

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

**WRIT PETITION NO. 4326 OF 2019
WITH
CA/12457/2019 IN WP/4326/2019**

**ANJALI SUNILRAO MORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Thombre S. S.
AGP for Respondents No. 1 & 2 :
Mrs. G. L. Deshpande
Advocate for Respondent No. 3 : Mr. Alok Sharma
Advocate for Respondents No. 4 & 6 :
Mr. K. C. Sant

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WRIT PETITION NO.5520 OF 2019

**VAIBHAV SUBHASHRAO SABLE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Thombre S. S.
AGP for Respondents No. 1 & 2 :
Mrs. G. L. Deshpande
Advocate for Respondent No. 3 : Mr. Alok Sharma
Advocate for Respondents No. 4 :
Ms. Chaudhari Vaishali S.

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**WRIT PETITION NO.5053 OF 2019
WITH
CA/12690/2019 IN WP/5053/2019**

**PARESH PRAKASH HIRE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Kulkarni Mukul S.
AGP for Respondents No. 1 & 2 :
Mrs. G. L. Deshpande
Advocate for Respondent No. 3 : Mr. Alok Sharma
Advocate for Respondents No. 4 & 5 :
Mr. K. C. Sant
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**WRIT PETITION NO.4386 OF 2019
WITH
CA/12454/2019 IN WP/4386/2019**

SURENDRA ULHAS FEDUJWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Thombre S. S.
AGP for Respondents No. 1 & 2 :
Mr. S. B. Narwade
Advocate for Respondent No. 3 : Mr. Alok Sharma
Advocate for Respondents No. 4 & 10:
Mr. K. C. Sant
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**CORAM: S. V. GANGAPURWALA &
AVINASH G. GHAROTE, JJ.**

DATE: 20th NOVEMBER, 2019

PER COURT:

1. The petitioners in these writ petitions are given admission to first year BDS course in the year 2008-2009 and 2009-2010. All these petitioners have passed first year BDS course within a period of three years. They are refrained from appearing in the examination on the ground

that they have not cleared the BDS course within nine years. Reliance is placed on the amended Regulations 2015 which reads thus-

"Any student who does not clear the BDS Course in all the subjects within a period of 9 years, including one year Compulsory Rotatory paid internship from the date of admission shall be discharged from the course."

Further, in the year – 2017, following partial modification is made -

"In partial modification of DCI's Revised BDS Course (7th Amendment) Regulations, 2015 approved by GOI letters dated 27.01.2015 & 25.02.2015 and notified in the Official Gazette on 27.04.2015, the following proviso is here by added:-

Provided these regulations shall also applicable to the students admitted in BDS Course in any Dental Institutions from the academic session 2008-09 onwards but has not clear their 1st year BDS Course within a period of 3 years from the date of admission."

Pending approval of the Central Government for inserting the said proviso, the respective Hon'ble Court wherever the issue is pending be approved of this position and also that during pendency of the approval of GOI, this Council would have no objection if the students affected by 7th Amendment are allowed / permitted to continue their course in their respective Dental College but subject to approval of Central Government.

The University has refrained these petitioners from appearing in the examination.

2. We have heard the learned counsel for the petitioners and the respondents.

3. The only question that would arise for consideration is that whether the amended Regulations 2015 notified in the official gazette on 23.05.2015 would apply to the petitioners in the facts of the present case.

4. As observed above, all these petitioners have passed first year within the prescribed three years.

5. This Court in case of ***Bhakti Manojkumar Gaggad Vs. State of Maharashtra and others*** reported in ***2018 (5) Mh.L.J. 365*** to which one of us (S. V. Gangapurwala, J.) was a party has observed thus-

"33. It is axiomatic that, the students who have completed first year BDS within a period of less than three years before introduction of amendment dt.27-4-2015, would not be further subjected to new condition that the entire course will have to be completed by them within nine years. DCI in communication

dt.28-4-2017 has rightly clarified that, the students who have fulfilled earlier condition will not be subjected to fulfil another condition."

6. It has been categorically held by us that those students who have completed first year BDS course within a period of less than three years before introduction of amendment dated 27.04.2015 would not be further subjected to new condition that the entire course will have to be completed by them within nine years.

7. In light of the above, these petitioners would be governed by the regulations as was operating at the time they had taken the admission.

8 In the light of that, the impugned communications are quashed and set aside. In case the petitioners are otherwise eligible, they shall not be refrained from prosecuting further studies including the internship. The respondents would not refuse to accept the examination form only on

the ground that the petitioners have not completed the course within nine years.

9. Writ Petitions stand disposed of accordingly.
No costs.

10. In view of disposal of the writ petitions, the civil applications also stand disposed of.

[AVINASH G. GHAROTE, J.] [S. V. GANGAPURWALA, J.]

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