

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

WRIT PETITION NO. 5377 OF 2014

Bhairavnath Nisarga Mandal's
Diploma in Pharmacy College,
At Post Alani, District Osmanabad.
Through its Principal.

Petitioner.

Versus

1. State of Maharashtra
Through its Secretary,
Higher Technical Education and
Employment Department,
Government of Maharashtra,
Mantralaya, Mumbai.
2. Director of Technical Education
Government of Maharashtra,
3, Mahapalika Marg, Mumbai.
3. All India Council for Technical
Education, 7th Floor, Chandralok
Building, Janpath, New Delhi
Through its Member Secretary.
4. Pharmacy Council of India,
Through its Registrar cum Secretary,
Combined Council Building,
Kotala Road, Ali Yavarjang Marg,
New Delhi.

Respondents.

WITH
WRIT PETITION NO. 5367 OF 2014

Shri Dhaneshwari Manav Vikas Mandal
Diploma in Pharmacy Institute,
At Post Georai Tanda, Taluka and
District Aurangabad.
Through its Principal.

Petitioner.

Versus

1. State of Maharashtra
Through its Secretary,
Higher Technical Education and
Employment Department,
Government of Maharashtra,
Mantralaya, Mumbai.
2. Director of Technical Education
Government of Maharashtra,
3, Mahapalika Marg, Mumbai.
3. All India Council for Technical
Education, 7th Floor, Chandralok
Building, Janpath, New Delhi
Through its Member Secretary.
4. Pharmacy Council of India,
Through its Registrar cum Secretary,
Combined Council Building,
Kotala Road, Ali Yavarjang Marg,
New Delhi.

Respondents.

Mr. D.S.Bagul, Advocate for the petitioners in both petitions.
Mr. R.B. Bagul, A.G.P. for the State/respondent Nos.1 and 2.
Mr. S.V. Adwant, Advocate for respondent No.3.
Mr. Alok Sharma, Advocate for respondent No.4.

CORAM : **T.V. NALAWADE AND
SUNIL K. KOTWAL, JJ.**

Dated : **9 January 2019.**

ORAL JUDGMENT :-

. Both sides are heard after issuing Rule and making the Rule absolute forthwith.

2. Learned Counsel for the petitioners produced on record copies of the decisions given by this Court in **Writ Petition No.4917 of 2014 (Shripur Education Society & another Vs. State of Maharashtra and others)** and **Writ Petition No.4650 of 2014 (Nagaon Education Society's Institute of Pharmacy Vs. State of Maharashtra and others)**. He has also produced on record a copy of the order made by Apex Court in I.A. No.2/2015 in **Writ Petition (Civil) No.372/2014 (Indira Bahuudeshiya Shikshan Sanstha Vs. Pharmacy Council of India and others)**.

3. It appears that in view of the order made by this Court and also the Apex Court in the proceedings, as there was dispute in respect of intake capacity, as for the year 2014-2015 the

Director of Technical Education had approved intake capacity of petitioner Institution to make 60 students, when the intake capacity was approved by AICTE to admit 120 students.

4. The reasoning given for allowing the first Petition by this Court can be found at Para-3 to 7 and it is as under :-

3. The dispute is about the intake capacity of the students of the petitioner College.
4. The AICTE has granted permission to the petitioner Institution for admitting 120 students for diploma in Pharmacy for the year 2014-15. However, the Director of Technical Education had restricted the intake capacity of the petitioner to 60 students.
5. This Court vide order dated 18.6.2014 had allowed the petitioner to admit 120 students, considering the interim order passed by the Apex Court in SLP (Civil) No.7277/2014 dated 9.5.2014.
6. It is submitted that even for the academic year 2015-16, the Apex Court has passed interim order permitting AICTE to grant extension of approval. The said academic year 2014-15 has come to an end. The interim order passed by the Apex Court is still in force.
7. In light of the above, the Writ Petition is allowed in terms of the interim orders passed. No costs.

5. For the reasons stated above, the present Petitions need to be allowed. So, the present Petitions are allowed. The relief is granted subject to condition mentioned by the Apex Court

in the order that no equity is created and the relief granted for provisional admission only, is liable to be cancelled.

6. Learned Counsel for the petitioners produced on record copy of order made by Apex Court in **Civil Appeal No.6938/2015 (Orissa Technical Colleges Association Vs. AICTE and others)** and submitted that the Apex Court has made it clear that AICTE can publish requisite approval process handbook. This order is also of interim nature and so the order made by this Court in the present matter will be subject to the decision of the Apex Court.

7. In those terms, both the Petitions are allowed and disposed of. Rule is made absolute in those terms.

(**SUNIL K. KOTWAL**)
JUDGE

(**T.V. NALAWADE**)
JUDGE

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