

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 1521/2015

(DR.CHINTAN PRAMOD JADIA **VERSUS** M.U.H.S., MHASRUL, NASHIK & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri A.M. Gordey, Senior Counsel with Mrs. R.D. Raskar, counsel for the petitioner.
 Shri A.L. Deshpande, counsel for the R-1.
 Mrs. B.H. Dangre, G.P. for the R-2 & 3.
 Shri K.L. Dharmadhikari, counsel for the R-4.

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : APRIL 27, 2015.

By this petition, the petitioner seeks a direction to the respondent nos.3, the Head of Department of Orthopedics, Indira Gandhi Government Medical College, Nagpur to sign the examination form of the petitioner for Summer-2015 examination as also the log-book of the petitioner. A direction is sought against the respondent no.2-Dean of Indira Gandhi Government Medical College, Nagpur to certify the examination form of the petitioner for M.S. Orthopedics for Summer-2015 examination as per the Rules. Also, a direction is sought to the Maharashtra University of Health Sciences, Nasik to accept the examination form of the petitioner and permit the petitioner to appear at the examination.

The petitioner was admitted to the M.S. Orthopedics degree course in the Department of Orthopedics of the Indira Gandhi Government Medical College, Nagpur for the academic session 2012-13. The M.S. Orthopedics course is a three years degree course and since the examination in the said course was scheduled on 06.05.2015, the petitioner submitted his thesis to the Head of Department of Orthopedics and filled the examination form for the Summer-2015 examination. However, the respondent no.3, who is also joined in his personal capacity as the respondent

no.4-Head of Department of Orthopedics, refused to sign the examination form as well as the log-book of the petitioner. Since the Head of Department had reservations in signing the examination form, the Dean also did not sign the form and dispatched the same to the respondent no.1-University. Certain complaints were received by the respondent no.1-University in regard to the manipulations made in the thesis and the cases examined by the petitioner. The thesis recorded that the petitioner had examined thirty five cases, whereas, according to the complaints, the petitioner had examined only fifteen. On the receipt of the complaints, the respondent no.1-University asked the respondent no.2-College to look into the matter within a period of seven days. In pursuance with the communication issued by the respondent no.1-University, the Academic Committee was asked by the respondent no.2-College to make an enquiry in respect of the allegations in the complaint. The enquiry committee, which comprised of twelve members, who were the heads of various departments in the respondent no.2-College, found that there was substance in the complaints received by the respondent no.1-University as the petitioner had examined only thirteen retrograde cases though the petitioner was required to examine at least thirty retrograde cases. It was found that the thesis was manipulated. The report of the committee was sent by the respondent no.2-College to the respondent no.1-University.

When the matter was being heard on 15.04.2015, this Court was firmly of the view that the petitioner was not entitled to the relief sought as the petitioner had manipulated the thesis and had mentioned thirty five retrograde cases though only fifteen cases were examined by the petitioner. On 15.04.2015, a team of doctors from the respondent no.1-University had arrived at Nagpur to consider the report of the Academic Committee of the respondent no.2-College and make a further enquiry in the matter, though no such direction was issued by this Court, in that regard. However, it

appears that an enquiry was conducted by the respondent no.1-University in the matter on 15.04.2015 and the Committee of the respondent no.1 has concurred with the report submitted by the Academic Committee of the respondent no.2-College. It is observed by the members of the respondent no.1-University that the petitioner had manipulated the record to falsely make a show of having examined thirty five retrograde cases. Thereafter, the matter was adjourned on more than a couple of occasions, at the request of the counsel for the petitioner.

The learned counsel for the petitioner has tendered an additional affidavit of the petitioner in the Court, today. The same is accepted on record. It is stated in the said additional affidavit that the petitioner was not granted a fair opportunity to participate in the enquiry conducted by the respondent no.1-University. It is stated that the petitioner was not in a position to defend his case on 15.04.2015 as he was not carrying the thesis to Nagpur when he travelled from Mumbai to Nagpur for attending the hearing in this petition. It is also stated in the affidavit that on 18.04.2015, the petitioner requested some of the members of the enquiry committee of the respondent no.1-University to scrutinize the record/material in possession of the petitioner but, they refused to examine the same.

Shri Gordey, the learned Senior Counsel for the petitioner, raised two grounds in support of the prayers made in the petition. Firstly, according to the learned Senior Counsel, the Head of Department of Orthopedics in the respondent no.2-College was biased inasmuch as, after he had declined to sign the admission form and thesis of the petitioner, he complained to the respondent no.1-University in regard to the wrongful consideration of the petitioner's thesis by the respondent no.1-University, by nurturing his ego. It is stated that the petitioner had examined thirty five retrograde cases and the report of the Academic Committee of the respondent no.2-College needs to be discarded. It is stated that the

petitioner was not afforded a fair opportunity when the committee of doctors of the respondent no.1-University made an enquiry in the complaints against the petitioner. It is stated that on 15.04.2015, though the petitioner was present in the Court for witnessing the proceedings and was also asked by the petitioner's guide Shri Faizal to attend the college so as to participate in the enquiry, the petitioner could not effectively participate as he had not carried the thesis to Nagpur. It is stated that the petitioner had asked some of the members of the enquiry committee constituted by the respondent no.2-College to examine the thesis of the petitioner on 18.04.2015 at Pune but, the members refused to examine the same.

Mrs. Dangre, the learned Government Pleader appearing on behalf of the respondent no.2-College, submitted that since the Head of the Department had some reservations in signing the thesis submitted by the petitioner, the same being manipulated, the Dean also refused to sign the thesis and the examination form of the petitioner. It is stated that the thesis was sent to the respondent no.1-University without the signatures of the Head of the Department and the Dean. It is stated that certain complaints were received by the respondent no.1-University and the respondent no.1-University asked the respondent no.2-College to make an enquiry in the complaints. It is stated that a committee consisting of twelve heads of various departments was asked to look into the matter and the committee found on an enquiry that the petitioner had examined only thirteen retrograde cases though the thesis mentioned that he had examined thirty five. It was found by the twelve member committee that all cases except thirteen retrograde cases were manipulated. Dr.Faizal, the guide, had made a statement that he was pressurized to sign the thesis of the petitioner though the petitioner had not examined thirty five cases, as mentioned in the thesis. It is stated that it is clear from the enquiry report that the petitioner had submitted a manipulated

thesis to the Head of Department and, the Head of Department and the Dean, had rightly refused to sign the same. It is stated that in the circumstances of the case, no relief could be granted to the petitioner.

Shri Deshpande, the learned counsel for the respondent no.1-University, submitted that after the complaints were received in regard to the wrongful submission of the thesis of the petitioner, the respondent no.1-University had asked the respondent no.2-College to look into the matter. It is stated that a committee constituted by the respondent no.1-University was also interested in looking into the complaints made against the petitioner and, hence, the committee visited the respondent no.2-College on 15.04.2015 to make an enquiry. It is stated that an enquiry was conducted by the committee on 15.04.2015 and after a perusal of the records maintained in the respondent no.2-College, it was found that the petitioner had conducted only thirteen retrograde cases and the record in respect of the other twenty two cases was manipulated.

Shri Dharmadhikari, the learned counsel for the respondent no.4-Head of Department, who is joined in the personal capacity, submitted that on a perusal of the record maintained by the respondent no.2-College, it was clear that the petitioner had not conducted thirty five retrograde cases as mentioned in the thesis and the thesis was manipulated. It is stated that the respondent no.4 refused to sign on the thesis as the same was clearly manipulated. It is stated that in thirty two cases out of thirty five Bed-Head tickets of the patients, only eleven cases related to retrograde nailing, four related to antegrade nailing, two related to tapping nailing, ten cases related to Plating and four were absolutely bogus cases of patients admitted in the other departments like Skin Department, Medicine Department, Ophthalmology Department, who had not suffered a fracture at all. It is stated that on a perusal of the details of the master-sheet in

respect of the patients for retrograde nailing and antegrade nailing it was clear that the petitioner had submitted a manipulated thesis. It is stated that in the circumstances of the case, the Head of Department was not expected to sign on a manipulated thesis so as to permit the petitioner to appear at the examination.

On hearing the learned counsel for the parties, it appears that the relief sought by the petitioner cannot be granted. Almost all the doctors, those are connected with this case, have unanimously recorded in the reports submitted by them that the thesis of the petitioner was manipulated. The petitioner had completed the thesis under his guide Dr.Faizal. Dr.Faizal had made a statement before the Academic Committee constituted by the respondent no.2-College which comprised of the heads of various departments that he had signed the thesis of the petitioner under pressure though the petitioner had conducted only few cases of retrograde nailing and the other cases were manipulated. Not only did the Head of Department but, the Dean of the respondent no.2-College also refuse to sign the thesis. A thorough enquiry was made in the matter by the twelve heads of various departments of the Academic Committee and according to the report of the committee, the petitioner had only conducted thirteen cases of retrograde nailing and all the other cases, i.e. twenty two cases were manipulated. The only allegation in regard to the bias against the respondent no.4, the Head of Department, is that he had nurtured his ego by making a complaint to the respondent no.1-University after he had refused to sign the thesis. We do not find that this averment in the petition could be related to 'bias'. If a student in the college submits a manipulated thesis and the Head of Department refuses to sign the same and still if the university considers accepting the thesis, it would be necessary for the Head of Department to make a complaint in that regard. The proper action that could be taken by a Head of Department of the college is to make a complaint about the wrongful submission and acceptance of

a thesis that is manipulated. That was the right step taken by the Head of Department and had he not taken that step, he would have been wrong. The petitioner was admitted to the Post Graduate degree course in Orthopedics and the petitioner could not have expected to appear at the examination by conducting only thirteen retrograde cases when conducting of at least thirty retrograde cases was mandatory. Orthopedics patients could not be made to suffer at the hands of half baked doctors.

Even assuming that the respondent no.4 had nurtured an ego or had a bias against the petitioner, we fail to understand how all the other doctors, who had conducted an enquiry, could submit a report in regard to the manipulation of the thesis by the petitioner. Dr.Faizal has made a statement before the committee that he was pressurized to sign the thesis though the same was manipulated. The Academic Committee which looked into the matter comprised of twelve heads of various departments in the respondent no.2-College and there was no reason for these heads of the department to opine against the petitioner. Also, the respondent no.1-University has found on enquiry that the report of the Academic Committee of the respondent no.2-College is correct and the thesis of the petitioner is manipulated. At this stage, we wish to express that it was not necessary for the respondent no.1-University to enquire into the complaint when the matter was pending in this Court since 20.03.2015 and the respondent no.1-University was served in the matter before 06.04.2015. When the Court was seized of the matter, there was no occasion for the respondent no.1-University to conduct an enquiry. It is stated in the first affidavit-in-reply of the respondent no.1-University, dated 10.04.2015, that the university was desirous of holding an enquiry. On 15.04.2015, it was expressed by the counsel for the respondent no.1-University in the Court that the team of doctors had arrived at Nagpur to conduct an enquiry in the matter. We had expressed that we did not expect the respondent no.1-University to conduct

an enquiry in the matter when the matter was pending in the Court and an enquiry was conducted by the Academic Committee of the respondent no.2-College which comprised of twelve heads of various departments. The statement made in a subsequent reply filed on behalf of the respondent no.1-University on 19.04.2015 that the respondent no.1-University wanted to take a decision by conducting an independent enquiry in the circumstances of the case with a view to maintain the standard of medical education and to find out the exact factual position, does not appeal to us. Even if the matter was serious, the Court was seized of the matter and in the absence of any directions by the Court to the respondent no.1-University to conduct an enquiry after an enquiry was conducted by the Academic Committee of the respondent no.2-College which comprised of heads of twelve departments, the respondent no.1-University ought not have held an enquiry at all. This Court had expressed some doubts in regard to the action on the part of the respondent no.1-University to immediately send a committee of doctors to reconsider an issue which was decided by the twelve heads of various departments of the Academic Committee of the respondent no.2-College. We had also expressed doubts that the officials in the university wanted to help the petitioner. Despite the expression of our displeasure about the hasty action on the part of the respondent no.1-University to send its team to Nagpur to conduct an enquiry in a pending matter at 2.30 p.m., on 15.04.2015, the committee of the respondent no.1-University has conducted an enquiry after 2.30 p.m. On the basis of the enquiry which appears to have been conducted by the respondent no.1-University on 15.04.2015, a lame attempt is made by the petitioner to challenge the report of the committee constituted by the respondent no.1-University. The committee conducting the enquiry on 15.04.2015 has considered the record maintained by the respondent no.2-College and has examined Dr.Faizal, the Guide of the petitioner; the respondent no.4-Head of Department and has

also perused the details of the master-sheet which referred to the name of the patients and the procedure conducted on them. In the circumstances of the case, it cannot be said that the committee of the respondent no.1-University had not granted an opportunity to the petitioner. We find that despite opportunity, as could be seen from the report dated 18.04.2015, the petitioner had not submitted any material in support of his case. In any event, it cannot be said that all the doctors, including the Guide, the Head of Department, the Dean, the Heads of the twelve departments, which formed the Academic Committee and the doctors on the committee of the respondent no.1-University, had a bias against the petitioner. On a perusal of the details of the master-sheet, a copy of which is tendered by the counsel for the respondent no.4, it appears that the petitioner had examined only thirteen to fifteen cases in retrograde nailing and had manipulated the thesis.

In the result, the writ petition fails and is dismissed with costs.

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CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : APRIL 27, 2015.

C.A.W. NO.669/2015.

The civil application is allowed. The amendment be carried out forthwith.

The civil application stands disposed of.

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