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**HIGH COURT OF CHHATTISGARH, BILASPUR****WPC No. 4067 of 2019**

1. Margdarshan Sansthan College Of Nursinhg (Through Its Secretary, Manvendra Pratab Singh, S/o M.P. Singh, Aged 50 Years) Shri Sarveshwari Nagar, Post Baikunthpur, Tehsil: Baikunthpur, District : Koriya (Baikunthpur), 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, District : Raipur, Chhattisgarh
3. Director Medical Education Old Nurses Hostel, DKS Bhawan Compound, Raipur, District : 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****WPC No. 4054 of 2019**

1. College Of Nursing, Meduka, Village Meduka, Post Darri, Pendra Road Bilaspur Chhattisgarh Through Its Authorized Signatory Ajay Jaiswal, Aged 42 Years, S/o Shri Awadhram Jaiswal, R/o Village Meduka, Post Darri, Tahsil-Pendra Road, District : Bilaspur, 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, District : Raipur, Chhattisgarh
3. Director Medical Education Old Nurses Hostel, DKS Bhawan Compound, Raipur, District : 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, District : New Delhi, Delhi

---- Respondents

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| For Petitioner       | : | Mr. Kshitij Sharma, Advocate                                        |
| For State            | : | Mr. Jitendra Pali & Mr. Chandresh Chrivastava, Dy. Advocate General |
| For Ayush University | : | Mr. Ajay Kumar Dwivedi, Advocate                                    |

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**Hon'ble Shri Justice P. Sam Koshy**

**Order On Board**

**13.11.2019**

1. Since the challenges in both the writ petitions are of similar nature and same action is under challenge and the respondents also being same, both the writ petitions are disposed of by this common order.

2. The facts of the case are that both 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 4<sup>th</sup> 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 14<sup>th</sup> 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, both the writ petitions stand disposed off.
- 13.** Certified copy today.

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