
(2011) 04 BOM CK 0099
In the Bombay High Court
Case No : Writ Petition No. 2729 of 2011

Poonam Raosaheb Nirmal

APPELLANT

Vs

University of Pune and Another

RESPONDENT

Date of Decision : 01-04-2011

Acts Referred:

Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983 — Regulation 3, 7

Citation : (2012) 2 BomCR 217

Hon'ble Judges : Mridula Bhatkar, J; A.M. Khanwilkar, J

Bench : Division Bench

Advocate : S.B. Deshmukh, for the Appellant; Girish Kulkarni and Swati Deshmukh, i./b., M.G. Kulkarni, for Resp.1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard counsel for the parties.

2. The principal question that needs to be addressed in this matter is whether the computation of percentage in respect of the subject or for that matter aggregate marks should be reckoned on the basis of the examination conducted year-wise at two different stages in respect of Architecture Course or on the basis of aggregate marks obtained by the candidate of all the three examinations of stage-1 together. For answering this controversy we may usefully refer to Regulation-7 of 1983 known as Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983. The same reads thus "Professional examination, Standards of proficiency and conditions of admissions, qualification of examiners:

a. The University or an independent examining body shall conduct the examinations at the end of each stage.

b. The seasonal work shall, as far as possible, be assessed by a jury of internal and external examiners.

c. The weight age of marks for subjects having both class work marks as well as examination marks may not exceed the ratio of 50:50.

d. The pass percentage shall not be less than 45% in each subject and shall not be less than 50% in the aggregate.

e. Candidates who have passed in the internal assessment, shall only be permitted to appear in an examination.

f. An examiner for any of the subjects of examination shall have a minimum of 3 years teaching/professional experience in his/her field of study.

3. In so far as the Petitioner is concerned, she has appeared for examination conducted for the first three years of the Course which would be covered stage -1. Marks obtained by her year-wise and total aggregate at stage-1 is mentioned in communication dated 9th March, 2011.

4. Admittedly, the Petitioner has secured less than 50% in aggregate in the second year examination of stage-1. As aforesaid, the controversy pertains to the interpretation of Clause (a) and Clause (d) of Regulation 7. Relying on Clause (a) counsel for the Petitioner submits that conjoint reading of Clause (a) and (d) would mean that aggregate marks to be obtained by the candidate should be reckoned of aggregate of stage-1 i.e. marks obtained at three examinations conducted year wise. We are not impressed by this argument. Indeed, Clause (a) mentions that examinations will have to be conducted at the end of each stage. The expression "stage" has been clarified in Regulation-3 which deals with duration and stages of the course. Stage-1 with which the Petitioner is concerned covers first three years of the course. Suffice it to observe that the generic provision in Clause (a) of Regulation-7 cannot be the basis to construe Clause (d). Clause (d) on the other hand refers to two conditions viz. the candidate must secure minimum 45% marks in each subject and 50% in the aggregate. The first part of Clause (d) obviously deals with the marks obtained by the candidate in concerned subject in the examination conducted year-wise of stage-1. In so far as expression "aggregate" which appears in second part of Clause (d), that is also ascribable to the examination conducted year-wise of stage-1. In other words, the aggregate 50% marks must be secured by the candidate at the end of examination of every year, albeit, which is part of stage-1. If the argument of the Petitioner were to be acceded to, the application of provision contained in Regulation 7(d), would become unworkable. In as much as, the same clause will have to be applied to two sets of examinations i.e. year wise examination in stage-1 and another examination at the end of stage-1. Whereas, it is admitted position that the University conducts examination year-wise in three phases of stage-1 and not one examination of stage-1 and stage-2 as the case may be. If the interpretation put-forth by the Petitioner were to be accepted the application of first part of Regulation 7(d) would become impossible as there is no subject wise examination of stage-1 as such, but the examinations are held for different subjects year-wise of stage-1. Further, the underlying

purpose of Regulation 7(d) is to attract talented students who would fulfill the twin requirement of having secured minimum of 45% subject wise and minimum 50% in the aggregate year-wise of stage-1,(in one and the same examination), to make them eligible to move on to the stage -II of the course which is a professional course. If so understood, considering the admitted position that the Petitioner has secured less than 50% in the aggregate in the second year examination of stage-1, the Petitioner is ineligible to enter stage-2 of the course. It is only if the Petitioner were to reappear for the examination of the concerned subjects of second year and improve upon her marks so as to make it more than 50% in the aggregate, the Petitioner would become eligible to pursue her stage-2 course. This position has been reiterated in circular issued by the Pune University on 3/8/2001 bearing No. 304/2001. The validity of that circular is not put in issue before us.

5. Accordingly, the petition is devoid of merits. Hence the same is dismissed.