

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3415/2016

Shri Ganesh Education Society, Yavatmal/Ekvira School of Nursing through its
Secretary, Daryapur, District : Amravati

...Versus...

Maharashtra Nursing Council, Mumbai – 400080 through its Registrar & anr.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.J. Shinde, Advocate for petitioner
Shri A.V. Khare, Advocate for respondents

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : 24.06.2016

By this petition, the petitioner – Shri Ganesh Education Society and Ekvira School of Nursing seek a direction to the respondent no.1 – Maharashtra Nursing Council to accept the on-line examination forms of the students of Ekvira School of Nursing, that is scheduled on 27.6.2016 and permit the students to appear at the examinations.

The petitioner – Society runs a Nursing School by name 'Ekvira School of Nursing' at Daryapur since 2009. The Nursing School has been recognized from year to year and the petitioner – Society was permitted to admit the students from year to year, till the year 2014-2015. It is the case of the petitioner that suddenly the respondent – Nursing Council has refused to accept the examination forms of the students for the 2015-2016 examinations, though the recognition and permission of the Institute to run the nursing course subsists for the year 2015-2016 also. It is stated that an irreparable

loss would be caused to the students of the Nursing School, as they have undertaken nursing education during the academic session 2015-2016. It is stated that without cancellation of permission to run the nursing course for the year 2015-2016, the respondent – Nursing Council cannot refuse to accept the examination forms of the students of the Nursing School. A direction is, therefore, sought against the respondent no.1 to permit the students to appear at the examinations commencing from 27.06.2016.

Shri Khare, the learned Counsel for the Nursing Council has supported the action on the part of the Nursing Council. It is stated that there are several deficiencies in the Nursing School and the Nursing Council has specifically conveyed about the said deficiencies to the petitioner - Society on 23.7.2015 after the Nursing Council resolved in its General Body meeting held on 22.7.2016 that the Institute should not permit the admissions of the students during the academic year 2015-2016. The learned Counsel relies upon the communication issued by the respondent no.1 – Nursing Council to the Principal of Ekvira School of Nursing, dated 23.7.2015 to substantiate the submission. It is stated that in view of the existence of deficiencies, the students could not have been admitted.

On hearing the learned Counsel for the parties, we find that the Nursing Council was not justified in refusing to accept the examination forms of the students in Ekvira Nursing School on the ground that permission was refused to the Management to admit the students during the academic year 2015-2016. We have minutely perused the communication, dated 23.6.2015, on which a great reliance has been placed by the learned Counsel for the Nursing Council. Though it is stated in paragraph no.2 of the said

communication that the Council had resolved in the General Body meeting held on 22.7.2015 that the Institution should not be permitted to admit the students in the nursing course for the academic year 2015-2016, ultimately, by the said document, the Council has merely asked the petitioner to show cause as to why permission to admit the students for the academic year 2015-2016 should not be refused, on the basis of the inspection reports. After the service of the aforesaid communication on the petitioner - Society, it was not conveyed by the Nursing Council to the petitioner - Society that for the academic year 2015-2016 they are not permitted to admit students and they should refrain from admitting students for the said academic year. In the absence of any such specific direction or order by the Nursing Council, the petitioner - Society was justified in admitting the students in the nursing course. Neither the Management nor the students could be blamed. If the deficiencies still exist, the Nursing Council is entitled to take an appropriate action against the petitioner - Society in the matter of admission of the students in the next academic session.

For the reasons aforesaid, we allow the writ petition. The respondent – Nursing Council is directed to accept the examination forms of the students of Ekvira Nursing School immediately and permit the students to appear at the examinations commencing from 27.06.2016.

Order accordingly. No order as to costs.

JUDGE

JUDGE