

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR

**WRIT PETITION NO. 6498 OF 2013**

(Rupali d/o Arjun Doifode vs. S.S.U.D. Ayurvedic Medical College and Hospital, at Koli, Karanja  
(Lad) thr. its A.O. & Ors.)

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

Court's or Judge's orders

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**CORAM : B.P. DHARMADHIKARI &  
S.B. SHUKRE, JJ.  
APRIL 23, 2015.**

1. Heard Shri Shinde, learned counsel for the petitioner and Shri A. Deshpande, learned counsel for respondent No. 2. Writ Petition has been dismissed against respondent Nos. 1 & 3 on 25.02.2015.

2. The matter is being considered by this Court since long. On 12.03.2015, after hearing the respective counsel, we have passed the following order :

*“Heard Shri R.J. Shinde, learned  
Counsel for the petitioner and Shri A.  
Deshpande, learned Counsel for respondent no.2.*

*Because of interim orders passed by  
this Court, petitioner/student continued her  
education and was transferred to respondent  
no.3 College.*

*Shri Deshpande, learned counsel has  
pointed out that admission as also transfer and*

*therefore, prosecution of studies was subject to further orders by this Court in Writ Petition No. 4918/2010, and that Writ Petition has been dismissed on 15.10.2013. According to him, therefore, petitioner has no right to file such petition and claim such relief.*

*Shri Shinde, learned counsel for petitioner further submits that there were several such students and some of them may be continuing their education in transferred college.*

*Shri Deshpande, learned counsel for respondent disputes this. However, as petitioner has continued the education for some time i.e. after 2010 almost for four years, we grant request made by learned counsel for petitioner to place the matter for further consideration, as a last chance on 26.03.2015.”*

3. The matter was then taken up on 07.04.2015 and then we have passed the following order :

*“Heard.*

2. *The petitioner who got admission in S.S.U.D. Ayurvedic Medical College & Hospital at Koli, Karanja (Lad) (respondent no. 1) in academic year 2010-2011 prosecuted her studies in that college under interim order dated 26.10.2010 in W.P. No. 4918/10. It appears,*

*she cleared first year B.A.M.S. Examination and then shifted to respondent no. 3 – Sumatibai Shah Ayurveda Mahavidyalaya, Hadaspur, Pune, in second year. This transfer is approved on 02.5.2012 by respondent no. 2 The Maharashtra University of Health Sciences, subject to decision of High Court in pending legal proceedings.*

3. *Interim order passed on 26.10.2010 was continued and on 24.1.2011 W.P. No. 4918/10 was admitted for final hearing. That writ petition has been dismissed on 15.10.2013.*

4. *Till then the petitioner prosecuted her studies at Pune college and presently is preparing for final examination.*

5. *By the impugned communication dated 12.11.2013 her transfer to respondent no. 3 college has been cancelled on the ground that it was subject to adjudication of W.P. No. 4918/10 and said writ petition has been dismissed but the education of the student had not been protected, Health University observed that her transfer cannot be held as valid.*

6. *Basic issue is of affiliation of Karanja college and that the affiliation was continued by respondent no. 2 on year to year basis because of interim orders of this Court and it appears that every year there were similar petitions like W.P. No. 3037/11, 3286/11 and 4381/12. The*

*judgment dated 15.10.2013 in W.P. No. 4918/10 mentions that those writ petitions were also decided by this Court holding that transfer of students of the petitioner-college to other colleges were/are valid.*

*7. As copy of the aforesaid judgment is not available on record, we grant time of one week to the parties to produce the same for our perusal.”*

4. The fact that the petitioner was admitted in Respondent No. 1 – College in the Academic Year 2010-11 is not in dispute. As the College did not have necessary permission of Central Government and, therefore, affiliation of Respondent No. 2 – University, the said College approached this Court in Writ Petition No. 4918 of 2010 on 26.10.2010. This Court granted ad interim relief in terms of prayer clause (d) and made it very clear that any admission and enrollment would be subject to further orders in the petition. The petition was then admitted on 24.01.2011 and ad interim orders were confirmed. It is in this situation that on 02.06.2011, Respondent No. 2 – University issued an order of continuation/ extension of affiliation for the Academic Year 2010-11 in favour of Respondent No. 1 – College. This was made subject to final decision of Writ Petition No. 4918 of 2010. Writ Petition has been dismissed by this Court on 15.10.2013.

5. Because of dismissal of this writ petition, Respondent No. 2 – University has on 12.11.2013 informed the petitioner that her further prosecution of course cannot be treated as valid. It is this communication which is impugned before us. The petitioner on the basis of interim affiliation, appeared for the First Year B.A.M.S. Examination and is the only student from Respondent No. 1 – College, who cleared that examination. After clearing that examination, she sought transfer and has been admitted thereafter to Respondent No. 3 – College. The petitioner is now due to appear for final year examination in November 2015 from Respondent No. 3 – College.

6. Shri Deshpande, learned counsel, in this background has submitted that this Court has after proper appreciation of controversy, dismissed Writ Petition No. 4918 of 2010 on 15.10.2013. He further submits that other two petitions viz. Writ Petition Nos. 3037 of 2011 and 3286 of 2011 which find mention in that judgment were in relation to students of earlier Academic Years i.e. 2008-09 and 2009-10. The petitioner is the only student from 2010-11 batch and as this Court has not accepted the request of Respondent No. 1 – College and has not granted affiliation, the petitioner cannot be permitted to prosecute her studies further. Her appearance in First Year B.A.M.S. Examination and subsequent appearance, in the circumstances, must fall to ground.

7. Shri Shinde, learned counsel submits that on the strength of interim orders, insofar as the petitioner is concerned, situation has become irreversible. She participated in the examination and cleared it and as Respondent No. 1 – College was not getting proper affiliation, sought transfer as per law and has been transferred to Respondent No. 3 – College. Respondent No. 3 is duly recognized and affiliated College and she has completed her remaining studies in that College and hence she is entitled to appear for final examination from that College.

8. In interim orders passed in Writ Petition No. 4918 of 2010 on 26.10.2010, this Court has used the words “*ad interim*”. It is apparent that on the basis of that order, Respondent No. 1 – College permitted students like the petitioner to prosecute their studies. This interim order was also confirmed on 24.01.2011 i.e. before holding of examinations for the First Year B.A.M.S. Course. On the strength of those interim orders, the petitioner attended Respondent No. 1 – College and was also examined by Respondent No. 2 – University. She has successfully appeared in First Year B.A.M.S. Examination. Though belated, on 02.06.2011, Respondent No. 2 – University has granted affiliation to Respondent No. 1 – College for the Academic Year 2010-11. The affiliation was made subject to final outcome of Writ Petition No. 4918 of 2010.

9. Though writ petition remained pending till

Academic Year 2013-14 and dismissed on 15.10.2013, in the meanwhile, the petitioner shifted to a College being run in accordance with law and she is due to appear for final year examination from the said College. These facts are not in dispute.

10. The petitioner is the only student before this Court who has cleared B.A.M.S. Course from the erstwhile Respondent No. 1 – College in the Academic Year 2010-11. Thereafter she has completed her studies in a recognized College. Respondent No. 2 – University has taken impugned action only because of stipulation by this Court in its earlier order dated 26.10.2010 that its orders are subject to further orders in the petition. The admission and enrollment of the student was made subject to final adjudication of Writ Petition No. 4918 of 2010.

11. Though, this Court has observed accordingly, it is apparent that the prosecution of her studies further and her success in First Year B.A.M.S. Examination thereafter cannot be ignored. As urged by Shri Shinde, learned counsel, insofar as the said petitioner is concerned, the situation has become irreversible.

12. In this situation, we quash and set aside the impugned communication dated 12.11.2013. We direct Respondent No. 2 – University to recognize the petitioner as a legal and valid student and to allow her to appear for Final Year B.A.M.S. Examination from

Sumatibai Shah Ayurveda Mahavidyalaya, Malwadi,  
Hadapsar, Pune.

13. Writ Petition is thus partly allowed and  
disposed of. No order as to costs.

**JUDGE**

**JUDGE**

\*GS.