

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

WRIT PETITION NO. 9541 OF 2015

1. Dr. Mishra Umesh Chandrashekhar & Ors. ... Petitioners

Vs

1. The State of Maharashtra & Ors. ... Respondents

Ms. Vidya Bhosale i/b Mr. Jeevan P. Sharma for the Petitioner Nos.4, 7, 8 & 9.

Mr. Siddheshwar B. Kalel for the Petitioner Nos.1, 2, 3, 5, 6 and 10.

Ms. Sushma Bhende, AGP, for the Respondent No.1.

Mr. Arun Mishra for the Respondent No.2.

Mrs. Vrushali L. Maindad i/b Mr. Abhijeet A. Desai for the Respondent No.3.

**CORAM : S.C. DHARMADHIKARI &
G.S. PATEL, JJ.**

THURSDAY, 03RD MARCH, 2016

P.C. :

1. On the earlier occasion, we had extensively heard the arguments of both sides, but we noticed that one Mr. J.P. Sharma, advocate, was not engaged or not authorized to argue the Writ Petition by all the petitioners. The record indicated that he

appeared on behalf of such petitioners who have signed a Vakalatnama. That Vakalatnama had the signatures only of petitioner Nos.4, 7, 8 and 9. That is how this matter was placed yesterday for directions and only not to cause any injustice or give any occasion to any of the petitioners to complain that they are not given a hearing by this Court. Yesterday we noticed that Mr. Mishra appeared for the respondent No.2, Mr. Abhijit A. Desai appeared for respondent No.3 and Ms. Bhende appeared for the respondent No.1. However, the arguing advocate and stated to be not from Mumbai Mr. Jeevan Prakash Sharma was absent. That is how we requested Mr. Mishra to inform at least one of the petitioners so that when we list the matter today, that petitioner is able to appear either by himself or through an advocate.

2. This matter was placed in the morning session and at the request of all the petitioners, personally present in Court and identifying themselves, save and except one Dr. Krishnadas Rajendra Prasad Singh, petitioner No.3, who is stated to be hospitalized. However, even on his behalf Dr. Bhanupratap Ramgaya Bind - petitioner No.10 stated that he has been authorized by the said hospitalized doctor - petitioner No.3 to

make an appropriate statement.

3. Since petitioner Nos.4, 7, 8 and 9 in the morning session through their advocate requested for leave to withdraw the Writ Petition and submitted that no judgment be delivered by this Court, we permitted all those other than petitioner Nos.4, 7, 8 and 9 to make up their mind and make a statement as to whether they wish to withdraw the Writ Petition or otherwise. They stated that they have engaged an advocate now, but he is not ready and would require some time to peruse the papers and thereafter argue the matter.

4. However, we requested all the petitioners to keep their advocate present at 1:00 O'Clock and we would take up the matter again. Surprisingly, when the request was made by the petitioner Nos.4, 7, 8 and 9 for leave to withdraw the Writ Petition, one of them still was not satisfied and said that he would like to argue the petition at 1:00 O'Clock. When the matter was called out again, all the petitioners stated before us that they have given a deep thought and consideration to the matter and feel that instead of arguing the petition on merits and inviting

any adverse order, they would once again approach the Maharashtra Council of Homeopathy-respondent No.2 with fresh representations / applications and by relying upon the documents and proof of their appearance at a recognized college duly affiliated to an established University in the State of Bihar. Let the Maharashtra Council of Homeopathy - respondent No.2 consider these representations afresh and that appropriate orders therein in accordance with law but each one of them point that this should be done within a time frame. If this request of the petitioners is granted, each of them is ready and willing to withdraw the Writ Petition with liberty to approach the second respondent - Council as above.

5. We have considered this request coming from all of the petitioners. They claim to have completed the educational course and obtained a genuine degree so as to enable them to practice as Homeopathy doctors in the State of Maharashtra. However, they say that the Maharashtra Council of Homeopathy has passed an adverse order only because it was of the view that the course that they claim to have undertaken at the Dr. Babasaheb Ambedkar University in the State of Bihar State is not the recognized or

authorized course nor is the institution recognized or authorized one. Thus, this is not an approved course at an affiliated institution and the degree which is awarded by an established entity, namely, a University. However, the petitioners would produce the requisite proof and if it is so produced, the second respondent – Council will duly consider it and pass appropriate orders within a period of four months from the date of receipt of the representations / applications.

6. The petitioners state that they would make the representations / applications accompanied by the requisite documents and proofs within a period of two weeks from today. If each of the petitioners make such an application with the requisite documents accompanying them, then, the Council shall verify and scrutinize each of these applications and take the requisite steps in accordance with law within a period of four months from the date of receipt thereof.

7. We clarify that this is only a request from the petitioners which we have recorded and beyond that we were clearly disinclined to grant any relief on this petition, particularly in the

light of this Court's earlier orders and directions. However, since the petitioners prayed that they still have these proofs with them and if one opportunity is given, they could claim an equitable and discretionary relief from the Council that we have allowed them to withdraw the Writ Petition with liberty to approach the Council. Our order and direction does not mean that the Council must take a particular decision. It is free to act and in accordance with law.

8. The Writ Petition is dismissed as withdrawn. This order is passed in the presence of all the petitioners, except petitioner No.3 who also has authorized petitioner No.10 to make the request as above.

9. Let the Vakalatnama of the advocate now engaged by the petitioners be filed. However, in no way we allow the Vakalatnama of two advocates to remain on file.

G.S. PATEL, J.

S.C. DHARMADHIKARI, J.