

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4097 OF 2013
WITH
CIVIL APPLICATION NO. 2400 OF 2014 IN W.P. NO. 4097 OF 2013

Pushpalata Gajanan Adsule & Ors. ... Petitioners/Applicants
vs.
The State of Maharashtra through
the Secretary, Medical Education
Dept. & Ors. ... Respondents

WRIT PETITION NO. 4098 OF 2013
WITH
CIVIL APPLICATION NO. 2401 OF 2014 IN W.P. NO. 4098 OF 2013

Chhaya Barsuji Shinde-Meshram &
Ors. ... Petitioners/Applicants
vs.
The State of Maharashtra through
the Secretary, Medical Education
Dept. & Ors. ... Respondents

WRIT PETITION NO. 4099 OF 2013
WITH
CIVIL APPLICATION NO. 2402 OF 2014 IN W.P. NO. 4099 OF 2013

Mahadeo Sadashiv Gaikwad & Anr. ... Petitioners/Applicants
vs.
The State of Maharashtra through
the Secretary, Medical Education
Dept. & Ors. ... Respondents

WRIT PETITION NO. 4714 OF 2013
WITH
CIVIL APPLICATION NO. 2403 OF 2014 IN W.P. NO. 4714 OF 2013

Rupali Kisan Rupanavar & Ors. ... Petitioners/Applicants
vs.
The Maharashtra University of
Health Science (MUHS) & Anr. ... Respondents

**WRIT PETITION NO. 4715 OF 2013
WITH
CIVIL APPLICATION NO. 2404 OF 2014 IN W.P. NO. 4715 OF 2013**

Asha Budbadkar & Ors.	...	Petitioners/Applicants
vs.		
The Maharashtra University of Health Science (MUHS) & Anr.	...	Respondents

Mr. Pramod Patil, Advocate i/b. Mr. Laxman S. Deshmukh for the petitioners.
Ms. S.S. Bhende, AGP for the respondent nos. 1 and 2.
Mr. R.V. Govilkar, Advocate for respondent no. 4.

**CORAM : SMT. VASANTI A. NAIK &
C.V. BHADANG, JJ.
DATE : 6th February, 2015.**

P.C.

Rule. Rule made returnable forthwith. The Petitions are heard finally with the consent of the learned counsel for the parties. Since a common issue is involved in these Petitions, they are heard together and are decided by this common judgment.

The petitioners are the students of M. Sc. Nursing Course in the respondent no. 3-Institute. The petitioners were working as nurses in various Government Colleges and Hospitals after passing the B. Sc. Nursing examination. They were admitted in M. Sc. Nursing Course in the Government Institution/respondent no. 3 as in-service candidates. The petitioners have passed the first year nursing examination. In view of the regulations framed by the Indian Nursing Council, the petitioners were required to submit their dissertation within nine months from the

date of commencement of the second year M. Sc. Nursing course. Admittedly, the M. Sc. Nursing Course in the respondent no. 3/Institution commenced on 1st August, 2012. It is the case of the petitioners that the petitioners were under an impression that they would be required to submit the dissertation for the second year M. Sc. Nursing course on or before 30th April, 2013. The University issued a circular on 26th December, 2012 asking the respective nursing colleges to submit the dissertation of their students to the University on or before 1st March, 2013. The petitioners submitted the dissertation on 21st February, 2013. However, since the synopsis and title of the dissertation was not approved by the University, the petitioners rectified the mistakes and resubmitted the dissertation on 7th March, 2013. The University approved the synopsis and title on 12th March, 2013. By the impugned order dated 4th April, 2013, the University refused to accept the dissertation and permit the petitioners to appear for the second year M. Sc. Nursing examination. The petitioners filed the petitions and in terms of the interim orders passed by this Court from time to time, the petitioners were permitted to appear for the second year M. Sc. Nursing examination. The results of the petitioners were directed to be declared by the respondent/University and all the petitioners were successful in the second year M. Sc. Nursing examination.

It is submitted on behalf of the petitioners that in the facts of the

case, the action on the part of the University in declining permission to the petitioners to appear for the second year M. Sc. Nursing examination is bad in law. It is stated that in view of the regulations of the Indian Nursing Council, the petitioners were required to submit the dissertation within a period of nine months from the commencement of the second year M. Sc. nursing examination. It is stated that the petitioners were under the bonafide belief that the petitioners could submit the dissertation on or before 30th April, 2013. It is stated that in view of the circular dated 26th December, 2012, the petitioners submitted the dissertation, even as per the modified date on 21st February, 2013, but unfortunately, the University did not approve the synopsis and title of the dissertation. It is stated that the University had approved the synopsis and title after the petitioners corrected the same on 12th March, 2013 and in these circumstances, especially, in view of the regulations of the Indian Nursing Council permitting the petitioners to submit the dissertation within a period of nine months, the impugned orders are liable to be set aside.

Ms. Bhende, the learned Assistant Government Pleader appearing on behalf of the respondent no. 3 supported the case of the petitioners and submitted that in the facts of the case, the impugned orders are liable to be set aside and a direction is required to be issued to the University to declare the results of the petitioners.

Mr. Govilkar, the learned counsel for the University submitted that in view of the circular dated 26th December, 2012, the petitioners were required to submit the dissertation as per the requirement of the University on or before 1st March, 2013. It is stated that in view of Notification No. 12 of 2010 dated 17th May, 2010, the dissertation was required to be submitted to the University three months before the final examination or on or before the date notified by the University. It is stated that the University had notified the date to be 1st March, 2013 and it was incumbent on the part of the petitioners to have submitted the title and synopsis of the dissertation as per the requirement of the University before that date. The learned counsel sought for the dismissal of the Writ Petitions.

On hearing the learned counsel for the parties and on perusal of the regulations, the circular and the notification of the University, it appears that the respondent/University was not justified in declining permission to the petitioners to appear at the second year M. Sc. Nursing examination in the circumstances of the case. The regulation clearly stipulates that the dissertation could be submitted by the students within a period of nine months from the commencement of the course. The course admittedly commenced on 1st August, 2012. There is, therefore, reason to believe that the petitioners bonafide believed that they were required to submit the dissertation on or before 30th April, 2013. By the

circular issued by the University on 26th December, 2012, the University asked the colleges to submit the dissertation on or before 1st March, 2013. The petitioners submitted the dissertation, even as per the requirement of the circular dated 26th December, 2012, on 21st February, 2013. Unfortunately, the University did not approve the synopsis and title of the dissertation and the petitioners were required to make some corrections in the dissertation. Some time was utilized by the petitioners in making the corrections and the dissertation were resubmitted on 7th March, 2013. The synopsis and title was approved by the University on 12th March, 2013. In the facts of the case, it was necessary for the University to have accepted the dissertation resubmitted by the petitioners on 7th March, 2013, as admittedly the petitioners had submitted the dissertation as per the circular on 21st February, 2013. In the circumstances of the case, it would be necessary to allow the Writ Petitions, as the petitioners were permitted by our interim orders to appear at the second year M. Sc. Nursing examination and the petitioners are declared successful. It would, therefore, be necessary to direct the respondent/University to issue the mark-sheets and also the degree certificates to the petitioners.

Hence, for the reasons aforesaid, the Writ Petitions are partly allowed. The impugned orders dated 4th April, 2013 are quashed and set aside. The respondent/University is directed to issue the marksheets to

the petitioners within a period of two weeks and the degree certificates as soon as they are ready and awarded.

Rule is made absolute in the aforesaid terms, with no order as to costs.

With the disposal of the Writ Petitions, the Civil Applications would not survive and stands disposed of.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)