

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6755 OF 2016

Pratibha d/o Ramchandra Patil,
Age 34 years, Occu. Nil.,
R/o June Pedgaon Road, Parbhani,
Tq. & Dist. Parbhani.

...PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Medical Education & Drugs
Department, Mantralaya,
Mumbai 32
2. The Maharashtra University of Health
Sciences, Wani Road, Mhasrul,
Nashik, Dist. Nashik,
Through its Registrar.
3. The Principal,
P.D.Jain Homeopathic Medical
College and Hospital, Vakil Colony,
Parbhani 431 401
4. Association of Homeopathic Medical
College of Maharashtra
Through its Competent Authority
having its office at 268/70,
Chandres Bhawan, Ground Floor,
Room No.9, Sahid Bhagatsing Road,
Fort, Mumbai 400 001

...RESPONDENTS.

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Mr. Ingale Vivekanand V., Advocate for the petitioner.
Mrs. R.P.Gour, AGP for respondent State.
Mr. K.C.Sant, Advocate for respondent no.2.
Mr.H.I.Pathan, h/f Mr.Dama Prashant P., Advocate for
respondent no.3.
Mr. S.B.Bhosale, Advocate for respondent no.4.

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CORAM : R. M. BORDE & P.R. BORA, JJ.

Dated: March 16, 2017

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ORAL JUDGMENT : (*Per R.M.Borde*, J.)

1. Heard. Rule. Rule made returnable and heard forthwith with the consent of learned Counsel for the parties.

2. The petitioner is objecting to the communication issued by the Maharashtra University of Health Sciences on 24.7.2015, refusing to deliver the degree certificate in favour of the petitioner in view of pendency of Writ Petition No.5194/2011, presented by the College in this Court.

3. The petitioner has completed her Bachelor of Homeopathy degree course in the year 2007 and after completing graduation degree course, was admitted to the post graduate degree course. The petitioner has completed the Masters degree course in Summer 2015, and was declared to have passed. The University

authorities, however, have refused to issue degree certificate on account of pendency of the Writ Petition presented by the College. Writ Petition No.5194/2011 was presented by the College objecting to the communication issued by the Central Government insisting for conduct inspection of the facilities provided by the College under Section 13A in the Indian Medicine Central Council Act, 1970.

4. This Court, considering the issue raised by the institution, directed stay of the proposed action of the Central Government and permitted the institution to operate the degree and diploma courses in pursuance to the permission accorded by the Homeopathic Central Council as well as the concerned University. The Writ Petition presented by the institution, referred to above, is still pending for final disposal. In the interregnum, the petitioner has successfully completed the post graduate degree course.

5. It is not a matter of dispute that the respondent College is functioning since 2011 and is accorded continuation of affiliation by the Central Council of

Homeopathy, and the institution is also in receipt of the requisite permissions necessary for operating Homeopathic College. Since the petitioner has completed the post graduate degree course, merely on account of pendency of the petition presented by the institution, she cannot be denied the degree certificate by the University.

6. The impugned order passed by respondent no.2 University, withholding issuance of degree certificate on account of pendency of the writ petition presented by the institution, is irrational and illegal and deserves to be quashed and set aside. The impugned communication issued by the Maharashtra University of Health Sciences dated 24.7.2015 is quashed and set aside and respondent no.2 University is directed to issue a degree certificate to the petitioner forthwith.

Rule is accordingly made absolute. There shall be no order as to costs.

(P.R. BORA)
JUDGE

(R. M. BORDE)
JUDGE

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