

Ms. Smita R. Gaidhani a/w. Mr. Kedar Purav, Advocate for the Respondent No.2.

Ms. Anamika Malhotra, Advocate for the Respondent No.3/
Dental Council of India.

**CORAM: S.V. GANGAPURWALA &
S. M. MODAK, JJ.**

DATED : JULY 18, 2022

P.C.

1. The petitioners are the students of BDS Course, who had secured the admission in the academic year 2009-10 and 2010-11. As per the regulations operating then, the student was required to clear 1st year BDS in three years. The petitioners in the present matters have cleared their 1st year of BDS after more than three years.

2. The objection to the eligibility of the petitioners to continue the course was taken in the year 2019 for the first time. The petitioners have allowed to continue the course for all these years and were allowed to appear for 2nd and 3rd year of BDS course also.

3. The learned Counsel relies upon the judgment of the Division Bench of this Court Bench at Nagpur in ***Ku. Teena Rajesh Ghate versus Maharashtra University of Health Sciences & Anr.***¹, where the similarly situated students were allowed to continue the Course on the ground that the objection was not taken.

4. Mr. Govilkar, learned Counsel for respondent No.1 submits that the petitioner in Writ Petition No. 3657 of 2019 was given a letter discharging him from the course as he has

¹ Writ Petition No. 3674 of 2019 dtd. 25th November 2019.

not completed his 1st year in three years in the year 2014 only and thereafter he filed writ petition and pursuant to the order of the Court, he was allowed to appear in the examination.

5. It appears that in respect of petitioners in Writ Petition No. 2882 of 2019 and Writ Petition No. 2970 of 2019, no objection was taken by the respondent and they were allowed to continue the course and the objection was raised in the year 2019 i.e. much belatedly.

6. In view of the aforesaid, admissions of the petitioners were not discharged upon failure to clear all subjects of 1st year in three years from the date of admission and the Regulation brought on 27th April 2015 would not apply. Reliance can be placed on the judgment of Division Bench of this Court at Nagpur in ***Ku. Teena Ghate*** (*supra*).

7. We set aside the impugned communication. The result of the petitioners' examination be declared. The petitioners in case are otherwise eligible shall be allowed to complete the BDS course and shall not be released only on the ground that the petitioners did not pass the 1st year in three years. Regulation dated 27th April 2015 would not apply in these petitions.

8. The writ petitions are accordingly disposed of. No costs.

9. In view of disposal of writ petitions, interim applications shall also stand disposed of.

(S. M. MODAK, J.)

(S.V. GANGAPURWALA, J.)