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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.9093/2015

Avinash Raosaheb Pawar & others.

...Petitioners..

Versus

The State of Maharashtra & others.

...Respondents...

.....

Shri V.A. Bagal, Advocate for petitioners.

Shri B.V. Virdhe, AGP for respondent nos.1 & 5.

Shri Alok Sharma, Advocate for respondent no.2.

Shri S.S. Jadhavar, Advocate for respondent no.6.

Shri Y.B. Bolkar, Advocate for respondent no.7.

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**CORAM: S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATE: 24.08.2016

ORDER :

1] Heard learned counsel for the parties. Rule. Rule made returnable forthwith and with the consent of learned counsel for the parties, the petition is taken up for final disposal at this stage.

2] The learned counsel for the petitioners submits that the petitioners had taken admission in the D.Pharmacy course with the respondent no.7 as per the merit. The

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respondent no.7 had intake capacity of 60 students. The petitioners were admitted and have passed the said course from the academic years 2006-07 to 2011-12. The learned counsel submits that the respondent nos.5 and 6 had allotted the students to the respondent no.7 - institution and the petitioners were amongst those students allotted by the respondent nos.5 and 6 to the respondent no.7 - institution. The learned counsel submits that the petitioners have successfully completed the said D.Pharmacy course with the respondent no.7 - college. However, when the petitioners submitted their proposal for registration as Pharmacist, the respondent nos.2 and 3 have not considered the same and the said proposal is returned back.

3] We have heard learned counsel for the respondent no.2. He submits that the respondent no.2 regulates the pharmacy education and its practice. The AICTE Act is a general enactment to regulate the technical courses and pharmacy education is regulated by the PCI Act. The All India Council for Technical Education Act, 1987 cannot override the Pharmacy Act, 1948. The learned counsel submits that the respondent no.2 does not dispute that

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intake capacity of the respondent no.7 - institution was upto 60 students.

4] Learned counsel for the respondent no.7 has placed on record the entire list of the students admitted from 2006-07 to the academic year 2011-12. The same is taken on record and marked as Exhibit 'X' for identification.

5] The learned counsel for the respondent no.7 further submits that the respondent no.7 had a permission to admit 60 students and in none of the academic years from 2006-07 to 2011-12, the students beyond 60 were admitted. The learned counsel submits that the petitioners were validly admitted as per the procedure and these petitioners were allotted by the respondent nos.5 & 6.

6] We have considered the submissions of the learned counsel for the parties.

7] It is not disputed by any of the parties that the respondent no.7 - institution had an intake capacity of 60 students for the D. Pharmacy course. The said permission was valid for the years 2006-07 to 2011-12. The petitioners, it appears, have completed the course during these academic years. The list, which is produced on record and marked Exhibit X for identification, shows

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that in none of the years, the strength of students was beyond 60 students.

8] Considering the above, we pass the following order.

ORDER

The petitioners may submit their fresh proposal with the respondent nos.2 and 3 seeking registration as Pharmacists. On receipt of the said proposal, the concerned respondents shall process the same and take decision on it on its own merits in accordance with law and policy and shall not reject it on the ground of intake capacity of the respondent no.7. Writ petition is accordingly disposed of. Rule is made absolute accordingly. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)