

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

902 WRIT PETITION NO. 11846 OF 2018

PURVA KHANDESH KUSHTH SEVA MANDAL BHUSAWAL
AND ANOTHER
VERSUS
THE UNION OF INDIA AND OTHERS

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Mr. V.D.Hon (Senior Counsel) h/f Mr. A.V.Hon, Advocate for
Petitioner

Mr. S.W.Munde, AGP for Respondent-State

Mr. S.B.Deshpande, Advocate for Respondent No.1

Mr. Alok Sharma, Advocate for Respondent No.2

Mr. M.D.Narwadkar, ADvocate for Respondent No.3

Mr. K.C.Sant, Advocate for Respondent No.4

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**CORAM : R.M.BORDE AND
MANGESH S. PATIL, JJ.**

DATE : 25.10.2018

PER COURT :-

1. The petitioners / institution operates an ayurvedic college at Sakegaon, Taluka Bhusawal, District Jalgaon since 1989. The apex body having control over the educational institutions i.e. Central Council of Indian Medicine has inspected the petitioners / college in the year 2017 and was pleased to accord the recommendation for period of five years from 2017-18 which according to the petitioners expires in the

academic year 2021-22. According to the petitioners, in order to facilitate the AYUSH to grant approval for conducting the course during academic year 2018-19, the necessary information was uploaded on the web site. The petitioners contend that there is a compliance of all the parameters to the extent of 80 percent of the requirements. The committee appointed by the CCIM has inspected the college and during inspection, certain deficiencies were noticed. It is not necessary to go through the aspect of deficiencies noticed by the AYUSH and the compliance reported by the petitioners. However, the facts remains that Respondent No.1 refused to permit the petitioners to admit the students during the year 2018-19 on account of their failure to comply with certain deficiencies. The petitioners contend that there are no deficiencies in respect of the present academic year and as such in view of the policy adopted by the AYUSH, the petitioner / institution could have been granted conditional approval.

2. The petitioners have invited our attention to the notification issued by the respondent / Union of India on 07.11.2016 where under The Indian Medicine Central Council (Requirements of Minimum standard for under-Graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016 have been published. A note appended to Schedule IV and more particularly note 5 provides that for conditional permission, minimum 80 percent of the above hospitals staff shall be required. The petitioners contend that the institution has already admitted the hospital staff and has complied with the requirement provided under the regulation. It is also contended that whatever the deficiencies in respect of the infrastructural matters or as regards making provision for necessary equipments, those have also been removed. The petitioners further contend that in identical circumstances, the AYUSH has accorded conditional permission in favour of 197 institutions from August 2018 till 10.10.2018. The petitioners contend that a similar treatment ought to be extended to the institution and the claim of the institution for according

conditional permission for operating the Ayurvedic College during the academic year 2018-19, shall be accorded.

3. The counsel appearing for Respondent / Union of India / AYUSH contends that during the preceding year also the petitioner institution was granted conditional approval, however, the deficiencies those were pointed out, have not been yet removed. In view of this fact, the petitioner / institution is not entitled to claim any benefit. It is further contended that on removal of deficiencies, proper inspection would be conducted and thereafter appropriate decision would be taken in consonance with the relevant regulations. It is also further contended that the petitioner cannot claim any benefit of a decision of grant of conditional permission to 197 institutions which is founded on different considerations. At this stage of the proceedings, we do not propose to go into the correctness or otherwise of the decision of according conditional permission in favour of 197 institutions and we keep the issue open for

consideration. The petitioner further contends that the institution has removed the deficiencies and in view of the regulations framed by the respondent, since the deficiencies those have been removed are to the extent of more than 80 percent, the petitioners are entitled to be treated on par with the institutions which have been granted conditional permission. The Respondent / AYUSH shall consider this aspect and if it is noticed that petitioner / institution has complied with the deficiencies to the extent of 80 percent and more and is similarly placed as in the case of 197 institutions which have been accorded conditional permission, the Respondent / AYUSH may take appropriate decision as regards grant of conditional permission. Since the admission process initiated during the academic year 2018-19 is likely to come to an end on 31.10.2018, we direct the Respondent / AYUSH to take decision as expeditiously as possible preferably by 29.10.2018.

4. With the directions as above, the Writ Petition stands disposed of. It would be open for the petitioner

to appear before AYUSH on 26.10.2018 and present their case for consideration.

5. Parties to act upon an authenticated copy of this order.

(MANGESH S. PATIL, J.)

(R.M.BORDE, J.)

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