

(2024) 03 BOM CK 0088
In the Bombay High Court
Case No : ?Writ Petition No.2120 Of 2024

Poonam Rampal Verma

APPELLANT

Vs

Mumbai University And Others

RESPONDENT

Date of Decision : 07-03-2024

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2024) 03 BOM CK 0088

Hon'ble Judges : A.S. Chandurkar, J;Jitendra Jain, J

Bench : Division Bench

Advocate : Kedar B. Dighe, Manish Kelkar, Vishal Khanavkar

Final Decision : Allowed

Judgement

Jitendra Jain, J

1. Rule. Rule made returnable forthwith and heard the learned counsel for the Petitioner and the learned counsel for the Respondents.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner has sought an appropriate writ directing Respondent No.1- University to issue mark-sheet for VI Semester of B.Sc. (IT) for academic year 2022-2023 and further declare the Petitioner as having successfully cleared the said course in the academic year 2022-2023

Brief facts are as under :

3. In 2014, the Petitioner passed her Xth standard examination and got herself admitted for the course of Diploma in Electrical Engineering at Rustomjee Academy of Engineering, Thane. This course was for a period of two years and thereafter the Petitioner was granted a diploma by Maharashtra State Board of Vocational Education Examination. The Petitioner, thereafter on 20th September 2021 applied for B.Sc. (IT) degree course in Respondent No.2-College which was affiliated to Respondent No.1-University.

4. The Petitioner uploaded her application form on [https://mumoa.digitaluniversity.ac/ApplicationStatus/Print Application](https://mumoa.digitaluniversity.ac/ApplicationStatus/Print%20Application). On 20th September 2021, an eSuvidha ticket was generated from the said portal of the University. The Petitioner also filed a physical form with Respondent No.2-College under an ID allotted to her by Respondent No.1-University. In the application form uploaded on the portal of Respondent No.1-University the Petitioner gave details about her Xth standard examination and Diploma in Electrical Engineering. She uploaded her mark-sheet of diploma course on the said portal of the University. The Petitioner was admitted directly to 2nd year B.Sc. (IT) course and completed her III, IV, V and VI semester successfully.

5. On 25th July 2023, the Respondent No.1-University declared results of Semester VI and the Petitioner was declared as passed with a remark RPV. Being aggrieved by the said declaration of the result under remark RPV, the Petitioner has approached this Court for the relief mentioned hereinabove.

6. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondent Nos.1 and 2 and with their assistance have perused the documents annexed to the Petition and also the Affidavit-in-replies filed by Respondent No.1-University and Respondent No.2-College.

7. There is no dispute that in September 2021, the Petitioner had uploaded her mark-sheet and application form on the portal of the Respondent No.1-University and an eSuvidha ticket was generated in her favour by the said portal of the University. The application form uploaded gave details of the Petitioner having cleared her Xth standard examination and Diploma in Electrical Engineering. The Petitioner thereafter completed her B.Sc. (IT) degree course from Respondent No.2-College which is affiliated to Respondent No.1-University. The Respondent No.1-University did not take any objection to the admission of the Petitioner on the ground that as per their ordinance the diploma course qualified for taking admission in degree course should be of three years and not two years. The Petitioner was allowed to keep her terms and appear in all the semesters and it is only at the time of declaring the results of the last semester i.e. VI Semester that a remark is made "RPV". In our view, the Respondent No.1-University after having not objected to the admission of the Petitioner at the time of taking admission, but objecting at the time of completion of the course would be unfair and unreasonable. If the Respondent No.1-University felt that she was not qualified to take admission in the degree course then same ought to have being informed to her at the very beginning of her admission and not after completion of the course.

8. The Respondent No.1-University in reply took a stand that Respondent No.2-College had not uploaded the document and therefore sought to justify their action. In our view, admittedly the Petitioner had uploaded all the documents on the portal of the Respondent No.1-University and merely because Respondent No.2-College had not uploaded the said documents, it would make any difference inasmuch as in either case the fact of uploading documents on the site of the

University is important and not who has uploaded the document. Once the documents are uploaded on the site of the University and ID is created, the Respondent No.1-University had knowledge about the duration of diploma course completed by the Petitioner and having not objected to the same, till the end of the course, it would not be appropriate on the part of the University to do so now.

9. The Respondent No.1-University brought to our attention a Circular dated 12th November 2021 issued for the academic year 2021-2022 and as per the said Circular the College had to constitute an admission committee to scrutinize and verify the original mark-sheet and other document and submit the verification report to the University. In our view, this Circular is dated 12th November 2021, whereas the Petitioner had uploaded her application form on 20th September 2021 which is much before the date of Circular and therefore, the Petitioner could not be blamed for non-compliance of a Circular which did not exist on the date when she applied for the course.

10. The Respondent No.1-University also brought to our attention ordinance No.0.5051 which provided that candidates who have passed diploma (Three years after SSC-Xth standard) are eligible for direct admission to the Second year of the B.Sc. (I.T.) degree course. The Respondent No.1-University would have been justified in relying on the said ordinance had they rejected the admission of the Petitioner when she applied in September 2021. Having not done so and the Petitioner having completed her course successfully, it would not be appropriate for Respondent No.1-University to rely upon the same at the fag end of the completion of the course for the Petitioner.

11. The Petitioner is justified in placing reliance on the following decisions of this Court.

(i) Sayeda Afiya Ahmad vs. Rashtrasant Tukadooji Maharaj Nagpur University & Ors. Writ Petition No.4863 of 2012,

(ii) Vinayak Uttam Hirve vs. Ideal College of Law & Ors. Writ Petition No.3957 of 2022&

(iii) Qureshi Alsaba Zabir vs. State of Maharashtra & Ors Writ Petition No.2352 of 2021.

In the above decisions, on similar fact situations, this Court allowed the students to complete the course. The Petitioner in the present case is better placed since she has completed the full course and the action is taken by University after her completion of the course and therefore, these decisions supports the case of the Petitioner.

12. In view of above and looking form any angle, the Petition is required to be allowed in terms of prayer clauses A and B which reads as under :-

A. This Hon'ble Court may be pleased to issue a writ of Mandamus or any appropriate writ in the nature of Mandamus thereby Directing the Respondent

University in issuing mark-sheet for VI Semester B.Sc. (IT) for academic year 2022-2023 in respect of the Petitioner:

B. This Hon'ble Court may be pleased to issue a writ of Mandamus or a writ in the nature of mandamus and direct the University to declare the Petitioner as successfully cleared B.Sc. (IT) in the academic year 2022-2023 without any fetters.

13. Accordingly the Writ Petition is allowed in terms of prayer clauses 'A' and 'B'. Rule is made absolute. Necessary compliance be done within a period of two weeks of receiving copy of this order. The parties shall bear their own costs.