

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No.465 of 2012

Smt. Sarita Archana Wilson, W/o Pradeep Wilson, aged about 51 years, R/o C/o Shri Praveen Raj Robert, Master Line, Dak Bungalow Ward, Dhamtari, District Dhamtari (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Health & Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur ( C.G.)
2. Chhattisgarh Nursing Council, Through the Registrar, Old Nurse Hostel, Near D.K.S Bhawan, Raipur (C.G.)
3. Indian Nursing Council, Combined Council Building, Kotla Road, Temple Land, New Delhi – 110 002.
4. Madhya Pradesh Bhoj Open University, Red Cross Building, Shivaji Nagar, Post Box No.87, Bhopal (M.P.) 462 011.
5. Regional Director, Raipur Region, M.P. Bhoj University, Pt. Ravi Shankar Shukla University Campus, Raipur (C.G.) 492 010.

---- Respondents

Writ Petition (S) No.468 of 2012

Smt. Snigdha Sinha, W/o Ajay Sinha, aged about 50 years, R/o Near Hospital, Kalyan Ashram Road, Jashpur Nagar, District Jashpur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Health & Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. Chhattisgarh Nursing Council, Through the Registrar, Old Nurse Hostel, Near D.K.S. Bhawan, Raipur (C.G.)

3. Indian Nursing Council, Combined Council Building, Kotla Road, Temple Land, New Delhi – 110 002.
4. Madhya Pradesh Bhoj Open University, Red Cross Building, Shivaji Nagar, Post Box No.87, Bhopal (M.P.) 462 011.
5. Regional Director, Raipur Region, M.P. Bhoj University, Pt. Ravi Shankar Shukla University Campus, Raipur (C.G.) 492 010.

---- Respondents

Writ Petition (S) No.467 of 2012

Sadhna Sahu, W/o Shiv Kumar Sahu, aged about 38 years, R/o Post Office Ward, Ama Talab Road, Dhamtari, District Dhamtari (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Health & Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. Chhattisgarh Nursing Council, Through the Registrar, Old Nurse Hostel, Near D.K.S. Bhawan, Raipur (C.G.)
3. Indian Nursing Council, Combined Council Building, Kotla Road, Temple Land, New Delhi – 110 002.
4. Madhya Pradesh Bhoj Open University, Red Cross Building, Shivaji Nagar, Post Box No.87, Bhopal (M.P.) 462 011.
5. Regional Director, Raipur Region, M.P. Bhoj University, Pt. Ravi Shankar Shukla University Campus, Raipur (C.G.) 492 010.

---- Respondents

AND

Writ Petition (S) No.7715 of 2011

Anita Sahu, W/o Roop Narayan Sahu, aged about 37 years, presently posted at District Hospital Rajnandgaon in the post of Staff Nurse, Rajnandgaon (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Secretary, Health & Family Welfare Department, D.K.S. Bhawan, Mantralaya, Raipur (C.G.)
2. Chhattisgarh Nursing Council, Through the Registrar, Old Nurse Hostel, Near D.K.S. Bhawan, Raipur (C.G.)
3. Indian Nursing Council, Combined Council Building, Kotla Road, Temple Land, New Delhi – 110 002.
4. Madhya Pradesh Bhoj Open University, Red Cross Building, Shivaji Nagar, Post Box No.87, Bhopal (M.P.) 462 011.
5. Regional Director, Raipur Region, M.P. Bhoj University, Pt. Ravi Shankar Shukla University Campus, Raipur (C.G.) 492 010.

---- Respondents

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|----------------------------|------------------------------------|
| For Petitioners:           | Mr. Atanu Ghosh, Advocate.         |
| For Respondent No.1/State: | Mr. Suvigya Awasthi, Panel Lawyer. |
| For Respondent No.2:       | Mr. Akhilesh Kumar, Advocate.      |
| For Respondent No.3:       | Mrs. Fouzia Mirza, Advocate.       |
| For Respondents No.4 & 5:  | Mr. Devesh G. Kela, Advocate.      |

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Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

26/11/2015

1. Common question of law and fact is involved in these writ petitions, therefore, they are heard analogously and are being decided by this common order.
2. The petitioners are holders of degree of B.Sc. (Nursing) from respondent No.4 M.P. Bhoj (Open) University through distance education passed in the year 2005. They are working in the Department of Health and Family Welfare,

Government of Chhattisgarh on the post of Auxiliary Nursing Midwife (ANM).

3. This batch of writ petitions has been filed by the petitioners for directing respondent No.3 to enroll the additional qualification of the petitioners of B.Sc. (Nursing) and an additional certificate be issued to that effect.
4. The respondent Indian Nursing Council has filed reply stating inter alia that B.Sc. (Nursing) granted by respondent No.4 is not a recognized qualification by the Indian Nursing Council, therefore, the question of registration of such unrecognized Nursing course does not arise at all and the writ petitions deserve to be dismissed.
5. Other respondents have also opposed the writ petitions filed by the petitioners.
6. Mr. Atanu Ghosh, learned counsel appearing for the petitioners, would submit that in the year 2002, the petitioners were got admitted in B.Sc. (Nursing) through distance education and obtained degree in 2005 and, therefore, a writ of mandamus should be issued against respondent No.3 commanding it to recognize the qualification of B.Sc. (Nursing) which the petitioners have obtained through distance education from the study centre established by respondent No.4 M.P. Bhoj (Open) University at Bhilai. Therefore, denial made by the Indian

Nursing Council to recognize the degree of B.Sc. (Nursing) obtained by the petitioners is wholly arbitrary and a writ of mandamus be issued in favour of the petitioners and against the respondents.

7. Mrs. Fouzia Mirza, learned counsel appearing for Indian Nursing Council, would submit that the degree of B.Sc. (Nursing) through distance education {M.P. Bhoj (Open) University} was never recognized by their Council. She would further submit that the course contents of B.Sc. is a highly skill oriented course and has been designed as a full time course which includes clinical training in hospitals to develop nursing and medical skills which cannot be developed through distance learning. She would also submit that as a policy decision, the Indian Nursing Council does not recognize the said qualification through distance education and accordingly, the qualification of B.Sc. (Nursing) acquired by the petitioners through distance learning from M.P. Bhoj (Open) University being not a recognized qualification, cannot be registered as a qualification by the Indian Nursing Council or State Nursing Council or other authorities and, therefore, these writ petitions deserve to be dismissed.
8. I have heard learned counsel for the parties and also considered the rival submissions made by the parties

herein and gone through the record with utmost circumspection.

9. It is the claim of the petitioners that they have obtained the qualification of B.Sc. (Nursing) from the study centre of M.P. Bhoj (Open) University at Bhilai through distance education. It is not in dispute that the qualification of B.Sc. (Nursing) granted by M.P. Bhoj (Open) University through study centre is also not a recognized qualification. It has been brought on record that only 22 study centres of Indira Gandhi National Open University (IGNOU) has been recognized by the respondent Indian Nursing Council to conduct the Post Basic B.Sc. (Nursing) course through distance learning. A copy of the letter indicating the recognized study centres of IGNOU which are permitted to conduct B.Sc. (Nursing) course is Annexure R-1 filed along with reply in W.P.(S)No.467/2012 in which the study centre at Bhilai in Chhattisgarh is not there and as such, the study centre of M.P. Bhoj (Open) University at Bhilai is not at all recognized for this purpose and it is not a recognized qualification. It has also been brought to the notice of the Court that nursing course particularly B.Sc. (Nursing) is a very intensive course and hence, the need to have all the essential clinical and infrastructural facilities before the study centre can be approved or granted.

10. Thus, it appears that the course of B.Sc. (Nursing) conducted by the M.P. Bhoj (Open) University is not a recognized course and hence, the qualification of B.Sc. (Nursing) obtained from the said University by the petitioners is not a recognized qualification.

11. It is well settled that the writ court should not issue a writ of mandamus to the authorities to act contrary to law as such, this Court cannot issue a writ of mandamus directing the Indian Nursing Council to recognize B.Sc. (Nursing) which is said to be an unrecognized qualification by the Indian Nursing Council, by way of writ and thereby to get this qualification of B.Sc. (Nursing) registered as additional qualification either for admission to M.Sc. (Nursing) or for improving the petitioners' career in nursing.

12. As a fall out and consequence of the aforesaid discussion, all the writ petitions deserve to be dismissed being substance-less and sans merit, and are accordingly dismissed. No order as to costs. However, the petitioners are free to pursue their representation(s) and the dismissal of these writ petitions will not come in the way of respondent No.3 Indian Nursing Council to consider the same, in accordance with law.

Sd/-  
(Sanjay K. Agrawal)  
Judge