

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 6849 OF 2017

Student Academic Education Society, Aurangabad's
Oyster Institute of Pharmacy
Gat No. 613, Golatgaon, Naginachi Wadi,
Near Karmad, Jalna Road,
Tq. & Dist. Aurangabad.
Through its President
Dr. Mandeetsingh Jaswantsingh Johar
Age: 41 years, Occu.: Teacher & President of
Oyster Institute of Pharmacy,
Presently residing at Aurangabad
Tq. & Dist. Aurangabad.

..PETITIONER

VERSUS

1. The All India Council for Technical Education,
Through its Regional Officer
Western Regional Office,
2nd Floor, V.N. Road,
Church Gate, Mumbai-20.
2. State of Maharashtra
Through the Secretary
Higher and Technical Education,
Mantralaya, Mumbai-32.
3. The Director of Technical Education
Maharashtra State,
2, Mahapalika Marg, Mumbai.
4. The Pharmacy Council of India
Through its Secretary.

..RESPONDENT

....

Mr. A.M. Karad, Advocate for petitioner.
Mr. S.V. Adwant, Advocate for Respondent No.1.
Mr. A.V. Deshmukh, A.G.P. for Respondent Nos. 2 and 3.

Mr. S.B. Deshpande, Advocate for Respondent No.4.

....

**CORAM : ANOOP V. MOHTA &
SUNIL K. KOTWAL, JJ
DATED : 27th JUNE, 2017**

ORAL JUDGMENT (Per: ANOOP V. MOHTA, J.):

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties.

2. Petitioner is an educational institution running Diploma in Pharmacy course based upon the permission granted by All India Council of Technical Education (“AICTE”) which is the supreme authority for starting any technical education course even within State of Maharashtra. Petitioner got AICTE approval in the year 2014-15 itself to establish pharmacy program for undergraduate students with intake capacity of 140 students. Respondent No.3 – Director of Technical Education in July 2015 restricted the intake to 100 students. Petition was filed in this Court and by order dated 14th July, 2015 petitioner was permitted to admit 120 students for the said course. Petition was disposed of on 04th August, 2015. Again for the academic year 2016-17 Respondent No.3 restricted the intake capacity to 100 students. Petitioner preferred another writ petition. Based upon order dated 27th March, 2016, the intake capacity retained to 120 students.

3. It was expected in view of the order passed by this Court and the approval granted by AICTE the intake capacity would be retained to 120 students. However, Respondent No.3 restricted again to 120 students by not publishing the number on the website of centralised admission process. Placing on record the judgments passed by this Court in similarly situated matters, noting the controversy about supremacy of AICTE and/or pharmacy. Respondent No.3 in its reply referred the guidelines received from Pharmacy Council dated 25th June, 2013 whereby it is informed to the State that admission of pharmacy council under the fee waiver scheme could be restricted to 100 students. This was the reason for government to restrict the number on website to 100, by again overlooking the earlier orders passed retaining it to 120 students as per AICTE approval. The Court's order in spite of above communication of pharmacy council, ought not to have been overlooked by Respondent No.3. The supremacy of AICTE and/or pharmacy council still pending in Supreme Court. But in view of orders passed by Supreme Court the importance is given to the AICTE throughout India including State of Maharashtra, we see there was no reason for Respondent No.3 to overlooking the same position and should have retain 120 students capacity as ordered by this Court from time to time.

4. Learned Counsel appearing for petitioner in support of the prayers has placed on record orders and judgments passed by this Court in Writ Petition Nos. 7706 of 2017 (Jijamata Shikshan Prasarak Mandal's, Kamlatai College of Architecture, Madadgaon Takli Kazi Tq. & Dist.Ahmednagar Vs. State of Maharashtra and Others), 7707 of 2017 (Shri Bhairavnath Nisarga Mandal's Diploma in Pharmacy College, At Post Alani, Taluka Osmanabad, District Osmanabad Vs. State of Maharashtra and Others) and 8199 of 2017 (Shreeyash Pratishthan's Shreeyash Institute of Pharmaceautical Education & Research Vs. The State of Maharashtra & ors.) whereby in similarly placed situations/issue with regard to the supremacy of AICTE and/or Pharmacy Council by giving importance to the orders passed by Supreme Court, as well as this Court, allowed the institutions to admit the students based upon the intake capacity provided/approved by AICTE. This case, in our view also falls within the ambit of above orders we have passed.

5. Therefore following order:-

O R D E R

- i) Writ petition is allowed in terms of prayer clause (B).
- ii) Petitioner to comply with all the formalities including payment, if any.
- iii) The Pharmacy Council to take inspection, if required,

within four weeks and the deficiency, if any to be removed by the petitioner at the earliest.

- iv) This order is subject to final order/directions of Hon'ble Supreme Court.
- v) This order is dictated in open Court in presence of all the parties, therefore, to avoid further complications and delay, the concerned respondents need not to wait for certified copy of this order and they should act forthwith.
- vi) Rule is made absolute accordingly. No costs.

(SUNIL K. KOTWAL, J.)

(ANOOP V. MOHTA, J.)

SSD