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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 3993 of 2019**

Gayatri College Of Nursing, Dantewada Bacheli Road, Kumharaas, Dantewada (CG) Run By A Society Gayatri Educational Institute Of Technology, A Society Registered Under The Provisions Of The Societies Registrikaran Adhiniyam, 1973, Through Its Vice President H.S. Yadav S/o B.S. Yadav, Aged About 55 Years, R/o House No. 43, Bariyakala, Housing Board Colony, Raipur, Chhattisgarh

---- Petitioner**Versus**

1. Union Of India Through Its Secretary, Department Of Health And Family Welfare, 348 'A' Wing, Nirman Bhawan, New Delhi
2. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur, Chhattisgarh
3. Indian Nursing Council Through Its Registrar-Cum-Secretary, 8th Floor, NBCC Center, Plot No. 2 Community Center, Okhla Phase I, New Delhi
4. Director Medical Education, Indrawati Bhawan, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur, Chhattisgarh
5. Deendayal Upadhyay Memorial Health Science And The Ayush University Of Chhattisgarh Through Its Registrar, Great Eastern Road, Amanaka, Raipur, Chhattisgarh
6. Chhattisgarh Nurses Registration Council Through Its Registrar, Old Nurses Hostel, Directorate Of Health Services, Raipur, Chhattisgarh

---- Respondents

Writ Petition (C) No. 4000 of 2019

Gayatri Institute Of Nursing, Jagdalpur Donghata, Shiv Mandir Ward, Raipur Road, Jagdalpur, Chhattisgarh, Run By A Society Gayatri Educational Institute Of Technology, A Society Registered Under The Provisions Of The Societies Registrikaran Adhiniyam, 1973, Through Its Vice President H.S. Yadav S/o B.S. Yadav, Aged About 55 Years, R/o House No.43, Bariyakala, Housing Board Colony, Raipur, Chhattisgarh

---- Petitioner

Versus

1. Union Of India Through Its Secretary, Department Of Health And Family Welfare, 348 'A' Wing, Nirman Bhawan, New Delhi.
2. State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare, Mahanadi Mantralaya, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur, Chhattisgarh
3. Indian Nursing Council Through Its Registrar-Cum-Secretary, 8th Floor, NBCC Center, Plot No.2 Community Center, Okhla Phase 1, New Delhi.
4. Director, Medical Education, Indrawati Bhawan, Naya Raipur, Atal Nagar, Post Office And Police Station Naya Raipur, Atal Nagar, District Raipur, Chhattisgarh
5. Deendayal Upadhyay Memorial Health Science And The Ayush University Of Chhattisgarh Through Its Registrar, Great Eastern Road, Amanaka, Raipur, Chhattisgarh
6. Chhattisgarh Nurses Registration Council Through Its Registrar, Old Nurses Hostel, Directorate Of Health Services, Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Malay Shrivastava, Advocate
For Union of India	:	Mr. Krishna Gopal Yadav on behalf of Mr. B. Gopa Kumar, Advocate
For State	:	Mr. Jitendra Pali & Mr. Chandresh Shrivastava, Dy. Advocate General
For Ayush University:		Mr. Ajay Kumar Dwivedi, Advocate

Writ Petition (C) No. 4014 of 2019

Disha Institute Of Medical Sciences Satya - Vihar, Vidhansabha - Chandrakhuri Marg, Raipur Chhattisgarh 492101 (Owned And Managed By Disha Education Society Through Secretary, Dr. Anil Kumar Tiwari, Sevr Aged 50 Years S/o Mr. P.C. Tiwari R/o 9, Nirmal Kunj, Pandri, Raipur, Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through Secretary, Health And Family Welfare Department, Mahanadi Bhawan, Mantralaya, Capital Complex, New Raipur, District Raipur, Chhattisgarh
2. Chhattisgarh Nurses Registration Council, Old Nurses Hostel, Director Health Services, Raipur, Chhattisgarh
3. Director Medical Education, Old Nurses Hostel, DKS Bhawan Compound, Raipur, Chhattisgarh
4. Pt. Deendayal Upadhyay Memorial Health Science And Ayush University Of Chhattisgarh Through Its Registrar, Raipur, District Raipur, Chhattisgarh
5. Indian Nursing Council Through Its Secretary, Indian Nursing Council, 8th Floor, NBCC Center, Plot No. 2, Community Center Okhla, Phase - 1, New Delhi

---- Respondents

For Petitioner	:	Mr. Kshitij Sharma, Advocate
For Union of India	:	Mr. Krishna Gopal Yadav on behalf of Mr. B. Gopa Kumar, Advocate
For State	:	Mr. Jitendra Pali & Mr. Chandresh Shrivastava, Dy. Advocate General
For Ayush University:	:	Mr. Ajay Kumar Dwivedi, Advocate

WPC No. 4037 of 2019

Lovekush Institute Of Nursing Gurukul College Parisar (Mahua Tikra) Pathalgaon, District Jashpur, Chhattisgarh Run By 'Lovekush Educational Institute Of Technology' Registered Under The Society Registration Act 1973, Through The Vice President 'Lovekush Educational Institute Of Technology' Registered Office H. No - 28, Block-10, Sector-2, Kashiram Nagar, Raipur, District Raipur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary To The Government Of Chhattisgarh, Department Of Medical Education, Mahanadi Bhawan, Atal Nagar, Police Station Rakhi, Raipur, Chhattisgarh
2. The Director, Directorate Of Medical Education, Old Nursing Hostel, Mantralaya Campus, Raipur, District Raipur, Chhattisgarh, 492001
3. Pt Deendayal Upadhyay Memorial Health Sciences And Ayush University Through The Registrar, Pt Deendayal Upadhyay Memorial Health Sciences And Ayush University, GE Road - Raipur, District Raipur, Chhattisgarh
4. Chhattisgarh Nurses Registration Council Through The Registrar, Chhattisgarh Nurses Registration Council, Old Nurses Hostel Directorate Health Services Raipur, Chhattisgarh

5. Indian Nursing Council Through Registrar, Indian Nursing Council, 8th Floor, NBCC Centre, Plot No 2, Community Centre, Okhla Phase-1, New Delhi- 110020.

---- Respondents

For Petitioner	:	Mr. Anurag Dayal Shrivastava, Advocate
For Union of India	:	Mr. Krishna Gopal Yadav on behalf of Mr. B. Gopa Kumar, Advocate
For State	:	Mr. Jitendra Pali & Mr. Chandresh Shrivastava, Dy. Advocate General
For Ayush University:		Mr. Ajay Kumar Dwivedi, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

11.11.2019

1. Since the challenges in all these writ petitions are of similar nature and same action is under challenge and the respondents also being same, all the writ petitions are disposed of by this common order.
2. The facts of the case are that all these petitioners are private institutions imparting various courses and one such course is B.Sc. Nursing Course. The petitioners have been imparting B. Sc. Nursing courses for quite sometime now. According to the petitioners, they have all the requisite eligibility criteria so also the standards specified by the Indian Nursing Council for running and operating the college. However, the Chhattisgarh Nurses Registration Council have now passed an order in October, 2019 whereby the petitioners have been declared "zero intake capacity for B. Sc. Nursing courses for 2019-2020. It is this action which is under challenge.
3. The contention of the counsel for the petitioners is that declaring of the petitioners as zero intake capacity for 2019-2020 academic session was without giving an opportunity of hearing before the said order was passed.

The second ground of challenge is that the petitioners have 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 petitioners meeting all the standards and requirements under the Indian Nursing Council and therefore the order passed by the Chhattisgarh Nursing Registration Council declaring the petitioners as zero intake capacity for 2019-2020 is bad in law, without authority and jurisdiction.

4. Counsel for the petitioners at the same time also submits that a show cause notice was issued to the petitioners by the Ayush University as early as on 27.09.2019 showing certain deficiencies in respect of each of the institutions. The petitioners in fact had submitted their detailed explanation/clarification before the University and had also appeared before the said Committee on 04.10.2019 specifically stating that they have met with all the deficiencies and have since removed the same, therefore the petitioners' claim should be considered for being granted appropriate seats for B.Sc. Nursing course. However, according to the petitioners, 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 all the petitioners based upon the submissions made by the petitioners on 04.10.2014 in respect of the deficiencies pointed out on a joint inspection by the High Powered Committee.
5. Counsel for the petitioners further submits that subsequently, the respondents have passed certain orders whereby certain other institutions

similarly placed who were initially declared of zero intake establishment have been permitted to have the 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 petitioners drew the attention of the Court in this regard to the order passed by the State Govt. 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 each of the institutions and therefore the authorities concerned have only passed an order that for the next academic session i.e. 2019-20 there would be zero intake capacity for the petitioners. In the event if the petitioners have 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 each of the petitioners are that they are private educational institutions which are in operation since quite sometime. The petitioners had all the recognition, affiliation and registration required for running of the institution. The petitioners, 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 2019-2020.
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 petitioners for appearing before the Committee on 4th October, 2019 along with their explanation/clarification in respect of the deficiencies pointed out against each of the petitioners. All the petitioners are said to have appeared before the Committee on 04.10.2019 and categorically submitted their explanation/clarification in respect of each of the deficiencies. From the record of the writ petitions 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 institutions 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 petitioners as the institutions having zero intake for the present academic year 2019-2020 based upon the deficiencies pointed out by the High Powered Committee in 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 petitioners has been shown as zero purely based upon the High Powered Committee recommendation in respect of the inspection that they had conducted before issuance of the show cause notice dated 27.09.2019. There is no reference in the order by the respondents in respect of the explanation/clarification which the petitioners 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

petitioners as is reflected from Annexure P-5 enclosed along with WPC No. 4014/2019. Once when the petitioners which are running the institutions for quite sometime on inspection were found to be deficient of certain standards required and the petitioners were called upon to explain upon in respect of these deficiencies and the petitioners 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 petitioners in each of the cases. At the same time, the respondents also at least should have issued a show cause notice to the petitioners highlighting what were the deficiencies which were still in existence before passing the order of zero intake capacity for 2019-2020 academic session. It appears that the respondents in the instant case have abruptly passed an order taking the petitioners by surprise without giving them an opportunity of knowing as to what are the deficiencies which are still to be accomplish 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 petitioners as zero intake capacity for 2019-2020 academic session does not seem to be justified as it does not reflect the authorities having considered the explanation provided by the petitioners in respect of the show cause notice dated 27.09.2019 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 petitioners have submitted to the University on 04.10.2019 and after due verification of the fact, let a fresh order be passed. Considering the fact that the counselling has already started, it would be advisable that the Chhattisgarh Nurses Registration Council take a prompt decision in the case of each of the petitioners. Let the petitioners appear before the Chhattisgarh Nurses Registration Council on 14th 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 observation, all the four writ petitions stand disposed of.

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