

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 4031 of 2019**

Shri Rawatpura Sarkar Lok Kalyan Trust, Through Its Secretary, Shri Alok Kumar Tiwari, S/o Late Shri Kailash Chandra Tiwari , Aged About 42 Years, Registered Office of Trust, Near Shadani Darbar, Village Dhaneri, Mana Camp. Civil & Revenue District Raipur, Chhattisgarh.

---- Petitioner**versus**

1. State of Chhattisgarh, Through Secretary, Department Of Health And Family Welfare And Medical Education, Mantralaya Mahanadi Bhawan, New Raipur, District Raipur, Chhattisgarh.
2. Chhattisgarh Nurses Registration Council Through Its Registrar, Old Nursing Hostel, Directorate Health Services, Raipur Chhattisgarh.
3. Pt. Deendayal Upadhyay Memorial Swasthya Vigyan Evam Ayush Vishvidyalaya, Naya Raipur, District Raipur Chhattisgarh.
4. Indian Nursing Council, Through Its Secretary, 8th Floor, NBCC Centre, Plot No. 2, Community Centre, Okhla, Phase 1, New Delhi, 110020.

---- Respondents

For Petitioner	:	Mr. Sunil Otwani and Mr. Amit Soni, Advocates
For Respondent-State	:	Mr. Jitendra Pali, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy
Order On Board

14.11.2019

1. Challenge in the present writ petition is to the order dated 25.10.2019 passed by respondent no.2.
2. The petitioner is a trust duly registered under the provisions of the Indian Trust Act having its registered office at Raipur district. The petitioner-trust is running a college namely Bilasa Institute of Nursing, Mission Hospital situated at Chatapara, Bilaspur. The said college is imparting Basic B.Sc. Nursing course. According to the petitioner-trust, they have all the requisite eligibility criteria so also the standards specified by the Indian Nursing Council for running and operating the said college. However, the Chhattisgarh Nurses Registration Council has now passed the impugned order (Annexure P-1) whereby the said college has been declared as "zero

intake capacity for Basic B.Sc. Nursing course for the academic session 2019-20". It is this action which is under challenge.

3. Contention of the counsel for the petitioner is that declaring of the said college as zero intake capacity for the academic session 2019-20 was without giving an opportunity of hearing before the impugned order was passed. Further contention is that the said college has been granted recognition by the Indian Nursing Council as well as Ayush University for the academic year 2019-2020 and the same is presumed to have been done on the basis of the college meeting all the standards and requirements under the Indian Nursing Council and therefore the order passed by the Chhattisgarh Nursing Registration Council declaring it as zero intake capacity for the academic session 2019-20 is bad in law, without authority and jurisdiction.
4. Counsel for the petitioner at the same time also submits that a show cause notice was issued to the petitioner's college by the Ayush University as early as on 27.9.2019 showing certain deficiencies in the institution. The petitioner's college in fact had submitted their detailed explanation/clarification before the University and had also appeared before the said Committee on 4.10.2019 specifically stating that they have met with all the deficiencies and have since removed the same, therefore, the petitioner's claim should be considered for being granted appropriate seats for Basic B.Sc. Nursing course. However, according to the counsel for the petitioner, thereafter, there has never been any further inspection by any of the respondents including the Chhattisgarh Nursing Registration Council, on the other hand the University has granted affiliation to the institution based

upon the submissions made by them on 4.10.2014 in respect of the deficiencies pointed out on a joint inspection by the High Powered Committee.

5. Counsel for the petitioner further submits that subsequently the respondents have passed certain orders whereby certain other institutions similarly placed who were initially declared as 'zero intake establishment' have been permitted to have their regular intake, which was permitted to them in the previous year, by granting amnesty to some institutions and with no amnesty for certain institutions. Counsel for the petitioner drew the attention of this Court in this regard to the order passed by the State Government on 25.10.2019 and also 30.10.2019.
6. Counsel appearing for the respondents submit that it is a case where on a joint inspection by a High Powered Committee, they found certain deficiencies of serious nature so far as infrastructure, staff, hospital and library facilities etc., available in the institution and therefore the authorities concerned have only passed an order that for the next academic session i.e. 2019-20 there would be a zero intake capacity for the said college. In the event, if the said college has rectified or met with all the deficiencies, the Council would be taking appropriate measures in due course.
7. Having heard the contentions put forth on either side and on perusal of the record, some of the undisputed facts in respect of the petitioner's college are that the college is a private educational institution which is in operation since quite sometime. They had all the recognition, affiliation and registration required for running of the institution. The petitioner, in the past, had all the requisite standards, specifications & requirements for running

B.Sc. Nursing course including infrastructure, staff pattern and hospital and laboratories facilities. The dispute revolves only around the academic session 2019-20.

8. Perusal of the record would show that an inspection was conducted at the petitioners' establishment by a High Powered Committee consisting of the members from Director Medical Education, the Ayush University and the Chhattisgarh Nurses Registration Council. Thereafter, the University on the basis of the recommendations made by the said High Powered Committee issued a show cause notice to the petitioner's college for appearing before the Committee on 4th October, 2019 along with their explanation/clarification in respect of the deficiencies pointed out against the institution. The petitioner is said to have appeared before the Committee on 4.10.2019 and categorically submitted their explanation/clarification in respect of each of the deficiencies. From the record of the writ petition, there does not seem to be any further development on the part of the respondents in either verifying the contents of the explanation/clarification or having reinspected the institution verifying the fact whether the deficiencies have in fact been cured/rectified or not. However, when the order was passed on 25.10.2019, the respondents have shown the petitioner as the institution having zero intake for the present academic year 2019-20 based upon the deficiencies pointed out by the High Powered Committee in the month of October, 2019.
9. From the submissions which have been made by the parties before this Court what is clearly reflected is that the intake capacity of the petitioner's college has been shown as zero purely based upon the High Powered Committee's recommendation in respect of the inspection that they had

conducted before issuance of the show cause notice dated 27.9.2019. There is no reference in the order by the respondents in respect of the explanation/clarification which the petitioner had submitted so far as meeting of the deficiencies are concerned. The respondents also have not taken note of the fact that the University itself has granted affiliation to the petitioner's institution. Once when the petitioner which is running the institution for quite sometime on inspection was found to be deficient of certain standards required and the petitioner was called upon to explain in respect of these deficiencies and the petitioner having entered appearance before the concerned Committee along with their detailed explanation/clarification in respect of the deficiencies, it was required from the respondents particularly the Chhattisgarh Nurses Registration Council to have verified the contents of the explanation/clarification and should have thereafter conducted a fresh inspection to verify the deficiency part and the explanation provided by the petitioner. At the same time, the respondents also at least should have issued a show cause notice to the petitioner highlighting what were the deficiencies which were still in existence before passing the order of zero intake capacity for 2019-20 academic session. It appears that the respondents in the instant case have abruptly passed an order taking the petitioner's college by surprise without giving them an opportunity of knowing as to what are the deficiencies which are still to be accomplished and what are still deficient as per the standards and as to which are those deficiencies which still need to be taken care of.

10. Given the said facts and circumstances of the case, this Court is of the opinion that the impugned order to the extent of declaring the petitioner's college as zero intake capacity for 2019-20 academic session

does not seem to be justified as it does not reflect the authorities having considered the explanation provided by the petitioner in respect of the show cause notice dated 27.9.2019 when they had appeared before the University authorities in respect of their affiliation.

11. Hence, let the Chhattisgarh Nurses Registration Council consider the explanation/clarification that the petitioner has submitted to the University on 4.10.2019 and after due verification of the fact, let a fresh order be passed. Considering the fact that counselling has already been started, it would be advisable to the Chhattisgarh Nurses Registration Council to take a prompt decision in the case of the petitioner. Let the petitioner appear before the Chhattisgarh Nurses Registration Council on 15th of November, 2019 and the Council is expected to take an appropriate decision afresh at the earliest before the counselling is concluded.

12. With the aforesaid observations, the writ petition stand disposed of.

**Sd/-
P. Sam Koshy
Judge**