

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3922 OF 2025

Chirag Vinod Dungarshi

Student

R/o. Block No. 133, Flat No. 1200,
3rd Floor, Sector-1, Kane Nagar,
Antop Hill, (Opposite KV School,
Koliwada), Mumbai - 400 037.

... Petitioner.

Vs.

1. The State of Maharashtra through
Principal Secretary, Higher and
Technical Education Department,
Mantralay, Nariman Point,
Mumbai 400 032.
2. University of Mumbai, through
Vice Chancellor / Registrar
O/at Fort, Mumbai.
3. Dy./Asst. Registrar, Admission,
Enrollment, Eligibility & Migration
Certificate Department (AEM),
Mumbai University, O/at Dr.
Babasaheb Ambedkar Bhavan,
Vidyanagari, Santacruz (East),
Mumbai-400 098.
4. Board of Examination and
Evaluation, University of Mumbai,
Vidyanagari, Santacruz (East),
Mumbai - 400 098.
5. Students' Grievance Redressal
Committee University of Mumbai
O/at Fort, Mumbai.

6. The Director, Department of Students' Development and Universities Information Bureau, Vidyapeeth Vidyarthi Bhavan, 1st Floor, 'B' Road, Churchgate, Mumbai-400 020.
7. The Alkesh Dinesh Modi Institute for Financial and Management Studies, Joraver Bahavan, Kalina Campus, Vindyanagari, Santacruz [East], Mumbai- 400 098 through its Director. ... Respondents.

Mr. Jayendra Dadaji Khairnar, Advocate for Petitioner.
Mr. Rui Rodrigues, Advocate for Respondent Nos. 2 to 5 & 7.
Ms. Manisha Gawade AGP for the Respondent/State.

**CORAM : RAVINDRA V. GHUGE AND
ASHWIN D. BHOBE, JJ.**

**RESERVED ON : 25th NOVEMBER, 2025
PRONOUNCED ON : 19th DECEMBER, 2025**

JUDGMENT: (PER ASHWIN D. BHOBE, J)

1. Heard Mr. Jayendra Dadaji Khairnar, learned Advocate for the Petitioner, Ms. Manisha Gawade, learned AGP for Respondent No.1-State and Mr. Rui Rodrigues, learned Advocate for Respondent Nos. 2 to 5 & 7.

2. Rule. Rule made returnable forthwith and heard the Petition

finally by consent of the parties.

3. Petitioner having appeared and successfully cleared the 6th semester of the Bachelor of Management Studies (BMS) in the Respondent No. 7 College, is before this Court by the present Petition filed under Article 226 of the Constitution of India, being aggrieved by the decision of the Respondent No. 2, communicated to the Respondent No. 7 vide letter dated 07.07.2025, holding the Petitioner as not eligible for pursuing the BMS degree course.

4. The case in short is that the Petitioner completed his Senior School Certificate Examination (Higher Secondary Class) from Central Board of Secondary Education (C.B.S.E.). Petitioner could not clear one subject (Mathematics) out of the five subjects in the Senior School Certificate Examination, therefore was placed in the Compartment in the said subject and was allowed to appear in the Compartmental examination for the said subject (Mathematics), which examination was held immediately upon declaration of results. Petitioner cleared the said Compartmental examination and was declared “*Pass*” on 07.09.2022.

5. Petitioner being desirous of pursuing further studies in BMS,

took admission for the said course in the Respondent No. 7 Institution for the academic year 2022-23. At the time of applying for the admission, Petitioner furnished the required documents which includes the Admit Card of class 12th Examination; the Senior School Certificate Examination Marks Statement-cum-Certificate; and Provisional Passing Certificate dated 13.09.2022.

6. After securing admission in Respondent No. 7, Petitioner cleared all the semesters in the BMS Degree Course. Petitioner appeared in the 6th semester (last semester exam) in the month of March, 2025. Results of the same were declared in the month of June 2025, wherein the Petitioner was shown as “Pass [RVP (Result Provisional)]”. Though, the Petitioner was declared pass, his Mark-sheet and the Passing Certificate for the 6th semester were withheld.

7. Inquiries made by the Petitioner with the Respondent No. 7 for withholding of the Mark sheet and the Passing Certificate revealed that the Respondent No. 3 vide its letter dated 07.07.2025 had informed the Respondent No. 7 that the Petitioner was not eligible for pursuing the BMS degree course, in view of the provisions of Bachelor of Management Studies Ordinance No. 3941.UG/80 of 2010 dated

27.04.2010. Reason for categorizing the Petitioner as not being eligible was that a student desirous of getting admission in self financed courses is required to pass 12th Standard in one attempt.

8. Petitioner vide his several representations to the Respondent Nos. 2 to 4 and 7 brought to their notice that the Petitioner had furnished the required documents while seeking admission, the Petitioner was granted admission after due verification and scrutiny by Respondent Nos. 2 and 7. Despite the said representation, the Mark Sheet and the Passing Certificate of the Petitioner was withheld. As such, the Petitioner is before this Court for seeking following substantive relief :

“b. That this Hon'ble Court may kindly be pleased to issue Writ of Mandamus and/or any other Writ Order and/or direction thereby directing the Respondents No. 2 to 7 to handover the result of Petitioner of VI Semester of Bachelor of Management Studies Course as well as PASSING Certificate and any other consequential documents thereto, to the Petitioner, forthwith.”

9. Respondent Nos. 2 and 7 have filed their respective replies. Respondent No. 2 by relying on the Ordinance No. 3941 notified vide University Circular No. UG/80 of 2010 issued on 27.04.2010, contends that the Respondent No. 2 in the month of June, 2025 noticed that the Petitioner had passed in the subject of mathematics via Compartment examination from CBSE Board, as such the Petitioner did not satisfy the

requirements of clearing HSC Examination in one attempt. Consequently the Petitioner was not eligible for the said BMS Degree Course.

10. Respondent No. 7 in its reply, contends that the Petitioner was granted admission in the BMS Degree Course in the month of September, 2022. That though the documents [referred to in paragraph 4(i) to (vi) of the reply] were submitted by the Petitioner, they were self attested documents and not original. That the admission granted to the Petitioner remained provisional for want of original documents being furnished by the Petitioner. That the photostat copies of the documents submitted by the Petitioner were forwarded to the CBSE Board for verification vide letter dated 05.02.2025. CBSE Board vide letter dated 03.06.2025 verified the documents to be correct. Respondent No. 7 vide its letter dated 19.06.2025 submitted the verification report along with documents to the Respondent No. 2. In response to the said letter, on 07.07.2025 the Respondent No. 2 informed Respondent No. 7 that the Petitioner was not eligible for the Degree Course of BMS.

11. Mr. Jayendra Dadaji Khairnar, learned Advocate for the Petitioner submits that the Petitioner was shown as “Pass” in the Mark Statement-cum-Certificate issued by the said CBSE. He by relying on

the Bonafide / Provisional Passing Certificate dated 13.09.2022 submits that the Petitioner was shown having passed 12th Examination in “first attempt”. He submits that all the documents were submitted to the Respondent No. 7 at the time of securing admission. He submits that neither the Respondent No. 2 nor the Respondent No. 7 raised any objection to the eligibility of the Petitioner for securing admission to the BMS Degree Course nor did the said Respondents question any of the documents produced by the Petitioner along with the admission form. He submits that the Petitioner having cleared all the semesters of the BMS Degree Course, in the first attempt, withholding and or denial of the Mark Sheet and the Passing Certificate has caused grave prejudice and injury to the Petitioner. He lastly submits that all the documents being before the Respondents, raising an issue of eligibility of the Petitioner for the BMS Degree Course, that too at the fag end, itself is unjust and arbitrary.

12. Mr. Rui Rodrigues, learned Advocate for Respondent No. 2 to 5 and 7 relies on the replies filed by the said Respondents and submits that the Petitioner does not fulfill the eligibility criteria as Petitioner did not clear 12th standard examination at the first attempt which is the requirement of the ordinance dated 27.04.2010. He submits that the

Petitioner did not furnish the original documents and as such the verification was delayed. He submits that upon scrutiny and verification of documents, it was noticed by the University that Petitioner was not eligible for the BMS Degree Course and therefore, the Respondent No. 2 vide its letter dated 07.07.2025 informed the Respondent No. 7 that the Petitioner is not eligible for pursuing the BMS degree course. He relies on the decision of this Court in the case of *Rafi Mohammed Abdul Fathima v/s. University of Mumbai & Ors.*¹.

13. From the rival contentions of the parties, the question that falls for consideration is whether holding the Petitioner as not eligible for the BMS Degree Course at the fag end, more particularly when the Petitioner has successfully completed the three years BMS degree course and having cleared all the six semesters, is justifiable?

14. Records of the case bear out the Petitioner having cleared 12th standard examination from CBSE Board by availing the benefit of the Compartmental Examination in the subject Mathematics. Result column of the 12th standard Marks Statement-cum-Certificate issued by CBSE Board shows the Petitioner as “*Pass*”. Clause No. 4 of the

1 Writ Petition(L) No. 30004 of 2024 decided on 26th June, 2025.

Bonafide /Provisional Passing Certificate issued by Kendriya Vidyalaya, records as follows:

“He/~~She~~ passed ~~X~~/XII Examination in first attempt”.

15. Petitioner while securing his admission in the Respondent No. 7 had admittedly submitted his Marks Statement-cum-Certificate issued by CBSE along with the application for admission. Respondent No. 7 in paragraph No. 4(i) to 4(vi) of their affidavit in reply dated 22.11.2025 has made the following statement :

“(i) Admit Card of Class XII Examination (generation date - 16.04.2022 for Examination to be held in the month of May/June 2022).

(ii) Digilocker verified CBSE Senior School Certificate Examination Marks Statement Cum Certificate (this documents does not mention/indicates that student cleared the Examination in second attempt).

(iii) Bonafide/ Provisional Passing Certificate dated 13.09.2022, which mentioned that the student passed the XII Examination in the first attempt.

(iv) Migration Certificate (Digi-locker generated) and Transfer Certificate.

(v) SCC Marks-Statement cum Certificate.

(vi) Caste Certificate.”

16. Respondent No. 7 had admitted Petitioner in BMS degree course. Petitioner had pursued his studies for three years. Petitioner was

permitted to appear in the examinations. Petitioner cleared the 1st to 6th semester of the BMS Degree Course in his first attempt. Final Results of the 6th semester which was conducted in the month of March, 2025 were declared in the month of June, 2025.

17. Respondent No. 7 forwarded the documents submitted by the Petitioner along with his admission form to CBSE Board for verification. CBSE Board vide letter dated 3.6.2025 informed the Respondent No. 7 as follows :

“With reference to your letter No. ADMI/1265/25 dated 05/02/2025, this is to inform you that the photocopies of Board Certificate(s) in r/o following Candidate(s) has/have been verified with the Record available in this office and FOUND CORRECT.”

<i>Sr. No.</i>	<i>Roll No.</i>	<i>Year</i>	<i>Class</i>	<i>Name of Candidate</i>	<i>Name of Board Certificate</i>
<i>1</i>	<i>15609727</i>	<i>2022</i>	<i>XII</i>	<i>CHIRAG VINOD DUNGARSHI</i>	<i>MARKS STATEMENT CUM CERTIFICATE</i>

18. It appears that the Respondent No. 7 forwarded the verification report dated 3.6.2025 of the CBSE Board to the Respondent No. 2 vide letter dated 19.6.2025. Respondent No. 2 upon receipt of the verification report dated 3.6.2025 of the CBSE Board, held the Petitioner was not eligible for the course of Bachelor of Management

Studies in view of Ordinance No. 3941.

19. The documents submitted by the Petitioner at the time of obtaining admission were with the Respondent No. 7 since the year 2022-2023 when the Petitioner was granted admission to the BMS Degree Course. Reason put forth by the Respondent No. 7 for forwarding the said documents for verification to CBSE Board in the year 2025, is for want of original documents. Be that as it may, even if the said contention of the Respondent No. 7 is considered, then also the fact remains that the documents submitted by the Respondent No. 7 to CBSE Board on 05.02.2025 were “photostat” copies. Explanation now sought to be put forth by the Respondent No. 7 for not forwarding the said documents to the CBSE Board for almost more than 2 years, appears to be an after thought. At any rate, the Respondent No. 7 at no point of time raised the issue of eligibility of the Petitioner.

20. Respondent No. 7 places reliance on the Ordinance No. 3941 as notified vide University Circular No. UG/80 of 2010 issued on 27.4.2010 to support their contention that the Petitioner is not eligible for the BMS Degree Course. As the controversy raised by the Respondent No. 7 revolves around the Ordinance No. 3941, the same is transcribed

herein below :

“O.3941:-

"A candidate for being eligible for admission to the B.M.S. Degree Course shall have passed H.S.C. Examination of the Maharashtra Board of Higher Secondary Education or its equivalent examination or Diploma in any Engineering branches with two years or three years duration after S.S.C., conducted by the Board of Technical Education, Maharashtra State or its equivalent examination by securing minimum 45% marks for general category (in one attempt) at the respective Examination and minimum 40% marks for the reserved category (in one attempt)"

21. The Petitioner has completed his 12th Standard Examination of Senior School Certificate Examination from CBSE in the academic year 2021-22. Petitioner has placed reliance on the scheme of examination and pass criteria for All India /Delhi Senior School Certificate and All India /Delhi Central Examinations conducted by the Board. Clause 37, 40.1 (i) (ii) and 40.2 and 42 are relevant, as such transcribed below :

37. General Conditions

(i) The Scheme of Examinations and Pass Criteria for All India/Delhi Senior School Certificate and All India/Delhi Secondary Examinations conducted by the Board, shall be as laid down from time to time.

(ii) Class XI/IX examinations shall be conducted internally by the schools themselves.

(ii) The Board will conduct the external examinations at the end of Class XII/Class X. (iv) Class XII/Class X examinations will be based on the syllabi as prescribed by the Board for class XII/X respectively from time to time.

(v) Number of papers, duration of examination and marks for each subject/paper will be as specified in the curriculum for the year.

(vi) The Examination would be conducted in theory as well as in practicals, depending upon the nature of the subjects) and the marks/grades allotted shall be as prescribed in the curriculum.

(vii) Marks/grades shall be awarded for individual subjects and the aggregate marks shall not be given.

40. Scheme of Examinations (Senior School Certificate Examinations):

(i) The Board shall conduct examination in all subjects except General Studies, Work Experience, Physical and Health Education, which will be assessed internally by the Schools.

(ii) In all subjects examined by the Board, a student will be given one paper each carrying 100 marks for 3 hours. However, in subjects requiring practical examination, there will be a theory paper and a practical examination as required in the syllabi and courses.

40.1 Pass Criteria (Senior School Certificate Examination):

(i) A candidate will be eligible to get the Pass Certificate of the Board, if he/she gets a grade higher than E in all subjects of internal assessment unless he/she is exempted. Failing this, result of the external examination will be withheld but not for a period of more than one year.

(ii) In order to be declared as having passed the examination, a candidate shall obtain a grade higher than E (i.e. at least 33% marks) in all the five subjects of external examination in the main or at the compartmental examinations. The pass marks in each subject of external examination shall be 33%. In case of a subject involving practical work a candidate must obtain 33% marks in theory and 33% marks in practical separately in addition to 33% marks in aggregate in order to

qualify in that subject.

40.2 Eligibility for Compartment in Senior School Certificate Examination:

A candidate failing in one of the five subjects of external examination shall be placed in compartment in that subject provided he/she qualifies in all the subjects of internal assessment.

42. Compartment Examination for Secondary/Senior School Certificate Examination:

**** (i)** A candidate placed in compartment may reappear at the compartmental examination to be held in July/August and may avail himself/herself of the second chance in March/April next year and may further avail himself/herself of the third chance at the compartmental examinations to be held in July/August of that year. The candidate will be declared 'Pass' provided he/she qualifies the compartmental subject/subjects in which he/she had failed.

22. Out of the five subjects in the 12th Examination, the Petitioner could not clear the subject Mathematics and therefore he appeared again in the said subject in the Compartmental Examination. Results of the 12th Standard was declared on 07.09.2022. Petitioner had provided all the necessary details with his admission form. Respondents do not allege the Petitioner having filled the admission form by concealing any documents or the Petitioner resorting to any misrepresentation while securing the admission. In such circumstances,

we find that the Respondent No. 2 raising an issue / objecting to the eligibility of the Petitioner to be admitted to the BMS degree course, at the fag end, more particularly at the time of handing over the Mark Sheet and Passing Certificate of the BMS degree course, would not be justified.

23. Petitioner relies on the Bonafide/ Provisional Passing Certificate dated 13.09.2022 for being eligible for admission. If Petitioner was not eligible for admission to the BMS degree course the Respondent No. 7 ought not to have granted admission to the Petitioner. Petitioner having spent his time, energy and money in pursuing the course, we do not see why the Petitioner should suffer for the fault, if any, of the Respondent No. 7. Petitioner ought not to be denied the fruits of his efforts.

24. The Hon'ble Supreme Court in the case of *Rajendra Prasad Mathur v. Karnataka University*,² in para 8 observed as under:-

“8. ... Now it is true that the appellants were not eligible for admission to the engineering degree course and they had no legitimate claim to such admission. But it must be noted that the blame for their wrongful admission must lie more upon the engineering colleges which granted admission than

² 1986 Supp SCC 740

upon the appellants. It is quite possible that the appellants did not know that neither the Higher Secondary Examination of the Secondary Education Board, Rajasthan nor the first year BSc examination of the Rajasthan and Udaipur Universities was recognised as equivalent to the pre-university examination of the Pre-University Education Board, Bangalore. The appellants being young students from Rajasthan might have presumed that since they had passed the first year BSc examination of the Rajasthan or Udaipur University or in any event the Higher Secondary Examination of the Secondary Education Board, Rajasthan they were eligible for admission. The fault lies with the engineering colleges which admitted the appellants because the Principals of these engineering colleges must have known that the appellants were not eligible for admission and yet for the sake of capitation fee in some of the cases they granted admission to the appellants. We do not see why the appellants should suffer for the sins of the managements of these engineering colleges. We would, therefore, notwithstanding the view taken by us in this judgment, allow the appellants to continue their studies in the respective engineering colleges in which they were granted admission....”

25. *Rafi Mohammed Abdul Fathima (supra)* relied by Mr. Rui Rodrigues was a case wherein the Respondent had withheld the 6th Semester Mark-sheet and LLB Graduation Certificate of the Petitioner on the ground of he being an ineligible student having acquired his School Education Certificate from the Board not listed on the Council of Boards of School Education. This Court after having observed the Petitioner having completed 6 semesters and cleared LLB Degree examination, the Respondents were not justified in withholding the

mark-sheet, more so when there was no material to indicate that the Petitioner was at fault or the Petitioner having concealed any material particulars or Petitioner being guilty of misrepresentation while obtaining admission for the LLB course. This decision would assist the case of the Petitioner.

26. The co-ordinate Bench of this Court in the case of *Sai Seshu Abhinay Kallepalli v/s. University of Mumbai & Ors.*³, in almost similar facts wherein the Respondent University had held the Petitioner therein to be not eligible for F.Y.B.Com, after a period of almost 2 years and half years of the Petitioner having taken admission, found the said act of the Respondent University was not justified. This Court observed that for a student in a competitive environment, time is an essence and time once lost can never be compensated by any monetary terms.

27. In view of the above, this **Writ Petition is allowed in terms of prayer clause (b)**. It is declared that the Respondents are estopped from withholding the mark-sheet and the passing certificate of the Petitioner. The communication dated 07.07.2025 of the Respondent No. 3 (Exhibit-E), holding the Petitioner not eligible for admission to

3 2024 SCC OnLine Bom 930.

Bachelor of Management Studies, is quashed and set aside. Respondents Nos. 2 to 7 are directed to handover the result of Petitioner of the 6th semester of Bachelor of Management Studies Course and the Passing Certificate, to the Petitioner within 15 days from today.

28. Rule is made absolute in the above terms.

29. There shall be no order as to costs.

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)