



Andreza

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO. 2809 OF 2025 (FILING)

1. Ms. Larissa Nadia Alvares, Daughter of Shri Rosario Alvares, Age 25 years, Student Resident of House No. 223/9, B. B. Borkar Road, Alto Porvorim, Bardez, Goa, 403521.
2. Ms. Tina Kerkar, Daughter of Shri Vaman Kerkar, Age 23 Years, Student Resident of H. No. 676, Salvador Do Mundo, Torda, Bardez, Goa. 403 101.
3. Mr. Sanat Pradeep Narvenkar, Son of Shri Pradeep Narvenkar, Age 28 years, Student, Resident of 8, Khazan, Pale, Surla, North Goa – Goa 403105.
4. Ms. Sumati B. Shelke, Daughter of Shri Bhago Shelke, Age 27 years, Student, Resident of Vazarwada, Podocem, North Goa, Goa. ... Petitioners 403505.

V e r s u s

1. Goa Medical College & Hospital, Through its Dean, NH-17, Bambolim, Tiswadi, Goa.
2. Goa University, Through the Registrar, University Road, Taleigao Plateau, Goa 403206.
3. Directorate of Medical Education, Through its Director, NH-17, Bambolim, Tiswadi, Goa.
4. State of Goa, through its Chief Secretary, ... Respondents Secretariat, Porvorim, Goa.

Mr. A. Gosavi, Advocate with Ms. Krupa Naik, Mr. Gaurang Kerkar and Ms. S. Shetgaonkar, Advocates for the Petitioners.

Ms. Maria Simone Correia, Additional Government Advocate
for Respondent nos. 1 and 4.

Ms. A. A. Agni, Senior Advocate *with Mr. Junaid Shaikh and Ms. A. Rawal, Advocates for the Respondent no. 2.*

**CORAM: SARANG V. KOTWAL &
ASHISH SAHADEV CHAVAN, JJ.**

DATE: 4th DECEMBER, 2025

ORDER *(Per Sarang V. Kotwal, J)*

1. This is a Petition for directing the Respondent no. 2-Goa University to conduct re-evaluation of the answer books of the Petitioners in respect of the Third Professional (Final Year) MBBS Part II Examination (Supplementary) held in April-May 2025.

The alternate prayer is for conducting re-examination of the answer sheets of all the students who had failed that examination.

2. Heard Mr. Gosavi, learned Counsel appearing for the Petitioners, Ms. Maria Correia, learned Additional Government Advocate appearing for the Respondent nos. 1 and 4 and Ms. A. Agni, learned Senior Counsel appearing for the Respondent no.2-Goa University.

3. The four Petitioners who have approached this Court had appeared for the Third Professional (Final Year) MBBS Part II Examination (Supplementary) held in April-May 2025. In all, 41 students had appeared for the examination out of which 23 students

were declared to have passed and 18 students were shown to have failed in the examination. The result was circulated on a soft copy on 09.06.2025. The Petitioners had applied for verification.

It is the case of the Petitioners that they were given opportunity only to apply for verification and not for re-evaluation. After the verification was carried out, all of them were again shown to have failed and there were no changes in their marks. The result of the verification was circulated among the students on 18.06.2025. Out of 18 students, the Petitioners and few others had applied for verification. Hence, the Petitioners approached this Court by way of present Petition.

4. Another grievance of the Petitioners is that three students were subsequently declared to have passed the examination. Out of them only one had applied for verification and the other two had not even applied for verification. Thus, clearly the answer papers were re-evaluated and those three were declared as having passed the examination. This, according to the Petitioners, was discriminatory. According to the Petitioners, the entire process was arbitrary and opaque. Serious doubts were raised about the corrections of the answer papers.

5. According to the Petitioners, they were not given an option for re-evaluation but the only option offered to them was for verification.

Learned Counsel for the Petitioners submitted that since past many years, the practice was being followed that the students were afforded opportunity for re-evaluation and only this time, this opportunity was denied to them.

6. Learned Counsel for the Petitioners invited our attention to various Ordinances issued in exercise of the powers under Section 24(1) of the Goa University Act, 1984. Learned Counsel for the Petitioners invited our attention particularly to the Ordinances OA-5, OA-15 and OA-25. He submitted that in particular under Ordinance OA-25, there was a special provision for challenging evaluation even in case of double evaluation. In the present case of MBBS course, the University followed the method of double evaluation i.e. evaluation by internal examiner and external examiner. In spite of this double evaluation, application for challenging the evaluation was permissible under OA-25. Learned Counsel for the Petitioners submitted that the nomenclature may differ but the scheme of correcting the answer papers afforded at least one opportunity for re-valuation after the results. In the present case, this opportunity was unjustifiably denied to the students causing much hardship and prejudice to them.

7. Learned Counsel for the Petitioners submitted that the Respondents are relying on the repeal of Ordinance OA-25 relating to

challenge evaluation. That repeal Ordinance was dated 03.07.2024 but it was not published and therefore it cannot be said that it was brought in force and hence that repeal does not have sanctity of law. Therefore, as of today, OA-25 applies. Learned Counsel relied on the observations of the Hon'ble Supreme Court in the case of **High Court of Tripura, through the Registrar General vs. Tirtha Sarath Mukherjee & Ors.**¹ He relied on paragraphs 20 and 21 of the said judgment, which are reproduced herein below :

“20. The question however arises whether even if there is no legal right to demand re-valuation as of right could there arise circumstances which leave the Court in any doubt at all. A grave injustice may be occasioned to a writ applicant in certain circumstances. The case may arise where even though there is no provision for re-valuation it turns out that despite giving the correct answer no marks are awarded. No doubt this must be confined to a case where there is no dispute about the correctness of the answer. Further, if there is any doubt, the doubt should be resolved in favour of the examining body rather than in favour of the candidate. The wide power under Article 226 may continue to be available even though there is no provision for re-valuation in a situation where a candidate despite having giving correct answer and about which there cannot be even the slightest manner of doubt, he is treated as having given the wrong answer and consequently the candidate is found disentitled to any marks.

21. Should the second circumstance be demonstrated to be present before the writ court, can the writ court become helpless despite the vast reservoir of power which it possesses? It is one thing to say that the absence of provision for re-valuation will not

¹ (2019) 16 SCC 663

enable the candidate to claim the right of evaluation as a matter of right and another to say that in no circumstances whatsoever where there is no provision for re-valuation will the writ court exercise its undoubted constitutional powers? We reiterate that the situation can only be rare and exceptional.”

8. As against these submissions, learned Additional Government Advocate appearing for the Respondent nos. 1 and 4, submitted that notice of repeal of OA-25 was sufficiently published by affixing it on the notice board. Therefore, the students were aware that OA-25 was repealed.

9. Learned Senior Counsel appearing for Goa University-Respondent no.2 submitted that the said fact was also published on the website of the Goa University. She further submitted that the repeal of OA-25 was brought into effect in July 2024 and the Petitioners had appeared for the examination in April-May, 2025. Therefore they were subject to the Rules existing at the time when they appeared for examination and not at the time when the academic year started. Learned Senior Counsel for the Respondent no. 2 further submitted that on 04.06.2025, there was an amendment and the method of double evaluation was changed to give benefit to the students. Before that amendment on 04.06.2025, the average of the internal examination marks and external examination marks was taken and that was the effect of double evaluation. By the amendment made on

04.06.2025, the higher of those two marks were given to the students to their benefits. It was a beneficial amendment brought into force from 04.06.2025 onwards. The results in this case were declared on 09.06.2025. At that time, the benefit of this amendment was not given to the students. Therefore, the University on its own revised the answer papers to give benefit to the students of higher marks out of the two evaluations made by internal examiner and external examiner. After these revisions, fresh revision results were declared on 02.07.2025 that is how three of the students who were earlier declared failed, had passed the examination. Therefore, there is no substance in the submission of the learned Counsel for the Petitioners that there was discrimination between the Petitioners and the three students who were subsequently declared as passed. Those three students were given benefit of the new policy for which purpose there was no necessity of making any application. Even on the revised marks, the present Petitioners could not obtain the passing marks and, therefore, they continued to be shown as failed in those particular subjects.

10. Learned Senior Counsel for the Respondent no. 2 further submitted that those Ordinances which are referred to by the learned Counsel for the Petitioners speak for themselves and there was a clear bar for re-evaluation when there was a procedure for double evaluation. Therefore, the University has not committed any error in not

permitting re-evaluation of the papers and hence the Petition is misconceived and is required to be dismissed. As far as the Petitioners' Counsel's reliance on the judgment in the case of **High Court of Tripura, through the Registrar General** is concerned, she submitted that the observations are not applicable to the present case and ultimately the approach of the High Court in permitting the Review Petition and allowing the re-evaluation was set aside in that particular judgment. Therefore, in any case, the said judgment does not help the case of the Petitioners.

11. We have considered the submissions. The Ordinances referred to by the learned Counsel for the Petitioners are important. The first of them is Ordinance OA-5. It refers to the matters relating to the appointment of Chairpersons, Board of Examiners, Paper-setters, examiners and moderators, and lays down the general instructions pertaining to the conduct of examinations in all the Faculties. It is issued under Section 24(1) of the Goa University Act, 1984. The important sub-clause is OA-5.15(A), which was brought in effect from 16.07.2013. It reads thus:

“OA-5.15(A) The facility of revaluation of answer scripts shall be available for all examinations except for :

- (a) Examinations having double assessment
- (b) Examinations having different and specific provisions relating to valuation.

Ordinance OA-5.15(A)(i) (Effective from 22nd December, 2017), mentions that a candidate who desires to have re-evaluation of his paper/papers shall be required to apply for re-evaluation of his paper/papers within 10 days from the date of declaration of the results of the candidate of the concerned examination and that the re-evaluation shall not include verification of marks.

This clause clearly distinguishes re-evaluation from verification. In the present case, the Petitioners were permitted to make an application for verification. The grievance of the Petitioners is that they were not permitted to apply for re-evaluation.

12. Another important Ordinance is OA-15, which was effective from 17.08.2000. It was an Ordinance relating to procedure for evaluation of answer papers of Professional Examination. The Petitioners' course falls within this category as MBBS is a Professional Course. The said Ordinance explains that there shall be double evaluation scheme for all the papers of professional courses. For this purpose, general principles were required to be followed. Those principles lay down as to how there has to be one internal and one external examiner for this double evaluation.

13. The next and most important Ordinance on which the arguments were based is the OA-25. It was relating to challenge evaluation and was brought into effect from 12.03.2018. OA-25.1 reads thus :

“OA-25.1 – Application for challenge evaluation shall be submitted to the Controller of Examinations through the Principal/Head of Department/Head of Institution within seven working days of the declaration of revaluation result in cases of Programmes wherein revaluation provisions exist. In cases of Programmes without revaluation, and Programmes with double evaluation, the application for challenge evaluation shall be submitted through the Principal/Head of Department/Head of Institution within seven working days of the declaration of result.”

OA-25.2 reads thus :

“OA-25.2 Challenge evaluation shall be allowed in all Courses/Papers of all Programmes at all levels.”

14. Learned Counsel for the Petitioners relied heavily on this Ordinance to contend that even in cases of double evaluation where re-evaluation was not permitted, the application for challenge re-evaluation was permissible. The main thrust of his argument was based on this particular Ordinance.

15. To this submission, learned Senior Counsel appearing for Respondent no. 2 relied on the repeal of that Ordinance. She relied on the communication dated 12.08.2024. It was addressed to various authorities including Chancellor of Goa University, Director of Higher Education, Deans and Principals of Affiliated Colleges, Secretary of Goa University Teachers Association, Registrar of this Court, etc. In that communication, it was specifically mentioned that the repeal of Ordinance OA-25 was approved by the Hon’ble Chancellor of Goa

University on 03.07.2024. The repeal of Ordinance OA-25 was approved by the Academic Council in its meeting held on 13.10.2023 and the Executive Council approved the said proposal in its meeting held on 01.12.2023. Thus, it can be seen that there was a specific bar for re-evaluation in case of examinations having double assessment as mentioned in OA-5.15(A). This bar was lifted by OA-25.1. Though it did not permit re-evaluation but some facilities were made available to the students by providing for challenge evaluation. Even this particular facility was repealed by repealing Ordinance OA-25. The repeal was approved in the month of July 2024 by the Academic Council in October 2023 and by Executive Council in December 2023. Therefore, when the Petitioners appeared for the examination, Ordinance OA-25 was not in existence. Thus, the bar imposed under OA-5 for re-evaluation operated in full force. Hence, there was no provision for re-evaluation available to the Petitioners.

In this view of the matter, we do not find any error having been committed by the Respondent no. 2 in not permitting the Petitioners for making any application for re-evaluation.

16. As far as the judgment relied upon by the learned Counsel for the Petitioners in the case of **High Court of Tripura, through the Registrar General** is concerned, it is rightly submitted by the learned Senior Counsel for the Respondent no. 2, that in that case, the Hon'ble

Supreme Court had set aside the order of the High Court allowing the Review Petition directing re-evaluation of answer papers. Though there are observations in paragraphs 20 and 21 that in a given case the High Court can exercise powers under Article 226 of the Constitution even though there is no provision for re-evaluation. This could be exercised in exceptional cases. However, in the present facts before us, there is not only absence of provision of re-evaluation but there is a specific bar mentioned in Ordinances for re-evaluation. Therefore, this judgment does not support the case of the Petitioners at all.

17. As a result of the above discussion, we do not find any merit in the Petition and accordingly the Petition is dismissed.

ASHISH CHAVAN, J.

SARANG V. KOTWAL, J.