

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.666 OF 2016
IN
WRIT PETITION NO.5106 OF 2015

Maharashtra Medical Education and
Research Centre, Pune & Anr.

.... Applicants

V/s.

State of Maharashtra,
Through the Principal Secretary,
Medical Education Department,
Mantralaya, Mumbai & Ors.

.... Respondents

Mr. Vivek Salunkhe, i/by Mr. S.N. Biradar, for the
Applicants.

Mr. V.M. Mali, A.G.P., for Respondent Nos.1 and 2.

Mr. S.S. Patwardhan for Respondent No.3.

Mr. R.V. Govilkar for Respondent No.4.

CORAM : RANJIT MORE &
DR. SHALINI PHANSALKAR-JOSHI, J.J.

DATE : 29TH MARCH 2016.

P.C. :

1. Heard Mr. Salunkhe, learned counsel for the Applicants,
Mr. Patwardhan, learned counsel for Respondent No.3 – Pravesh
Niyanttran Samiti (PNS) and Mr. Govilkar, learned counsel for Respondent
No.4 – Maharashtra University of Health Sciences (MUHS).

2. This Civil Application is filed seeking following directions :-

- (i) To issue direction to Respondent No.3 – PNS to grant approval of eligibility to 30 admitted students of Bachelor of Physiotherapy Course and 1 admitted student of Master of Physiotherapy Course of Academic Year 2015-2016 of Applicant No.2-College.*
- (ii) To issue direction to Respondent No.4 – MUHS to grant eligibility to 30 admitted students of Bachelor of Physiotherapy Course and 1 admitted student of Master of Physiotherapy Course of Academic Year 2015-2016 of Applicant No.2 – College and to return their original documents, thereby quashing and setting aside letters dated 24th November 2015 and 10th December 2015 issued by Respondent No.4 – MUHS.*
- (iii) To issue direction to Respondent No.4 – MUHS; (a) to accept and approve title and synopsis, dissertation of 1 admitted student of Master of Physiotherapy Course; (b) to accept examination forms of those 30 admitted students of Bachelor of Physiotherapy Course and 1 admitted student of Master of Physiotherapy Course of A.Y. 2015-16 of Applicant No.2-College; (c) to issue them hall-tickets; (d) to allow them to appear for University exams; (e) to declare their results; (f) to issue them mark-lists; (g) to issue them passing certificates; (h) to allow 30*

students of Bachelor of Physiotherapy Course to do compulsory one yaer internship and issue them Internship Certificates; (i) to issue them final Physiotherapy Degree Certificate; (j) to permit these students to pursue and complete their entire Physiotherapy Course and to do all consequential acts and actions in the interest of justice.

3. By order dated 26th August 2015 passed in Writ Petition No.5106 of 2015, the Petitioners, i.e. the Applicants herein, were granted permission to take steps to conduct its own CET / CAP for Physiotherapy Course at institutional level for the Academic Year 2015-2016. In pursuance of this order, the Applicants conducted the Entrance Examination and admitted 30 students to the Bachelor of Physiotherapy Course and 1 student to the Master of Physiotherapy Course for the Academic Year 2015-2016. The Applicants thereafter submitted the list of those 30 students of Bachelor of Physiotherapy Course and 1 student of Master of Physiotherapy Course to Respondent Nos.3 and 4 for complying with further formalities. The grievance of the Applicants seems to be that, though they have preferred an application for approval of those 30 students of Bachelor of Physiotherapy Course and 1 student of Master of Physiotherapy Course to Respondent No.3 - PNS, no action is taken till date on the said application. So far as Respondent No.4 – MUHS is concerned, the

Applicants' application for eligibility in respect of those 30 students of Bachelor of Physiotherapy Course and 1 student of Master of Physiotherapy Course is rejected by Respondent No.4-MUHS on 24th November 2015 on the ground that Respondent No.4 – MUHS was not party to the Writ Petition No.5106 of 2015. In the above circumstances, the Applicants have approached this Court for the reliefs stated here-in-above.

4. For the Academic Year 2014-2015, in similar situation, Writ Petition No.1106 of 2014 was preferred in this Court and by order dated 4th February 2014 passed by the Division Bench of this Court, the Applicants-Petitioners thereto were permitted to conduct its own PG-CET for MDS Course at institutional level. In this Writ Petition No.1106 of 2014, the Applicants preferred Civil Application No.876 of 2015 for similar reliefs and the Division Bench of this Court has passed the following order on 1st April 2015.

“Issue direction to MUHS to approve Title and Synopsis, to accept and approve Thesis of 45 admitted students of MDS Course of Academic Year 2014-15 of Petitioner No.3-College and further to accept their examination forms, to issue them hall tickets, to allow them to appear for those exams, to declare their results, to issue them mark-lists and to permit these students to prosecute.”

5. Mr. Patwardhan, learned counsel for Respondent No.3-PNS, submitted that since CET / CAP was held by the Applicants, no approval can be sought from Respondent No.3-PNS. The similar argument was made before the Division Bench in Civil Application No.876 of 2015. Despite this argument, the Division Bench has passed the order referred here-in-above.

6. Mr. Govilkar, learned counsel for Respondent No.4-MUHS, submitted that Respondent No.4-University was not party to the Writ Petition No.5106 of 2015 and, therefore, Respondent No.4-University cannot be impleaded in this Civil Application and further direction cannot be sought against Respondent No.4-University. The learned counsel for Respondent No.4-University also had made similar arguments before the Division Bench hearing Civil Application No.876 of 2015. The Division Bench of this Court, upon considering the arguments of Mr. Patwardhan and Mr. Govilkar, passed order dated 1st April 2015 in Civil Application No.876 of 2015, which is referred here-in-above.

7. The fact remains that the Applicants had conducted the CET / CAP in pursuance of the order dated 26th August 2015 passed in Writ Petition No.5106 of 2015 and 30 students of Bachelor of Physiotherapy Course

and 1 student of Master of Physiotherapy Course have already been admitted for the Academic Year 2015-2016. The Applicants have also preferred an application to complete necessary formalities. As stated above, Applicants' application for approval is kept pending by Respondent No.3-PNS and Respondent No.4-MUHS has rejected application for eligibility. Applicants' students cannot be made to suffer for the inaction or for want of orders on the part of Respondent Nos.3 and 4.

8. Hence, even though the main Petition, being Writ Petition No.5106 of 2015, has already been decided finally by the Division Bench of this Court on 26th August 2015, we are inclined to pass the order similar to the one passed by the Division Bench of this Court in Civil Application No.876 of 2015 in Writ Petition No.1106 of 2015. We accordingly pass the following order :-

“O R D E R”

- (i) Issue direction to Respondent No.4-MUHS to approve Title and Synopsis, to accept and approve Thesis of 30 admitted students of Bachelor of Physiotherapy Course and 1 admitted student of Master of Physiotherapy Course of Academic Year

2015-16 of Applicant No.2-College and further to accept their examination forms, to issue them hall tickets, to allow them to appear for those exams, to declare their results, to issue them mark-lists and to permit these students to prosecute the study.

- (ii) The Applicants to inform and/or communicate this order, which we have passed today, to those 30 students of Bachelor of Physiotherapy Course and 1 student of Master of Physiotherapy Course by appropriate notice / intimation.

9. In view of disposal of the main Petition, being Writ Petition No.5106 of 2015, by the Division Bench of this Court vide its order dated 26th August 2015, this Civil Application also stands disposed of in the above terms.

10. Parties to act on an authenticated copy of this order.

[DR. SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]