

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 3 of 2020**

1. Gayatri Institute of Nursing, Jagdalpur Through Its Director H.S. Yadav, Aged About 53 Years, Shiv Mandir, Ward No. 3, Nayapul, Panarapara, Dongaghat, Raipur Road Jagdalpur, (Bastar) Chhattisgarh, Pin 494001

**---- Petitioner****Versus**

1. State of Chhattisgarh Through Secretary, Department of Health And Family Welfare, Mahanadi Bhawan, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
2. Secretary, Indian Nursing Council, Combined Council Building, Kotla Road, Temple Lane, New Delhi - 02
3. Director, Directorate Medical Education, Old Nurses Hostel, D.K.S. Bhawan, Campus, Raipur, District : Raipur, Chhattisgarh
4. Registrar, Chhattisgarh Nurses Registration Council, Old Nurses Hostel, Directorate Health Services, Old Nurses Hostel, D.K.S. Bhawan, Campus, Raipur Chhattisgarh

**---Respondents**

|                |   |                                |
|----------------|---|--------------------------------|
| For Petitioner | : | Mr. Vipin Tiwari, Advocate     |
| For State      | : | Mr. Ayaz Naved, Govt. Advocate |

**Hon'ble Shri Justice P. Sam Koshy****Order on Board****07.01.2020**

1. The challenge in the present Writ Petition is to the impugned order Annexure P-1 dated 13.12.2019, whereby the Respondent No. 3 and 4 have passed an order holding the petitioner's college to be a zero year for the B.Sc. Nursing Course for the academic session 2019-20.
2. It is relevant at this juncture to mention that the present is the second round of litigation, the earlier round of litigation was WPC No. 3993 of

2019 and other connected writ petitions, which were analogously heard and disposed-off on 11.11.2019. This Court while disposing-off the said writ petitions had in its operative part held as under:

“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 an appropriate decision afresh at the earliest before the counselling is concluded.”

3. Pursuant to which the petitioners had appeared before the respondents and the impugned order has been passed on 13.12.2019 declaring the petitioner's establishment as zero year for the B.Sc Nursing Course for the academic session 2019-20.
4. The solitary challenge to the impugned order is to the competency of the Respondent No. 3 in issuing the said order. According to the counsel for the petitioner, the body which could decide the intake capacity of the college is the Respondent No.2, not the Respondent No. 3 and 4 as per the Indian Nursing Council Act, 1947.
5. A plain perusal of the impugned order would reveal that the petitioner's establishment has been subjected to physical verification and the impugned order reflects the item-wise deficiencies found in the

petitioner's establishment, so far as non-availability of infrastructure and the teaching staff, as also the deficiencies in the laboratory and the laboratory equipments and also the hospital facilities that is required.

6. In the entire writ petition, the petitioner has not been able to rebut the said findings given by the Respondent No. 3 and 4 nor is any justification given, so far as availability of the infrastructure and deficiencies as alleged in the impugned order. The petitioners were banking upon the competency of the Respondent No. 3 and 4 in issuance of the impugned order. What has to be seen is that in the first round of litigation, this Court had specifically directed the petitioner to approach the Respondent No. 4 i.e., Chhattisgarh Nurses Registration Council, so far as issue of determining the intake capacity is concerned. What also has to be seen is that even on the earlier round of litigation, the order under challenge was that, which was passed by the Chhattisgarh Nurses Registration Council, which had in October, 2019 held the petitioner's establishment to be as zero intake capacity.
7. Once when this Court had directed the Respondent No. 3 and 4 for taking an appropriate decision in the case of the petitioners, after due consideration of the submissions that the petitioner had submitted, the issue of competency of the authorities now cannot be permitted to be raised by petitioner. What is more relevant and paramount to be considered is the facilities that are available at the petitioner's institution for running the B.Sc Nursing Course for the next academic session 2020-21. The petitioner has not been able to give any documentary evidence nor any pleadings to establish that the finding given by the Respondent No. 3 and 4 in the impugned order Annexure P-1 to be materially wrong and incorrect. Neither has the petitioner enclosed with

the petition proof so far as the availability of the infrastructure as required is concerned, which has been found to be insufficient by the respondents.

8. Given the said facts this Court does not find any strong case made-out by the petitioner calling for an interference with the impugned order Annexure P-1 at this juncture.
9. The reluctance of this Court in not entertaining the petition would not preclude the petitioner from approaching the respondents, after removal of the deficiencies which has been pointed out in Annexure P-1 and would also not preclude the petitioner in approaching the respondents on their justifying the minimum standards which are required as per the requirement of Indian Nursing Council for the B.Sc Nursing Course is concerned.
10. With the aforesaid observations, the present Writ Petition fails and is accordingly rejected.

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