

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.3772 OF 2022**

Sahara Institute of Nursing Education
of Shree Sant Shiromani Namdev

Maharaj Charitable Trust

.. Petitioner

v/s.

Maharashtra State Board of Nursing And
Paramedical Education And Anr.

.. Respondents

....

Mr. Sandeep R. Waghmare, for the Petitioner.

Mr. R.V. Govilkar, a/w. Ms. Shaba N. Khan, for Respondent No.1.

Mr. N.K. Rajpurohit, AGP, for Respondent No.2.

....

**CORAM: SUNIL B. SHUKRE &
G.A. SANAP, JJ.**

DATE : 6 APRIL 2022

P.C:-

Heard learned Counsel for the Petitioner and Shri Govilkar
for Respondent No.1 and Shri Rajpurohit for Respondent No.2.

2. The reply filed by Respondent No.1 is taken on record.
Copy of the reply has already been furnished to learned Counsel for
the Petitioner. On going through reply filed on record, it is seen that

there are some material facts, which have serious impact on the prayers sought for in this petition. Apart from seeking quashing of the Government Resolution dated 26 October 2017, 13 July 2018 and Government Circular dated 17 February 2022, the Petitioner has also sought issuance of directions to Respondent No.1 to grant its proposal for increase in intake capacity of GNM Course for the Academic Year 2021-22 for present 20 students to 100 students. Reliance has also been placed by the Petitioner on the view taken by Coordinate Bench of its Court at Nagpur, of which one of us is part, while granting interim relief on 25 March 2021 in Writ Petition No.1476 of 2021. In the entire petition, there is no statement and no averment made by the Petitioner regarding request made on behalf of the State of Maharashtra to Respondent No.1 for cancellation of recognition of the Petitioner on the ground of commission of serious irregularities mentioned in this communication. The communication dated 13 December 2021, issued in this behalf by the State Government, which forms part of the reply of Respondent No.1. It gives a list of 12 irregularities committed by the Petitioner, which, in the opinion of the State Government, warrant cancellation of recognition of the Petitioner. There is also a reminder dated 4 January 2022, sent to Respondent No.1 by the Government, which is filed along with the reply of Respondent No.1. The reminder makes a request to Respondent No.1 for taking action regarding cancellation of recognition of the Petitioner.

3. Learned Counsel for Respondent No.1 submits that even though the abovestated communications were not addressed to the Petitioner, somehow or the other, the Petitioner got the wind of communications and the action proposed against it and, therefore, the Petitioner, by its letter dated 21 March 2022, addressed to Respondent No.1 and also Under Secretary, Directorate of Medical Education And Research, Mantralaya, Mumbai, gave its explanation regarding the allegations made against the Petitioner and submitted that they had no substance. At this stage, learned Counsel for Respondent No.1 seeks leave of the Court to file on record copy of his communication dated 21 March 2022. It is taken on record and marked "A" for identification.

4. On the backdrop of abovestated facts, we are of the view that all these facts did have a bearing upon the reliefs sought by the Petitioner by invoking extraordinary jurisdiction under Article 225 of the Constitution of India. It was, therefore, necessary for the Petitioner to have mentioned all these facts by making suitable averments. But, the Petitioner has not answered any of them. Although, learned Counsel for the Petitioner states that in the opinion of the Petitioner, those facts were not relevant and so not mentioned. The clarification, with due respect, must be said to be devoid of any substance as the recommendation made by the State Government to Respondent No.1

for initiating action for cancellation of recognition of the Petitioner is something, which reflects upon the capacity, conduct and suitability of the Petitioner to manage the increased load of 80 students. Therefore, disclosure of the same was necessary and so the clarificatory submission is rejected.

5. In the result, we are of the view that this petition, which suppresses material facts from this Court, does not deserve to be entertained by us anymore.

6. The petition stands dismissed. However, we refrain from imposing any costs upon the Petitioner in the hope that in future the Petitioner shall not commit such mistake again.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)