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

WRIT PETITION NO. 3063 OF 2019

Shiva Trust's
Yashwantrao Chavan Ayurvedic Medical
College and Hospital, Aurangabad
Having its office at 3rd floor, Sonia Chambers
Near 7 Hills over bridge, Jalna Road,
Aurangabad, District Aurangabad
Through its Principal
Dr. Vaijinath Manikrao Yadav
Age 46 years, Occ.Service
R/o Divya Drushti Apartments
Devlai Chowk, Beed Bypass Road
Aurangabad, District Aurangabad

..PETITIONER

VERSUS

1. The State of Maharashtra
Through the Secretary for
Medical Education and Drugs Department
Mantralaya, Mumbai
2. The Admission Regulatory Authority
Maharashtra State
305, Government Polytechnic Building
Kherwadi, Bandra (East)
Mumbai
Through its Secretary
3. The Maharashtra University of Health Science
Mhasrul, Dindori Road, Nasik
District Nasik
Through its Registrar

..RESPONDENTS

Mr V. D. Hon, Senior Advocate, instructed by Mr A. V. Hon, Advocate
for Petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent No.1
Mr S. G. Karlekar, Advocate for respondent No.2
Mr K. M. Suryawanshi, Advocate for respondent No.3

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**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ.**

DATE : 27th March, 2019

ORAL ORDER:

On 11th January, 2019, respondent No. 2 authority had taken a decision as regards regularising the admissions of students given by the petitioner institute in B.A.M.S course from the list meant for MH-CET candidates. Considering the irregularity, respondent No.2 authority directed the petitioner trust to pay fine of Rs.50,000/- per student against each irregularly admitted student so as to regularise the admission of said students.

2. The said subject again came up for consideration before respondent No.2, pursuant to an order dated 11th December, 2018 passed in Writ Petition No.10007 of 2016. The authority had maintained its earlier order of payment of Rs.50,000/- as against each admission which was irregularly carried out to B.A.M.S. course.

3. The petitioner society is aggrieved by the said decision.

4. Learned Senior Counsel for the petitioner submits that as against the intake of 100 students for the relevant year, only 98

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admissions were given as 2 admissions out of 100 were cancelled for reason of not holding basic qualification. According to him, apart from exorbitant fine of Rs.50,000/-, the order of payment of Rs.50,000/- against each irregular admission can be restricted to only 27 students. He submits that the calculation of 27/29 students by respondent No.2 authority is without any basis. He would then urge that so as to show *bona fides*, the petitioner trust has already deposited an amount of Rs.5,00,000/- in this Court and the said amount be adjusted against the total amount to which respondent No.2 will be entitled for towards regularization of admission against each irregular admission. Learned Senior Counsel further submits that difference in amount other than Rs.5,00,000/- + interest accrued will be deposited for total 21 students within a period of four weeks from today.

4. While countering the aforesaid submissions, Mr Karlekar learned Counsel, for respondent No.2 would urge that once respondent No.2 authority has applied its mind and has reached to a conclusion that an amount of Rs.50,000/- needs to be paid by the petitioner for regularization of each irregular admission, there are no justifiable reasons to either reduce the amount or upset the said order. He would submit that the petitioner is liable to pay the amount as against 27 irregular admissions carried out by the petitioner trust.

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5. Having appreciated the submissions, what can be noticed is, the issue as regards payment of Rs.50,000/- as against each irregular admission, does not warrant any interference as same does not appear to be arbitrary. The parties are unable to reach at a consensus as regards the number of irregular admissions, as according to the petitioner the same would not exceed 21 students, whereas according to respondent No.2 same is 27.

6. In the backdrop of above, it will not be inappropriate to go into the issue of calculation under our extra-ordinary jurisdiction. However, we cannot keep the petitioner remediless in the given situation.

7. In the aforesaid back ground, it will be appropriate in our opinion to dispose of the present petition by directing the petitioner to deposit an amount of Rs.13,50,000/- with respondent No.2 authority within a period of four weeks from today as against 27 irregular admissions as is claimed by respondent No.2. Needless to clarify, the amount of Rs.5,00,000/- deposited in this Court, together with interest accrued thereon, can be adjusted against the said amount of Rs.13,50,000/- and respondent No.2 authority will be a liberty to withdraw the same from this Court.

8. At this stage, learned Senior Counsel for the petitioner undertakes to deposit the amount as observed herein-above. As the statement is made on instructions, the same is accepted as an undertaking.

9. In the aforesaid backdrop, the result of the students, which is withheld by the respondents authorities, be declared forthwith so as to enable the students to take out further steps for pursuing their further studies.

10. The petitioner shall within two weeks from today submit his written notes along with relevant documents justifying the figure of 21 irregular admissions. Respondent No.2 shall hear the petitioner and reach to a conclusion as to whether the claim of the petitioner of 21 irregular admissions is justified and record a specific finding on the issue of number of irregular admissions viz. 21 or more.

11. In case if respondent No.2 authority is of the opinion that irregular admissions are less than 27, the authority shall refund the proportionate amount to the petitioner within a period of two weeks from the date of such order.

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With above observations, the petition stands partly allowed.

(NITIN W. SAMBRE, J.)

(PRASANNA B. VARALE, J.)

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