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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

980 WRIT PETITION NO.10899 OF 2022

**PRASHANTSINGH PRADIPSINGH GAUTAM AND OTHERS
VERSUS
MAHARASHTRA UNIVERSITY OF HEALTH SCIENCES
THROUGH ITS REGISTRAR AND OTHERS**

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Mr Rajendra Deshmukh, Senior Advocate a/w Mr Kunal Kale,
Advocate i/b Mr R. R. Kale, Advocate for petitioners;
Mr S. P. Brahme, Advocate for respondent Nos.1 & 2

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

DATE : 23rd November, 2022

PER COURT:

1. The petitioners have put forth prayer clauses (B), (C), (D) and (E), which read as under :-

“B] By issuance of writ of certiorari, or any other appropriate writ, order or directions in the like nature, the impugned Communication dated 28.09.2022 issued by the Respondent No.2 – controller of Examinations, M.U.H.S. Nashik (Exh.H), may kindly be quashed and set aside.

C] By issuance of writ of mandamus, or any other appropriate writ, order or directions in the like nature, the Respondent No. 2 may kindly be directed to declare the result of petitioners their respective examinations of B.H.M.S. Course (i.e. RESULT OF BHMS-2015 – FOR Summer 2022) with immediate effect.

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D] By issuance of writ of mandamus, or any other appropriate writ, order or directions in the like nature, the Respondent Nos.1 and 2 may kindly be directed to grant Eligibility in favour of petitioners of B.H.M.S. Course with immediate effect.

E] Pending hearing and final disposal of this writ petition, the impugned Communication dated 28.09.2022 issued by the Respondent No.2 – Controller of Examinations, M.U.H.S. Nashik (Exh.H), may kindly be stayed.”

2. We have considered the strenuous submissions of the learned Senior Advocate on behalf of the petitioners, the learned A.G.P. and the learned Advocate representing the Maharashtra University of Health Sciences, Nashik. Respondent No.3 is a formal party.

3. By the impugned communication dated 28/09/2022, issued by the Maharashtra Health University, Nashik, addressed to all the affiliated Homeopathy Colleges, that the results of some of the students for Summer-2022 of the First Year till the Final Year, have been withheld for three reasons. The reason made applicable to these petitioners, who are in their Final Year is, that their admission was irregularly made.

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4. It is a matter of record and is undisputed that the Division Bench of this Court, in Writ Petition No.3512/2008, after considering the provisions of Section 13-A of the Indian Medicine Central Council Act, 1970 (for short, “the IMCC Act”), which is para-materia with the provisions of Section 12-A of the Homeopathy Central Council Act, 1973, has taken a view, that the Central Government, under Section 13-A of the IMCC Act, cannot send its own team to assess for itself, whether the Institution/College complies with the requirements. In the light of such conclusion, this Court [Coram : B. R. Gavai (as His Lordship then was) and M. T. Joshi, J.], subsequent thereto, passed an order dated 14/09/2011, in Writ Petition No.5194/2011, filed by Dhanraj Hiralalji Jain Vs. Union of India and another. Based on the said order, interim relief in terms of prayer clause (E) was granted. Prayer clause (E) reads as under:-

“Pending hearing and final disposal of this Writ Petition, the petitioner be allowed to admit the students in view of Section 12-A (5) of the Central Council of Homeopathy Act, 1973 and further direct the respondents to give approval and recognition.”

5. In yet another writ petition bearing Writ Petition No.4254/2016, filed by Prabhat Education Society, through its

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President Dhanraj Hiralal Jain Vs. Union of India, this Court [Coram : S. S. Shinde (as His Lordship then was) and Sangitrao S. Patil, J.), passed an order, dated 12/04/2016 and granted interim relief to the Institution, by virtue of which, it continued to admit students. The petitioners before us, are the students of the P. D. Jain Homeopathic Medical College, Parbhani, which is party to the earlier two petitions.

6. In pursuance to the above, the said Dhanraj Hiralal Jain has approached this Court in number of petitions, seeking directions to the Health University, to declare the examination results of the students and subject to the said results, permit them to appear in the further examinations. Three of such orders dated 08/10/2021, 11/01/2022 and 16/06/2022 are placed on record, which we have perused.

7. The learned Advocate representing the Health University, submits on instructions that, considering the earlier orders of this Court, directing the University to declare results and permit the students to be admitted to the next semester, depending on their results, that this Court may pass appropriate orders.

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8. The above fact situation brings us to the impugned order, wherein it is undisputedly conveyed to us that the results of these petitioners have been withheld only for the reasons, that their admissions are presumed to be irregular. The said issue is sub-judice before this Court in view of the fact that Writ Petition No.5194/2011 as well as Writ Petition No.4254/2016 are pending final hearing.

9. In view of the above, this petition is partly allowed. The impugned communication dated 28/09/2022 stands quashed and set aside. The results of the petitioners relating to the Summer 2022 examination, be declared.

10. In the event of last date for admitting students to the next semester has lapsed, the Health University would accommodate the admissions of these students on the condition of their College depositing the late fees with the University.

11. Insofar as prayer clause (D) is concerned, we are not entertaining the same at this stage, since the two petitions referred to above, out of which Writ Petition No.5194/2011 is admitted and Writ Petition No.4254/2016 has been tagged along with the same, are pending. Both these petitions need to be heard finally.

12. Considering the present assignment of this Court, we are listing Writ Petition No.5194/2011 along with Writ Petition No.4254/2016 for a final hearing on 19/01/2023.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)

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