

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

5 WRIT PETITION NO.6088 OF 2022

MATA GIRIJA GRAMIN VIKAS PRATISHTHAN,
THROUGH ITS SECRETARY GOVIND RAOSAHEB JADHAV
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Petitioner : Mr. S. S. Thombre.
AGP for Respondent No.1 : Mr. S. G. Sangle.
Advocate for Respondent No.2 : Mr. M. D. Narwadkar.

...

AND

6 WRIT PETITION NO.9031 OF 2022

SAMARTH SEVABHAVI SANSTHA, BEED,
THROUGH ITS SECRETARY DR. PRASHANT RAMESH DESHPANDE
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. S. S. Thombre.
AGP for Respondent Nos.1 & 2 : Mr. S. G. Sangle.
Advocate for Respondent No.3 : Mr. M. D. Narwadkar.

...

AND

7 WRIT PETITION NO.9405 OF 2022

SWAMI VIVEKANAND PRATISHTAN'S RADHAI NURSING SCHOOL GNM
THROUGH ITS SECRETARY SHUBHAM RAMRAO PHAD
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS PRINCIPAL SECRETARY AND OTHERS

...
Advocate for Petitioner : Mr. S. S. Thombre.
AGP for Respondent Nos.1 & 2 : Mr. S. G. Sangle.
Advocate for Respondent No.3 : Mr. M. D. Narwadkar.

...

AND

188 WRIT PETITION NO.6631 OF 2022

SHREE SAI BAHUDESHEIYA SEVABHAVI SANSTHA,
THROUGH ITS SECRETARY SHRI GOVIND PRABHAKAR BHONG
VERSUS
THE STATE OF MAHARASHTRA,
THROUGH ITS SECRETARY AND OTHERS

...

Advocate for Petitioner : Mr. Y. B. Bolkar, h/f Mr. Eknath G. Irale.

AGP for Respondent Nos.1 to 3 : Mr. S. G. Sangle.

Advocate for Respondent No.4 : Mr. M. D. Narwadkar.

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CORAM : **RAVINDRA V. GHUGE &
SANJAY A. DESHMUKH, JJ.**

DATE : 20th December, 2022.

Per Court:

1. In all these matters, the identically placed petitioners, seek a decision from the State Government under Section 28 of the Maharashtra State Board of Nursing and Paramedical Education Act, 2013. Their proposals have been forwarded under Section 28(4) to the Government. They desire a decision from the Government under Section 28(5), since these proposals have to be met with a verdict, on or before the last day of December of the year.

2. Section 28 of the Maharashtra State Board of Nursing and Paramedical Education Act, 2013, reads as under:-

“28. (1) The Board shall grant permission to start new nursing and Paramedical Institution by observing the

standards laid down under the Indian Nursing Act, 1947 and the directions issued by the Central Government regarding Paramedical Education as per the provisions specified under this section.

(2) The management seeking permission to open a new institution shall apply in the prescribed form to the Member-Secretary of the Board before the last day of the year preceding the year for which the permission is sought.

(3) The Board shall conduct an inspection after receipt of payment of inspection fee within prescribed time and submit its report to the State Government.

(4) All such applications received within the aforesaid prescribed time-limit shall be scrutinized by the Board and be forwarded to the Government on or before the last day of December of the year.

(5) Out of the applications recommended by the Board, the Government may grant permission to such institutions as it may consider right and proper in its absolute discretion, taking into account the Government's budgetary resources, the suitability of the managements seeking permission to open new institutions and the State level priorities with regard to location of institutions for nursing and Paramedical Education:

Provided that, in exceptional cases and for the reasons to be recorded in writing, any application not recommended by the Board may be approved by the Government for starting a new institution of nursing and Paramedical Education.

(6) No application shall be entertained directly through the Government for the grant of permission for opening new institution of nursing and Paramedical Education."

3. There is no dispute that the proposals of these petitioners have been forwarded to the Government by the Maharashtra State Nursing and Paramedical Education Board. In these matters, we are not

considering the controversy as to whether the word “forwarded” appearing in sub-section (4), should be read as “forwarded with positive or negative recommendations”, in the light of the power of the Board that is visible from sub-section (5) and the proviso thereunder. Since, this issue is not addressed to us, we keep the same open so as to be dealt with in a proper case wherein such an issue is raised.

4. There is no dispute that the Board has forwarded the proposals of these petitioners, all of which were not considered since there was no scope under the perspective plan. The said proposals are lying with the State from July, 2021 till today. Such proposals have to meet a decision at the hands of the Government before the last date of December of the year, as set out in sub-section (4).

5. In view of the above and considering the long pendency of these proposals with the Government, we direct the respondent Principal Secretary, Medical Education and Research Department, Mantralaya Mumbai, to consider these proposals on their own merits and pass an order, on or before 30th December, 2022.

6. Needless to state, we have not expressed any opinion about the merits of the proposals of these petitioners.

7. These petitions are, therefore, disposed off in the light of the above directions.

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[SANJAY A. DESHMUKH, J.]

[RAVINDRA V. GHUGE, J.]