

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

CIVIL WRIT PETITION NO. 11608 OF 2017

Gandhi Natha Rangji Homoeopathic
Medical College, Solapur

.. Petitioner

Vs.

Union of India and Ors.

.. Respondents

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Mr. Atharva Dandekar i/b Yogita Singh Advocate for Petitioner
Mr. A.R. Varma a./w Y.R. Mishra for Respondent No.1 -UOI
Mr. Abhijit Desai i/b Desai Legal for Respondent No.2
Mr. Mayur Jadhav i/b S.B. Shetye for Respondent No.3
Mr. K.S. Thorat for Respondent No.4

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**CORAM : PRADEEP NANDRAJOG, C.J. &
SMT. BHARATI DANGRE, J.**

DATED : AUGUST 27, 2019

P.C.

1. Regretfully counter affidavit has not been filed to the writ petition till date.

2. We are disposing of the writ petition because the facts which we would be noting warrants the writ petition to be disposed of passing suitable directions.

3. At the outset it may be stated that pursuant to the interim order dated 3rd November 2017 the respondents have granted petitioner the necessary permissions to admit students for the B.H.M.S. Course 2017-18.

4. The petitioner desired permission from the Central Council of Homeopathy to admit students at the Institute established by it in District Solapur. As per the Homeopathy Central Council (Minimum Standard Requirements of Homeopathy Colleges and attached Hospitals) Regulations, 2013 fee along with documents was submitted.

5. The inspection team constituted by the Council visited the premises at Solapur on 14th July 2017. The petitioner was informed to appear before the hearing committee and of the six deficiencies opined by the inspecting committee and in respect of which the petitioner's response was considered, four deficiencies were found to be non-existing and the adverse conclusion pertained to only two. The said two became the foundation of the impugned order dated 19th

September 2017 declining the permission.

6. The impugned order has noted the six alleged deficiencies together with the submissions of the applicant followed by the observations of the hearing committee and the final order. Since we are concerned with only two out of six, we note the same. They read as under:

Sr. No.	Deficiency conveyed	Submission of the applicant	Observation of the hearing committee	Remarks of the Ministry
1.	College has 16 full time and 8 guest faculty as against the required 24 full time teaching faculty and 8 guest faculties. 01 post of Professor/Reader is vacant in Dept. of Repertory. 01 post each of Lecturer is vacant in Dept. of Anatomy, Physiology Organon of Medicine, Pharmacy, FMT, Practice of medicine and Community medicine.	The college representative disagreed with CCH visitation report. The college representatives said that they have 23 full time and 8 guest faculties as against required 24 full time teaching faculties and 8 guest faculty as per HCC (MSR). 01 post of Prof/Reader is vacant in the department of Repertory other posts are filled and approved by Maharashtra University of	The college representatives were claiming in hearing that they have 23 full time & 8 guest faculties as against required 24 full time teaching faculties and 8 guest faculty as per HCC (MSR). The visitation team found 16 full times and 8 guest faculties on the date of inspection. Documents submitted by the representative on hearing in regarding joining, experience, affiliation or	Does not fulfill the criteria as per the HCC (MSR), 2013.

		Health of Sciences, Nasik (Annexure 1 page 1-199)	approval from MUHS, Nasik, of 23 full time faculties are incomplete. So, they are not fulfilling the requirement as per MSR. The college should be inspected by surprise visit to verify the faculties.	
6.	There is shortage of equipments / instruments in various departments of the college.	The college representatives agreed that they had deficiency of Auto analyser at the time of visitation: Now they have purchased a Semi Auto-analyser on dated 23.08.2017. The college representative said that the following equipments / instruments are also available- 1. One ECG machine since 21.8.2013 2. One Centrifuge (medium speed superior quality since 21.8.2013. 3. Five Glucometer	The college purchased a Semi Auto Analyser on dated 23.08.2017, they were claiming to have 01 ECG Machine since 21.08.2013, 01 Centrifuge since 27.03.2013, 01 High Speed Centrifuge since, 05.12.2013, 01 Refrigerator since 27.03.2014, 25 crucible with tongs since 29.06.2013, 2 Glass apparatus for filtration with vaccum since 23.08.2017, 01 thin layer chromatography apparatus since 23.09.2013, 05 Percolator since 23.08.2017, 01 Hot air Oven	Does not fulfill the criteria as per the HCC (MSR), 2013.

		since 29.06.2013. 4. Twenty five Crucibe with tongs since 29.06.2013. 5. One thin layer chromatograph y apparatus since 23.09.2013. 6. One hot air oven since 28.11.2013. 7. One High speed centrifuge since 05.12.2013. 8. One Regrigerator since 27.03.2014. 9. Two Glass apparatus for filtration with vaccum 23.08.2017. 10. Five percolator since 23.08.2017. Macerator is not available. According to college representative, it is under purchase process. Purchase order has been placed. Therefore, there is no	since 28.11.2013. These equipments need to be physically verified. Macerator is not available till date. 3 equipments were purchased after the CCH visitation.	
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		<i>shortage of instruments. (Annexure 6 page 450-483).</i>		
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7. Pertaining to the second deficiency suffice would it be to state that the response of the petitioner was noted by the hearing committee and since it related to a matter of fact concerning shortage of equipments and instruments the petitioner wrote that after the inspection was over it had purchased the equipment and for which we find that the hearing committee itself recorded that whether or not said equipment was purchased required physical verification. It was thus the duty of the committee to have caused a re-verification / inspection to be conducted. Alternatively the petitioner could have been called upon to submit bills, invoices etc. to show the purchases made.

8. As regards the first deficiency the requirement was to have 24 full time and 8 guest faculties. As per the report the college had only 16 full time and 8 guest faculties. As per the inspection report one post of Professor/Reader was vacant in the department of repertory and one post of lecturer was vacant in the departments of Anatomy, Physiology Organon, Pharmacy and Community Medicines. The response was that 23 full time and 8 guests faculties were recruited and except for

one post of Professor/Reader (admitted to be vacant in the department of repertory) others were filled up with approval from the Maharashtra University of Health Sciences Nasik. The observation of the hearing committee is that when the inspection was done only 16 full time and 8 guest faculty members were present.

9. It hardly needs to be brought out by us that merely because a person is not physically present in a building does not mean that he is not an employee of the Institute. Strangely the observations of the hearing committee are also to the effect that experience documents of 23 full time faculties were incomplete. This is an admission that 23 full time faculty was shown in the record of the petitioner as having been appointed with the approval of MUHS, Nasik.

10. Thus we dispose of the petition directing the Council to reinspect the premises of the petitioner and physically verify whether the claim of the petitioner qua the equipment is correct. If equipment is found, the second of the two deficiencies which hit the petitioner would be removed and as regards the first, we would recommend the petitioner to ensure the physical presence of all the faculty members, be it full time or guests, to be present when the re-inspection would be done

and for which, at least two weeks prior intimation shall be given to the petitioner by the Council so that on date of the inspection the petitioner can ensure physical presence of the entire faculty.

11. The admissions made pursuant to the interim order, would not be disturbed.

SMT. BHARATI DANGRE, J.

CHIEF JUSTICE