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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 9995 OF 2016**

D. Y. Paitl Education Society And Ors.Petitioner

V/S

State Of Maharashtra And Ors.Respondent

WITH**CIVIL APPLICATION IN WP NO. 2731 OF 2016****In****WRIT PETITION NO. 9995 OF 2016**

D. Y. Paitl Education Society And Ors.Applicant

V/S

State Of Maharashtra And Ors.Respondent

WITH**CIVIL APPLICATION IN WP NO. 2732 OF 2016****In****WRIT PETITION 10016 OF 2016**

D.y. Patil Vidhypeeth And AnrApplicant

V/S

State Of Maharashtra And OrsRespondent

WITH**WRIT PETITION NO. 13704 OF 2016**Pravara Institute Of Medical Sciences (deemed
University)Petitioner

V/S

The Union Of India Through The Under
Secretary, Govt. Of India, & Ors. ...Respondent**WITH****WRIT PETITION NO. 10016 OF 2016**

D.y. Patil Vidhypeeth And AnrPetitioner
V/S
State Of Maharashtra And OrsRespondent

**WITH
WRIT PETITION STAMP NO. 24700 OF 2016**

Mahatma Gandhi Missions Institute Of Health
Sciences And Anr.. ...Petitioner
V/S
The Union Of India And Ors.Respondent

Mr. Anil V. Anturkar, Sr. Adv.a/w Mr. Abhay Anturkar, Mr.
Ajinkya Udane, Rushikesh D. Barge, for the Petitioners in WP
No. 10016 of 2016 and WP No. 995 of 2016.

Mr. A.A. Kumbhakoni, Sr. Adv. a/w Mr. Akshay P. Shinde, Adv.
for Applicant in CAW No. 817/2017

Ranjitsingh R. Bhonsale, Adv. for Petitioner in WPL
No.24700/2016.

Mr. Ganesh Gole, for Respondent No.5.

Shri Vinayak Sr. Adv with Mr. Ajit, Adv. & Ashwin, Adv. for
Petitioner, in W.P. No.13704/2016.

Mr. Rui Rodrigues a/w Mr. Dushyant Kumar, for Respondent
No.4 in WP.9995/16 and WP.10016/16.

Mr. Rui Rodrigues, for Respondent No.6.

Mr. L.M. Acharya a/w Mr. V.N. Sagare, AGP, for State.

**CORAM : SHANTANU KEMKAR &
B.P. COLABAWALLA, JJ.
DATED : APRIL 18, 2017.**

P.C.

All these petitions involve common facts and question of law

and as such as agreed by the learned counsel for the parties, these petitions are being disposed of by this common order.

2. The admissions to Medical and Dental Colleges in the State of Maharashtra are regulated by 'Common Entrance Test (CET)' followed by 'an Admission Process' that is conducted on the basis of the merit list drawn on the basis of marks secured at the CET. In as much as the issue of conducting the CET is concerned, the same has now been settled by the Hon'ble Supreme Court whereby it is held that there will be only one CET on the basis of which such admissions are to be granted and that the same shall be the 'National Eligibility cum Entrance Test' (NEET). There is no dispute raised on this issue in the present Petition.

3. These petitions in short challenges not only the method and the manner of conducting 'the Admission Process' but also the competent authority which is to conduct 'the Admission Process' to be followed after the declaration of the results of the NEET

4. In as much as 'the Admission Process' to be followed after declaration of results of NEET is concerned, the Respondent State on 20th August, 2016 issued a Government Resolution directing that a Combined Counselling be held for grant of admissions for the Academic Year 2016-2017 to all Medical and Dental Colleges including the Deemed Universities. A copy of the same is annexed

to the present Petition at Exh. B. A notice was issued on 21st August, 2016 on the basis of the aforesaid Exh. B dated 20th August, 2016, by the Commissioner and Competent Authority in-charge of the admission process, for Deemed University Medical and dental Colleges in the State of Maharashtra. A copy of the same is annexed to the present Petition at Exh. C.

5. The petitioners who are the Deemed Universities have through these petitions also impugned the resolution dated 20th August, 2016 and the consequent notice dated 21st August, 2016.

6. Vide orders dated 29th/30th August, 2016 this court granted interim relief to the petitioners staying the aforesaid resolution dated 20th August, 2016 and the notice dated 21st August, 2016 by making it clear that the admissions as may be given by the petitioners will be subject to the conditions mentioned in the said interim order. Now it is no longer relevant to reiterate those conditions herein.

7. Aggrieved by the said impugned interim order, the State had filed Civil Appeal No.3835 of 2016. The Supreme Court vide its order dated 28th September, 2016 has disposed of the SLP. The relevant portion of the order passed by the Supreme Court reads thus :

“(i) The stay order granted by the High Court shall stand vacated and shall not continue for future years.

(ii) This, however, will not disturb the admissions already made by the respondent universities. This direction is given keeping in view that respondents are deemed universities.

(iii) Insofar as second or third counselling is concerned, that shall be a joint exercise which means that it shall be done by the Committee of the State Government which shall include one representative each from these universities. The respondent universities shall nominate their respective representatives forthwith. It would be a centralised counselling for all the deemed universities and not university-wise counselling. In the second or third counselling, students will be taken by making a combined list of those who got themselves registered with the State Government as well as the respondent universities. This shall ensure admission of those who are more meritorious but left out but are interested in taking admission in the respondent universities (as contended by Mr. Diwan). In this process, it will also be known as to which students are in fact interested in getting admission to the respondent universities.

(iv) In order to undertake the counselling, all the admission records of the respondent universities shall be handed over to the State Government/Committee forthwith.

(v) Since it may not be possible to complete the process of admission by September 30, 2016, we extend the time to complete the admission by October 7, 2016.

(vi) The appellant State as well as respondent universities shall ensure that all seats are filled and there is no vacant seat. We make it clear once again that the aforesaid directions are given in the peculiar situation that has arisen. We are reminded of the words of the Chief Justice Marshall that life of law is not logic but the experience. We also clarify that this order is passed in exercise of powers under Article 142 of the Constitution. Insofar as admission process of subsequent years is concerned, it shall depend upon the outcome of the central issue raised in the writ petitions."

8. In terms of the order passed by the Supreme Court, the matters were placed before the Division Bench of this Court on 12th January, 2017. On that date, on the basis of the submissions made by the learned Advocate General, the following order was passed :

“1. Learned Advocate General appearing for the Respondent-State submits that there is every likelihood that amendment will be made in the Maharashtra Act No.XXVIII of 2015. He, therefore, prayed to adjourn these matters as according to him in that eventuality, the petitions may not survive.

2. The prayer to adjourn the matter made by the learned Advocate General has not been opposed by the Writ Petitioners.

3. Learned counsel for the parties submit that Supreme Court of India though observed that the Writ Petitioners will not be allowed to withdraw the Writ Petitions but if the amendment as proposed in the said Act is made, the question which is required to be decided by this Court is as to whether the judgment passed by the Supreme Court in the Case of Modern Dental College and Research Centre & Ors. vs. State of Madhya Pradesh & Ors.¹ is applicable to the deemed universities having regard to the provisions of Maharashtra Act No.XXVIII of 2015 will become academic as it will not arise even in the next academic year.

4. Undisputedly, the next academic year will be started from August 2017. In the circumstances, and as prayed for by the learned Advocate General as also learned counsel appearing for the other parties, these petitions are adjourned.

5. List the petitions on 14th March, 2017 under the caption “for Direction”.

9. Thereafter the petition is placed today before this Court. We

have heard learned counsel appearing for all the parties to these petitions at some length.

10. There is no dispute that in pursuance of the aforesaid order passed by the Supreme Court, the admission process has been completed and the respective students are about to complete their first academic year. In the aforesaid order passed by the Supreme Court, it has been observed that having regard to the fact that the admission process in these petitions is of seminal importance and that it arises every year, this Court should decide the writ petitions on merits and would not allow the petitioners to withdraw the same.

11. However, pending the present petition, certain crucial developments have occurred that are summarized hereunder, which have a direct bearing on the continuation of further hearing of the petition itself as also its disposal on merits. Following are the developments occurred during the pendency of this petition :

(a) On 15th September, 2016, the Central Government issued certain direction under Section 20(1) of the UGC Act, 1956 in pursuance of which the UGC also issued a clarificatory letter dated 15th September, 2016. Consequently, the petitioner has amended the petition and impugned both the aforesaid communications dated 15th

September, 2016.

(b) On 10th March, 2017, Regulations namely 'Regulations on Graduate Medical Education (First Amendment), 2017' have been brought into force directing that there shall be 'a Common Counselling' for admissions to MBBS course in all medical educational institutions including the Deemed Universities on the basis of merit list of NEET.

12. During the course of hearing, it is revealed that in view of the aforesaid developments which have taken place during the pendency of the present petitions, the controversy as originally raised in the writ petitions, does not survive any more for the consideration of this Court. The learned Advocate General, learned Additional Solicitor General and the learned counsel for the MCI have not disputed this position and they in fact conceded that in the light of the aforesaid developments that have occurred during the pendency of these petitions, more particularly after the passing of the aforesaid order by the Supreme Court, specially in view of the Regulations on Graduate Medical Education (First Amendment), 2017 framed under the Indian Medical Council Act, 1956, various contentions raised in the writ petitions filed originally no longer survive for consideration and consequent

decision of this court.

13. Learned counsel for the petitioners submits that in case this court records this finding that in view of the subsequent developments these petitions no longer survive for consideration and consequent decision, liberty may be given to the petitioners to challenge the validity of the 15th September, 2016 directions issued by the Central Government under Section 20(1) of the UGC Act, 1956 as also the clarificatory letter dated 15th September, 2016 issued by the UGC and the regulations brought into force on 10th March, 2017 namely the Regulations on Graduate Medical Education (First Amendment), 2017.

14. Having considered the submissions made by the learned counsel for the parties, we find ourselves in agreement with the submissions made on behalf of the respondents that the question involved in the writ petitions no longer survive for consideration and these petitions can be disposed of with liberty to the writ petitioners to challenge the validity of the directions dated 15th September, 2016 issued by the Central Government and the UGC clarificatory letter dated 15th September, 2016 and the Regulations on Graduate Medical Education (First Amendment) 2017. In the circumstances, we accept the submissions made to this court by the respondents that these petitions have rendered infructuous.

15. Needless to say that inasmuch as the future admissions are concerned, the same will be governed by the amended Regulations, of course, subject to the result of the proceedings, if any and if at all, challenged by the petitioners in view of the aforesaid liberty or by any other party. It is also made clear that in view of the order passed by the Supreme Court, the admissions which have already been taken place, need not to be disturbed.

16. With the aforesaid directions, all the petitions stand disposed of as infructuous with liberty to the writ petitioners to challenge the validity of the directions dated 15th September, 2016 issued by the Central Government, UGC clarificatory letter dated 15th September, 2016 as also the Regulations on Graduate Medical Education (First Amendment) 2017.

(B.P. COLABAWALLA, J.)

(SHANTANU KEMKAR, J.)