDS, the petitioner cannot be prevented to continue his BDS course.

5. Learned counsel for the petitioner relied upon the decision of Nagpur bench of this Court in **Ku. Teena Rajesh Ghate vs. Maharashtra University of Health Science and ors.**¹. Paragraph Nos. 9 to 12 of the decision are relevant, which read thus:

“9. Undisputedly, the petitioner neither did pass her first year BDS Course within a period of three years from the date of admission nor has completed the said course within a period of nine years. The question involved, therefore, is whether the petitioner could be discharged from the BDS Course on the ground that she failed to clear first year BDS Examination in all subjects within three years from 29.09.2010 to 28.09.2013 or for failing to complete entire BDS Course within a period of nine years upto Winter-2019.

10. In our view, though the Regulation dated 25.07.2007 was applicable to the petitioner and she could have been validly discharged from the course immediately after 28.09.2013. The University permitted her on its own to continue with the first year BDS Course, which she completed successfully in Summer-2015 Examination. It is not possible to accept the stand of the University that because of some confusion arising out of the Rules of the Dental Council of India, the petitioner was permitted to appear in the first year examination of BDS after 29.09.2010, i.e. after completion of three years from the date of admission. The earlier Regulation of completing of first year BDS Course in all subjects within a period of three years from the date of admission was substituted by an amended Regulation brought into force w.e.f. 27.04.2015. The effect of the earlier Regulation, therefore, did not survive and the petitioner could not have been discharged under the old Regulation, after 27.04.2015. This is also the view taken by the Division Bench of this Court in the case of Akshay Wamanrao Kale vs. The State of Maharashtra and others,

¹ Writ Petition No. 3674 of 2019 decided on 25.11.2019

delivered on 03.03.2015 in Writ Petition No. 9412/2014 at Aurangabad. Be that as it may, the University itself has considered the aspect and decided not to discharge the petitioner from the course though she failed to complete first year BDS Course within a period of three years. We, therefore, reject the contention of the University that the petitioner could be discharged from the course now on the ground that though she has failed to clear complete first year BDS Examination within a period of three years from the date of her admission.

11. In the decision of the Apex Court in case of Dr. Dinesh Kumar and others vs. Motilal Nehru Medical College, Allahabad and others reported in (1985) 3 SCC 22, it is held that the candidate would be governed by the Rules which were in operation on the date of his admission to the course and the subsequent change in the Rules which is to the detriment of a candidate would not be applicable. The proviso introduced to the Regulation dated 27.04.2015, to the effect that the modified regulation brought into force on 27.04.2015 shall also be applicable to the students admitted in BDS Course in any Dental Institutions from the Academic year 2008-09, onwards but have not cleared their first year BDS Course within a period of three years on the date of admission. Consequently the modification to it, made subsequently shall also not apply to the case of the petitioner.

12. The position which emerges is that the petitioner who was admitted to the BDS Course on 29.09.2010 was not discharged from the course, upon failure to clear first year BDS Examination in all subjects within a period of three years from the date of admission and regulation brought into force on 27.04.2015 along with modification were not applicable to the case of the petitioner. The petitioner could not have been discharged from the course on the basis of any such restrictions. The petitioner is entitled to be continued in the course, till she obtains degree in BDS Course."

6. In our opinion, the controversy in the present petition is squarely covered by the decision of this Court in *Teena Rajesh Ghate (supra)*. Hence, there is no difficulty in allowing the petition and is hereby allowed in terms of prayer clause “a”.

7. Needless to mention that the petitioner be allowed to attend the regular classes for further term.

(N.R. BORKAR, J.)

(M.S. KARNIK, J.)