



CGHC010107782026



2026:CGHC:30858

AFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 1405 of 2026**Reserved on **18.06.2026**Pronounced on **21.07.2026**

Bilasa Institute Of Nursing (Under The Aegis Of Shri Rawatpura Sarkar Lok Kalyan Trust), Beside LCIT, Chichirda Road, Bilaspur (CG) 495220, Through Its Nursing Director

--- Petitioner(s)**versus**

1 - Indian Nursing Council Indian Nursing Council, 8th Floor, NBCC Centre, Plot No. 2, Community Centre Okhla Phase-1, New Delhi-110020, Through Its Secretary

2 - Commissioner, Medical Education, North Block, Sector-19, Swasthya Bhawan, Nava Raipur, Atal Nagar, Raipur (CG)

3 - Director, Medical Education, North Block, Sector-19, Swasthya Bhawan, 2nd Floor, Nava Raipur, Atal Nagar, Raipur (CG)

4 - Chhattisgarh Nurses Registration Council (CGNRC) Old Nurses Hostel, Raipur Chhattisgarh, 492001, Through Its Registrar

--- Respondent(s)

WPC No. 1244 of 2026

1 - Mother Teresa College Of Nursing (under the aegis of Shri Rawatpura Sarkar Lok Kalyan Trust), Behind Holiday Resort, Kumhari, District Durg Chhattisgarh 490042, Through Its Nursing Director

---Petitioner(s)

Versus

1 - Indian Nursing Council, Indian Nursing Council, 8th Floor, N B C C Centre, Plot No. 2, Community Centre Okhla Phase-1, New Delhi 110020, Through Its Secretary

2 - Commissioner Medical Education, North Block, Sector-19, Swasthya Bhawan, Nava Raipur, Atal Nagar, Raipur, Chhattisgarh

3 – Director, Medical Education, North Block, Sector-19, Swasthya Bhawan, 2nd Floor, Nava Raipur, Atal Nagar, Raipur Chhattisgarh

4 - Chhattisgarh Nurses Registration Council (C G N R C) Old Nurses Hostel, Raipur, Chhattisgarh 492001, Through Its Registrar

--- Respondent(s)

WPC No. 1458 of 2026

1 - Shri Rawatpura Sarkar Institute Of Nursing (under the aegis of Shri Rawatpura Sarkar Lok Kalyan Trust), Village- Dhaneli, Post- Mana, Near Sadani Darbar, Raipur (C.G.) Through Its Nursing Director

---Petitioner(s)

Versus

1 - Indian Nursing Council Indian Nursing Council, 8th Floor, NBCC Centre, Plot No. 2, Community Centre Okhla Phase- 1, New Delhi- 110020, Through Its Secretary

2 - Commissioner, Medical Education, North Block, Sector-19, Swasthya Bhawan, Nava Raipur, Atal Nagar, Raipur, Chhattisgarh

3 - Director Medical Education, North Block, Sector- 19, Swasthya Bhawan 2nd Floor- Nava Raipur, Atal Nagar, Raipur, Chhattisgarh

4 - Chhattisgarh Nurses Registration Council (CGNRC), Old Nurses Hostel , Raipur, Chhattisgarh 492001, Through Its Registrar

--- **Respondent(s)**

(Cause Title downloaded from CIS Periphery)

For Petitioner(s) : Mr. Ashish Shrivastava, Senior Advocate with Mr. Ashutosh Shrivastava and Ms. Sangeeta Mishra, Advocates

For Respondent No.1 : Mr. Ramakant Mishra, DSGI and Ms. Shweta Rai, Advocate

For Respondent Nos.2 & 3 : Mr. SS Choubey, Government Advocate

For Respondent No.4 : Mr. Vikas Dubey, Advocate

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. Since identical reliefs have been sought in all the captioned writ petitions arising out of the same issue regarding upgradation of the General Nursing and Midwifery (in short "GNM") program to B.Sc. (Nursing) Program in order to convert the School of Nursing into a

College of Nursing, they were clubbed together and heard analogously and are being decided analogously by this common order.

2. The petitioners in all these writ petitions are Nursing Institutions that offer nursing courses and have been established in accordance with the applicable Rules and Regulations. All these Nursing Institutions are aggrieved by the inaction on the part of the respondent authorities, in failing to take necessary steps for upgradation of the Petitioner-Institutions from GNM Program to B.Sc. Nursing Program within their respective premises. This inaction persists despite the petitioners fulfilling all the criteria laid down by the Indian Nursing Council (INC), the apex statutory body regulating nursing education, which establishes necessary guidelines and norms for upgradation of the GNM Course to B.Sc. (Nursing) Course.

3. Since the grievance of all the petitioners in the captioned writ petitions are identical, WPC No.1045/2025 is being taken as the lead case to resolve the controversy between the parties. The reliefs sought therein are reproduced below :

10.1 It is prayed that this Hon'ble Court may kindly be pleased to call for the entire records pertaining to the case of the Petitioner- Institution from the possession of respondents for its kind perusal.

10.2 It is prayed that this Hon'ble Court may kindly be pleased to command the Respondent Authorities to upgrade the petitioners from the GNM Program to B.Sc. (Nursing) Program.

10.3 Any other relief/reliefs, which this Hon'ble Court

may think fit and proper in the facts and circumstances of the case, with cost of the petition, may also please be granted to the petitioner.

4. The factual matrix of the case, as adumbrated by the petitioner, is that the Petitioner-Institution namely Bilasa Institute of Nursing was established in the year 2012 for imparting B.Sc. (Nursing) Course. The Petitioner-Institution has been accorded the requisite permission to establish and conduct the Auxiliary Nursing and Midwifery (in short “ANM”) {Nursing} Course with an intake capacity of 30 seats and GNM {Nursing} Course with an intake capacity of 40 seats, upon fulfilling the requisite terms and conditions prescribed under the provisions of the Indian Nursing Council Act, 1947 (in short “the Act, 1947”), the Indian Nursing Council (Nurses Registration and Tracking System) Regulations, 2019 as also the Indian Nursing Council (Guidelines/Norms for Upgradation of the General Nursing and Midwifery (GNM) Course to B.Sc. (Nursing) Course on Voluntary Basis) Regulations, 2020. Further, the revised regulations namely Indian Nursing Council (Revised Regulations and Curriculum for B.Sc. (Nursing) Program), Regulations, 2020, were notified on 5.7.2021 in the Gazette of India: Extraordinary, and are applicable to all Nursing Colleges & Institutions. After the enactment of the Act, 1947, the Indian Nursing Council has been empowered to prescribe standard curricula training conditions and clinical standards for nursing programs. Further, the Indian Nursing Council (Nurses Registration & Tracking System) Regulations, 2019 mandates live registration and standardized data for

nurses to support institutional clinical training and subsequently, Indian Nursing Council (Revised Regulations and Curriculum for B.Sc. (Nursing) Program), Regulations, 2020 (notified on 5.7.2021), prescribe specific clinical hours required for completion of the course. The Indian Nursing Council released a list dated 31.10.2020, of Institutions recognized by the State Nursing Council for offering the GNM Program, which were Inspected under Sections 13 and 14 of the Act, 1947 for the academic year 2019-2020, and in the said list, the Petitioner-Institution, upon inspection, was found suitable with an intake capacity of 40 seats. On 6.1.2021, the Indian Nursing Council (Guidelines/Norms for Upgradation of the General Nursing and Midwifery (GNM) Course to B.Sc. (Nursing) Course on Voluntary Basis) Regulations, 2020 were notified in the Gazette of India. These regulations prescribe the procedure for applying for the upgradation of a School of Nursing conducting GNM Course into a College of Nursing offering B.Sc. (Nursing) Course. The Indian Nursing Council (Minimum Pre-Requisites for Granting Suitability to Nursing Programs) Regulations, 2020 were notified on 12.3.2021 in the Gazette of India. The said Regulations lays down the mandatory pre-requisite conditions for grant of suitability to different Nursing Programs such as B.Sc. (Nursing), GNM, Post Basic B.Sc. (Nursing), M.Sc. (Nursing) etc. Pursuant to the applicable upgradation policies, the Directorate of Medical Education (DME), Raipur vide order dated 22.3.2021 granted the Petitioner-Institution permission to utilize the clinical and practical training activities at the Chhattisgarh Institute of Medical Sciences (CIMS) for a period of one year w.e.f. 1.3.2021, for an intake capacity of

40 seats each in the B.Sc. (Nursing) Course and the GNM Course. The CGNRC vide order dated 21.10.2021 granted permission to various institutions, including the Petitioner-Institution, for their upgradation from GNM Course to B.Sc. (Nursing) Course on certain terms and conditions. Subsequently, upon satisfying the inspection criteria, the Chhattisgarh Nurses Registration Council (CGNRC) vide order dated 15.7.2024 granted recognition to the petitioner for an intake of 80 seats in the B.Sc. (Nursing) course for the Academic Session 2024-2025. The Petitioner-Institution was also granted extended affiliation by the Deendayal Upadhyay Memorial Health Sciences and Ayush University, Chhattisgarh. Thereafter, the INC issued Notification No.16 of 2024 dated 27.12.2024 pursuant to a resolution passed by the Executive Council of the Committee during its meeting held on 26.10.2024, fixing the maximum intake capacity of GNM and B.Sc. (Nursing) programs based on the capacity of Parent Hospital beds. Subsequently, a Corrigendum was issued on 6.2.2025 to the said Notification, clarifying that the date of the Executive Committee meeting should be read as "14.11.2024" instead of "26.10.2024", while keeping the remaining contents of the Notification intact. In pursuance of the aforesaid, the Petitioner-Institution encountered certain technical glitches on the online seat enhancement portal of the Indian Nursing Council. When the petitioner attempted to access the official INC Seat Enhancement Portal to submit its valid state permissions, the portal failed to function. The option for upgradation was missing and the school code was completely invisible. The Petitioner-Institution submitted a representation via mail on 20.6.2025 before the INC

highlighting this technical breakdown. Pertinently, the CGNRC vide order dated 4.9.2025, published a list of institutions that had undergone inspection, wherein the Petitioner-Institution was recognized by the authorities for conducting the B.Sc. (Nursing) Program with an intake capacity of 80 seats. However, despite the portal issue remaining unsolved by the INC, the CGNRC vide letter/memo dated 16.2.2026, directed all Nursing Institutions that had not yet received INC suitability to mandatorily obtain the same within 6 months, in terms of the INC Gazette Notification No.97 namely Indian Nursing Council (Minimum Pre-Requisites for Granting Suitability to Nursing Programs) Regulations, 2020 dated 12.3.2021. The CGNRC further stated that institutions must mandatorily obtain the INC Suitability for the Academic Session 2025-2026, failing which no process for the subsequent Academic Session 2026-2027 will be initiated. The Petitioner-Institution seeks to upgrade its program from GNM to B.Sc. (Nursing) Program, thereby, transitioning the School of Nursing into a College of Nursing. However, the INC has failed to resolve the technical glitches on its online portal, which precludes the Petitioner-Institution from submitting its application for the said upgradation. Hence, this Petition.

5. Mr. Ashish Shrivastava, learned Senior Advocate along with Mr. Ashutosh Shrivastava and Ms. Sangeeta Mishra, learned counsel for the petitioner submits that the limited grievance of the Petitioner-Institution is its non-display as an upgraded Institution on the Indian Nursing Council Seat Enhancement Portal. He submits that the portal is

malfunctioning, as a result of which the School Code of the Institution is not being displayed for the purpose of upgradation. Owing to the disruption caused by the technical glitches, Shri Rawatpura Sarkar Lok Kalyan Trust submitted a detailed representation on 23.6.2025 to the President of INC bringing to light that the Petitioner-Institutions were unable to access the upgradation module on the portal, as only the seat enhancement option remained functional. He submits that the CGNRC published an order dated 4.9.2025, wherein, in the list of inspected institutions, the Petitioner-Institution stood recognized for conducting the B.Sc. (Nursing) program with a sanctioned intake capacity of 80 seats. By way of a communication dated 16.2.2026, the CGNRC directed all institutions that have not received INC Suitability to obtain it from the INC within six months. He further submits that pursuant to INC Gazette Notification No.97, obtaining INC Suitability is mandatory for commencement of the Academic Session 2025-2026, and the admission process for subsequent Academic Session 2026-2027 will not be initiated unless and until the INC Suitability for the Academic Session 2025-2026 is obtained. However, since the official website does not show the upgradation option, the Petitioner-Institution cannot upload its details, as its institutional code is currently not visible on the portal. It appears that the INC is not granting permission to the Petitioner-Institution for upgradation for the Academic Session 2025-2026 despite the institution having fulfilled all the requisite terms and conditions for upgrading its program from GNM Course to B.Sc. (Nursing) Course. He further submits that although a specific representation has been submitted by the petitioner in this regard, the

INC has failed to resolve the technical issues on its online portal concerning seat enhancement and upgradation. He submits that specially, the upgradation option on the portal is non-functional and code of the Petitioner-Institution is not being displayed. The inaction on the part of the respondent authorities in rectifying these technical glitches is arbitrary and illegal. Once the Petitioner-Institution has been found suitable by CGNRC to conduct the B.Sc. (Nursing) Course with an intake of 80 seats and has been granted affiliation by the concerned University with respect to the said seats, the INC cannot preclude the petitioner from proceeding further only due to some technical defects in its own portal. He also submits that the CGNRC has already directed all Nursing Institutions to mandatorily obtain INC Suitability for the Academic Session 2025-2026, clarifying that unless such suitability is obtained, they will not be permitted to process admissions for the Academic Session 2026-2027. However, only due to the arbitrary actions of the INC, the Petitioner-Institution has been prevented from opting for upgradation and securing requisite INC Suitability for the Academic Session 2025-2026. Learned Senior Counsel further submits that the INC is under an obligation to permit the Petitioner-Institution for upgradation, enabling it to obtain the necessary INC Suitability Certificate required to proceed with the B.Sc. (Nursing) Course for the Academic Session 2026-2027. The inability of the Petitioner-Institution to complete its upgradation from a GNM Program to B.Sc. (Nursing) Program and consequently from a School of Nursing to a College of Nursing has a direct bearing upon its fundamental right to carry on the occupation of imparting nursing education, as enshrined under Article

19(1)(g) of the Constitution of India. This administrative impediment directly impairs the expansion and continuation of the B.Sc. (Nursing) Course and as a result, jeopardise the prospects of future student admissions. He submits that the Petitioner-Institutions in the other captioned petitions are facing an identical grievance i.e. due to a technical defect in the web portal, their respective College Codes are not being displayed, leaving them unable to opt for upgradation. This has resulted in a failure to obtain INC Suitability for the Academic Session 2025-2026. He further submits that presently, the web portal is rejecting their application forms. Thus, despite fulfilling all the requisite criteria, the Petitioner-Institutions are unable to obtain INC Suitability due to technical glitches in the web portal of the INC. The aforesaid action of the respondent authorities is in complete violation of the Act, 1947 and the Regulations 2019 and 2020 as also Article 14, 19, 1(g) and 21 of the Constitution of India. Learned counsel for the petitioner lastly submits that in view of the ongoing portal malfunction, a direction is required to be issued to the INC, either to accept the upgradation application of the Petitioner-Institution in physical form or to expeditiously resolve the portal defects to enable the Petitioner-Institution to submit its application online to secure the INC Suitability.

6. Mr. Ramakant Mishra, learned DSGI with Ms. Shweta Rai, learned counsel for respondent No.1, submits that the petitioner runs a GNM program. For upgradation/enhancement of seats to a B.Sc (Nursing) program, an institution must strictly fulfill the criteria and guidelines framed by the Indian Nursing Council as well as the

concerned State Government. For program upgradation, the concerned institution must follow the INC guidelines notified on 6.1.2021, along with Sections 13 & 14 of the Act, 1947. Clause 4(i) of the said Notification is reproduced below for ready reference :

(i) All SNRC recognized schools of Nursing running GNM course and found suitable by the Council under Section 13 & 14 of the Act are eligible to apply online for upgradation of the School to College of Nursing offering B.Sc (Nursing) course. The Council, after assessment of the online documents submitted by the School of Nursing, shall give suitability for upgrading the School of Nursing to College of Nursing, under Section 13 and 14 of the Act, provided the requisite criteria is fulfilled. The Council shall also conduct inspection of such upgraded institutions within 3 years of upgradation.

7. Learned DSGI further submits that in the INC's recognized list dated 31.3.2023, the petitioner (Bilasa Institute of Nursing) is placed at Sl. No.157 with an approved suitability of 40 seats for the GNM Program. To operate a B.Sc. (Nursing) program, Section 13 of the INC Act mandates that an institute must take permission from the State Nurses Registration Council and thereafter, the same shall be registered under INC within 6 months. He further submits that though the petitioner obtained state permission way back in 2021, it failed to act in time and only initiated the upgradation/inspection process in the year 2025. Since the process was initiated after a massive delay in 2025, the petitioner is legally required to obtain a fresh permission from the State Government as per Clause 5(ii) of the Notification dated 6.1.2021. He submits that the ground of the petitioner that it is facing

difficulties solely due to a non-functional portal is completely false and misleading, as the petitioner simply lacks the mandatory updated State clearance.

8. Mr. SS Choubey, Government Advocate appearing on behalf of respondents 2 & 3/State, on instructions from the concerned respondents - the Commissioner, Medical Education and the Director, Medical Education, submits that the Petitioner-Institution must obtain INC Suitability. He contends that unless and until the Petitioner-Institution obtain such suitability for the Academic Session 2025-26, it will not be permitted to proceed with the admission process for the Academic Session 2026-2027. Hence, the Petitioner-Institution must secure INC Suitability within the prescribed time, failing which, its upgradation will be adversely affected.

9. Mr. Vikas Dubey, learned counsel for respondent No. 4 submits that the main grievance of the Petitioner-Institution is directed against the INC. He submits that the Petitioner-Institution must obtain INC suitability, failing which, its upgradation cannot be permitted, which would consequently halt the processing of its regulatory approvals for the Academic Session 2026-2027.

10. Heard learned counsel for the parties and also perused the documents annexed with the petitions with utmost circumspection.

11. In order to effectively redress the grievances of the petitioner and evaluate the rival submissions, it would be apt to consider the relevant provisions of the Act, 1947 :

11. Effect of recognition- (1)] Notwithstanding anything contained in any other law,-

(a) any recognised qualification shall be a sufficient qualification for enrolment in any [State] register;

(b) no person shall, after the date of commencement of this Act, be entitled to be enrolled in any [State] register as a nurse, midwife, [auxiliary nurse-midwife], health visitor, or public health nurse unless he or she holds a recognised qualification:

Provided that any person already enrolled in any [State] register before the said date may continue to be so enrolled notwithstanding that he or she may not hold a recognised qualification:

Provided further that any person who was immediately before the said date entitled to be enrolled in any [State] register but was not so enrolled shall on application made in this behalf before the expiry of two years from the said date be entitled to be enrolled in that register;

(c) any person holding a recognised higher qualification shall be entitled to have the qualification entered as a supplementary qualification in any [State] register in which he or she is enrolled, and after the said date no person shall be entitled to have entered as a supplementary qualification in any [State] register any qualification which is not a recognised higher qualification

(2) Notwithstanding anything contained in clause (b) of sub-section (1) -

(a) a citizen of India holding a qualification which entitles him or her to be registered with any Council of Nursing or Midwifery (by whatever name called) in any foreign country, may, with the approval of the Council, be enrolled in any State Register; and where approval has been accorded by the Council in respect of such qualification in one case, the approval of the Council for enrolment in a State register in the case of any other

citizen of India holding the same qualification shall not be necessary;

(b) a person not being a citizen of India who is employed as a nurse, midwife, auxiliary nurse- midwife, teacher or administrator in any hospital or institution situated in any State for purposes of teaching, research or charitable work may, with the approval of the President of the Council, be enrolled temporarily in the State Register for such period as may be specified in this behalf in the order issued by the said President:

Provided that the practice by such person shall be limited to the hospital or institution to which he or she is attached.]

13. Inspections.-(1) *The Executive Committee may appoint such number of inspectors [whether from among members of the Council or otherwise] as it deems necessary to inspect any institution recognised as a training institution, and to attend examinations held for the purpose of granting any recognised qualification or recognised higher qualification.*

(2) Inspectors appointed under this section shall report to the Executive Committee on the suitability of the institution for the purposes of training and on the adequacy of the training therein, or as the case may be on the sufficiency of the examinations.

(3) The Executive Committee shall forward a copy of such report to the authority or institution concerned, and shall also forward copies, with the remarks, if any, of the authority or institution concerned thereon, to the Central Government and to the [State] Government and [State] Council of the [State] in which the authority of institution is situated.

16. Power to make regulations.- (1) *The Council may make regulations not inconsistent with this Act generally to carry out the provisions of this Act, and in particular and without prejudice to the generality of the foregoing powers, such regulations may provide for-*

(a) the management of the property of the Council and the maintenance and audit of its accounts;

(b) the manner in which elections referred to in sub-section (2) of section 5 and in clause (a) of sub-section (2) of section 8 shall be conducted;

(c) the summoning and holding of the meetings of the Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(d) prescribing the functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and the number of members necessary to constitute a quorum;

(e) prescribing the powers and duties of the President and the Vice-President;

[(f) prescribing the tenure of office and the powers and duties of the Secretary and other officers and servants of the Council;

(ff)prescribing the powers and duties of inspectors;]

(g) prescribing the standard curricula for the training of nurses, midwives and health visitors, for training courses for teachers of nurses, midwives and health visitors, and for training in nursing administration:

(h) prescribing the conditions for admission to courses of training as aforesaid;

(i) prescribing the standards of examination and other requirements to be satisfied to secure for qualifications recognition under this Act:

(j) any other matter which is to be or may be prescribed under this Act.

(2) To enable the Council to be first constituted, the President may, with the previous sanction of the Central Government, make regulations of the conduct of the elections referred to in sub-section (2) of section 5, and any regulations so made may be altered or rescinded by the Council in exercise of its powers under this section.

(3) Every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.]

12. Furthermore, the relevant provisions contained in the Indian Nursing Council {Guidelines/Norms for upgradation of the General Nursing and Midwifery (GNM) Course to B.Sc. (Nursing) Course on Voluntary basis) Regulations, 2020, explicitly mandates as under :

4. Application to the Council for upgradation of School of Nursing to College of Nursing:-

- i) All SNRC recognized Schools of Nursing running GNM course and found suitable by the Council under Sections 13 and 14 of the Act are eligible to apply online for upgradation of the School to College of Nursing offering B.Sc. (Nursing) course. The Council, after assessment of the online documents submitted by the School of Nursing, shall give suitability for upgrading the School of Nursing to College of Nursing, under Sections 13 and 14 of the Act, provided the requisite criteria is fulfilled. The Council shall also conduct inspection of such upgraded institutions within 3 years of upgradation.*
- ii) The Schools of Nursing which are applying for upgradation in accordance with the para 4(i) above*

during the academic year and accorded suitability by the Council, shall admit students only for the B.Sc. (Nursing) course and shall close the GNM course i.e. not admit students for the GNM course from the year found suitable for the B.Sc. (Nursing) course.

5. Norms for upgradation:-

- 1) Schools of Nursing eligible under the para 4(i) above would not be required to obtain fresh State Government Order/No Objection Certificate/Essentiality Certificate from the concerned State Government.
- ii) Permission of the concerned SNRC is mandatory for upgradation from School of Nursing to College of Nursing to conduct the B.Sc. (Nursing) course.
- iii) The upgraded College of Nursing conducting the B.Sc. (Nursing) course however shall be required to get affiliation from the concerned University.
- iv) The concerned University shall grant affiliation without insisting on a fresh State Government Order or such other requirements since the upgraded institution already stands recognized by the respective State Govt and is found suitable by the Council under the Sections 13 and 14 of the Act.

6. Intake capacity of upgraded Nursing Colleges:-

- i) The intake capacity of the upgraded College of Nursing for B.Sc. (Nursing) course would be the same as the earlier intake capacity of the School of Nursing conducting GNM course.
- ii) In respect of recognized teaching institutions which earlier were conducting both the GNM and B.Sc. (Nursing) courses, the intake capacity of the now upgraded College of Nursing for conducting the B.Sc. (Nursing) course would be the earlier intake capacity of GNM course plus the existing intake capacity of the B.Sc. (Nursing) course.

This is further elaborated through examples given

below:-

- *If the institution is running the GNM as a Standalone course (i.e. does not have B.Sc (Nursing) course) with the admission capacity of 50 students, then admission capacity for B.Sc. (Nursing) course will also be 50 students.*
- *If the institution runs the GNM and B.Sc. (Nursing) both with 50 GNM and 50 B.Sc. (Nursing) admission capacity, then the admission capacity for the upgraded B.Sc (Nursing) course will be 100 students.*

13. By way of a Gazette Notification dated 12.3.2021, the Indian Nursing Council (Minimum Pre-Requisites For Granting Suitability to Nursing Programs) Regulations, 2020, were promulgated. Regulations 14, 15, 16, 17 & 21 of the said Regulations read as under :

14.Re-Inspection (applicable to ANM/GNM/B.Sc. (Nursing)/P.B.B.Sc. (Nursing)/M.Sc. (Nursing) and NPCC)

Re-inspection application shall be considered only two times. If the institution is found deficient even after that, then the institution shall have to submit a proposal for Suitability under Section 13 & 14 of the Act online within 5 years. However in case the proposal is submitted after 5 years it has to be a fresh proposal with due Essentiality Certificate from the State Government and recognition from the SNRC.

15. Enhancement of Seats (applicable to ANM/GNM/B.Sc. Nursing/P.B.B.Sc. (Nursing)/M.Sc. (Nursing) and NPCC}

Inspection for enhancement of seats under Section 13 of the Act shall be conducted only once in an Academic Year i.e. only one application/proposal shall be accepted, in one Academic Year. Further, SNRC approval is mandatory for enhancement of seats.

16. Vocational Certificate Courses of Bharat Sevak Samaj not recognized by the Council {applicable for ANM and GNM}

Bharat Sevak Samaj Vocational Certificate courses in nursing programs is not recognized by the Council under Section 10 of the Act.

17. Number of Sanctioned Seats {applicable for ANM/GNM/B.Sc. (Nursing) and P.B.B.Sc.(Nursing)}

(i) Maximum of 60 seats will be sanctioned for ANM program.

(ii) Maximum of 100 seats will be sanctioned for the GNM/B.Sc. (Nursing) program for which institute must have parent medical college or parent hospital having 300 beds or above subject to availability of teaching and physical facilities for both GNM and B.Sc. (Nursing) programs respectively.

(iii) Maximum of 60 seats will be sanctioned for the GNM/B.Sc. (Nursing) program with parent hospital having less than 300 beds on the basis of teaching and physical facilities for both GNM and B.Sc. (Nursing) programs respectively.

Note: For parent hospital having less than 300 beds and more than 100 beds only 60 seats will be sanctioned.

(iv) Maximum of 60 seats will be sanctioned for P.B.B.Sc. (Nursing).

21. Minimum pre-requisites {for starting P.B.B.Sc. (Nursing)}

(i) The following Establishments/Organizations are eligible to start a P.B.B.Sc. (Nursing) program

a) Central Government/State Government/Local Body;

b) Registered Private or Public Trust;

c) Organizations registered under Societies Registration Act including Missionary Organizations;

d) Companies incorporated under Section 8 of Company's Act.

(ii) An institute already offering B.Sc. (Nursing) program is eligible to start a P.B.B.Sc. (Nursing) program.

(iii) The eligible Establishments/Organizations should obtain Essentiality Certificate/No Objection Certificate from the concerned State Government where the P.B.B.Sc. (Nursing) program is sought to be established. The particulars of the name of the college/nursing institution along with the name of the Trust/Society [as mentioned in Trust Deed or Memorandum of Association] as also full address shall be mentioned in No Objection Certificate/Essentiality Certificate.

(iv) After receipt of the Essentiality Certificate/No Objection Certificate, the eligible institution shall get recognition from the concerned SNRC for the P.B.B.Sc. (Nursing) program for the particular Academic Year, which is a mandatory requirement.

(v) The Council shall after receipt of the above documents/proposal online would then conduct Statutory Inspection of the recognized training nursing institution under Section 13 of the Act in order to assess the suitability with regard to availability of Teaching Faculty, Clinical and Infrastructural Facilities in conformity with Regulations framed under the provisions of the Act.

**Provided that training institutions shall apply for statutory inspection, under Section 13 of the Act, to the Council within 6 months from obtaining recognition from the SNRC.*

Note: DNE & A program if being offered by any nursing institute the same need to be upgraded to P.B.B.Sc. (Nursing).

14. From a bare reading of the provisions of the aforesaid Act and Regulations, it is evident that the INC being the apex regulatory body, empowered to establish standards for nursing program governs the prerequisites for establishing nursing colleges, enhancing seat capacities and conducting periodical institutional inspections. Here, the

grievance of the Petitioner-Institution is that although it was initially granted permission to establish a nursing school for conducting the ANM course and has successfully operated the same and was subsequently found suitable for the GNM course and accorded permission to offer the said program under Sections 13 and 14 of the Act, 1947, its subsequent academic and institutional progression is being hindered by the action of the respondents. Furthermore, the Indian Nursing Council (Guidelines/Norms for Upgradation of the General Nursing and Midwifery (GNM) course to B.Sc. (Nursing) course on Voluntary Basis) Regulations, 2020 were notified in the Official Gazette on 6.1.2021. In terms of the said Regulations, existing nursing schools offering GNM courses are permitted to upgrade into nursing colleges to offer the B.Sc. (Nursing) program. Such upgradation remains subject to compliance with the mandatory pre-requisite conditions laid down for ensuring institutional suitability for various nursing programs i.e. B.Sc.(Nursing), GNM, Post Basic B.Sc. (Nursing), M.Sc. (Nursing) etc. In the instant case, the Directorate of Medical Education has already granted the Petitioner-Institution clinical training permission to utilize the clinical and practical training activities at the Chhattisgarh Institute of Medical Sciences (CIMS) for a period of one year w.e.f. 1.3.2021. Hence, by virtue of having satisfied the requisite clinical benchmarks, the Petitioner-Institution is fully eligible for institutional upgradation to offer the B.Sc. (Nursing) Course. In this respect, inspections have already been conducted as detailed hereinabove, culminating in the publication of an official list wherein the Petitioner -Institution was found suitable to commence the B.Sc.

(Nursing) Course. Significantly, the name of the Petitioner-Institution stands included in the list annexed with the order dated 21.10.2021(Annexure P/11) and its eligibility in all respects was further reinforced and confirmed vide the subsequent order dated 23.8.2024. It is the case of the petitioner that the Petitioner-Institution, despite possessing all the requisite criteria and holding confirmed eligibility for the upgradation of GNM program to B.Sc. (Nursing) program, has been locked out of the regulatory process due to systemic technical failures on the official portal of the INC, which prevented the successful online submission of its application for INC Suitability. As a result of which, only on account of these technical glitches, which were beyond its control, the Petitioner-Institution has been deprived of the opportunity to obtain the Suitability Certificate, causing operational hardship.

15. In view of the clear factual matrix of the present case, the only question for consideration before this Court is whether the Petitioner-Institution having fulfilled all the eligibility criteria prescribed under the Act, 1947 as well as the subject Regulations, 2020, can be denied consideration for upgradation only on the hyper-technical ground that the Indian Nursing Council's online portal failed to provide the necessary interface facility for upgradation from the GNM Course to the B.Sc. (Nursing) Course owing to technical glitches.

16. In the matter of **State of Punjab and another Vs. Shamlal Murari and another**, reported in **(1976) 1 SCC 719**, the following was held in para 8 :

8. It is obvious that even taking a stern view, every minor detail in Rule 3 cannot carry a compulsory or imperative import. After all, what is required for the Judges to dispose of the appeal is the memorandum of appeal plus the judgment and the paper-book. Three copies would certainly be a great advantage, but what is the core of the matter is not the number but the presence, and the overemphasis laid by the court on three copies is, we think, mistaken. Perhaps, the rule requires three copies and failure to comply therewith may be an irregularity. Had no copy been furnished of any one of the three items, the result might have been different. In the present case, copies of all the three documents prescribed, have been furnished but not three copies of each. This omission or default is only a breach which can be characterised as an irregularity to be corrected by condonation on application by the party fulfilling the condition within a time allowed by the court. We must always remember that processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. It has been wisely observed that procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice. Where the non-compliance, tho' procedural, will thwart fair hearing or prejudice doing of justice to parties, the rule is mandatory. But, grammar apart, if the breach can be corrected without injury to a just disposal of the case, we should not enthrone a regulatory requirement into a dominant desideratum. After all, courts are to do justice, not to wreck this end product on technicalities. Viewed in this perspective, even what is regarded as mandatory traditionally may, perhaps, have to be moderated into wholesome directions to be complied with in time or in extended time. Be that as it may, and ignoring for a moment the exploration of the true office of procedural conditions, we have no doubt that what is of the

essence of Rule 3 is not that three copies should be furnished, but that copies of all the three important documents referred to in that suit shall be produced. We further feel that the court should, if it thinks it necessitous, exercise its discretion and grant further time for formal compliance with the rule if the copies fall short of the requisite number. In this view and to the extent indicated, we overrule the decision in Bikram Dass case.

17. In the matter of **Ezzy Electricals Vs. State of Gujarat**, reported in **2022 SCC OnLine Guj 2694**, the following was held by a Division Bench of the High Court of Gujarat in paragraphs 6 & 9 :

6. To a certain extent, the writ applicant also is at fault because while trying to upload the Form ITC-01, it appears that a wrong offline tool was used. It is evident from the affidavit-in-reply filed by the department. We quote the relevant averments made in the affidavit-in-reply filed on behalf of the respondent No. 5:

“5.1 I say and submit that the primary issue involved in the petition is that the petitioner opted out of the composition scheme w.e.f. 1-4-2018. The petitioner tried to upload Form ITC-01 on 17-9-2018. Notification No. 42/2018-Central Tax, dated 4-9-2018 extended the time limit for filing ITC-01 for a period of 30 days from the date of publication of notification for taxpayers who has filed application in FORM GST CMP-04 between 2-3-2018 and 31-3-2018. As claimed, the petitioner was unable to file ITC-01 form due to technical glitches of the GST portal. The screen shot was submitted by the taxpayer for Technical glitches, which is already at Annexure-C (pg. no. 19).8.

8. It is apparent from the screen shot provided as Annexure-C of the writ petitioner that the petitioner was using, the Returns Offline Tool Version 2.2.3. No technical glitches of the GST portal were found with the summary reported by the petitioner. In view of the above, no technical glitches of the GST portal were found in this matter. The copy of the relevant screen shots of the software are annexed herewith and marked as Annexure-I colly."

9. Be that as it may, it is for the respondents now to do the needful and ensure that the writ applicant is permitted to upload the Form ITC-01 so as to enable him to claim the Input Tax Credit worth Rs. 5 lakh approximately under Section 18(1)(c) of the Act. Mr. Sharma has ensured this Court that the needful shall be done at the earliest."

18. In the matter of **M/s Sethi Sons (India) Versus Assistant Commissioner and Others**, reported in **{2023 SCC OnLine Del 8351}** a Division Bench of the High Court of Delhi at New Delhi has held the following in paragraphs 27 to 30:-

27. In the present case, there is no dispute that the petitioner had attempted to upload its application for refund but could not do so on account of technical glitches. We find it difficult to accept that the petitioner's legitimate right to seek refund could be foreclosed on account of such technical glitches.

28. In terms of Rule 97A of the CGST Rules (introduced with effect from 15.11.2017), the petitioner could also file the application manually. However, it

must be recognized that the period in question was a period of transition. It was fraught with various kinds of difficulties being faced by the taxpayers migrating to the new regime.

29. It is also acknowledged that there were delays in processing refund due to various taxpayers. In the present case, the petitioner has affirmed that he did not file refund applications manually as he was guided by the jurisdictional GST Officers that the refund claim was required to be filed after the actual GST return in Form GSTR-9 was filed and after obtaining bank realization certificates. The petitioner claims that he filed his return on 30.01.2020 and filed an application for refund immediately thereafter. The respondent has denied that the concerned officer had misguided the petitioner in any manner and there is no record of any advice given by the concerned officer. However, we are inclined to accept the petitioner's version that he had made oral enquiries for filing an application for refund. Ordinarily, this would be no ground to overlook the delay but this Court cannot be oblivious of the fact that during the initial period of the rollout of the GST regime, both taxpayers and the officials of the GST departments had faced innumerable difficulties which were being addressed. Some of the difficulties still persist and are being addressed. In this environment, it is not difficult to accept that a taxpayer would have sought advice from the jurisdictional officers. Undisputedly, the petitioner had acted in a bona fide manner.

30. There is no dispute that the petitioner had attempted to file an application for refund on the GST portal twice but its application could not be uploaded on account of technical glitches. It is not disputed that the petitioner had also made a complaint and a ticket for the same was also raised.

19. Furthermore, in the matter of **Standard Chartered Bank Versus Principal Commissioner of Central Tax and Others**, reported in {**2024 SCC OnLine TS 1650**}, a Division Bench of the High Court of Telangana at Hyderabad has held the following in paragraph 26 & 27

26. Pertinently, the respondents did not dispute the stand of the petitioner that because of technical glitch in the GST portal of Maharashtra, the petitioner was constrained to file return in the GST portal of Telangana. This is also not the stand of the Revenue that during the relevant time, GST portal of Maharashtra was functional and yet, the petitioner had chosen to file return in the GST portal of Telangana.

27. Needless to emphasise that it was the duty of the Department to keep their portal functional. If the portal was not functional or having technical glitch and because of that the petitioner was compelled to file return in the portal of Telangana, the petitioner cannot be saddled with demand, interest and penalty. In other words, the Department cannot take benefit of its own wrong. In Devendra Kumar v. State of Uttaranchal³, the Supreme Court held that a person having done wrong cannot take advantage of his own wrong. In such a case, the legal maxim 'Nullus Commodum Capere Potest De Injuria Sua Propria' applies.

20. In the matter of **Ritu Versus National Testing Agency**, reported in {**2025 SCC OnLine P & H 16637**}, the High Court of Punjab & Haryana has held the following in paragraph 11 & 12:-

11. This Court is cognizant of the respondent's contention that deadlines prescribed for submission of online application forms must be strictly adhered to. However, given that the petitioner made bona fide and

repeated efforts to submit her application form within the stipulated timeframe but was unable to do so due to circumstances beyond her control, she cannot be made to suffer. The petitioner does not seek any undue advantage, rather she merely seeks permission to appear in the examination. The respondent-agency, having created the portal, is under an obligation to ensure its proper functioning until the stipulated deadline, and no candidate can be prejudiced due to technical shortcomings of the portal.

*12. Accordingly, the writ petition is **allowed**. The respondent is directed to permit the petitioner to submit her application form, either through the online portal or through physical mode. In view of the fact that the examination is scheduled for 31.12.2025, sufficient time remains for the respondent to rectify the issue, and no prejudice will be caused to the ongoing examination process. The petitioner shall approach the competent authority within five working days, whereupon the latter shall take necessary action.*

21. Reverting to the facts of the present case, in light of the principles laid down in the aforesaid judgments, considering the facts and circumstances of the case and upon a meticulous examination of the record, it is revealed that there is absolutely no material on record to show that the Petitioner-Institution is in any manner unsuitable for the voluntary upgradation to the B.Sc. (Nursing) Course. The requisite statutory permissions and infrastructural preconditions stand dully satisfied and obtained. The controversy narrows down to a singular technical anomaly i.e. despite fulfilling all requisite substantive statutory requirements, the petitioner's application for upgradation of the GNM course to the B.Sc. (Nursing) Course could not be uploaded on the

digital interface or web portal. This failure is solely attributable to the technical glitches of the INC online portal, which failed to display the requisite 'GNM' upgradation option and instead erroneously restricted the interface to the 'Seat Enhancement' field. Though the Petitioner-Institution timeously approached the competent authorities for redressal of its grievance, but no remedial action was forthcoming. It is translucent that the failure to submit the application via the online portal is in no manner attributable to the Petitioner-Institution, but is a direct consequence of the operational failure on the part of Respondent No.1 in neglecting to maintain a functional digital interface. Consequently, the above administrative and portal malfunctions subject the Petitioner-Institution to unwarranted hardship.

22. This Court is of the firm view that when the Petitioner-Institutions establishes that a technical snag in the online portal of the concerned respondents prevented timely completion of the electronic submission process, and therefore the Petitioner-Institutions cannot be made to suffer for the technical glitches which are solely attributable to the concerned authority.

23. In light of the foregoing, this Court is unequivocally of the view that depriving fully eligible Petitioner-Institutions of their right to be considered for upgradation due to technical glitches and digital lapses on the part of the respondent authorities is unreasonable and violative of Article 14 & 19(1) (g) of the Constitution of India.

24. Accordingly, all the Writ Petitions succeed and are **Allowed** on

the following terms and conditions :

- (i) *The Petitioner-Institutions shall ensure strict compliance with all the substantive eligibility criteria and infrastructural parameters prescribed under the subject Regulations, 2020;*
- (ii) *Each Petitioner-Institutions are directed to submit duly filled-in applications for course upgradation before the competent authorities within 10 days from the date of receipt of a certified copy of this order. Upon receipt of the applications along with a copy of this order from the respective Petitioner-Institutions, the Respondent-INC shall, within a period of 10 days thereafter, facilitate the submission of credentials of the Petitioner-Institutions either by opening its online web portal exclusively for them or accepting their applications through manual or physical mode. It is made clear that no further extension of time shall be afforded to the Petitioner-Institutions for filing the said applications for upgradation of the GNM Course to the B.Sc. (Nursing) Course.*
- (iii) *While submitting applications for the upgradation of the course, the Petitioner-Institutions shall annex all relevant and necessary documents and in turn, the competent authority shall expeditiously examine the same. In case, any further documents or clarification are deemed necessary, the authority shall immediately notify the Petitioner-Institutions of such deficiency, affording them a reasonable opportunity to cure the defect so as to ensure that the applications are not summarily rejected on the ground of a mere clerical error/deficiency.*
- (iv) *The competent authorities of the Respondent-*

INC shall consider and evaluate the applications so submitted by the Petitioner-Institutions strictly in accordance with the provisions of the Act, 1947 and the subject Regulations, 2020.

(v) In the event the Petitioner-Institutions are found suitable and compliant with the requisite standards for upgradation to the B.Sc. (Nursing) Course, the Respondent-INC shall pass an appropriate order granting such approval. Conversely, if the Institutions fail to meet the prescribed standards, the concerned respondents shall be at liberty to pass a reasoned order in accordance with law. In either event, the decision shall be taken within a period of 30 days from the expiry of 10-day submission window stipulated in direction (ii) above.

Sd/-

(Amitendra Kishore Prasad)
Judge