

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.667 OF 2016
IN
WRIT PETITION NO.5107 OF 2015

The Association of Muslim Minority's
Medical Educational Institutions of
Maharashtra, Pune

.... Applicant

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
Applicant.

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 Applicant-Association,
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 accept proposals of six Member-Colleges of grant of eligibility proposal and grant eligibility to admitted students of Post Graduate Unani Medical Course and Under Graduate Unani Medical Courses for the Academic Year 2015-2016 of six Member-Colleges of Applicant-Association.*
- (ii) *To issue direction to Respondent No.4 – MUHS to accept proposals of six Member-Colleges of grant of eligibility proposal and grant eligibility to admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses for the Academic Year 2015-2016 of six Member-Colleges of the Applicant – Association and to return their original documents, thereby quashing and setting aside letters dated 16th December 2015 and 11th January 2016 issued by Respondent No.4 – MUHS.*
- (iii) *To issue direction to Respondent No.4 – MUHS; (a) to accept and approve title, synopsis and dissertation of students of Post Graduate Unani Medical Course; (b) to accept examination forms of those admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses for the*

Academic Year 2015-16 of six Member-Colleges of Applicant-Association; (c) to issue them hall-tickets; (d) to allow them to appear for concerned PG/UG exams; (e) to declare their results; (f) to issue them mark-lists; (g) to issue them passing certificates; (h) to allow admitted students of Under Graduate Unani Medical Course to do compulsory one year internship and issue them Internship Certificates; (i) to issue them final Degree Certificates; (j) to permit these students to prosecute and complete their entire Unani Medical Courses 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.5107 of 2015, the Petitioner, i.e. the Applicant-Association, representing six Member-Colleges, herein, was granted permission to take steps to conduct its own CET / CAP for Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses at institutional level for the Academic Year 2015-2016. In pursuance of this order, Applicant-Association conducted the Entrance Examination and six Member-Colleges admitted the students to the Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses for the Academic Year 2015-2016. The six Member-Colleges thereafter submitted the list of those admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses to Respondent Nos.3 and 4 for

complying with further formalities. The grievance of the Applicant-Association, representing six Member-Colleges, seems to be that, though they have preferred applications for approval of those admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses to Respondent No.3 - PNS, no action is taken till date on the said applications. So far as Respondent No.4 – MUHS is concerned, the applications preferred by the six Member-Colleges for eligibility in respect of those admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses are rejected by Respondent No.4-MUHS on 11th January 2016 and 16th December 2015 on the ground that Respondent No.4 – MUHS was not party to the Writ Petition No.5107 of 2015. In the above circumstances, the Applicant-Association, representing six Member-Colleges, has 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 Applicant-Association, 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.5107 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 Applicant-Association had conducted the CET / CAP in pursuance of the order dated 26th August 2015 passed in Writ Petition No.5107 of 2015 and the students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses have already been admitted for the Academic Year 2015-2016. The Applicant-Association and six Member-Colleges have also preferred an application to complete necessary formalities. As stated above, Applicants' applications for approval are kept pending by Respondent No.3-PNS and Respondent No.4-MUHS has rejected applications for eligibility. Students admitted in six Member-Colleges 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.5107 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, Synopsis and to accept and approve Thesis of the admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses for the Academic Year 2015-16 of six Member-Colleges represented by the Applicant-Association 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 Applicant-Association, representing six Member-Colleges, and/or six Member-Colleges to inform and/or communicate this order, which we have passed today, to those admitted students of Post Graduate Unani Medical Courses and Under Graduate Unani Medical Courses by appropriate notice / intimation.

9. In view of disposal of the main Petition, being Writ Petition No.5107 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.]