

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

**WRIT PETITION NO. 6540 OF 2015 WITH
CIVIL APPLICATION NO.8875 OF 2016 WITH
CIVIL APPLICATION NO.7776 OF 2017**

Shiva Trust's
Rajesh Bhaiyya Tope College of Pharmacy
at Nipani – Bhalgaon,
Beed By pass Road,
Tq. and District Aurangabad
Through its Principal,
Shri. Ganesh Gokuldas Tapadiya
Age 31 years, Occu. Service,
R/o Near Tara Pan Center,
Sadgulab Complex, Osmanpura,
Aurangabad, District Aurangabad ... **PETITIONER**

VERSUS

1. The State of Maharashtra
Through the Secretary,
Higher Technical Education and
Employment Department, Government of
Maharashtra, Mantralaya, Mumbai – 400 032
2. The Director of Technical Education,
Government of Maharashtra,
3, Mahapalika Marg, Mumbai-400 001.
3. The Maharashtra State Board of Technical Education
Government Polytechnic Building, Kherwadi
Bandra (East), Mumbai,
Through its Director.

(Copy of respondent No.1 to 3 to be
served on Govt. Pleader, High Court of
Bombay, Bench at Aurangabad)

4. All India Council for Technical Education,
7th Floor, Chandralok Building,
Janpath, New Delhi-110 001,
Through its Member Secretary,

5. The Pharmacy Council of India,
Through its Registrar Cum Secretary,
Combined Council Building, Kotala Road,
Ali Yavarjang Marg,
New Delhi-110 002.

... **RESPONDENTS**

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Shri.V.D.Hon Senior Counsel instructed by
Shri.A.V.Hon., Advocate for petitioner
Shri.A.V.Deshmukh, A.G.P. for respondent Nos.1 to 3
Shri.Bhushan Kulkarni, Advocate for respondent No.5
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CORAM: ANOOP V. MOHTA AND
SUNIL K. KOTWAL, JJ.

DATED: 23rd June, 2017.

ORAL JUDGMENT (Per Anoop V. Mohta, J.):

1. The petitioner's education trust/ institution has filed the present writ petition again as the respondents, specifically respondents No.2 and 5, denying the prayed intake capacity, in spite of orders passed by this Court from time to time since 2014-2015 till this date permitting the petitioner's college by retaining intake capacity to the First Year Diploma in Pharmacy based upon the AICTE order/ approval for the respective years, including the academic year 2017-2018. We have noted all those orders passed by this Court, dated 4/7/2014, 29/1/2015, 3/7/2015, 14/7/2015 and 27/6/2016. Therefore, there is no reason to discontinue the said position on facts, specifically when the AICTE being a supreme authority, has accorded sanction so

required including the intake capacity till this date.

2. This Bench, in Writ Petition No.6259/2017 (Shri Vile Parle Kelvani Mandal Vs. State of Maharashtra & others) and Writ Petition No.7706/2017 (Jijamata Shikshan Prasarak Mandal's Kamlatai College of Architecture Vs. State of Maharashtra & ors.), considering the scheme, purpose and object of AICTE and its supremacy including the order passed by the Hon'ble Supreme Court pending the issue of supremacy about AICTE and/or Pharmacy Council and subject to the Supreme Court decision, directed the respondents to grant affiliation/ permission to start college for academic year 2017-2018, as approved and sanctioned by AICTE. Therefore, for the same reason, and in view of above factual position on record, the writ petition is allowed to the following extent :

ORDER

(a) The Writ Petition is allowed. in terms of prayer clause (B), which reads as under :

(B) Issue a writ of certiorari or writ in the nature of certiorari to quash and set aside the communication dated 23/6/2015 (annexed at Exhibit H) issued by the

Director of Technical Education, Maharashtra State, Mumbai reducing the intake in the Pharmacy (Diploma) Course of the petitioner college from 180 seats to 60 seats from the academic year 2015-16 and also the communication dated 2/6/2016 for the academic year 2016-17 and impugned communication dated 5/6/2017 for the academic year 2017-18.

- (b) Respondent Nos.3 and 5 are directed to grant affiliation/ permission to petitioner to start college for the academic years 2014-2015, 2015-2016, 2016-2017 and 2017-2018, as approval/ sanctioned by the AICTE by order dated 30/4/2017 forthwith.
- (c) Petitioner needs to complete all formalities including payment of fees, if any, to the respondents.
- (d) The petitioner to comply with all the formalities and remove all defects, if any.
- (e) Respondent No.5 to have complete inspection, if necessary, within two weeks and deficiencies, if any, need to be removed at the earliest by the petitioner institution.

3. This order is subject to final order of the Supreme Court as the issue about the supremacy of AICTE over Pharmacy Council and/or Council for Architecture is still pending. Rule is made absolute in above terms.

4. Respondents also to intimate to the students about the pendency of the issue in the Court.

5. In view of disposal of the Writ Petition, Civil Applications No.8875/2016 and 7776/2017 stands disposed of.

6. The parties to act on the authenticated copy of this order.

(SUNIL K. KOTWAL)
JUDGE

(ANOOP V. MOHTA)
JUDGE

fmp/