

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

WRIT PETITION NO.12145 OF 2022

SHANTILAL EDUCATION SOCIETY PIMPALNER THROUGH ITS
SECRETARY AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS

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Advocate for Petitioners : Mr. B. R. Waramaa
AGP for Respondents/State: Mr. S. K. Tambe
Advocate for Respondent No.2/(PCI): Mr. S. B. Deshpande

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

DATE : 20th December, 2022

PER COURT :

1. The petitioners have put forth prayer clauses (A), (B) & (C) as under:

“(A) By issuing writ of Mandamus or appropriate writ or directions in the like nature the R. No.2/Pharmacy Council of India may please be directed to accept affiliation/approval fees for the academic year 2022-2023 either by offline or by generating link and to grant affiliation to petitioner no.2 to run diploma and degree courses in Pharmacy.

(B) By issuing writ of Mandamus or appropriate writ or directions in the like nature the respondent no.3 be directed to allot fresh students for admission as new batch as per admission notice dt. 11/11/2022 (Exh -) in petitioner no.2 college for diploma and degree courses in Pharmacy.

(C) Pending the hearing and final disposal of this petition, the R. No.2/Pharmacy Council of India may please be restrained from taking any coercive action on account of non-payment of affiliation/approval fees for the academic year 2022-2023 and approval granted vide decision letter dt. 26/07/2022 for running diploma and degree courses in Pharmacy be extended for admitted students in the year 2021 and for fresh admission as per admission notice dt. 11/11/2022.”

2. We have considered the strenuous submissions of the learned Advocates for the respective sides. With their assistance, we have gone through the petition paper book and more particularly, the affidavit filed by respondent no.2/Pharmacy Council of India (PCI) dated 16.12.2022 and the rejoinder affidavit of the petitioners dated 20.12.2022.

3. The undisputed aspects are as under:

(a) The petitioner no.2/college commenced the Diploma in Pharmacy course in 2017.

(b) 60 students intake were allotted for D. Pharmacy and 100 students were allotted for B. Pharmacy.

(c) The faculty is approved by Dr. Babasaheb Ambedkar Technological University, Vidyavihar Lonare-Raigad.

(d) By approval dated 09.12.2021, affiliation to the Diploma in Pharmacy course has been granted even for the academic year 2022-2023.

(e) The Bachelor of Pharmacy course was commenced on 05.01.2022.

(f) Affiliation was granted to the B. Pharmacy course for the academic year 2021-2022.

(g) The requisite fees of Rs.1,77,000/- was deposited by petitioner no.2 and the approval was loaded on the Pharmacy Council's website for the year 2021-2022.

(h) The petitioners desired natural growth to the B. Pharmacy course as the first year students were admitted for the academic year 2021-2022.

(i) Petitioner no.2 applied within time on 28.12.2021 to the Pharmacy Council.

(j) The requisite fees of Rs.1,77000/- could not be credited to the account of the PCI on account of a technological glitch.

(k) The petitioners did not make efforts to deposit the fees subsequently, since the portal was not open.

(l) The petitioners are willing to deposit fees of Rs.1,77000/- and also pay 100% penalty of an additional Rs.1,77000/- for the delay caused.

4. The learned Advocate representing PCI has canvassed that the B. Pharmacy course was granted approval only for the academic year 2021-2022 and the intake capacity of 60 students was granted for the first year. The 'Standard Inspection Form' (for short 'SIF') was required to be filled in by the petitioners within time and the fees also had to be deposited. The said timeline upto 05.01.2022 lapsed and yet the petitioners did not deposit Rs.1,77000/-. It is not in dispute that the issue pertains to the natural growth of the institution in the academic year 2022-2023 when the first year students would move on to the second year of the B. Pharmacy course.

5. The learned Advocate for the petitioners points out that the decision/letter issued by the PCI dated 26.07.2021 granting 100 seats for the B. Pharmacy course and granting approval for the academic year 2021-2022 [first year]. He concedes, on instructions, from the

petitioners that because the SIF, through which the petitioners attempted to deposit the requisite fees of Rs.1,77,000/-, suffered a malfunction, that the amount could not be deposited and for the said lapse, the petitioners are willing to deposit 100% penalty amount.

6. The learned Advocate representing PCI draws our attention to the various orders passed by the Hon'ble Supreme Court. He has cited the order dated 18.04.2022, passed in Miscellaneous Application No.629/2022 in Civil Application No.9048/2012 [Parshavanath Charitable Trust Vs. All India Council for Technical Education & Ors.], wherein, the issue of granting extension of time to the PCI for completing the process and for disposal of the appeals by the PCI, was considered. PCI was granted extensions upto 15.08.2022 and 31.08.2022, respectively. He further points out from the said order that the Hon'ble Supreme Court has categorically recorded that any alteration in the schedule can be done only with the approval of the Supreme Court. Subsequently, this timeline was extended to enable the PCI to complete the approval process till 30.10.2022 and for decision making in the appeals till 30.11.2022, in respect of the existing institutions for the academic year 2022-2023. This order was passed by the Supreme Court in Interim Application No.1397/2022.

7. The learned Advocate for PCI further draws our attention to an order passed by the Hon'ble Supreme Court dated 06.09.2021, in Miscellaneous Application No.1323/2021, in Writ Petition (C) No.729/2021 [BSA Collage of Engineering & Technology & Ors. Vs. DR. A. P. J. Abdul Kalam Technical University & Ors.]. He points out that the Hon'ble Supreme Court has recorded in the said order that it was not inclined to extend the last dates that are fixed for admission and approval for the academic year 2021-2022.

8. Shri. Deshpande, the learned Advocate further submits that if the petitioners desire any leniency for depositing the outstanding fees of Rs.1,77000/- and 100% penalty as volunteered by the petitioners, they will have to approach the Hon'ble Supreme Court and seek sanction for permitting the PCI to accept the said fees and the penalty amount, so as to grant approval to the B. Pharmacy course for the academic year 2022-2023. He, however, hastens to add that even if the Hon'ble Supreme Court may grant such permission, there is no chance that the petitioners would get fresh admissions for the academic year 2022-2023 for the first year course.

9. The learned Advocate for the petitioners submits that the first year students, who were already with the petitioner/college would now progress to the second year and as such, if the approval is

granted by the Hon'ble Supreme Court, the second year students can continue to take education. The petitioners are aware that the institution would run dry for the first year B. Pharmacy course for the academic year 2022-2023.

10. The learned Advocate for the PCI makes a statement on the basis of the affidavit-in-reply that the approval granted to the petitioners for the academic year 2021-2022 has not been cancelled. So also, no adverse order has been passed by the PCI with regard to the admission of the students to the petitioners second year course, who would comprise of that batch of students, who were already admitted to the first year degree course.

11. The learned Advocate for the petitioners submits that in such a situation, the petitioners are prepared to file a Miscellaneous Application/Interim Application before the Hon'ble Supreme Court and seek such permission.

12. In view of the above, this petition is disposed off.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE, J.)