

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3961 OF 2022

Private Nursing Schools and Colleges,
Management Association,
Having its registered office at :
Saniya Chambers, 3rd Floor,
Seven Hills, Jalna Road, Aurangabad,
Through its President,
Dr. Balasaheb S/o. Shivajirao Pawar,
Age 54 years, Occupation Social worker,
R/o. Plot No. G-57, N-4, CIDCO,
Aurangabad.

.. Petitioner

Versus

1. The Union of India,
Through its Secretary,
Ministry of Health and Family Welfare,
348, A Wing, Government of India,
Nirman Bhavan, New Delhi.
2. The State of Maharashtra,
Through its Secretary,
Medical Education & Drugs Department,
Mantralaya, Mumbai – 32.
3. The Commissioner,
CET Cell,
(Admission Regulatory Authority)
8th Floor, New Excelsior Building,
A. K. Nayak Marg,
Fort, Mumbai 400 001.
4. Indian Nursing Council,
8th Floor, NBCC Center,
Plot No. 2, Community Centre,
Okhla Phase-I,
NEW DELHI 110 020
Through its Registrar cum Secretary

.. Respondents

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Mr. V. D. Hon, Senior Advocate instructed by
Mr. Chandrakant A. Jadhav, Advocate for Petitioner
Mr. Ajay Talhar, A. S. G. for Respondent No.1
Mr. A. R. Kale, A.G.P. for Respondent No.2 – State
Mr. Prasad Jarare, Advocate holding for Mr. M. D. Narwadkar,
Advocate for Respondent No.3
Mr. Alok Sharma, Advocate for Respondent No.4

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**CORAM : R. D. DHANUKA &
S. G. MEHARE, JJ.**

DATE : 31-03-2022

**ORAL JUDGMENT
(PER – R. D. DHANUKA, J.) :-**

1. Rule. Mr. Ajay Talhar, Assistant Solicitor General, waives service of notice for respondent No.1, Mr. A. R. Kale, A.G.P. waives service of notice for Respondent No.2 – State, Mr. Prasad Jarare, Advocate holding for Mr. M. D. Narwadkar, Advocate waives service of notice for Respondent No.3 and Mr. Alok Sharma, Advocate waives service of notice for Respondent No.4.

Rule is made returnable forthwith and heard finally by the consent of the parties.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner prays for a writ of certiorari or a writ in the nature of certiorari to quash and set aside the communication dated 28.03.2022 of the Indian Nursing Council and seeks writ of mandamus to the respondent no. 4 Indian Nursing Council, New

Delhi to extend the date of admission to Nursing courses as per the AYUSH Ministry for the academic year 2021-2022 i.e. upto 23.04.2022.

3. The Petitioner is registered Management Association of the Private Nursing Schools and Colleges, which are being run in the State of Maharashtra. The Institutions imparting Nursing Courses have already commenced the admission process for the academic year 2021-22 and the cut-off date is 31st March, 2022.

4. In pursuance of issuance of notice dated 07.01.2022 by the Government of India, the State of Maharashtra has commenced the admission process to the course of allied Sciences i.e. to Basic B.Sc. Nursing / Bachelor of Physiotherapy / Allied subjects i.e. BAMS/BHMS/BUMS/BPTH/BOTs/BASL/BP & O/B.Sc. (Nursing) for the academic year 2021-22. The schedule for centralized admission process of first round for health Science course as above is declared on 28.01.2022. The cut off date for admission was 16.02.2022.

5. It is case of the petitioner that, there was response from the students in the first and second round. However, large number of students could not take admission in the first and second rounds and they opted for next rounds of admission, as in every year there were total four rounds of admission for allied Sciences i.e.

Basic Nursing Courses. The petitioner – association, by its communication dated 24.03.2022, made a request to the respondent no. 4 for extending the date of admission (cut-off) date for B.Sc. Nursing courses for the academic year 2021-22.

6. Mr. Hon, learned Senior Counsel has invited our attention towards the judgment and order passed by the Hon'ble Supreme Court, in Writ Petition (C) No. 961 of 2021 [Neil Aurelio Nunes and others Versus Union of India and others] with other connected petitions and would submit that the institution imparting Nursing Courses have already commenced the admission process for the academic year 2021-22 and the cut-off date is 31st March, 2022. The litigation/ issue was pending before the Hon'ble Supreme Court and has fixed the reservation policy vide order dated 07.01.2022 and has approved the reservation policy as mentioned in the notice dated 29.07.2021. The details of reservation are given in the said judgment. He would submit that the Government of India, Department of Directorate General of Health Services, New Delhi, has accordingly issued notice on 07.01.2022, prescribing reservation policy under the different categories.

7. Mr. Hon, learned Senior counsel has invited our attention to the letter dated 04.03.2022 addressed by the Government of Maharashtra (CET) Cell, to the Secretary, Indian Nursing Council,

stating that the State of Maharashtra admits B.Sc. Nursing candidates on the basis of NEET Marks and the admission process is common across all health science courses. As per the reference no. 2 i.e. communication from MCC of DGHS, New Delhi published schedule for admission to MBBS/BDS/B.Sc. Nursing courses, for academic year 2021-22. The last date of joining of the students mentioned in this schedule is 04.04.2022. He further stated that, the Ministry of AYUSH has given counseling schedule framed by AACCC for admission to UG AYUSH course and last date of joining mentioned is 15.04.2022. The State Government is, accordingly, requested to extend the schedule for admission to B.Sc. Nursing course for academic year 2021-22 at least upto 30.04.2022 in reference to the schedule of AYUSH courses. Similar representation is also made by the Private Nursing Schools and Colleges Management Association (Maharashtra State) to the Secretary, Indian Nursing Council, requesting to extend the schedule for admission to B.Sc. Nursing Courses for academic year 2021-22 at least upto 30.04.2022 in reference to the schedule of AYUSH Courses.

8. Mr. Hon, learned Senior Counsel invited our attention to the Notice No. 27 / NEET-UG-2021 issued by Government of Maharashtra on 28.03.2022 prescribing the Schedule for Institutional Level Round of all B.Sc. Nursing Courses / Colleges,

and would submit that the cut-off date as per the Indian Nursing Council is 31.03.2022. However, at the bottom, it is provided that the above schedule may change if cut-off date is extended by concerned Council / Hon'ble Court / State Government before the start of any activity in the said table.

He further invited our attention to clause (7) of the notice issued by the Commissioner and Competent Authority, State Common Entrance Test Cell, Maharashtra State, Mumbai, and the Important Instruction, and would submit that it is the responsibility of the candidate to submit all his original documents and requisite fees at the time of admission.

He further submits that, since the cut-off date of admission for B.Sc. Nursing course as per Indian Nursing Council is 31.03.2022 up to 11.59 p.m., the student, who will be selected, will have to report to the college at midnight upto 11.59 p.m. and will have to submit all original documents and requisite fees at the time of admission.

He would further submit that large number of members of the petitioner – association, who have been selected for admission, will have to travel in different parts of the Maharashtra for seeking admission to night, which is not feasible. He submits that, in view of pandemic COVID-19, demand for nurses has increased multifold and thus, the candidates, who seek admission

for nursing courses shall not be deprived from getting opportunity of such admissions. It is submitted by the learned counsel that the State Government as well as other authorities State CET Cell, Health University, MSNPBE, who have been conducting the admissions of Nursing courses cannot be on a different basis or have different time limit.

9. Mr. Sharma, learned counsel for the respondent no.4 states that the candidates who seek to take admission have sufficient time and even now can reach the places of admission till midnight 11.59 p.m. If the Court grants further extension after two extensions already granted, Respondent no. 4 will have to change the schedule of admission in the entire State of Maharashtra.

10. Mr. Talhar, learned A.S.G. for the Union of India states that the respondent no. 4 has to take a decision whether to grant any further extension or not. Mr. Narwadkar, learned counsel for respondent No.3 submits that the State (CET) Cell would abide the the order of Court and if the cut-off date would be extended, CET Cell will arrange the CAP round as per the merit list.

11. It is not in dispute that, two extensions have already been granted by respondent no. 4 for granting admission. Respondents have not disputed that issue of reservation was pending before the Honourable Supreme Court, which came to be resolved on

07.01.2022. In view of order passed by Hon'ble Supreme Court, notice has been issued by the Government of India for fixing reservation policy, and thereafter, the round for medical admission started by the State of Maharashtra.

12. Perusal of the representation made by the petitioner association and the State of Maharashtra indicates that difficulties faced by the candidates to take admission were highlighted by the petitioner as well as State of Maharashtra (CET) Cell but have not been noticed by the respondent no.4 . It appears that respondent no. 4 refused to grant further extension. In view of respondent no. 4 Indian Nursing Council's letter dated 28.03.2022, the State of Maharashtra had to issue notice for immediately prescribing time limit schedule for institutional level round for State Quota Seats at Colleges with B.Sc. Nursing course for academic year 2021-22, reporting of admitted candidates in College Feedback Module as 31.03.2022 upto 11.59 pm. The cut-off admission date as per notice dated 28.03.2022 is 31.03.2022 as directed by the Indian Nursing Council. The note in the said notice clearly indicates that the said schedule may change if cut-off date is extended by concerned Council / Hon'ble Court / State Government before the start of any activity in the said table.

13. Mr. Sharma, learned Counsel for respondent no. 4 tenders

latest instructions from his client that it would not grant any further extension for the Nursing courses, beyond the period fixed on 31st March, 2022.

14. The Notice No. 27 issued by the Government of Maharashtra further indicates that it is the responsibility of the candidate to submit all his original documents and requisite fees at the time of admission.

15. In our view, the candidates, who were awaiting the outcome of the reservation issue pending before the Hon'ble Supreme Court, the State Government (CET) Cell and the petitioner - Nursing management association having made representations to the respondent no. 4 Council for grant of further short extension, the respondent no. 4 ought to have taken a reasonable stand in the matter. In our view, prayer of the petitioner association, in these circumstances, appear to be reasonable.

16. The notice issued by the State of Maharashtra appears to be a short notice instructing these candidates to approach the admission authority in any parts of the Maharashtra within a span of forty eight (48) hours. The candidates, who desire to take admissions for Nursing courses, being women are not expected to travel different parts of the Maharashtra with short notice of forty eight (48) hours. In our view, no prejudice would be caused to

any of the respondents, if we direct the respondent no. 4 - Indian Nursing Council to extend the cut-off date of admission in Nursing courses till 7th April, 2022 till 11.59 p.m.

It is made clear that, no further extension would be granted.

17. Writ petition is disposed of in aforesaid terms.

18. Mr. Sharma, learned counsel for the respondent no. 4 to communicate this decision to his client to issue corrigendum, during the course of day.

19. Respondents No. 2 and 3 shall also take further steps to implement of order passed by this Court forthwith.

20. Rule is made absolute in above terms with no order as to the costs.

(S. G. MEHARE)
JUDGE

(R. D. DHANUKA)
JUDGE

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