

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 1869 OF 2015
IN
CIVIL WRIT PETITION NO. 6223 OF 2015

Dr.J.J.Magdum Institute of
Nursing Education

..Applicant

v/s.

Maharashtra Nursing Council
& Another.

..Respondents

Mr. Siddesh Pilankari/b. U.P.Warunjikar for the Applicant.
Mr.R.R.Salvi i/b. Suvarna Telgote for the Respondent No.1.
Mr.Amey Deshpande for the Respondent no.2
Mr.V.M.Mali, AGP for the State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : JUNE 09, 2016.**

P.C.

1. The above writ petition is filed seeking following reliefs:

“ Be pleased to call for the record and proceedings of the impugned communication by the respondent no.1 dated 31.7.2014 received by the petitioner on 25.8.2014, and after going through the same and satisfying about the legality, validity and propriety thereof be pleased to quash

the said order”.

2. The grievance made in this petition is that since the year 2004 the petitioner institution was granted permission to admit 40 students, but the respondents abruptly decreased the intake capacity of the applicant institution from 40 students to 20 students by the communication dated 31.7.2014.

3. A petition was taken out before the Division Bench of this Court (Coram Naresh Patil and A.P.Bhangale, JJ.) On 29.10.2014 a statement was made by the learned Counsel appearing for the Maharashtra Nursing Council on instruction of the Registrar of the Nursing Council that in case the petitioner forwards the list of 39 students, which is annexed at pages 49 to 51 to the compilation of the petition, then the nursing council will give admission to 39 students if the students fulfill the eligibility criteria.

4. On the basis of this statement, notice was issued to the respondent and Maharashtra Nursing Council was directed to accept

those 39 students. During the pendency of this petition, the petitioners instituted Civil Application No.1869 of 2015 initially for the following relief :

“ (a) This Honourable Court be pleased to allow the applicant/petitioner herein to admit 40 students as intake for the academic year 2015-16 and the subsequent years during pendency of the petition.”

5. The civil application was placed before the Division Bench of this Court (Coram Mohta and Sayed, JJ.). After hearing the learned Counsel for the respective sides, the Division Bench directed the respondents to accept the forms for the course in question for the academic year 2015-16. For ready reference the entire order is reproduced hereinbelow :

“In view of the earlier orders passed by this Court and the fact that so many years petitioners stated capacity subject to order of the Court, is about 40 every year, it is again directed to be reduced to 20 and 30 as per the following chart in respective petitions.

Sr.No	Writ Petition Nos.	Intake Capacity	Intake Capacity
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			reduced upto
1	6223 of 2014	40	20
2	8449 of 2015	40	20
3	(L) 2479 of 2015	40	30
4	-do-	40	30

2. The intake seat capacity is the subject matter of the petitions. As the statement is made that today i.e. 30 September, 2015 is the last date to accept the forms of the courses in question, we direct the respondents to accept the forms. This will be subject to further orders of the court. If the excess admission, if any, is contrary to the provision and/or directions of respondents, there is no question of claiming any equity as the statement is made by the learned Counsel appearing for respondents that it was intimated in advance to restrict the seats 20 and 30 respectively. However, to avoid further complications, we are inclined to pass this order by keeping all points open.”

6. The applicant thereafter amended the civil application and sought to introduce prayer clause (b) thereby seeking permission to submit the examination form for the students of 2014-2015, 2015-2016 batch and consequent direction to the respondent to conduct the examination and declare the result of the students of those two

batches.”

7. The respondents refused to accept the examination forms. Hence the applicants approached this court with the amendment prayer.

8. Mr. Salvi, the learned Council appearing for the respondent no.1 and Mr. Deshpande, the learned Council appearing for the respondent no.2 pointed out that the intake capacity of the petitioners as decided by the respondent no.2, Indian Nursing Council as well as by the respondent no.1 Maharashtra Nursing Council is restricted to 20 students only. Despite this, under the orders of the court referred to earlier, the petitioner institute admitted 39 and 40 students in the said course during the academic year 2014-2015 and 2015-2016 respectively. The learned Counsel for the respondent nos.1 and 2 submits that henceforth the petitioner institute should adhere to the permission granted by the respondent no.1 for admission of the students and they should not admit more than 20 students in the said course, pending adjudication of the

issue.

9. We had called upon learned Counsel Mr. Warunjikar to make a statement that the petitioner/applicant institute will not admit students more than the intake capacity. Mr. Warunjikar submitted that he can't make a statement and the court may pass the appropriate order.

10. In the above circumstances, and especially since the students of the petitioner/applicant institution were admitted in view of the orders of the court, we deem it fit to allow the students to appear for the respective examinations.

11. Accordingly we direct the respondents to accept the examination forms and conduct the examination and declare the result of the students for the year 2014-2015 and 2015-2016 batch. The result would be subject to the final outcome of the petition.

12. The petitioner/applicant institute, however, is directed to

adhere to the policy decision of the respondent nos.1 and 2 and restrict the intake capacity as laid down by the respondent no.2 from the academic year 2016-2017 onwards until the decision of the main petition.

13. The civil application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)