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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17389 OF 2025

1. Mr. Darshil Atul Lotia
Age – 26, 5/13 N.P, Building No 1
Ghandhinagar, Near Sarvodaya Hospital
Ghatkopar, Mumbai – 400 086
Presently residing at
301, Shubham Sarayu,
Plot No.155, Garodia Nagar,
Ghatkopar East, Mumbai – 400 077 ...Petitioner

Versus

1. Maharashtra University of Health
Sciences (MUHS), Through its Registrar
Vani-Dindori Road, Mhasrul, Nashik-422004
2. The Controller of Examination
Maharashtra University of Health
Sciences (MUHS), Vani-Dindori Road
Mharsul, Nashik – 422004
3. Dean / Principal
MGM Dental College & Hospital
Junction at NH4, Kamothe
Kamothe, Navi Mumbai – 410209
4. State of Maharashtra
Through the Secretary, Medical Education
& Research Department, Mantralaya
Mumbai – 400 032 ...Respondents

Mr. Shreeprasad Parab a/w Mr. Saiprasad Sawant, Advocate for the Petitioner.

Mr. Sachindra B. Shetye a/w Mr. Akshay Pansare, Mr. Nipun Sawane, Ms. Vrushali Shivgan, Advocate for Respondent Nos.1 & 2.
Mr. P.P. Kakade, Addl. G.P. a/w Ms. Priyanka Chavan, AGP for the Respondent/State.

CORAM : RAVINDRA V. GHUGE

&

ASHWIN D. BHOBE, JJ.

DATE : 23rd DECEMBER, 2025

FINAL ORDER (PER : RAVINDRA V. GHUGE, J.) :-

1. *‘Try, try and try again, till you succeed’*. We are reminded of this famous proverb, which squarely applies to the case of the Petitioner who has secured admission to the Bachelor of Dental Surgery (**‘BDS’**) course in the academic year 2017-2018, but is unable to pass the full 4 years course in the last 8 years. He is trying hard, but is failing. His results appear to be down, but not his spirit. Even the learned Advocate who has canvassed this Petition on his behalf, is also very hopeful.

2. The Petitioner’s academic performance is narrated in Paragraph No.2 in the pleadings, which read as under :-

<i>Sr No.</i>	<i>Exam Attempts</i>	<i>Comments</i>
<i>1</i>	<i>Summer 2018 1st Year BDS</i>	<i>The Petitioner cleared all papers of 1st BDS in 1st attempt.</i>
<i>2</i>	<i>Winter 2018</i>	<i>Not required as cleared all subjects of 1st BDS in Summer 2018.</i>
<i>3</i>	<i>Summer 2019 2nd Year BDS</i>	<i>The Petitioner cleared 1 paper out of 5.</i>
<i>4</i>	<i>Winter 2019</i>	<i>The Petitioner cleared all 4 pending papers thereby cleared the 2nd Year BDS.</i>
<i>5</i>	<i>Summer 2020 3rd Year BDS</i>	<i>The Petitioner cleared 0 paper out of 3 subjects.</i>
<i>6</i>	<i>Winter 2020</i>	<i>The Petitioner cleared 1 paper out of 3 subjects.</i>
<i>7</i>	<i>Summer 2021</i>	<i>The Petitioner cleared 1 paper out of remaining 2 subjects.</i>
<i>8</i>	<i>Winter 2021</i>	<i>The Petitioner cleared the remaining 1 paper thereby cleared the 3rd Year BDS.</i>
<i>9</i>	<i>Summer 2022 4th Year BDS</i>	<i>The Petitioner appeared for 2 exams and failed; could not sit for 6 exams due to health issues</i>
<i>10</i>	<i>Winter 2022</i>	<i>The Petitioner did not submit examination form. Gap Certificate was submitted to the University (MUHS). Skipped the examination attempt due to severe health issues.</i>
<i>11</i>	<i>Summer 2023</i>	<i>The Petitioner appeared for all subjects and failed all.</i>
<i>12</i>	<i>Winter 2023</i>	<i>The Petitioner appeared for all 8 subjects; passed 1 and failed 7</i>
<i>13</i>	<i>Summer 2024</i>	<i>The Petitioner appeared for all 7 subjects; passed 2 and failed 5.</i>
<i>14</i>	<i>Winter 2024</i>	<i>The Petitioner appeared for all 5 subjects; passed 1 and failed 4</i>
<i>15</i>	<i>Summer 2025</i>	<i>The Petitioner appeared for all 4 subjects; passed 2 and failed 2</i>
<i>16</i>	<i>Winter 2025</i>	<i>2 subjects of Final Year pending.</i>

3. In the above backdrop, as the Petitioner is disallowed for taking a 16th attempt for the Winter-2025 BDS University Examination, he has approached this Court with this Petition invoking our Writ jurisdiction under Article 226 of the Constitution of India, with the following prayers :-

“(a) Issue a Writ of Mandamus or any appropriate Writ, Order or Directions directing the Respondents to issue the hall ticket/admit card to the Petitioner and allow the Petitioner to, appear in the Winter-2025 BDS University Examination and further the one-year Rotatory internship training programme after the Petitioner passing the final year University Examination of Winter 2025;

(b) Pending hearing and disposal of the Petition, direct the Respondents to issue the hall ticket/admit card to the Petitioner and permit the Petitioner to appear in the Winter-2025 examination.”

4. This Petition has been filed on 17th December, 2025. We appreciate the cooperation rendered to the Court by the learned Advocate, Mr. Sachindra B. Shetye, who has appeared for the University, Respondent Nos.1 and 2 and with short notice, he has fairly placed the entire rules and the circulars applicable to the present case, before us. Respondent No.3 is the Private College, viz. MGM Dental College & Hospital, where the Petitioner is taking Education. The Petitioner has served the college through E-mail.

Being a formal party, we are not detained in deciding the issue before us considering the grave urgency involved, despite the non-appearance of the College.

5. An identical issue fell for the consideration of this Court in *Neha Chandrakishor Kamble & Anr. V/s. Union of India & Ors., 2025(5) Mh.L.J. 147*. While considering the said Petition, this Court concluded that the rules notified by the Dental Council of India dated 25th July 2007, which are applicable, are neither arbitrary nor do they cause any prejudice to any candidate. The issue of whether the rules are arbitrary and deserve to be quashed, was also considered in *Neha Chandrakishor Kamble (Supra)*. Placing reliance upon the Judgment of the Hon'ble Supreme Court in *Shri Ram Krishna Dalmia V/s. Shri Justice S.R. Tendolkar and others, AIR 1958 Supreme Court 538*, this Court concluded that on the basis of intelligible differentia, the rules cannot be termed as being perverse or arbitrary or discriminatory or violative of equal protection of law.

6. In the above backdrop, we are proceeding to deal with this case. By virtue of a Special Circular No.90 of 2018 issued by the Maharashtra University of Health Sciences, Nashik, which was

also directly considered by this Court in *Neha Chandrakishor Kamble (Supra)*, the candidates who have been admitted to the BDS course in the academic year 2008-2009 upto 2014-2015 and those who have been admitted from the academic year 2015-2016 and onwards, should have to pass the BDS course conducted by the University in accordance with the circular.

6.1. An illustration has been mentioned in the said Circular. Since the Petitioner falls in the category of students admitted in the year 2017-2018, Winter-2025 would be his last and 16th attempt. It is under fortuitous circumstances that the Winter-2025 examination is being conducted by the Health University on 23rd December, 2025. The exams for the two subjects in which the Petitioner has failed, are scheduled on 3rd and 10th January, 2026.

6.2. The Regulations of the Degree of BDS published by the Dental Council of India vide notification dated 25th July 2007, provide for 8 years to take the last attempt followed by one year of Compulsory Rotatory Paid Internship, which the Petitioner would have to undergo and complete by the Winter of 2026, provided he passes in these two subjects.

7. The learned Advocate for the Petitioner submits that if the Petitioner fails even in one subject in the ensuing examination, he will be out of this course and will never be able to obtain the qualification of BDS. Be that as it may, this Court has settled the law in *Neha Chandrakishor Kamble (Supra)*, that after the last attempt in Winter Examination of the 8th year, if a student does not pass, there is no question of his progressing to complete his internship.

8. The learned Advocate for the University has vehemently opposed this Petition and has prayed for its dismissal. He further submits that no purpose would be served in having doctors who are not able to pass in 15 attempts, a four years of Bachelor Course. Principally, the learned Advocate is right in his submissions. However, the rights of the parties are prescribed by the law as is applicable and the Petitioner has one last surviving attempt in the nature of Winter-2025 examination.

9. In view of the above, **this Writ Petition is partly allowed**, only to the extent of issuing a direction to the University to issue the Hall Ticket/Admit Card to the Petitioner, who is to appear

for the Winter-2025 BDS University Examination. We are refraining from issuing any direction that he be permitted to undergo the one year Compulsory Rotatory Paid Internship, since that would be subject to the Petitioner passing both the remaining subjects.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)