

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

WRIT PETITION NO. 7366 OF 2026

Aarya Avinash Patil

...Petitioner

Vs.

Maharashtra University of Health Sciences
Nashik and Others

...Respondents

Ms. Pooja V. Thorat a/w. Mr. Aman Bodke i/b. Mr. A. Qoreshi, for the
Petitioner.

Mr. Prasad B. Kulkarni, for Respondent No.1.

Mr. Ganesh Gole, for Respondent No.2 – BMC.

Mr. Amar Bodke, for Respondent No.3.

**CORAM : R. I. CHAGLA AND
FIRDOSH P. POONIWALLA, JJ.**

RESERVED ON : 20th AUGUST, 2026

PRONOUNCED ON : 31st AUGUST, 2026

ORAL JUDGEMENT (per FIRDOSH P. POONIWALLA, J.)

1. This Writ Petition has been filed seeking various reliefs. However, the relief pressed by the Petitioner is for an order and direction permitting the Petitioner to appear for the theory and practical examination in the subject Anatomy conducted by Respondent No.1 – Maharashtra University of Health Sciences (“**MUHS**”).

FACTS

2. The Petitioner had appeared for NEET-UG-2023 and was admitted to Respondent No.3 College, viz., Vedantaa Institute of Medical Sciences.

3. After she was admitted to the First Year MBBS Course at the Respondent No.3 College in August 2023, Respondent No.3 conducted internal assessments and the Petitioner appeared for the same. The Petitioner passed in all the subjects but was two marks short in the subject of Anatomy at the internal assessment conducted in August 2024. In view of the Guidelines framed by the Under Graduate Medical Board, every candidate is required to pass the internal assessments for being eligible to appear for the theory and practical examination to be conducted by MUHS. Accordingly, the Petitioner filled the examination form and appeared for the theory and practical examination in all subjects, except Anatomy.

4. The results of this examination conducted in August 2024 were declared in September 2024 and the Petitioner was declared to have failed in all subjects. The Petitioner immediately appeared for the supplementary examination in October 2024 and appeared for the theory and practical examination of Anatomy for the first time after admission.

5. The Petitioner was declared to have failed by four marks in the Anatomy theory. However, the Petitioner passed in all other subjects, including "Physiology" and "Biochemistry", thereby making Anatomy as the

only subject pending for being promoted to the Second Year MBBS course.

6. The Petitioner was allowed for the second time to appear for the Anatomy theory and practical examination in September 2025. However, though she passed in the practical examination by securing 53/100, she failed in the theory examination.

7. The Petitioner appeared for the third time for the theory and practical examination of Anatomy in December 2025. The Petitioner passed in the practical examination but failed in the Anatomy theory examination by ten marks.

8. It is the case of the Petitioner that, as the Petitioner had appeared for the theory and practical examination in the subject Anatomy only three times after being admitted to the First Year MBBS course, she approached Respondent No.3 College to inquire about the schedule for filling up of the examination form for August 2026 examination for her pending Anatomy theory and practical examination.

9. However, Respondent No.3 College informed her that, even though the Petitioner had appeared for the Anatomy paper only three times, she was not allowed another attempt to clear the pending theory and practical examination of Anatomy subject as she had expended four years from her date of admission. Respondent No.3 College also supplied to the Petitioner a copy of a letter dated 11th July 2024 circulated by MUHS to all affiliated Colleges. It is the case of the Petitioner that the said letter is

based on the Regulations on Graduate Medical Education 1997, as amended in 2019 (1997 Regulations), which were now superseded. The Petitioner, therefore, by a letter dated 1st March 2026 requested Respondent No.3 College to allow her to appear for the theory and practical examination of Anatomy for the fourth time.

10. It is the case of the Petitioner that, till date, the Respondent No.3 College had not responded to the said letter, and, therefore, in these circumstances, the Petitioner filed the present Writ Petition.

ARGUMENTS OF THE PARTIES.

11. Ms. Pooja Thorat, the learned Advocate appearing on behalf of the Petitioner, referred to Regulations 11.2.6 and 11.2.7 of the 1997 Regulations. Ms. Thorat submitted that Regulation 11.2.7 (2) provided that a maximum number of four permissible attempts would be available to clear the first Professional University examination, whereby the first Professional course will have to be cleared within four years of admission to the said course. It further provided that partial attendance at any University examination shall be counted as an availed attempt.

12. Ms. Thorat next submitted that the aforesaid 1997 Regulations were superseded by the Graduate Medical Education Regulations, 2023 (2023 Regulations), framed by the National Medical Commission, in exercise of powers conferred upon it under National Medical Commission

Act, 2019. Ms. Thorat drew our attention to Regulation 21 of the 2023 Regulations and more importantly to the proviso thereto. Ms. Thorat submitted that the proviso to Regulation 21 provided that, under no circumstances, the student shall be allowed more than four (04) attempts for first year (First Professional MBBS) and no student shall be allowed to continue undergraduate medical course after nine (09) years from the date of admission into the course.

13. Ms. Thorat submitted that, very importantly, the words “Partial attendance at any University examination shall be counted as an availed attempt”, which were found in Regulation 11.2.7(2) of the 1997 Regulations, are not found in Regulation 21 of the 2023 Regulations.

14. Ms. Thorat submitted that, in these circumstances, the first examination given by the Petitioner in August 2024, where she was not eligible to give the Anatomy paper because she had not get the necessary marks in the internal assessments, should not be taken into account to count the attempts that the Petitioner had given. Ms. Thorat submitted that the Petitioner had, in fact, appeared for the Anatomy paper only three times and, therefore, she is entitled to give the fourth attempt. Ms. Thorat submitted that the Respondent No.3 College and MUHS had wrongly prevented the Petitioner from giving the fourth attempt in Anatomy. Ms. Thorat submitted that, in these circumstances, the Respondents be directed to permit the Petitioner to give the fourth attempt in Anatomy.

15. In support of her submissions, Ms. Thorat relied upon a Judgement of this Court in *Rajkumarsingh S/o. Dr. K. B. Singh Vs. Amravati University, Amravati and Another 1996(2) Mh.L.J. 627*.

16. On the other hand, the learned Advocates appearing on behalf of the Respondents, vehemently opposed the granting of any relief in the Petition. Mr. Prasad Kulkarni, the learned Advocate appeared for MUHS (Respondent No.1). Mr. Ganesh Gole, the learned Advocate, appeared for the National Medical Commission (Respondent No.2) and Mr. Amar Bodke, the learned Advocate, appeared for Vedantaa Institute of Medical Sciences (Respondent No.3).

17. The learned Advocates for the Respondents submitted that the omission of the words “Partial attendance at any University examination shall be counted as an availed attempt” from Regulation 21 of the 2023 Regulations did not make any difference to the case of the Petitioner. The learned Advocates for the Respondents submitted that the proviso to Regulation 21 of the 2023 Regulations provided that, under no circumstances, the student shall be allowed more than four attempts for first year (First Professional MBBS) and no student shall be allowed to continue undergraduate medical course after nine years from the date of admission into the course. The learned Advocates for the Respondents submitted that, therefore, Regulation 21 categorically provided that, under no circumstances, a student shall be allowed more than four attempts for

the first year of the MBBS course. They submitted that the Petitioner had already given four attempts for first year MBBS course.

18. In these circumstances, by virtue of the provisions of the proviso to Regulation 21, the Petitioner was rightly not permitted to give another attempt in Anatomy. The learned Advocates for the Respondents also referred to the Competency Based Medical Education Curriculum (CBME) Guidelines published by the Undergraduate Medical Education Board of the National Medical Commission.

19. The learned Advocates for the Respondents also submitted that the Judgement of this Court in *Rajkumarsingh (Supra)* cited by Ms. Thorat was clearly distinguishable on facts.

20. The learned Advocates for the Respondents submitted that, in these circumstances, the Petition ought to be dismissed with costs.

ANALYSIS AND FINDINGS

21. We have heard the learned Advocates for the parties and perused the documents on record.

22. Before we consider the rival arguments of the parties, it would be appropriate to set out the relevant Regulations. Regulations 11.2.6 and 11.2.7 of the 1997 Regulations (as amended on 4th November 2019) read as under:

11.2.6 - A learner shall not be entitled to graduate after 10 years of his/her joining of the first part of the MBBS course.

11.2.7 – University Examination shall be held as under:

(a) First Professional

1. The first Professional examination shall be held at the end of first Professional training (1 + 12 months), in the subjects of Human Anatomy, Physiology and Biochemistry.

2. A maximum number of four permissible attempts would be available to clear the first Professional University examination, whereby the first Professional course will have to be cleared within 4 years of admission to the said course. Partial attendance at any University examination shall be counted as an availed attempt.

23. Further, Regulation 21 of the 2023 Regulations reads as under :

21. Training period and maximum duration – Every student admitted in accordance with these Regulations, shall undergo training as per the guidelines published by the UGMEB of NMC and displayed on the NMC website from time to time;

Provided under no circumstances, the student shall be allowed more than four (04) attempts for first year (First Professional MBBS) and no student shall be allowed to

continue undergraduate medical course after nine (09) years from the date of admission into the course.

24. Regulation 21 of the 2023 Regulations provides that, under no circumstances, the student shall be allowed more than four attempts for the first year (First Professional MBBS). It is important to note that the Regulation provides that the student shall not be allowed more than four attempts for the first year of MBBS and does not restrict the limit to attempts made in different subjects as is submitted by the Petitioner. Once this is the position, the student can be allowed only four attempts of the first year MBBS, irrespective of the subjects in which the student may have appeared in each of those attempts.

25. Further, the omission of the words “Partial attendance at any University examination shall be counted as an availed attempt”, which were found in Regulation 11.2.7(2) of the 1997 Regulations, from the 2023 Regulations, does not change the plain wording of Regulation 21 which clearly provides that, under no circumstances, the student shall be allowed more than four attempts for the first year (First Professional MBBS). The words used in Regulation 21 are totally clear and refer to four attempts for the first year, irrespective of the subjects that are attempted in any of these attempts, and the omission of the aforesaid words does not change that position.

26. Coming to the facts of the present case, the Petitioner has admittedly given four attempts of first year MBBS. In these circumstances, by virtue of the provisions of Regulation 21 of the 2023 Regulations, the Petitioner cannot be allowed one more attempt in Anatomy as sought by the Petitioner. The Petitioner has already been allowed four attempts for the first year MBBS and cannot be allowed any more attempt.

27. Since the 2023 Regulations are very clear and we have decided the case on the basis of these Regulations, we do not feel it necessary to advert to the Competency Based Medical Education Curriculum (CBME) Guidelines published by the Undergraduate Medical Education Board of the National Medical Commission.

28. This leads us to deal with the Judgement of this Court in ***Rajkumarsingh (Supra)*** relied upon by Ms. Thorat. Paragraphs 4 to 8 of the said Judgement are relevant and are set out hereunder:

“4. Ordinance 55 of the Amravati University deals with the examination leading to the degree of Bachelor of Medicine and Bachelor of Surgery (M.B.B.S.) and Clause 16 of the said Ordinance reads as under :-

"An examinee who does not pass or fails to present himself at the (Prathama Aayu : Shalya Vigyan Snatak) (First M.B.B.S.) examination in the four consecutive examinations inclusive of first, shall not be allowed to prosecute his studies for the (Aayu Shalya Vigyan Snatak) (First M.B.B.S. Course) provided that a person

may be permitted to take examination after the said examinations if he produces a certificate from the Dean/Principal of Medical College to the effect that he was under the treatment of Physician or Surgeon in the College Hospital and as such was not in a position to present himself for an examination.”

5. The question before us is, whether the petitioner in the facts aforesaid, can be said to be an examinee who has not passed or failed to present himself at the first M.B.B.S. examination in four consecutive examinations inclusive of first, and if the answer is in affirmative, then the petitioner could be not allowed to prosecute his studies being precluded under Clause 16 of the Ordinance 55. The expression "Examinee" is defined in Ordinance No. 6 which deals with the examinations in general and Clause (vi) of Ordinance 6 defines 'examinee' to mean a person who presents himself for an examination to which he has been admitted. "Admission to an Examination" has also been defined in Clause (ii) of Ordinance 6 which means, the issuance of an admission card to a candidate in token of his having complied with all the conditions laid down in the relevant Ordinance, by a competent Officer of the University, provided that a candidate who does not fulfil all the conditions may, at the discretion of a competent Officer of the University, be admitted provisionally and, in case all conditions are not fulfilled by him, his admission shall be liable to be

cancelled. The term "Examinee" occurring in Clause 16 of Ordinance No. 55, in our view, has to be read in the light of the definition of examinee in Clause (vi) of Ordinance 6 and the definition of "admission to an examination" occurring in Clause (ii) of Ordinance 6. By giving that meaning to the word "examinee" occurring in Clause 16 of Ordinance 55, it is clear that only that applicant who submits application to the University in the form prescribed for admission to examination, becomes the examinee when an admission card has been issued to him in token of his having complied with all the conditions laid down in the relevant Ordinance. "Applicant" is also defined in clause (iii) of Ordinance 6 which means, a person who has submitted an application to the University in the form prescribed for admission to an examination. Clause 16 of Ordinance 55 debars prosecution of studies for the first M.B.B.S. course to an examinee who does not pass or fails to present himself at the first examination in the four consecutive examinations inclusive of first. The word "examinee" occurring in clause 16 has to be read in contradiction to the words "applicant" and "candidate" since all the three expressions viz. "examinee", "applicant" and "candidate" have been given different meaning and defined differently under Ordinance 6. The expression "examinee" under clause 16 of Ordinance 55, therefore, has to be read as a person who presents himself for an examination to which he has been

admitted and admission to examination means the issuance of admission card to a candidate in token of his having complied with all the conditions laid down in the relevant Ordinance. Can it be said, in view of the specific definition of "examinee" in clause (vi) of Ordinance 6 that a person who is not issued an admission card for admission to an examination to be an examinee under clause 16 of the Ordinance 55. Our answer shall be simply in negative. Clause 16 of Ordinance 55 is only applicable to an examinee who has not passed or failed to present himself at the first M.B.B.S. examination in four consecutive examinations and not to other applicants or candidates who, for any reason, could not pass or failed to present themselves at the first examination in the four consecutive examinations inclusive of first.

6. In view of the aforesaid construction of clause 16 of Ordinance 55, when we turn to the facts of the case, there is no dispute that the petitioner could not appear in the examination which were held in Winter 1992, because he was detained for want of requisite attendance. Naturally, when the petitioner was detained for want of requisite attendance, he could not apply for admission in examination and no admission card was issued and, therefore, the examinations in winter 1992 could not be considered as an examination having been taken or the examination in which the petitioner did not pass or failed to present

himself. The examination of winter 1992, therefore, cannot be considered while considering whether the petitioner has failed to present himself or did not pass in the four consecutive examinations inclusive of first. The said examination of winter 1992 cannot be considered against the petitioner to hold him as an examinee who has not passed or failed to present himself at the first M.B.B.S. examination in the four consecutive examinations, because during that time, the petitioner's admission in the first M.B.B.S. course stood cancelled vide communication dated 2-4-1993 and the writ petition filed by the petitioner was pending before this Court and this Court had stayed the effect, operation and execution of communication dated 2-4-1993 and as a result thereof, the-petitioner did appear in the examination of summer 1993, but his result was not declared thereafter but was only declared on 25-10-1994 and the examination of winter 1994 was to begin from 26-10-1994. When the result was declared for the first time by the respondent No. 1 relating examination taken by the petitioner in summer 1993 on 25-10-1994, not only two examinations which intervened between winter 1993 and summer 1994 could not be considered, but also examination of winter 1994 which was to commence only on the next date ie. 26-10-1994 cannot be considered to hold that he did not pass or failed to present himself in those examinations, viz. winter 1993, summer 1994 and winter 1994.

7. *It is well settled principle of law that the law does not compel a man to do that which he cannot possibly do and the said principle is well expressed in legal maxim, "lex non cogit ad impossibilia" is squarely attracted to the facts and circumstances in the present case. The unforeseen circumstances beyond the control of a student, if resulted in non-appearance in the examination, such circumstances cannot be construed to mean that he failed to present himself at the examination. In this view of the matter, the examination of winter 1993, summer 1994 and winter 1994 in which according to the respondent No. 1, the petitioner did not present himself at the examination, cannot be considered against the petitioner and it cannot be held that he did not pass or failed to present himself at the examination in the four consecutive examinations inclusive of the first.*

8. *Much emphasis was placed by the learned counsel for respondent No. 1 on the expression, "four consecutive examinations inclusive of first" appearing in clause 16 of Ordinance 55 and he submitted that if for any reason except the proviso of Clause 16 if the petitioner has not presented himself in examination, it has to be considered that he has failed to present himself at the examination so that only then the effective meaning could be given to the expression "four consecutive examinations", otherwise, the word*

"consecutive" is rendered redundant. We are not at all impressed by this argument. The expression "four consecutive examinations", if read in the light of the context, it would be clear that once an examinee i.e. a student applies for admission to examination and he is issued admission card and then either he fails or does not present himself at the first M.B.B.S. examination, consecutively four times, then he is precluded from prosecuting his studies for the first M.B.B.S. course. In a given case, for unforeseen circumstances, if a student is unable to apply for admission to the examination due to accident or due to any other such circumstances beyond his control and accordingly prevented from taking examination, Clause 16 of Ordinance 55 cannot be construed to mean that he is examinee and that he has failed to present himself at the examination. Clause 16 of the Ordinance 55 cannot be construed in an oppressive and unreasonable manner and preventing student from appearing for the examination while considering whether he has not passed or failed to present himself at the four consecutive examinations or not."

29. From a reading of the aforesaid Judgement, it is very clear that it is distinguishable on facts. ***Rajkumarsingh (Supra)*** was not a case where, as in the case of the Petitioner, the student had actually given an attempt for the first year MBBS, but was a case where the student could not appear in the examination of first year MBBS because he was detained for want of

requisite attendance. The student ultimately could appear in the examination of the Summer of 1993 but his result was not declared till 25th October 1994 and the examination of Winter 1994, was to begin from 26th October 1994. In these circumstances, this Court held that the student, apart from being unable to have presented himself at the two examinations which intervened in Winter 1993 and Summer 1994, also could not attempt the examination of Winter 1994 which was commencing on the next date of declaration of results i.e. 26th October 1994. It is in these circumstances that this Court held that the said examination could not be counted as an attempt by the student. On the other hand, in the present case before us, the Petitioner actually appeared for the first year MBBS examination in Physiology and Biochemistry, and, therefore, that would definitely be counted as one of the four attempts made by the Petitioner. For all these reasons, the Judgement in *Rajkumarsingh (Supra)* does not come to the aid of the Petitioner.

ORDER

In the aforesaid circumstances, and for all the aforesaid reasons -

- a) The Writ Petition is dismissed.
- b) In the facts and circumstances of the case, there shall be no order as to costs.

[FIRDOSH P. POONIWALLA, J.]

[R.I. CHAGLA, J.]