

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

WRIT PETITION NO. 7707 OF 2017

Shri Bhairavnath Nisarga Mandal's
Diploma in Pharmacy College,
At Post Alani, Taluka Osmanabad,
District Osmanabad,
Through its Principal,
Shri. Suraj Bibhishan Nanaware,
Age : 39 years, Occu: Service,
R/o Alani, District Osmanabad

... **PETITIONER**

VERSUS

1. The State of Maharashtra
Through its 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-400001

(Copy of respondent No.1 and 2 to be
served on Govt. Pleader, High Court of
Bombay, Bench at Aurangabad)

3. All India Council for Technical Education,
7th Floor, Chandralok Building,
Janpath, New Delhi-110 001,
Through its Member Secretary.
4. The Pharmacy Council of India,
Through its Registrar Cum Secretary,
Combined Council Building, Kotala Road,
Ali Yavarjang Marg, New Delhi - 110 002.
5. Maharashtra State Board of Technical Education
49, Govt Polytechnic Building, Kherwadi
Bandra (East), Mumbai

... **RESPONDENTS**

Shri.D.S.Bagul, Advocate for petitioner
Shri.A.V.Deshmukh, A.G.P. for State
Shri.S.V.Adwant, Advocate for respondent No.3
Shri.Bhushan Kulkarni, Advocate for respondent No.4

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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 4, denying the intake capacity as prayed, in spite of orders passed by this Court from time to time since 2013-2014 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 19/7/2013, 1/7/2014, 30/6/2015 and 23/6/2016. 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) By way of appropriate writ, order or direction in the like nature, the impugned order dated 5/6/2017 (Exh.M) passed by the respondent No.2 in respect of variation made in the intake capacity of petitioner College for Pharmacy Course for the academic year 2017-2018, may kindly be quashed and set aside and the respondents be directed to allot the intake capacity approved by the AICTE for the academic year 2017-2018.

- (b) Respondent Nos.4 and 5 are directed to grant affiliation/ permission to petitioner to start college for the academic year 2017-2018, as approval/ sanctioned by the AICTE by order dated 30/3/2017 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.4 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. The parties to act on the authenticated copy of this order.

(SUNIL K. KOTWAL)
JUDGE

(ANOOP V. MOHTA)
JUDGE

fmp/