

IN THE HIGH COURT OF ORISSA AT CUTTACK

**W.A. Nos. 286, 285, 287, 288, 289, 290, 291, 292, 293, 294, 295, 312,
320, 331, 332, 348, 350, 351 of 2012 and W.A. No.7 of 2013
RVWPET Nos. 157, 158 & 159 of 2012**

***Secretary, Orissa Nurses and Midwives Appellants
Examination Board, Khurda
(In W.A. Nos. 286, 285, 287, 288, 289,
290, 291, 292, 293, 294, 295 and 348 of
2012)***

Mr. Rajani Ch. Mohanty, Advocate

-versus-

***AISECT Junior Nursing School,
Deogarh and another
(In W.A. No.286 of 2012)
Tulsi ANM Training Center and
another
(In W.A. No.285 of 2012)
Moorshead Memorial Christian
Hospital Trust (MMCHT) ANM
Training Centre and another
(In W.A. No.287 of 2012)
Satyanarayan ANM Training School
and another
(In W.A. No.288 of 2012)
Netaji ANM Training Center and
another
(In W.A. No.289 of 2012)
Pramila Devi School of Nursing and
another
(In W.A. No.290 of 2012)
Tarini School of Nursing and another
(In W.A. No.291 of 2012)
SIEMS School of Nursing and another
(In W.A. No.292 of 2012)
Kalinga School of Nursing and another
(In W.A. No.293 of 2012)
Choudwar School of Nursing and
another
(In W.A. No.294 of 2012)***

Respondents

***Sashiprava School of Nursing and
another***

(In W.A. No.295 of 2012)

Arun Panda and another

(In W.A. No.348 of 2012)

Mr. Aurovinda Mohanty, Advocate
For Indian Nursing Council

Indian Nursing Council

(In 312, 331, 332, 350 & 351 of 2012)

.... ***Appellants***

Mr. Aurovinda Mohanty, Advocate

-versus-

Tulsi ANM Training Centre and others

(In W.A. No.312 of 2012)

***AISECT Junior Nursing School and
others***

(In W.A. No.331 of 2012)

***Satyanarayan ANM Training School
and others***

(In W.A. No.332 of 2012)

SIEMS School of Nursing and others

(In W.A. No.350 of 2012)

Tarini School of Nursing and others

(In W.A. No.351 of 2012)

Respondents

None

Tarini School of Nursing

(In W.A. No.320 of 2012)

.... ***Appellant***

None

-versus-

Secretary, Orissa Nurses and Midwives

Examination Board and others

Respondents

Mr. Rajani Ch. Mohanty, Advocate
Mr. Aurovinda Mohanty, Advocate

Bhagabat Sahoo
(In W.A. No.7 of 2013)

....

Appellant

None

-versus-

State of Orissa and others

....

Respondents

Mr. Rajani Ch. Mohanty, Advocate

Mr. Aurovinda Mohanty, Advocate

Tarini School of Nursing
(In RVWPET No.157 of 2012)

....

Petitioners

Sunil Kumar Agrawalla
(In RVWPET No.158 of 2012)

SIEMS School of Nursing
(In RVWPET No.159 of 2012)

None

-versus-

**Director, Medical Education &
Training and another**

....

Opposite Parties

Mr. Aurovinda Mohanty, Advocate

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
10.10.2022

Order No.

22. 1. The batch of writ appeals filed by the Orissa Nurses and Midwives Examination Board (ONMEB), represented by its Secretary, and by the Indian Nursing Council (INC), are directed against the common judgment dated 27th July 2012, passed by the learned Single Judge in a batch of writ petitions filed by a various Nursing Schools whose students were not permitted by the

Appellants to take the final exam on the ground that those institutions were not recognized by the INC.

2. By the impugned order, the learned Single Judge of this Court, while disposing of the writ petitions, directed the ONMEB to hold an examination within a period of one month and further directed that the students who would emerge successful in the said examination should be issued certificates and registration numbers.

3. On 12th September 2012, this Court, while issuing notice in the present batch of writ appeals, stayed the operative portion of the impugned judgment. That stay order has been continuing for over ten years now.

4. An affidavit was filed by Respondent No.1 in W.A. No.286 of 2012 on behalf of one of the Nursing Schools stating that the students therein had taken admission to the ANM course for the Sessions 2007-08 and 2008-09 respectively and they had already completed their course. However, it is not denied in the said affidavit that the said Nursing School was not recognized by the State Nursing Council and Examination Board.

5. What is important to note here is that a No Objection Certificate granted by the State Government cannot be taken to be a recognition by the INC. This was pre-condition for admitting students to a Nursing School.

6. The law in regard to the issue of students of a particular institution being permitted to take exams without the institution itself being recognized is fairly well settled in a series of judgments

and, therefore, the issue is no longer *res integra*. Reference can be made to a decision of the Supreme Court dated 6th August, 2015 in Civil Appeal No.7675 of 2009 (***Punjab Nurses Registration Council v. Shiv Shakti Educational Society***), whereby the Judgment of the Punjab and Haryana High Court dated 9th December, 2007 in CWP No.17254 of 2007 was upheld by the Supreme Court of India. Even, this Court in its judgment dated 13th September, 2011 in W.A. No.41 of 2010 (***Director of Medical Education & Training v. Regional College of Health Science***) has in a very detailed judgment recognized the mandatory rule of prior recognition by the INC for any Nursing School to admit students for ANM courses. In particular, it has been observed in that case that “since Respondent No.1-Institution is not a recognized education institution, the very admission of the students in the said institution is illegal, this Court cannot exceed its jurisdiction to grant equitable relief against the provisions of the Act and the law laid down by the apex Court in the cases referred to above as it would amount to commission of illegality and irregularity in the exercise of jurisdiction not vested in this Court”.

7. This Court made a reference to the judgments of the Supreme Court in ***Minor Sunil Oraon Tr. Guardian v. C.B.S.E. AIR 2007 SC 458***, ***St. John's Teacher Training Institute (for women) Madurai v. State of Tamil Nadu AIR 1994 SC 43***, ***State of Maharashtra v. Vikas Sahebrao, Roundale AIR 1992 SC 1926*** and ***Nageshwaramma v. State of Andhra Pradesh, AIR 1986 SC 1188***.

8. Learned counsel(s) appearing for the Appellants (ONMEB and INC) also drew the attention to the recent judgment of the Supreme

Court in *National Council for Teachers Education v. Venus Public Education Society, 2012 (7) Supreme 514.*

9. In view of the settled legal position, this Court has no hesitation in holding that the impugned judgment of the learned Single Judge in the present batch of cases is unsustainable in law and it is hereby set aside.

10. Accordingly, the writ appeals filed by the ONMEB and INC are allowed but in the circumstances with no order as to costs. Correspondingly the appeals filed by Tarini School of Nursing in W.A. No.320 of 2012 and Bhagabat Sahoo in W.A. No.7 of 2013 are hereby dismissed.

RVWPET Nos.157, 158 & 159 of 2012

11. In view of the order passed today in W.A. No.286 of 2012 and batch filed by ONMEB and INC allowing the appeals, these review petitions are accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. Behera/M Panda