

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.3286 OF 2020

(Almughani Education Society, Wardha Vs. State of Maharashtra & ors.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.P. Bhandarkar, Advocate along with Ms. S.A. Lakhani,
Advocate for the petitioner.
Shri N.R. Patil, Assistant Government Pleader for
respondent Nos.1 and 2.

CORAM:- A.S. CHANDURKAR AND G.A.SANAP, JJ.
DATED :- DECEMBER 21, 2021.

Despite service of notice for final disposal of the writ petition issued on 21/12/2020, there is no appearance on behalf of respondent Nos.3 and 4. One opportunity was granted to them by the order dated 16/12/2021 but they have not availed of the same.

2. We have heard the learned counsel for the petitioner and the learned Assistant Government Pleader for respondent Nos.1 and 2. The petitioner-Society claims to impart training to nursing students. The respondent No.1 on 23/09/2011 issued an Essentiality Certificate to the petitioner for starting General Nursing & Midwifery (GNM) School at its institution with intake capacity of 20 students. On 30/06/2020, the petitioner issued a communication to the respondent No.3 seeking permission to conduct the General Nursing & Midwifery (GNM) School for the academic year

Corrected as per Court's
order dated 23/12/2021.

2020-2021 by paying inspection fees of Rs.25,000/-. It appears that on 31/07/2020, the petitioner was informed by the respondent No.4 that from the Essentiality Certificate of 2011 it was not clear that the society was affiliated to the Maharashtra State Board of Nursing and Paramedical Education. It was further noted that the Nursing school was closed since 2011 and hence it would not be possible to grant affiliation to it. According to the petitioner-Society this communication has been issued without inspecting the facilities available at the institute and hence being aggrieved, the said communication has been challenged.

3. Attention is invited to Section 28 of the Maharashtra State Board of Nursing and Paramedical Education Act, 2013 (for short the 'said Act') where under while seeking permission to open any institution an application has to be made to the Board to enable it to conduct an inspection after receiving payment fees within the prescribed period.

4. As per the impugned communication dated 31/07/2020, the respondent No.4 has found the nursing school is closed since 2011. In this backdrop, the petitioner seeks to apply under Section 28 of the said Act.

5. In the aforesaid facts, the petitioner is permitted to take recourse to provisions of Section 28 of the said Act for moving a fresh application and seeking inspection of its institute in accordance with the requirements therein. It is informed that the last date for

admitting students for the Academic Session 2021-22 is 31/12/2021. If the petitioner makes such application under Section 28(1) of the said act and the same can be considered for Academic Session 2021-2022 as per the regulations applicable and provisions of the said Act the respondent Nos.3 and 4 shall consider the same in accordance with law and take an appropriate decision on the same. While doing so the observations made by the respondent No.4 in the communication dated 31/07/2020 shall not come in the way of the petitioner and the application for permission shall be considered afresh in accordance with law.

6. It is made clear that if it is permissible under the Rules the respondent Nos.3 and 4 may take into account the fact that inspection fees were deposited as per communication dated 30/06/2020 but such inspection was not carried out. If permissible, the inspection fees already paid could be considered while making fresh inspection.

7. With this direction the writ petition is disposed of. No costs.

(G.A. SANAP, J.)

(A.S. CHANDURKAR, J.)

**DB*