

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2431 OF 2023

Miss Darshana Chandrashekhar Kulkarni
Age: 20 years, Occupation: Student
Permanent resident of : C/o C S Kulkarni,
Flat No. A - 4, Swami Vivekanand Nagar,
Above Gokul Sweets, N- 4 South,
Cidco, Aurangabad-431003

And: C/o Sharad Pawar Dental
College and Hospital,
Unit of Datta Meghe Institute
Of Medical Science, Sawangi [Meghe],
Taluka and District Wardha

... Petitioner.

Versus

1. The State of Maharashtra
Through the Secretary,
Medical and Dental admissions,
Higher and Technical Education,
Mantralaya, Mumbai-400001
Email: psce.pubhealth@maharashtra.gov.in
2. The Director of Medical Education
And Research [DMER],
St. George's Hospital Compound,
Govt. Dental College Building,
Near Chatrapati Shivaji Terminus (CST),
Mumbai – 400001.
Email: dmercetcell@gmail.com
3. The Medical Counselling Committee,
Through Assistant Director General,
Medical Education, Nirman Bhavan,
Maulana Azad road, New Delhi-110108
Email: adgme@nic.in

4. The Dental Council of India,
Through its Deputy Secretary,
Aiwan E Galib Marg, Kotla Road,
New Delhi – 110 002.
Email : secy-dci@nic.in
 5. Sharad Pawar Dental
College and Hospital,
Unit of Datta Meghe Institute
of Higher Education and Research,
A Deemed University
Through its Registrar / Dean,
Sawangi [Meghe],
Taluka and District Wardha – 442 001.
Email : deanspdc@gmail.com
- ... Respondents.

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Advocate for Petitioners : Mr. Mukul S. Kulkarni
AGP for Respondent Nos.1 and 2 - State : Mr. P S. Patil
Advocate for Respondent Nos.3 and 4 : Mrs. Sudha S. Kulthe
Advocate for Respondent No.5 : Mr. Pramod Gaikwad
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.**

DATED : 01st MARCH, 2023

ORAL JUDGMENT (PER RAVINDRA V. GHUGE, J.) :

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. After hearing the learned advocates for the respective sides and on perusing the Petition paper-book as well as the communication dated

20/04/2022 issued by the Office of Medical Counselling Committee (MCC), DGHS, Ministry of Health and Family Welfare, Government of India, pertaining to the admission of the Petitioner, we find a complete lack of co-ordination between the authorities, reminding us of the old phrase *“the right hand does not know what the left hand is doing”*.

3. The Petitioner is before us, after completing her first year of Bachelor of Dental Surgery (BDS) with the Sharad Pawar Dental College and Hospital, Wardha, since her admission has been cancelled on account of the inadvertent deletion of her record by the dental college.

4. The relevant facts pertaining to this case are as under :-

A] The Petitioner appeared for the NEET-UG 2021 examination on 12/09/2021 and secured 157 marks out of 750. As she did not secure admission in the initial rounds, her case was considered in the “Stray Round-II”.

B] The MCC issued a communication to her which is at page No.31, indicating the allotment of the college for the BDS course from the open category. Consequently, her admission was confirmed in the said college and which is undisputed.

C] The Dental Council of India (DCI) informed the Dean of the College vide communication dated 25/01/2023 that though 86 students out of the maximum allotted seats of 100 were admitted by the college, the name of the Petitioner was not available in the list. Subsequently, the name of the Petitioner was uploaded on the DCI website.

D] The ADG (ME), MCC recorded in its letter dated 07/06/2022, while forwarding the list of all reported candidates allotted through MCC, which included the list of 85 candidates allotted to the college. During scrutiny of the list, it was noticed that the name of the Petitioner was not set out in the list, whereas, the college had uploaded details of the Petitioner on the DCI website. It was further recorded by the DCI that the college was called upon to clarify vide communication dated 27/09/2022 with supporting documents, as to why the Petitioner was admitted without an allotment by the MCC.

E] The college had informed the DCI vide communication dated 29/09/2022 that the Petitioner was admitted in the BDS course for the academic session 2021-2022 in stray vacancy round held on 15/05/2022 and as per the rules, the vacant seats were transferred to the University on 11/05/2022 by the Competent Authority i.e. DGHS for stray vacancy round and she was registered for counseling on MCC Portal with an allotment letter.

F] By the communication dated 25/01/2023, the DCI informed the college of the Resolution passed in its meeting held on 29/12/2022 at New Delhi, which reads as under :

“The Principal, Sharad Pawar Dental College & Hospital, Wardha (Maharashtra) be directed to discharge one student namely Ms. Darshana Kulkarni, immediately, under intimation to DCI, admitted in BDS Course for the academic session 2021-22, since (i) Ms. Darshana Kulkarni was not allotted by the ADG (ME), MCC, Directorate General of Health Services, New Delhi to their college as informed by the ADG (ME) vide letter No. U-11011/08/2021-MEC dated 07.06.2022 & (ii) her admission / allotment was not confirmed/verified by the ADG (ME), MCC even after two requests of the DCI, failing which Section 10B of the Dentists (Amendment) Act, 1993 and Section 16A of the Dentists Act, 1948 shall be attracted. Any admission made without allotment by the concerned counseling authority is a clear cut violation of the provisions of 'IIA Common Counseling' prescribed in BDS Course Regulations, 2007.

All the competent authorities viz. (i) Government of India, Ministry of Health & Family Welfare, New Delhi (ii) Principal Secretary to the concerned State, (iii) Directorate of Medical Education to the concerned State, (iv.) Vice Chancellor & Registrar of affiliating University, (v) Counseling Authority i.e. the ADG (ME), MCC, Directorate General of Health Services, New Delhi and (vi) concerned student be also apprised for their information and necessary action in the matter.

The above said decision of the Executive Committee of the Dental Council of India is communicated to you for your information and necessary action.”

G] The college responded to the ADG (ME) and Member Secretary, MCC vide its communication dated 10/02/2023 stating therein that the Petitioner was admitted in the Stray Vacancy Round – II, in the light of the document verification notice issued by the MCC allotting the college to the Petitioner and her admission was initiated on 15/05/2022, which was duly registered on the MCC Portal. The college stated that there was a technical error due to which, inadvertently, the Petitioner’s name was not noticed by the DCI. She had secured admission to the first year BDS course, in the light of the above.

5. The learned counsel for the Union of India and representing DCI as well as the MCC, submits that DCI had asked for a clarification from the MCC. By a communication dated 24/02/2023 addressed by the ADG (ME) and Member Secretary to the Secretary Incharge, DCI, it has been informed that the college has mistakenly reset the information of the candidate and the data was deleted. A copy of the initialization was annexed to this communication and it was conveyed by the MCC that the Petitioner has completed all the formalities regarding the admission. The DCI was, therefore, advised to initiate appropriate action at it’s end.

6. It is, thus, clear that the dental college inadvertently re-set the information of the candidate leading to the deletion of her name though the MCC had allotted her the college. The admission was recorded on 15/05/2022 and though the college intimated the DCI as well as the MCC, these two limbs of the health services of the Union of India were not in co-ordination with each other. As a consequence, DCI kept on seeking advice from MCC and MCC kept on harping on the fact that the details of the Petitioner were found to be unavailable though her name was included in the 86 students admitted, with 14 seats still vacant.

7. In view of the above, there remains no controversy and the DCI as well as MCC have finally agreed that the data of the Petitioner was mistakenly deleted and the initialization of the same was already carried out. As such, the Petitioner's admission is apparently legal and proper.

8. Needless to state, the communication dated 25/01/2023 by the DCI has lost its efficacy and the Petitioner is at liberty to proceed with her educational curriculum.

9. This Petition is, therefore, partly allowed. Rule is made partly absolute.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)