

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

WRIT PETITION NO.5951 OF 2015

(Dr. Vandanatai Dhone Nursing School vs. State of Maharashtra and others)

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

Shri P.S. Patil, Advocate for petitioner.

Shri A.V. Palshikar, Assistant Government Pleader for
respondents.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : SEPTEMBER 2, 2016

By this writ petition, the petitioner seeks a declaration that the petitioner can start RGNM (Nursing) Course from the academic session 2015-16 without the “no objection certificate” from the State Government.

Shri Palshikar, learned Assistant Government Pleader appearing on behalf of respondents, states that the writ petition is rendered infructuous as the only prayer made by the petitioner is for a declaration that the petitioner can start the Nursing Course from the academic session 2015-16. It is submitted that though the petitioner had received the permission from the Nursing Council to start the course in the academic session 2015-16, permission is not granted to the petitioner by the Nursing Council for starting the course in the academic session 2016-17. It is stated that there is no renewal of the permission that was granted earlier. It

is further stated that the petitioner has also not amended the writ petition and made a prayer for a declaration that the petitioner could start the Nursing Course in the academic session 2016-17.

Shri Patil, learned Counsel for the petitioner, states that the petitioner had applied for renewal of permission for the academic session 2016-17 and in pursuance of letter issued by the Nursing Council, the petitioner has deposited the fees for renewal of permission. It is, however, fairly stated that no order of renewal is granted in favour of the petitioner till date.

On hearing the learned Counsel for the parties, we find that the cause for filing the writ petition is rendered infructuous due to passage of time. Though we had issued notice to the respondents by our order dated 27/10/2015 and made it returnable after Diwali Vacations of 2015, the matter was not listed before this Court till 24/8/2016. No efforts whatsoever were made by the petitioner for seeking circulation of the matter, when circulation is granted easily. It appears that the petitioner was not diligent in prosecuting the writ petition. One year's time has lapsed from the filing of the petition and the only prayer made by the petitioner for a declaration that it could start the Nursing Course from the academic year 2015-16 without the "no objection certificate" from the State Government is rendered infructuous, as the academic session 2015-16 is already concluded.

As rightly submitted on behalf of the respondents, the writ petition is not amended. We also

do not find that the permission is granted by the Nursing Council to the petitioner to admit the students in the academic session 2016-17. In the absence of any permission from the Nursing Council and in the absence of amendment of the petition, the declaration that the petitioner could admit students in the academic session 2016-17 cannot be granted.

In the circumstances of the case, the petition is liable to be dismissed as infructuous. The petitioner Society is, however, free to file appropriate proceedings, if permission is granted by the Nursing Council to run the Nursing Course in the academic session 2016-17 and the admission process is still on. Otherwise, the petitioner would be entitled to file appropriate proceedings for admitting the students in the academic session 2017-18 as per the permission, if need be.

For the aforesaid reasons, the writ petition is disposed of with no order as to costs. The grounds raised in the writ petition are kept open.

JUDGE

JUDGE

khj

CERTIFICATE

I certify that this order uploaded is a true
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Kamal H. Jeswani
Private Secretary

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