

IN THE HIGH COURT OF JUDICATURE AT
BOMBAY
BENCH AT AURANGABAD.

WRIT PETITION NO.4102 OF 2015

WITH
C.A.NO.9467 OF 2016

Samruddhi Satish Dharmadhikari
and others. ... Petitioners.

Versus

The Registrar, Council of
Architecture and others. ... Respondents.

...
Mr.A.S.Shelke, advocate for the petitioners.
Mrs.M.A.Deshpande, Addl. Government Pleader for
the State.
Mr.S.P.Shah, advocate for Respondent No.1.
Mr.A.V.Hon, advocate for Respondent Nos.5 to 7.
Mr.V.P.Golewar, advocate for Respondent No.8.
...

CORAM : S.V.GANGAPURWALA AND
K.L.WADANE, JJ.

Date : 16.12.2016.

PER COURT :

1. Heard.
2. The petitioners had appeared for
National Aptitude Test for Architecture

examination which was conducted by Maharashtra Association of School of Architecture (MASA). The petitioners passed the said examination. Pursuant to advertisement inviting admissions to the course of Ist year of Bachelor of Architecture, the petitioners were admitted with Respondent Nos.6 and 7 College. They were given admission on 12.8.2016. They appeared for Ist Semester examination and after the result of the Ist Semester examination is declared, the admission of these petitioners stood cancelled on 15.12.2016. The petitioners have filed this petition challenging the action of cancelling their admission.

3. Mr. Shelke, learned counsel for the petitioners states that petitioners had passed 10th standard and thereafter completed two years Diploma in Interior Design and Decoration. As per the eligibility criteria, they were eligible for being admitted to the course of Bachelor of Architecture. The said course would be equivalent to 10+2 as laid down in the eligibility criteria. According to the learned

counsel, the petitioners have even appeared for 2nd year examination. The petitioner Nos.3 and 4 have passed the 2nd year examination also. The eligibility number is given to all the petitioners. Even the Council for Architecture has given eligibility number to petitioner Nos.1 and 2. The learned counsel submits that the order of cancellation of their admission be set aside.

4. Mr. Shah, learned advocate for Respondent No.1 Council of Architecture submits that right since inception of the course, the eligibility criteria was 10+2 with Mathematics subject. The Mathematics subject was compulsory. The course of Diploma in Interior Design and Decoration is not equivalent to 10+2. The learned counsel submits that the act of Respondent Nos.6 and 7 in admitting the petitioners was not in conformity with the eligibility criteria.

5. Mrs. Deshpande, learned Addl. Government Pleader submits that in September 2014, the list

of the students being admitted was received from Respondent Nos.6 and 7 by the Joint Director of Higher Technical Education and immediately it was communicated to all concerned that these four petitioners do not meet the eligibility criteria.

6. Mr.Golewar, learned counsel for the Pune University submits that the eligibility numbers were given to the petitioners on the basis of the information supplied by the institution.

7. We have considered the submissions canvassed by the learned counsel for respective parties.

8. Whether equivalence can be given of a particular course vis-a-vis the course in question is the job of the experts. It is for the authorities concerned to consider the grant of equivalence or otherwise to a particular course. We may not venture into the same.

9. It is not disputed that the petitioners

have passed 10th standard examination and subsequently have completed two years Diploma in Interior Design and Decoration course. The eligibility criteria is prescribed for the course of Bachelor in Architecture. The College is relying upon the communications probably received from Maharashtra Association of Schools of Architecture. In the said communication it was stated that candidate who have passed 10+2 diploma in any stream or branch and/or passed equivalent 10+2 examination as per the competent authority is eligible to be considered for admission to the Ist year B.E. Architecture Degree course. In the eligibility criteria prescribed by the Council of Architecture, the eligibility criteria is 10+2 with Mathematic subject or any equivalent with Mathematics as a subject. According to the petitioners, in the two years diploma course in Interior Design and Decoration, Mathematics is also a subject which is required to be dealt with. The said fact is disputed by the learned counsel for the Council of Architecture.

10. Be that as it may, the Council for Architecture has filed affidavit through its Registrar. Para 7 of the said affidavit reads thus :

"7. The answering Respondent is conscious of the circumstance that this litigation is not an adversarial litigation between the council and the students.

It appears that because of some error committed in the admission process, the present petitioners were admitted to the course.

Reasons apart, now, the petitioners have been pursuing this course for last more than two years. From the pleadings in the present petition, it appears that they have also paid fees for first and second year. They have also appeared for the examinations conducted by the University.

In these circumstances, the council may not oppose taking of a lenient view in favour of the petitioners as a one time measure. This however may not be considered as a favouritism by

the council to any set of students. The petitioners are admitted only by mistake.

The petitioners may however require approval from other authorities. In addition, the petitioner may also be required to appear and pass the subject of Mathematics at 10+2 level of any National Open School or any recognised Board during the course of their studies."

11. It is not disputed that the petitioners were allowed to appear for first year examination consisting of two Semesters. Thereafter, are allowed to appear for 2nd year examination consisting of two Semesters. They have also been given eligibility numbers by the University. The Council of Architecture has agreed for the lenient view to be taken in favour of the petitioners as a one time measure as petitioners are admitted only by mistake.

12. The petitioners were certainly not at fault. It is not that the petitioners had misrepresented their qualification and eligibility.

Even their names were forwarded by MASA and thereafter they have already completed two years education in B.E. Architecture course.

13. Taking into consideration the aforesaid facts and more particularly, the affidavit filed by the Council for Architecture that as a one time measure, the case of the petitioners can be considered without setting any precedent, we pass the following order :

a) The impugned communication cancelling the admission of the petitioners is quashed and set aside. The admission of the petitioners be regularised as one time measure without setting any precedent as contended by the Respondent No.1 and the petitioners shall be allowed to complete the course in accordance with law as regular students.

b) In view of the above, the other prayers with regard to the challenge to the Government Resolution dated 12.6.2014 is not considered. Needless to state if otherwise there is no other

impediment, the result of the petitioners be declared.

c) The Writ Petition is accordingly allowed.

d) The Civil Application also stands disposed of.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

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This Order is modified/corrected by Speaking to Minutes Order dated 21/12/2016

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Bombay High Court

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4102 OF 2015

WITH

CIVIL APPLICATION NO.9467 OF 2016

Samruddhi Satish Dharmadhikari
and others

... Petitioners

Versus

The Registrar,
Council of Architecture and others

... Respondents

Mr. A. S. Shelke, Advocate for the petitioners,
Mrs. M. a. Deshpande, Addl. G.P. for the State,
Mr. S.P. Shah, Advocate for respondent No.1,
Mr. A.V. Hon, advocate for respondents 5 to 7
Mr. V.P. Golewar, Advocate for respondent No.8.

CORAM : S. V. GANGAPURWALA &
K. L. WADANE, JJ.

DATE : 21st December, 2016

ORDER:

1. Motion is made for speaking to minutes in respect of order dated 16.12.2016.

2. Mr. Shelke, the learned counsel submits that in para 2, dates 12.08.2016 and 15.12.2016 are stated. The said dates ought to be 12.08.2014 and 15.12.2014. Mr. Shah, the learned counsel for respondent No.1 and learned AGP accepts the said fact.

3. In the light of that, in para 2 of the order, instead of dates "12.08.2016 and 15.12.2016", the dates

"12.08.2014 and 15.12.2014" be substituted.

4. At the request of learned counsel for the petitioners, liberty is also granted to amend the cause title with regard to father's name of petitioner No.3.

5. Necessary correction be carried out in the order. Certified copy be issued accordingly.

(K. L. WADANE, J.)

(S. V. GANGAPURWALA, J.)

JPC