

WPA 23413 of 2022

**Bhagawan Prasad Nursing Institute
vs.
The State of West Bengal & Ors.**

Mr. Sambhunath De
....for the petitioner

Mr. Nilotpal Chatterjee
....for the Indian Nursing Council

The facts involved in this writ petition are not disputed by the parties before this Court. The writ petitioner is a nursing institution for general nursing and midwifery ("GNM" in short) Course.

The institution has obtained the Essentiality Certificate from the Director of Health Services, West Bengal for the said course and it has also permission from West Bengal Nursing Council for the said purpose.

The institution also has affiliation with the West Bengal University of Health Sciences.

It is the grievance of the writ petitioner that for the academic year 2022-23, its name has not been included by the State in the Seat Matrix for G.N.M. Course.

Section 10 of the Indian Nursing Council Act, 1947 provides for recognition of qualifications. The said Section is quoted below:-

"10. Recognition of qualifications:-

(1) For the purposes of this Act, the qualifications included in 15[Part I of] the Schedule shall be recognised qualifications, and the qualifications included in Part II of the Schedule shall be recognised higher qualifications.

(2) Any authority within the States 16 [***] which, being recognised by the State Government 17 [in consultation with the State Council, if any] for the purpose of granting any qualification, grants a qualification in general nursing, midwifery, 18 [auxiliary nursing midwifery], health visiting or public health nursing, not included in the Schedule may apply to the Council to have such qualification recognised, and the Council may declare that such qualification, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act.

(3) The Council may enter into negotiations with any authority 19 [in any 20 [territory of India to which this Act does not extend] or foreign country] which by the law of 21 [such territory] or country is entrusted with the maintenance of a register of nurses, midwives or health visitors, for the settling of a scheme of reciprocity for the recognition of qualifications, and in pursuance of any such scheme the Council may declare that a qualification granted by any authority in any 22 [such

territory] or country, or such qualification only when granted after a specified date, shall be a recognised qualification for the purposes of this Act:

Provided that no declaration shall be made under this sub-section in respect of any qualification unless by the law and practice 23 [of the foreign country] in which the qualification is granted persons domiciled or originating 24 [in India] and holding qualifications recognised under this Act are permitted to enter and practice the nursing profession 25 [in that country]

Provided further that -

(i) any reciprocal arrangements subsisting at the date of the commencement of this Act between a State Council and any authority outside India for the recognition of qualifications shall, unless the Council decides otherwise, continue in force, and

(ii) any qualification granted by an authority in a territory of India to which this Act did not extend at the date of its commencement, and recognised on the said date by the State Council of a State to which this Act then extended, shall continue to be a recognised qualification for the purpose of registration in that State.]

(4) The provisions of sub-sections (2) and (3) and of sections 14 and 15 shall apply mutatis mutandis to the declaration by the Council of a

qualification granted in respect of post-certificate nursing training as a recognised higher qualification.”

A bare perusal of Section 10 does not indicate that it speaks of recognition of the training institutions for B.Sc. (Nursing) Course and G.N.M. Course. It speaks of recognition of qualifications included in Part-I and Part-II of the schedule to the said Act. The Schedule to the said Act, in fact, recognises the certificates, diplomas or degrees in Nursing issued by the authorities mentioned therein.

The said Schedule makes it clear that a training institution needs not to be recognised in terms of Section 10 of the Indian Nursing Council Act, 1947.

In this case, the institution has already applied for inspection and deposited the required fees before the Indian Nursing Council but the Council has not yet inspected the said institution. The Nursing Council is, therefore, directed to carry out necessary inspection in terms of Section 13 of the Indian Nursing Council Act, 1947 as expeditiously as possible.

The Indian Nursing Council in its affidavit filed in connection with WPA 11494 of 2022 (Gitanjali Foundation vs. The State of West Bengal & Ors.), however, has clarified its stand with regard to the inclusion of the training institutions in the Seat Matrix. It will be useful to quote the

relevant paragraphs of the affidavit affirmed on behalf of the Indian Nursing Council.

“3. That this Hon’ble Court, vide solemn order dated 03.08.2022, had directed the answering Respondent to clarify whether the Petitioner institutions should be allowed to be included in the seat matrix for the joint entrance test for nursing, para medical and allied sciences undergraduate exam, 2022. It is stated that in terms of Section 13 and 14 of the Indian Nursing Council Act, 1947, the Council had conducted the inspection of the said institutions. That certain deficiencies pertaining to inadequate clinical facilities and teaching faculty were found. It is submitted that the colleges are well aware of the minimum standards prescribed by the Council in the syllabus of each course. Despite this, serious deficiencies such as low bed occupancy were found in the parent hospital of the Petitioner institute. The said deficiencies were also communicated to the college. However, instead of rectifying the deficiencies, the Petitioner has approached this Hon’ble Court. The process as provided under Section 13 and 14 has still not concluded.

It is clarified that in terms of the aforesaid sections, the compliance report is examined in detail. Thereafter, only the action as provided under Section 14

of the INC Act is invoked against the defaulting institution, if required. Till date the Council has not initiated any action as provided under Section 14 of the INC Act in the present case. In other words, no declaration has been passed yet under Section 14 which provides any person holding a recognised qualification whose period of training and study preparatory to the grant to him of the qualification was passed at the institution which does not satisfy the requirements of the Indian Nursing Council in terms of Section 14(1)(b) shall be entitled to be registered only in the State in which the institution is situated.

4. That the state authority being the competent authority to grant recognition/permission to a college is entitled to reject such permission or prevent any college to take admission, in order to maintain the standards of education. It is stated that a state authority, for granting permission, may impose any condition, in accordance with their rules and regulations, to ensure that all the colleges are maintaining the minimum standards as required under the relevant laws. In the present case the rules and regulations of the Council does not provide that a college cannot participate in the counselling till the suitability certificate is issued by the Indian Nursing Council.”

The Indian Nursing Council has, therefore, made it clear that pending consideration of the suitability of the training institution does not stand in the way of inclusion of their names in the Seat Matrix for the relevant academic year until and unless an appropriate order is passed under Section 14 of the Indian Nursing Council Act, 1947.

Therefore, I find no reason not to include the writ petitioner in the Seat Matrix for the academic year 2022-23.

Accordingly, I direct the State to include the name of the writ petitioner in the Seat Matrix for the G.N.M. Course for the academic year 2022-23. It will be allowed to participate in the ongoing counselling process for the said academic year.

With the aforesaid observations, the writ petition is disposed of.

Parties shall act upon the server copy of this order downloaded from the official website of this Court.

(Kausik Chanda, J.)