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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10643 OF 2023

Harshi Ramjiyani	]	
Aged: 21 years. Occ: Student	]	
At present R/at: 501/A,	]	
Lifescapes Prithvi,	]	
Old Maneklal Estate, Ghatkopar (W),	]	
Mumbai-400086	]	...Petitioner

Versus

- | | | | |
|----|---------------------------------------|---|----------------|
| 1. | The State of Maharashtra |] | |
| | Through Directorate of Technical |] | |
| | Education, Higher Education and |] | |
| | Technical Education Department, |] | |
| | Mumbai 400051. | | |
| 2. | Mumbai University |] | |
| | Through the Deputy Registrar of |] | |
| | Enrollment, Eligibility and Migration |] | |
| | Certificate Unit. | | |
| 3. | Rachna Sansad College, Mumbai |] | |
| | Through its principal, Shankar |] | |
| | Ghanekar Road, Prabhadevi, Mumbai] | | ...Respondents |

Ms. Sakshi Mane, Advocate, for the Petitioner.

Mrs. Reena A. Salunkhe, Assistant Government Pleader, for Respondent No.1-State.

Mr. Girish J. Paryani, Advocate, for Respondent No.2 – University.

Mr. Abhishek Ingale a/w Mr. Pradeep Kumar, Advocates, i/b C.R.Naidu & Co. for Respondent No.3 – College.

**CORAM: A.S. CHANDURKAR &
M.M. SATHAYE, JJ.**

DATE : 3RD FEBRUARY, 2025

JUDGMENT (Per M.M. Sathaye, J.)

1. The challenge raised in this petition is to the order dated 30/08/2022 passed by Respondent No.2 – University, by which the

Petitioner has been held 'not eligible' for pursuing the degree course of B.Voc. (Interior Design).

2. Few facts necessary for the disposal of this petition, are as under. The Petitioner completed her schooling till 10th grade and thereafter, two years of International Baccalaureate ("IB", for short) Diploma programme from R.B.K. Education Institute, Kanakia International School, Chembur. The Petitioner gave her 12th IB board examination in April 2019 and her results were awaited. Since the admission process of many colleges usually commence prior to the assessment and announcement of the final IB board result, the IB Board students are allowed to apply to the colleges after receiving a temporary/provisional eligibility certificate from the University. The Petitioner accordingly applied for eligibility certificate on 13/05/2019 for the course of B.A., asserting that she has appeared IBDP-2 exam. This was based on 'predicted grades' of the Petitioner under the IB programme, as per certificate which is produced on record by the University, along with its affidavit-in-rely (Page 124). Apparently, this is an undated certificate predicting that the Petitioner will secure total 25 points. Pursuant to this application, Respondent No.2 – University issued a '*prima facie* eligibility certificate' for admission to First year B.A./ B.M.S./ B.Com/ B.Com.(A&F)/ B.Com.(B&I)/ B.Com.(F.M.)/ B.M.M degree course for the academic year 2019-20, 'subject to condition that the Petitioner must have to full pass in IB Diploma with minimum 24 credit points as show, in the predicted mark-sheet'.

3. The case of the Petitioner is as under. She visited Respondent No.3 – College inquiring about courses and she was informed that eligibility for the said course of B.Voc. (Interior Design) was 12th college

certificate and passing of aptitude test. The Petitioner accordingly applied for B.Voc Interior Design degree course and gave an aptitude test. However, due to her low score in the aptitude test, she did not qualify. The college thereafter informed about an alternative that the Petitioner can take admission in Certified Course of School of Interior Design which does not require aptitude test for the current academic year 2019-20 and in the next year she can again give entrance examination for first year of B.Voc degree course. The Petitioner accordingly took admission in first year of certified course. After completing first year of certified course, the Petitioner followed the process for admission in first year of B.Voc Interior Design degree course for the academic year 2020-21 and applied on the website of the University and uploaded all the documents. The Petitioner thereafter again appeared for aptitude test for admission in B.Voc Interior Design degree course for the year academic year 2020-21, but did not score requisite marks. She was informed that she cannot be allotted a seat in the degree course. The Petitioner was asked to visit the College. On such visit with her parents, the College informed that it has certain seats reserved for management quota. Accordingly, a meeting was held between the Trustees of the College and the Petitioner's parents and thereafter, the Petitioner was allowed a seat in the first year of B.Voc degree course from management quota. The Petitioner thereafter, completed her first year 2020-21 online due to pandemic and the Petitioner was promoted to second year of B.Voc Interior Design course. The Petitioner thereafter appeared for her exam of 3rd and 4th semesters. She could not pass all subjects but was permitted on ATKT basis (allowed to keep term). Thereafter, the Petitioner was to appear for ATKT exams when she got an email with a letter of the impugned decision from the Respondent – University, stating that her admission in

B.Voc Interior Design degree course stands canceled as she has failed to meet the minimum 24 points requirement. The Petitioner thereafter approached the College authorities, who, it is alleged initially supported her and asked to wait for some time. But when the dates for ATKT exams were declared by the University and she again approached the College, it is alleged that the attitude of the College authorities had changed. It is in these circumstances that the Petitioner has approached this Court.

4. Learned counsel for the Petitioner submitted that the Petitioner was allowed to take courses and has spent two years in pursuing of B.Voc Interior Design course. It is urged that at such stage, cancellation of her eligibility is not justified. It is contended that for no fault of the Petitioner, two years of her academic life will be wasted. Learned counsel for the Petitioner has relied upon the judgments of **Abha George and Others Vs. All India Institute of Medical Sciences (AIIMS) and Another¹** and **Rohan Ravindra Thatte Vs. University of Mumbai, through its Vice Chancellor and Ors.²**

5. Learned counsel for Respondent No.3 – College, by referring to the affidavit-in-rely dated 12/09/2023, contended that the Petitioner is guilty of delay and laches as the impugned order dated 30/08/2022 is challenged on 11/04/2023 by filing this petition. It is submitted that the Petitioner, in reality has not scored as per predicted IB points. It is submitted that the Petitioner has submitted her IB certificate to the College only on 26/08/2022, which were immediately sent to the Respondent - University on 29/08/2022 and therefore no fault can be found with the Respondent College. He has relied upon the judgment in

1 2022 SCC OnLine Del 366

2 2024 SCC OnLine Bom 169

the case of **Parakh Jaiprakash Shahal Vs. Thakur College of Science and Commerce and Ors.**³

6. Learned counsel for Respondent No.2 – University, by referring to an affidavit-in-rely dated 15/04/2024, submitted that a combined score of 24 points across six subjects are required to qualify for the Diploma Award which is the system under the IB programme. It is submitted that to obtain temporary/provisional eligibility certificate, the Petitioner had applied to the University. He submitted that the temporary eligibility certificate, on the basis of which the Petitioner took admission, clearly stated that the same was subject to condition that the Petitioner must have to full pass in IB Diploma with minimum 24 credit points as shown in the ‘predicted mark-sheet’. He submitted that provisional eligibility was sought for admission to first year B.A. degree course and not for any diploma course. He submitted that the requirement of scoring minimum 24 credit points is introduced under Circular No. Elg/O/19/2017 which is produced on record, and the said circular is valid and subsisting. He submitted that if the eligibility is asked on the predicted score of 25 and the Petitioner cannot actually score that many points in reality, no fault can be found with the University in taking impugned action of declaring the Petitioner ineligible. He invited the Court’s attention to the predicted score certificate of the Petitioner. He submitted that the College itself was provided with IB certificate of the Petitioner on 26/08/2022 and immediately thereafter it was submitted to the University on 29/08/2022 and upon inspection of the documents, when it was found that she had failed to secure minimum credit points, she was declared ineligible. It is submitted that considering the relevant dates, no fault can be found with the Respondent - University as the

3 2017 SCC OnLine Bom 979

Petitioner was informed of the next date after receiving the IB certificate from the College.

7. We have carefully considered rival submissions of the parties and perused the record. Admittedly, no interim relief was granted to the Petitioner. It is undisputed that the Petitioner was a student of IB board and had completed her 12th grade equivalent examination from the IB programme. It is also undisputed that when she applied for temporary or provisional eligibility on 13/05/2019, the eligibility sought was for B.A. (degree course) and the said application was based on predicted IB points of 25, because at the relevant time, as per the system of IB programme, the results were not actually declared. It is also undisputed that the actual points scored by the Petitioner are 23 IB points, which is clear from a certificate issued by the Petitioner's school produced by the Petitioner at Exhibit-A (page 24). Even the transcript of grades produced by the Petitioner at Exhibit-B (pages 29 & 30) dated 05/07/2019 shows total points as 22.

8. The Petitioner had her IB certificate of scored points in July 2019. The College has taken a stand that Petitioner supplied the same only in August 2022. The Petitioner has disputed this by filing affidavit-in-rejoinder, contending that she had supplied all her documents to the college at the time of admission in 2019 itself, relying on certain emails and communications. Such disputed questions of facts as regards submission of IB certificate between the Petitioner and College, can not be adjudicated in writ jurisdiction.

9. However, university has taken a specific stand that it received the Petitioner's IB certificate on 29/08/2022 and on the next date i.e. 30/08/2022, the impugned decision is taken and communicated to the

Petitioner. There is no rejoinder filed by the Petitioner to University's stand.

10. In any case, in our considered view, there is nothing wrong with the University insisting upon meeting with the criteria of scoring minimum 24 IB points for being eligible to pursue the degree course as per its policy under the circular mentioned above. If the Petitioner does not score the necessary cut-off points, the Court cannot direct the University to lower the cut-off standard. From the dates explained above, it is clear that the Respondent - University has not contributed to any delay. If the students like the Petitioner choose to complete their schooling from IB board, which does not declare its result in time necessary for them to apply to further courses, and if the University gives necessary accommodation of issuing provisional eligibility based on predicted marks and then if the student does not actually score as per prediction, as in the present case, then the College or the University cannot be blamed. In that view of the matter, we do not find any merit in the petition.

11. In both the judgments relied upon by the Petitioner, the issue regarding provisional eligibility being issued on predicted marks was not involved. In addition, in the facts of the present case, we do not find that it was the fault of the Respondent - College and University for less score of the Petitioner, lesser than minimum required and therefore the said judgments relied upon by the Petitioner do not advance her case.

12. On the other hand, the judgment relied upon by the Respondent – College in the case of **Parakh Jaiprakash Shahal Vs. Thakur College (supra)** is clearly applicable to the facts of the present case, being arising out of a student of IB Board. In that case also, the student had

not actually scored the points in the IB Board as per the predicted mark-sheet, and the co-ordinate bench of this Court has held that since the Petitioner has not secured the required marks, there is nothing wrong in admission being canceled.

13. In the aforesaid facts and circumstances, there is no merit in the petition. The impugned decision holding the Petitioner not eligible for pursuing F.Y.B.Voc. (Interior Design) degree course is justified. The Petition is accordingly dismissed. No order as to costs.

14. However, the Petitioner is at liberty to file appropriate proceedings for her grievance against the College about alleged late submission of IB certificate to the University resulting in alleged waste of academic year/s. Rival contentions in that regards are kept open.

15. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)

(A.S. CHANDURKAR, J.)