

W.P. No.9465/2010**Date: 30.11.2011**

Shri D.M. Ranwka, learned counsel for the petitioner.

Smt. Meena Chaphekar, learned counsel for the respondent no.1.

Shri R.S. Trivedi, learned counsel for the respondent no.2.

The writ petition is heard finally with the consent of counsel for the parties.

ORDER

1/ The petitioner who was earlier pursuing the B.E. course in the respondent no.2-College, has filed the present writ petition seeking a direction to the respondents to give admission in VIIIth semester of the course and further direction for not counting two years between 2008 and 2010 for calculating the period of NFT (Not Fit for Technical Education) of 8½ years.

2/ In brief the petitioner was admitted in the B.E. Course in the respondent no.2-College in July 2000. He had last appeared in the VIth semester as Ex(BA) student and had passed under BA-Group in 2008 but was denied admission in the VIIth semester on the ground that NFT was 7 years and the petitioner had exhausted that period.

3/ Learned counsel appearing for the petitioner submitted that in terms of the amendment, which has been subsequently made in the Ordinance No.4, the NFT is 8 years and including one mercy attempt the total period comes to 8½ years,

therefore, the petitioner is entitled to the said benefit.

4/ Learned counsel appearing for the respondents have opposed the writ petition by submitting that there was inordinate delay on the part of the petitioner in approaching this Court, and further that even if the amended ordinance is applied in the case of the petitioner, then also the petitioner is not entitled for any benefit and even if the petitioner is given one more attempt, the said exercise will be futile because the remaining semester/papers can not be cleared in one additional attempt.

5/ We have heard the learned counsel for the parties and perused the record.

6/ The unamended Clause 5.3 of the Ordinance No.4 relating to the B.E. Degree course provides that the maximum duration of the course will be 7 years. Annexure P/5 indicates that the said clause was amended on 25.11.2008 and the maximum duration of the course was extended to 8 years. The said clause was further amended on 17.11.2009 but the maximum duration of the course as 8 year remained unaltered.

7/ In the case of the petitioner it is undisputed that he had taken admission in July 2000. Annexure P/1 indicates that the petitioner has not cleared two subjects of the Vth semester. He had cleared VIth semester in June 2008 but had not appeared in VIIth or VIIIth semester. The original 7 year's period prescribed in the unamended Clause 5.3 of the Ordinance came to an end in July 2007 i.e. before the amendment. The amended 8 years period also came to an end in July 2008. Even if the period of

mercy attempt is counted, that also expired in December 2008 but the petitioner did not approach this Court during that period. The petitioner has filed this petition on 29.7.2010. The writ petition suffers from latches and there is no adequate explanation for such a belated writ petition. The learned counsel for the respondents have rightly placed reliance upon the judgment in the matter of **City and Industrial Development Corporation Vs. Dosu Aardeshir Bhiwandiwalla and others** reported in **2009(1) SCC 168**, in view of which no relief can be granted to the petitioner at this stage.

8/ The aforesaid facts also indicate that even under the provisions of the amended ordinance no benefit can be granted to the petitioner. Even if one more attempt, as prayed by counsel for the petitioner, is granted, that would not serve any purpose since undisputedly the petitioner can not clear remaining papers of Vth semester and VIIth & VIIIth semester in that additional attempt.

9/ In view of the aforesaid, no relief can be granted to the petitioner and the petition is accordingly dismissed.

(SHANTANU KEMKAR)
JUDGE

(PRAKASH SHRIVASTAVA)
JUDGE

Trilok/-