

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

VINA ARVIND KHADPE
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 VINA ARVIND KHADPE
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WRIT PETITION NO.571 OF 2015

1. SNDT Women's University, through its Registrar, having its office at Women's University, 1, Nathibai Thackrsey Road, Churchgate, Mumbai – 400 020.
 2. Usha Mittal Institute of Technology, through its Principal, having an office at SNDT Women's University, Sir Vithaldas Vidya Vihar, Santacruz (West), Mumbai – 400 049
- ...Petitioners

V/s

- 1 Ms. Mitali Ghotgalkar, residing at A15, Upadhyay Apartments, Off Devidas Lane, Borivali (West), Mumbai – 400 103
 - 2 The Directorate of Technical Education, Maharashtra State, Mumbai, through its Director, having its office at Mahapalika Marg, Post Box No. 1967, Mumbai – 400001.
- ... Respondents

 Mr. Rui Rodrigues i/b. Ms. Yogita R. Singh for the Petitioner.

Ms. Seema Chopda a/w Mr. T.R. Yadav for Respondent No.1.

Ms Usha Rahi, AGP for the Respondent – State.

**CORAM : RAVINDRA V. GHUGE &
ABHAY J. MANTRI, JJ.**

RESERVED ON : 08th JANUARY, 2026

PRONOUNCED ON : 04th FEBRUARY, 2026

JUDGMENT (Per Abhay J. Mantri, J.) :-

1. The challenge in the Petition is to the impugned undated order (Exh. 'H') passed by the Ombudsman, S.N.D.T. Women's University, thereby ordering the Petitioner No. 1 Institute to refund the proportionate balance fees of Rs.55,000/- along with other fees collected under different heads, to Respondent No.1.

2. The background facts in a nutshell are as follows:-
 - a) Petitioner No.1 is a statutory University catering exclusively to the educational needs of women. It is governed by the provisions of the Maharashtra Universities Act, 1994 (for short, "***the Act***"). Petitioner No.2 is an Institute being conducted by the said University (for short, "***the Institute***"). Respondent No.1 is a former

student of the Institute. Respondent No.2 is the Directorate of Technical Education, Maharashtra State (hereinafter referred to as “**DTE**”), the State Agency that monitors the centralised admission process.

- b) Pursuant to the CAP Round-II, conducted by the Respondent No. 2-DTE, Respondent No. 1 had taken admission to the Petitioner No. 2-Institute on 9th July, 2013.
- c) Respondent No.1 attended the classes for 20 days from 22nd July, 2013, and thereafter took admission in St. Francis' College. On 13th August, 2013, i.e., after the cut-off date for cancellation of admissions, she applied to the Petitioner No. 2 for the cancellation of her admission.
- d) Pursuant to the cancellation of admission, all documents were returned to Respondent No.1 on the same day, and the deposit amount of Rs. 3600/- was kept ready for a refund to her. However, she did not collect the same.

The said cancellation of admission was uploaded on the DTE website on 19th August, 2013.

e) By letters/communications dated 22nd August, 2013 and 5th September, 2013, Respondent No.1 requested the Petitioner No.2 - Institute to refund the entire fees deposited by her, as she had cancelled her admission on 13th August, 2013, i.e., before the last date for taking admission as per the schedule of the AICTE Notification dated 27th September, 2012, i.e., before 15th August, 2013.

f) On 17th July, 2014, the father of the Respondent No.1 approached the Grievance Redressal Committee of the Institute and raised the grievance that, despite the Respondent No. 1 cancelling her admission, the Petitioner No. 2 did not refund her fees, so he requested the Grievance Redressal Committee to direct the Petitioner No. 2 to refund her fees. After considering the Application and the reply of the Institute, the learned Ombudsman passed an undated order, ordering Petitioner No. 2 to

refund the proportionate balance of fees of Rs. 55,000/- along with other fees collected under different heads to Respondent No. 1. Feeling aggrieved by the same, Petitioners have preferred this Petition.

3. On 7th January, 2025, this Petition was admitted, and ad-interim relief was granted to the Petitioners. Ms. Seema Chopda, the learned Advocate, appeared on behalf of Respondent No.1, and Ms. Usha Rahi, AGP, appeared on behalf of Respondent No. 2 – State, and waived notice. Since then, Respondents have not filed a reply to the Petition, indicating that they have no grievance with its content.

4. Mr. Rodrigues, appearing for the Petitioners, vehemently contended that the learned Ombudsman has not taken into consideration the Rules/Norms formulated by the AICTE in its proper perspective and erred in passing the order to refund the part of the fees amount. During the argument, he has drawn our attention to the notified schedule dates of the CAP rounds and admission annexed as Exhibit 1

(Page Nos. 12 and 13) and submitted that as per the notified schedule, the cut-off date for all types of admissions for the academic year 2013-2014 was **12th August, 2013**. Respondent No. 1 had cancelled her admission on 13th August, 2013, i.e., after the cut-off date. Therefore, as per the DTE's Rules and Regulations, Respondent No.1 is not entitled to the refund of any fees. He drew our attention to the guidelines issued by the DTE, Mumbai, in that regard, particularly point No. 8.9 of the Brochure 2013 issued by the petitioner No. 2, and submitted that, as per the said guidelines, Respondent No. 1 is not entitled to claim a refund of fees, as she has cancelled her admission after the cut-off date.

5. He further argued that Respondent No.1 has neither challenged the norms nor guidelines issued by the DTE. Therefore, in the absence of a challenge to the said norms and guidelines, Respondent No.1 is not entitled to claim a refund of fees. As such, he urged that the impugned order be set aside.

6. *Per contra*, the learned Advocate Ms. Chopda appearing for Respondent No.1, strenuously opposes the Petition, contending that the order passed by the learned Ombudsman is just and proper and no interference is required in it. She has submitted the compilation of the documents relied upon by Respondent No.1 before the learned Ombudsman, across the bar, which was taken on record and marked 'X' for identification. From the said compilation, she has drawn our attention to the AICTE notification and pointed out the schedule of CAP rounds and admission dates, as well as the last date by which students could be admitted against any vacancy arising for any reason.

7. As per clause at serial No.8, the student could be admitted to the Institute till 15th August, 2013, against the vacancies arising due to any reason. Therefore, she urged that, though Respondent no.1 cancelled her admission on 13th August, 2013, the Institute could admit the student till 15th August, 2013, instead of 12th August, 2013, as mentioned in

the DTE schedule. Therefore, she submitted that no interference is required in the impugned order.

8. To buttress her contention, she has relied on the Judgment in ***Parshvanath Charitable Trust and ors. Vs. ALL India Council for Technical Education and ors. [2013] 3 SCC 385***, and pointed out paragraphs 38 to 43 and 46, and canvassed that the notification issued by the AICTE is binding on the DTE and the DTE cannot vary the schedule prescribed by the AICTE. As such, she urged the dismissal of the Petition.

9. Having heard the rival contentions of the learned Advocates for the respective parties and having gone through the impugned order as well as the compilation of documents and record, the short but crucial question that arises before us is

“Whether Respondent No.1 is entitled to get a refund of the proportionate fees on cancellation of her admission after the cut-off date, i.e. 12th August, 2013, as claimed ? ”

10. While considering the above dispute, it is to be noted that Respondent No.1 does not dispute that she cancelled her admission on 13th August 2013, i.e. after the cut-off date 12th August 2013, prescribed along with the schedule of activities of the Institute for the year 2013-2014. Similarly, she does not dispute that she was aware of the said cut-off date at the time of taking her admission. Likewise, no student was admitted after her admission to the Institute was cancelled. Respondent No.1 has not challenged the guidelines issued by the DTE as well as the schedule notified by Petitioner No.2 Institute at any time.

11. While dealing with the controversy between the parties, it would be appropriate to reproduce Clauses Nos. 21 and 22 of the provisional Schedule of the activities in the Engineering Technology for the year 2013 to 2014 and the instructions/guidelines issued by the DTE, more particularly Clause No.8.9, as well as the relevant part of the AICTE Guidelines No. AICTE/ Legal/04(01)/2007, April 2007. The Clause Nos.21 and 22, as well as Clause No.8.9, read thus as

follows:-

21	<i>Commencement of the new academic year for All Institutes----</i>	22-07-2013
22	<i>Cut-off Date for all types of admissions for the academic year 2013-14.</i>	12-08-2013

“8.9 Refund of Tuition, Development and Other fees after cancellation of admission secured through CAP rounds I/II/III, in Institute level Round(s) and Vacancy Round(s) of admissions in Government, Aided, Autonomous Institutes, University Departments, etc. and Unaided Institutes:

The candidate who has been provisionally admitted may cancel admission by submitting an application in duplicate, in the prescribed pro forma - O and may request a refund of fees. The refund of fees as applicable shall be made in due course. It is made clear that such an application for cancellation will be considered if and only if the admission is confirmed by paying the prescribed tuition fee and other fees in full and by submitting the original documents. Refund shall be made after deduction of the cancellation charges as shown below.

Reference: 1) AICTE Guidelines No. AICTE/ Legal/04(01)/2007, April 2007 & Circular No.698 Dated: 24th August 2007 issued by Pravesh Niyantran Samiti, Mumbai)

2) Minutes of the meeting, Item No 5(e), Shikshan Shulka Samiti & H&T, Dated 9th January 2013

Sr. No.	SITUATION	REFUND AMOUNT
1	Request Received before the cut-off date & if ‘a seat’ is filled before the cutoff date.	Entire fee less Rs.1000/-
2	Request received before the cut-off date, but ‘a seat’ could not be filled before the cut-off date.	No Refund (except the security deposit)

Note :-

1. Entire amount of the Security/Caution Money Deposit is to be refunded to the candidate.”

The relevant part of the AICTE Guidelines No. AICTE/Legal/04(01)/2007, April 2007.

“In the event of a student/candidate withdrawing before the start of the course, the wait-listed candidates should be given admission against the vacant seat. The entire fee collected from the student, after deduction of the processing fee of not more than Rs.1000/- (Rupees one thousand only), shall be refunded and returned by the Institution / University to the student/candidate withdrawing from the programme. It would not be permissible for Institutions and Universities to retain the School / Institution Leaving Certificates in original. Should a student leave after joining the course, and if the seat consequently falling vacant has been filled by another candidate by the last date of admission, the Institution must return the fee collected with proportionate deductions of the monthly fee and proportionate hostel rent where applicable.”

12. Upon going through the above guidelines/norms, it reveals that as per the Schedule of the activities in the Engineering Technology for the year 2013 to 2014, ***the cut-off date for all types of admission of the academic year 2013-2014 was 12th August, 2013.*** If the request is received before the cut-off date, i.e., 12th August, 2013, and the seat is filled before the cut-off date of the admission, then the candidate/student is entitled to a refund of the entire fees after deduction of Rs. 1000/-.
- The above guidelines denote that if the candidate

requests the Institute for cancellation of her/his admission before the cut-off date, and if the seat is filled before the cut-off date of admission, then the candidate is entitled to get refund of the entire fees after deduction of Rs.1,000/- and if the seat could not be filled before the cut-off date then she/he would not be entitled to claim the refund of the fees. The AICTE Guidelines No. AICTE/ Legal/ 04 (01) /2007, April 2007, also indicates that "*if the seat failing vacant due to the cancellation of admission of the student has been filled by another student before the last date of admission, the institute must return the proportionate fees to the student who leaves the course*".

13. The letters/communications dated 22nd August, 2013 and 5th September, 2013, addressed to the Principal of Petitioner No.2 Institute and Pravesh Niyantran Samiti, Bandra (E), Mumbai, by the father of Respondent No.1, respectfully and relied upon by Respondent No.1, which reads thus:-

“

*Sanjeev Ghotgalkar
A15, Upadhyay
Apts
Off Devidas Lane
Borivli West
Mumbai 400103
22.8.2013*

*To
The Principal
Usha Mittal Institute Of Technology
Santacruz West
Mumbai*

*Sub: Refund of fees against cancellation of admission for
First Year B.Tech*

Respected Sir

We had taken admission to First Year B Tech (Computer Science branch) for my daughter, Miss Mitali Ghotgalkar, through the CAP round 2 in your esteemed college. On 13th August 2013, we applied for cancellation. Our original documents were returned on the same day. The online cancellation could be done on 19th August 2013, as the DTE website was closed for 4 days in the interim. While taking admission, we had paid a fee of Rs. 85,215/-. Her application ID is 41016-10093; Maharashtra Type A candidate; Open category; Female.

I humbly request you to refund the fees if the vacancy created by our cancellation has been filled so as not to cause inconvenience to the institution. During the admission process and thereafter, we have experienced a very good response from the staff of Usha Mittal Institute of Technology, for which I wish to thank them.

*It would be a great help to me if the fees would be refunded.
Sorry for any Inconvenience caused.*

Hoping to be obliged.

Thanking You

Yours Faithfully

Sanjeev Ghotgalkar

9769334949”

“

*Sanjeev Ghotgalkar
A15, Upadhyay Apts,
Off Devidas Lane
Borivli (W)
Mumbai 400103
5.9.2013*

*To
Pravesh Niyantran Samiti,
Bandra (E),
Mumbai.*

Dear Sir,

We had taken admission for Comp. Science F.Y.B. Tech in Usha Mittal Institute of Technology for my daughter, Miss Mitali Ghotgalkar, through CAP Round 2 on 9.7.2013. Later, we cancelled the admission on 13.8.2013.

We have applied for a refund of the fees of Rs. 85,215/- paid vide receipt No.172 dated 9.7.2013.

Kindly let us know if the seat vacated has been filled so as to enable us to get the refund.

Details as follows -

*Name : Miss Mitali Sanjeev Ghotgalkar
Application ID – 41016-10093
Maharashtra Type A Open Category female.*

Hoping to be obliged.

Thanking you,

Yours faithfully,

*Sghotgalkar
(Sanjeev Ghotgalkar)
Mob-9769334949”*

14. Upon bare perusal of these letters, it is revealed that Respondent No.1 does not dispute that she took admission pursuant to the CAP round-II on 9th July, 2013, and cancelled her admission on 13th August, 2013. The online cancellation

was uploaded on 19th August, 2013, as the DTE was closed for four days in the interim. She categorically requested the Principal that “*if the vacancy created by her cancellation of the admission has been filled so as not to cause inconvenience to the Institute, then the fees should be refunded to her*”. The averments in the letters themselves indicate that Respondent No.1 and her father were aware of the Rules/Guidelines issued by the DTE from time to time. Therefore, they have stated that “*if the vacancy is filled, then the fees be refunded to them*”.

15. On 17th July, 2014, the father of the Respondent No.1 made a grievance to the Grievance Redressal Committee. In paragraph No.12, he admitted that his daughter took admission in St. Francis' College on 12th August, 2013, in the evening, and thereafter, on 13th August, 2013, she applied for cancellation of her admission from the Institute. In paragraph 4, it is categorically admitted that the Institute closed admissions on 7th August, 2013, that is, before the cut-off date of 12th August, 2013, as all students had taken

admission and there was no vacancy. So, the question of filling the vacant seat until 12th August, 2013, did not arise.

16. Respondent No.1, in paragraph 11, contended that on 19th August, 2013, the DTE displayed two vacancies for the Computer Science Branch on its Website, and after cancellation of Respondent No.1's admission, the vacancy figure was upgraded to three.

17. The only grievance of Respondent No.1 was that, as per the schedule notified by the AICTE and the order of the Hon'ble Supreme Court, the last date of admission to the Engineering Course was set to 15th August, 2013. The schedule of the AICTE notification and that laid down by the Supreme Court vide judgment dated 13th December, 2012, also specifies the last date by which a student can be admitted. It is noted that the AICTE Notification does not specify the cut-off date for cancellation of admission. The said notification only indicates that the last date for taking admission was 15th August, 2013. Therefore, in our opinion,

the said notification is hardly of any assistance to Respondent No.1 in support of her contention.

18. Apart from that, Respondent No.1 has not challenged the Provisional Schedule of activities of Engineering Technology for the year 2013-2014 displayed by Petitioner No.2, as well as the guidelines issued by Respondent No.2 DTE.

19. In the absence of a challenge to the guidelines of the DTE as well as the schedule notified by Petitioner No. 2 in its brochure, the Petitioner could not claim that the said Schedule as well as Guidelines are contrary to the AICTE notification, Rules, and norms.

20. The notification published by the AICTE does not prescribe the cut-off date for cancellation of all types of admissions. Moreover, Respondent No.1 or her father failed to point out that after cancellation of Respondent No.1's admission from the Institute, any students had taken

admission to Petitioner No. 2 Institute/College, so that she would be entitled to claim the refund of fees. In the absence of any material on record, it cannot be said that Respondent No.1 is entitled to a refund of the proportionate fees. Therefore, we do not find any substance in the argument of the learned Advocate for Respondent No.1 in that regard.

21. Upon perusal of the Judgment relied on by the learned Advocate for Respondent No.1, it appears that the facts in the said judgment are distinct from the case in hand. The question in dispute in the said case was that the Appellant's College was shifted to new location on land not owned by it without obtaining the requisite prior permission from the AICTE, as per the regulation, and terms and condition of letter of approval, and therefore while dealing with the said question, the Hon'ble Apex Court held that "*no person or authority shall have the power or jurisdiction to vary the schedule prescribed and held that grant /refusal of approval and admission schedule shall be strictly adhered to by all the authorities concerned including the AICTE, the*

University, the State Government and any other authority, directly or indirectly connected with the grant of approval and admission.” However, in the case at hand, the Respondent No.1 indisputably cancelled her admission after the cut-off date, and the said seat remained vacant. Therefore, the question of seeking approval from the AICTE does not arise, nor can it be said that the DTE had not adhered to the Rules and Regulations of the AICTE. Thus, the observations made in the said Judgment are hardly of any assistance to Respondent No.1 in support of her contention.

22. Perused the impugned order. In unnumbered paragraphs 2 & 3, the learned Ombudsman categorically observed that “*Institute did not grant permission to admit any student after 7th August, 2013 and Respondent No.1 cancelled her admission on 13th August, 2013 and her seat could not be filled by the Institute as the Institute round was over on 7th August, 2013*”. Similarly, as per the schedule, the DTE specified 12th August, 2013 as the cut-off date for all admissions.

23. Petitioner No. 2 does not dispute that Respondent No.1 was eligible for a refund of an amount of Rs. 3600/- (Library Deposit Rs. 2500/-, Laboratory Deposit Rs.1000/- and Caution Money Deposit Rs. 100), which were kept ready for a refund to her. But she did not accept the said amount. However, it does not appear on what basis, the Ombudsman has passed the order to refund the proportionate balance of Rs.55,000/- along with fees under other heads to Respondent No.1. On the contrary, it reveals that the Ombudsman had not considered the schedule published by the Institute in its brochure as well as guidelines issued by the DTE in its proper perspective, and erred in ordering to refund the proportionate balance amount of fees.

24. The order passed by the Ombudsman is contrary to the schedule published by the Institute and the guidelines issued by the DTE. Had the order been reasoned, it would have explained how Respondent No. 1 was entitled to a refund of the fees. The Ombudsman failed to record the

reasons in that regard; therefore, it seems that he has not applied his mind, and, as such, the impugned order warrants interference.

25. Since the Respondent No. 1 cancelled her admission within a month, in our view, it would not be appropriate to charge the fees under the head of development charges, which were levied for the purposes of expansion of infrastructure, as such, the same are required to be refunded to her by way of gratis. Accordingly, the fees mentioned under the development head should be refunded to her. Thus, we do not find any fault with the finding of the Ombudsman in the impugned order to that extent.

26. To sum up the above discussion, it emerges that after the cut-off date, Respondent No.1 applied for cancellation of her admission and after cancellation of her admission seat was not filled by another student and therefore as per guidelines of the DTE, Respondent No.1 is not entitled to claim the refund of fees, when undisputedly the

seat was not filled before the cut-off date of admission. That being so, respondent No. 1 failed to demonstrate that she is entitled to a refund of the proportionate fees as ordered by the Ombudsman. Similarly, the Ombudsman, without considering the schedule published by the Institute and the guidelines issued by the DTE, passed the impugned order; therefore, the same cannot be sustained in law, as such interference is warranted. Hence, we answer the question accordingly.

27. As a result, **the Writ Petition is partly allowed**. The undated impugned order (Exh. 'H') is hereby quashed and set aside.

28. Needless to clarify that Respondent No.1 is entitled to get the refund of the deposit amount of Rs. 3600/- as stated above, if she has not already accepted the said amount. As well as entitled to a refund of fees under the head of development fee of Rs. 15,500/- as described in the Admission

fee receipt dated 9th July, 2013 (Page No.22) and as discussed in para 25 above.

29. Rule is made absolute in the above terms. There shall be no order as to costs.

(ABHAY J. MANTRI, J.) (RAVINDRA V. GHUGE, J.)