

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 11666 OF 2016

Kaka Saheb Mhaske
Homoeopathic Medical College,
Hospital & Post Graduate Institute
Through its Principal
Dr. Toofan S/o Tapan Chakravorty,
Age : 41 Years,
Office Address : Mhaske College Road,
Nagpur, Ahmednagar. ..APPLICANT

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare,
Department of Ayurveda, Yoga & Naturopathy
And Homeopathy (AYUSH),
"B" Block, GOP Complex,
INA, New Delhi- 110023.
02. The Central Council of Homoeopathy,
Through its Secretary,
Ministry of Health and Family Welfare,
Jawaharlal Nehru Bhartiya Chikitsa Avum
Homoeopathy, Anusandan Bhavan,
No. 61-65, Institutional Area,
Opp. 'D' Block, Janakpuri,
New Delhi- 110058.
03. Maharashtra University of Health Sciences,
Through its Registrar, Nasik.

04. The State of Maharashtra.

05. The Competent Authority,
Through its Chairman- Pravesh Niyantran Samiti,
305, 3rd Floor, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg, Bandra(E)
Mumbai 400 051. ... RESPONDENTS

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Mr. Ambar S. Barlota, Advocate, for the Petitioner.

Mr.S.B.Deshpande, Asst. Solicitor General for Respondent-1

Mr. S.B. Bhosale, Advocate for Respondent No.2

Mr. A.V.Deshmukh, A.G.P for Respondent No.4

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CORAM : **S.V. GANGAPURWALA &
S.M. GAVANE ,JJ.**

DATE : 17th November, 2017.

ORAL JUDGMENT (S.V.GANGAPURWALA J.) :-

1. Heard learned counsel for the parties.

2. Rule. Rule made returnable forthwith. Heard finally
with the consent of learned counsel for the parties.

3. The petitioner assails communication dated 21.11. 2016
issued by the Under Secretary to the Government of India, Under
the said order, the petitioner- institution was not granted
permission for admitting under graduate (BHMS course) 100 UG
students and 18 students for the Post Graduate Course M.D.

(3)

(Homo) for the academic year 2016-2017. The petitioner was provided time upto 31.12.2016 to fulfill the shortcomings for grant of permission for allowing admissions in UG course 100 UG seats & M.D.(Homo) 18 seats from the academic year 2017-18.

4. The petitioner filed instant petition on 23rd November, 2016, assailing the said order.

5. This Court (Coram : R.M. Boarde and Sangitrao S. Patil JJ) on 25th November, 2016 permitted Central Government to cause inspection of the facilities and if any deficiencies are noticed, communicate such deficiencies to the petitioner- institution and extend an opportunity of hearing to the Institution and thereafter, submit its findings together with report of inspection to this Court within six weeks. The petitioner was allowed to provisionally admit students with certain conditions.

6. Pursuant to the order of this Court, on 23rd November, 2016, the Central Government, it appears that, directed the Central Council of Homoeopathy to carry out the inspection of the petitioner-institution. The Central Council of Homoeopathy carried the inspection of the petitioner- Institution on 3.1.2017 and submitted the report.

Remarks in the said reports are as under :-

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1. On the day of inspection OPD & IPD were Running.
2. On the day of inspection Number of Patients in OPD on 03.01.2017 up to 02 pm were 171.
3. On the day of inspection Number of Patients in IPD on 03.01.2017 up to 02 pm were 15.
4. On the day of inspection Staff in the Hospital was present in different wings.
5. On the day of inspection Teachers and Students were present in auditorium/seminar hall from which teachers were requested by the undersigned to let the students with the Inspector only for few minutes.
6. Rooms were ventilated and equipped with fans lights etc.
7. Hospital records statistics of OPD & IPD (UG & PG Both) as provided by the Principal have been attached of last 10 days.

7. The deficiencies noticed by the Central Government, upon which permission was not given to the petitioner to admit the students i.e. absence of the OPD and IPD patients, so also the requirement of staff seem to have been complied with. When the Central Government has caused inspection, the repair work was in progress and patients IPD were not admitted. The explanation given by the Institution, also seems to be reasonable at the relevant time.

8. We have heard the learned counsel for the petitioner, the

learned A.S.G for the Central Government and Mr. S.B. Bhosale, learned counsel for the CCH.

9. It appears that the petitioner institution is granted permission to run undergraduate BHMS course with strength of 50 students in the year 1990. The said capacity was enhanced to 100 student in the year 2001. The petitioner was also permitted to run post graduate course in the Homeopathy from the year 2001 with intake capacity of six students for each subject. The petitioner was allotted three P.G. subjects.

10. It is not disputed that the petitioner is running the said course since 1990 and was never denied the permission to admit the students for any year except the year 2016-2017. It is also accepted by all the parties that petitioner has been granted permission to admit students for academic year 2017-2018 also by the Respondent No.1 and has admitted students pursuant to the said permission granted to it. Only for intervening academic year 2016-2017, the petitioner was denied permission. Upon inspection being made as directed by this Court, it has been found that, no deficiencies exist. Petitioner has also admitted the students pursuant to the afore-referred order of this Court. Considering that all deficiencies have been removed and in fact even for the next academic year, the petitioner has been granted permission, it

(6)

would be appropriate for the Respondent No.1 to grant permission to the petitioner for academic year 2016-2017 also. We are passing this order as the Inspection of the petitioner-Institution was caused by the Central Government and no deficiencies are noticed in the said inspection report, and considering that for the next academic year 2017-2018, the Central Government has granted permission to the petitioner to admit the students.

11. In the light of above, impugned order/communication stands quashed and set-aside and Respondent No.1 shall grant permission to the petitioner for the academic year 2016-2017 as was granted in the previous year. The Writ Petition stands disposed of accordingly. No costs.

12. Rule made absolute in above terms.

13. In view of the disposal of the Writ Petition, Civil Application is also disposed of.

14. Parties to act on the authenticated copy of this order.

(S. M. GAVANE)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

YSK/