

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No. 3153 of 2021

1. Dr. Pallavi Manohar Dalvi
A-101, Royal Springfield Building,
L.M.Road, Naigaon, Dahisar (West)
Pin – 400 068.
2. Dr. Dnyaneshwar Bhausaheb Uphade
At Post Wadali Bhoi
Taluka Chandwad
Pin 423117.
3. Dr. Rajendra Dattaray Tule
At Post: Yavat Taluka – Daudh,
District – Pune
Pin 412 214.
4. Dr. Smita Sajerao Mane
At Post: Yellore Taluka: WalWa
District: Sangli Pin: 415 411.
5. Dr. Ketan Dhananjay Melawane
Birobara Nagar, Yeole Estate,
Taluka – Rahori,
Dist- Ahmednagar,
Pin: 413705.
6. Dr. Santosh Arun Sawant
Shinde Chowk, Ashta
Ashte Walwa, Sangli,
Pin 416 301.

Digitally
signed by
LATA
SUNIL
PANJWANI
Date:
2022.05.05
18:19:39
+0530

7. Dr. Dhanashree Suresh Mali
“Swapnvel” Behind Jyotiba Mandir
Varchi Gali, Tasgaon,
District: Sangli.
8. Dr. Vijay Balaso Patil
At/Post Takaliwadi, Kothali Galli
Takaliwadi, Kolhapur
Pin- 416108.
9. Dr. Anjali Bhagwan Darade
5/565, Chougule Hospital
First Floor, Opp Ghorpade Natyagruha
Ichalkaranji – 416115.
10. Dr. Pooja Shivaji Shinde
Tarangan, Ghodake Nagar
Taluka: Chandwad
Nashik – 423 101.

.... Petitioners

V/s.

1. State of Maharashtra
Through its Department of
Medical Education & Drugs
Mantralaya, Mumbai
2. Maharashtra University of Health
Sciences its Assistant/Deputy Registrar
Having regional office at
St. Georges Hospital Campus
Mumbai 400001.

3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081.

4. Hon'ble Shri Annasaheb Dange,
Medical College, Ashta,
Tal: Walwa, Dist. Sangli – 416 301.

..... Respondents

with
Writ Petition No.3156 of 2021

1. Dr. Vilas Babuganesh Sahane
Age 37 Occ. Student
103, Malkhare Classic Ulkanagari
Garkheda, Aurangabad 431005

2. Dr. Jyoti Vilas Sahane
Age Occ. Student
103, Malkhare Classic Ulkanagari
Garkheda, Aurangabad
Jalgaon 424206

3. Dr. Shbhada Manohar Shelar
Age 35 Occ-Student
805, Navin nagar Road, Gayatri
Housing So. At Post Sangamner,
Dist. Ahemednagar 422 605

... Petitioners

V/s.

1. State of Maharashtra
Through its Department of
Medical Education & Drugs

Mantralaya, Mumbai

2. Maharashtra University of Health
Sciences its Assistant/Deputy Registrar
Having regional office at
St. Georges Hospital Campus
Mumbai 400001.

3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081.

4. Hon'ble Prakash Shikshan Mandal
Loknete Rajarambapu Patil
Ayurvedic Medical College Hospital,
P.G. Institute and Research Centre
Islampur-Sangli Road, Islampur,
Sangli 415409

..... Respondents

with
Writ Petition No.3157 of 2021

1. Dr. Pratap Tukaram Patil
Supari Baug Jamaner,
Tehsil Jamaner Jalgaon 424206

2. Dr. Supriya Chaudhari
Opp Gokhale School
Sec-12 D60 Opp Gokhale School
Kharghar, Raigarh 410210

3. Dr. Sachin Dadaso Mali
Amanapur, Pin 416 308

4. Dr. Vinod Vasant Pawar
Shiwani, Sangli 415305
5. Dr. Vishal Prakash Deshmukh
1516-2 Matoshri, Court Road
Bandart Samor, At Po-Jamkhed
Jamkhed, Ahmednagar 413 201
6. Dr. Swapnil Yuganand Hiwarale
C/o Suryabhanji Gajbhiye
V.M.V. Road, Near Pathyapustak Mandal
Rammohan Nagar, V.M.V. Amravati S.O.
Amravati 444604
7. Dr. Sarikha Bhaurao More
Ground Floor, Room No.2, Nirali,
Premasagar CHS Limited, Indian Oil Nagar,
Ghatkopar, Mankhurd Link Road,
Govandi 400 043
8. Dr. Anupam Gautam Wankhede
1081, Apratim, Gajanan Township 5,
Pote Estate, Kathora Road,
Amravati 444607
9. Dr. Anil Babasaheb Vadak
Shaishav Hospital, Behind P.H.C
Gavthan, Kamshet
Taluka Wadgaon, Maval, Dist. Pune
10. Dr. Ashewta Angad Dhavan
601, Building No.5, C Wing, Girikunj
CHS Neev MHADA Colony, Near Infinity
IT Park, Dindoshi, Goregaon (East)
Mumbai 400 065

11. Dr. Sureshni Madhav Ramteke
A-704, Lodha Park, Near Lodha Regency
Manpada, Sandap Road, Manpada Petrol
Pump, Dombivli East, Vadavali Khurd,
Thane 421204
12. Dr. Sunita Revankar
Nirmay Clinic, 1st Floor Raj Complex,
Nijampur Road, Mangaon,
Dist. Raigad 402104
13. Dr. Sachin Uttamrao Rathod
Phool Umari, Manora Washim,
Maharashtra 444404
14. Dr. Suchetani Ramdas Jadhav
Bori Khurd, Yavatmal,
Yavatmal 445215
15. Dr. Aparna Bhagwat Jagdale
A/p B—302, Virayatan Residency
Vasant Vihar, Near Old Poona Naka
Solapur

... Petitioners

V/s.

1. State of Maharashtra
Through its Department of
Medical Education & Drugs
Mantralaya, Mumbai
2. Maharashtra University of Health
Sciences its Assistant/Deputy Registrar
Having regional office at

St. Georges Hospital Campus
Mumbai 400001.

3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081.

4. Hon'ble Prakash Shikshan Mandal
Loknete Rajarambapu Patil
Ayurvedic Medical College Hospital,
P.G. Institute and Research Centre
Islampur-Sangli Road, Islampur,
Sangli 415409

..... Respondents

with
Writ Petition No.3158 of 2021

1. Dr. Janhavi Pramod Pujari
Palus Colony-K Wadi Road,
Near Ibar Sawantpur Vasahat
Kirloskarwadi, Burli
Sangli-416306

2. Dr. Manojkumar Amaldar Prajapati
Hiwale Chawl, Akurli Road
Near Damunagar, Market Damunagar
Kandivali (East)-400101

3. Dr. Aniruddh Achyutrao Deshmukh
Deshmukh Gali, Kodoli, Kolhapur,
Pin 416 114

4. Dr. Yadveshkumar Kanhaiyalal Yadav
101/D, Rajeshwari Apartment,

Talav Road, Near Gaondevi Mandir,
Bhayander (East) Thane 401105

5. Dr. Sanjay Surchand Bhosale
Pargaon Gumra Beed, 414204
6. Dr. Pratik Prakash Phake
205, Yashobalkrishna, Near
Abhyudaya Co-op. Bank, Panvel
Raigarh
7. Dr. Prashant Subhashrao Rajurkar
Mitra Nagar, Mukkawar Petrol Pump
Nanded Road, Udgir Latur 413517
8. Dr Komal Omprakash Sharma
B-101, Megmalhar Building 1
Agra Road, Thankar Pada
Opp. Indraprastha Building,
Kalyan, (West), Thane 421301
9. Dr Saurabh Manojkumar Tripathi
C-102, Om Tulsi CHS Limited
Achole Cross Road, Near Gala Nagar,
Achole Village Nalasopara (East)
10. Dr. Vishal Ganpat Phartade
Naikwadi Ploat, Upalai Road,
Near Dr More Barshi
Barshi, Solapur
11. Dr. Rohit Ramling Nale
Main Road, Sarud
Sarud Shahuwadi
Kolhapur 416214

12. Dr. Chandraprakash Rammanchar Yadav
101/D, Rajeshwari Apartment,
Talav Road, Near BMC School
Bhayander (East), Thane 401 105
 13. Dr. Prasanna Balkrushna Patil
Ravan Kaka Galli Bhadole,
Hakanangle Kolhapur 416 112
 14. Dr. Shailesh Parasharam Jadhav
Plot No.26 Rajashri Shahu Colony
Kasaba Bawada Karvir Kolhapur-416006
 15. Dr. Rahul Digambar Sarakate
At Post; Haral TA Rishod, Haral,
Haral, Washim 444510
 16. Dr. Mohd Shadab Mohd Zafar Ahmed Ansari
Room No.502, Building No.22
Natwar Parikh Compound
P. L. Lokhande Marg, Near R.B.K.
International School, Gautam Nagar
Govandi, VTC: Mumbai
PO Shivaji Nagar, Mumbai Pin 400043
 17. Dr. Prajakta Manohar Pathare
Savitri Sadan, Opp Maruti Mandir
Near Rural Hospital, Devrukh,
Ratnagiri 415 804
- ... Petitioners

V/s.

1. State of Maharashtra
Through its Department of

Medical Education & Drugs
Mantralaya, Mumbai

2. Maharashtra University of Health
Sciences its Assistant/Deputy Registrar
Having regional office at
St. Georges Hospital Campus
Mumbai 400001.

3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081.

4. Hon'ble Yashwant Ayurvedic
Mahavidyalaya, Post Graduate
Training & Research Centre,
Kodali, Taluka-Panhala
District Kolhapur 416 114

..... Respondents

**With
Writ Petition No. 3160 of 2021**

1. Dr. Swati Vilas Renake,
3254, Kirana Road, Barshi,
Taluka Barshi, Dist. Kolhapur,
Pin – 413 401

2. Dr.Kajal Suresh Deshmukh,
R.h.No.03, Saivandan Row House,
Mumbai Agra Road, Near Rasbihari
School Dhatrak Phata, Nashik – 422003

3. Dr.Krishnakant Rai,
B-308, Vinni Residency, Hanuman Nagar,
Nallasopara (W), Palghar – 401209
4. Dr.Pravin Vitthal Mane,
Sant Tukaram High School, Shukrawae Peth,
Karhad, Karhad Satara Road – 415110
5. Dr.Prasanna Ramchandra Shikhari,
Ramling Galli, A/p. Halkarnni,
Taluka – Gadahinglaj, Dist. Kolhapur-416506
6. Dr.Chawhan Jayantkumar Krishnaji,
At/post Bondale, Tal. Malshiras,
Solapur – 413114
7. Dr.Sachin Gourihaar Patil,
At/post Vairag, Taluka – Barshi,
District – Solapur – 413402
8. Dr.Rosalin Pradhan,
At/post Madhusudan Nagar, Talabania,
Dist.Puri, State – Odisha 752002
9. Dr.Kiran Kashinath Mali,
At/post Chennekuppi, Tal – Gadhinglaj,
Channe Kuppi, Kolhapur – 416502
10. Dr.Madhuri Sangappa Digge,
Flat No.1, West Block, Type V,
Sinhgad Institute of Education Society
Vadgaon Bk, Sinhghad Road, Pune
11. Dr.Narayan Barku Yede,
At/post Girim, Girim Pune – 413801

12. Dr.Preetee Amar Shinde,
Flat No.202, Omkar Park Survey No.36,
Pune Solapur Road, Hake Vasti,
Sitai Nagar, Tal-Haveli, Shevalwadi,
Majari Farm, Pune 412307.
13. Dr.Anuja Chandrakant Naravanekar
w/o. Jaydeep Kumbhar, A/20, Jalaramdeep
CHS, Ambikar nagar, Goraswadi, Dombivali(E)
Kalyan, Thane 421 201.
14. Dr. Avinash Yashvant Shinde
001, Royal Spring CHS Limited, Royal Park,
Front of Shree Krishna Garden, MIDC Road,
Mira Road (East), Thane 4011 07.
15. Dr. Charushila Arjun Bali
Pratapsinh Chauk Akluj, Tal. Maslshiras
Solapur 413101.
16. Dr. Dhanashree Hanmant Govilkar
Near Sadhana Highschool Patil Vasahat
Gandhinga, Kolhapur – 416502.
17. Dr. Swati Sheshrao Pawar
Washim Road, Near Pathbandhare
Wasahat Jay Nagar Pusad,
Yavatmal 445 204.
18. Dr. Rajni Tatyrao Kamble
Sanjivani Hospital, Dr. Bhimrao Vasantrao Maske,
Somavar Peth, Sindhkhed Raja,
Dist. Buldhana

19. Dr. Pramita Bhaskarrao Patil
Pramita Bhishek Patil
Plot No.34, Aanmil nagar
Near rajiv Gandhi School devpur,
Dhule.

.... Petitioners

v/s.

1. State of Maharashtra
Through its Department of
Medical Education & Drugs
Mantralaya, Mumbai
2. Maharashtra University of Health
Sciences Nashik its Registrar
Having office at Vani Dindori Road,
Mhasrul nashik – 422004
3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081.
4. Late Kedari Redekar Ayurvedic
Mahavidyalaya, gadhinglaj
Post Graduate Training and Research Center
P-2, M.I.D.C. area, Gadhinglaj,
Dist. Kolhapure
Maharashtra – 416502.

.... Respondents

with
Writ Petition (St.) No.20639 of 2021

1. Yashwant Shikshan Prasarak Mandal
Kodoli, Taluka-Panhala
District-Kolhapur
2. Yashwant Ayurvedic Post Graduate Training
& Research Centre, Kodoli,
Taluka Panhala, District Kolhapur ... Petitioners

V/s.

1. State of Maharashtra
Through its Department of
Medical Education & Drugs
Mantralaya, Mumbai
2. Maharashtra University of Health
Sciences Through its Registrar,
Having office at St/Georges Hospital
Campus, Mumbai 400 001.
3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081. Respondents

with
Writ Petition No.3313 of 2022
(Not on Board)

Dr. Prutha Prakash Khaparde
Age 35 years, Residing at Indora,

Mission Mohalla, Post – Bezanbagh,
Nagpur 440004

... Petitioner

V/s.

1. State of Maharashtra
Through its Department of
Medical Education & Drugs
Mantralaya, Mumbai
 2. Maharashtra University of Health
Sciences its Assistant/Deputy Registrar
Having regional office at
St. Georges Hospital Campus
Mumbai 400001.
 3. Admission Regulatory Authority
305, Govt. Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra (E) Mumbai 400081.
 4. Hon'ble Yashwant Ayurvedic
Mahavidyalaya, Post Graduate
Training & Research Centre,
Kodali, Taluka-Panhala
District Kolhapur 416 114
- Respondents

Mr. Mihir Desai, Senior Counsel with Mr. Mangesh Deshmukh and
Mr. Tanmay Sawant for the Petitioners in WP
3153/2021,3156/2021,3157/2021 and 3160/2021.
Mr. Prathamesh Bhargude with Mr. Sumit Sonare i/b. Mr. Aditya
Raktade for the Petitioners in WP 3158/2021.
Mr. Aditya Raktade for Petitioner in WP No.3313/2022.

Mr. M.S. Topkar for Respondent No.4 in WP 3153/2021 and 3158/2021 and for Petitioners i/b Ms. Pavitra Manesh in Wpst No.20639/2021.

Mr. S.S.Bhende, AGP for the State in all Petitions.

Mr. Sameer Khedekar with Mr.Rishi N. Bhatt for Respondent No.3 in all petitions.

Mr. M.V. Thorat a/w. Amar Bodke and Gajanan Kukde for Respondent No.4 in WP 3157 and 3160 of 2021.

Mr. R.V.Govilkar a/w. Ms. Shaba N. Khan & Mr. Mihir Govilkar for Respondent No.2 (MUHS).

CORAM : A.S.Chandurkar & G.A. Sanap, JJ.

Date on which Arguments were heard on : 19th April 2022
Date on which the judgment is Pronounced on : 05th May 2022

JUDGMENT (Per A.S.Chandurkar, J)

Since an identical challenge is raised in these writ petitions to the communication dated 3rd August 2021 issued by the Secretary, Admissions Regulatory Authority conveying the order dated 3rd July 2019 passed by the Admissions Regulatory Authority, all the writ petitions can be conveniently decided by this common judgment.

2. Writ Petition No.3153/2021 has been filed by ten Petitioners. It is their case that in the academic year 2016-17 some of them had

appeared for Common Entrance Test (for short 'CET') seeking admission to the Postgraduate course in Ayurveda. Those Petitioners who had appeared in that CET did not get 50% marks. The cut off date for admission as declared by the CCIM was 30th October 2016 but the same was extended finally till 31st December 2016. After conducting various rounds of admission for admitting students to the Postgraduate Ayurveda Course, it is the case of the Petitioners that CCIM permitted various unaided private professional colleges to fill in the vacant seats at the institution level. The Petitioners responded to an advertisement issued by the 4th Respondent for filling in the said vacant seats. The Petitioners appeared in the entrance test conducted by the 4th Respondent and thereafter they were admitted to the Postgraduate Course. The said post was for duration of three years and it their case that they had completed obtaining instructions therein. The admissions of the Petitioners were not being regularised for the reason that they had been admitted to the Postgraduate course without appearing in the CET conducted by the 3rd Respondent. On 3rd August 2021 the 3rd Respondent – Admissions Regulatory Authority (for short 'the Authority') informed the Registrar of the 2nd Respondent – Maharashtra University of Health Sciences (for short 'the University') that in the meeting of the Authority held on 3rd July 2019 vide Item 12(d), the said Authority had held that the admissions of the Petitioners could not be regularised since they have not appeared in the

CET. The Petitioners have thus challenged the order dated 3rd July 2019 passed by the Authority that has been communicated to the University on 3rd August 2021. The Petitioners pray that their admissions be regularised and they be permitted to complete the Postgraduate course in question in all respects and they be issued Postgraduate degrees.

3. Writ Petition No.3158/2017 has been filed by seventeen Petitioners who are similarly situated and they seek similar relief as in Writ Petition No.3153/2021. The institution in which these seventeen Petitioners were admitted in the Postgraduate course having duration of three years has filed Writ Petition (st) No.20639/2021 challenging the order dated 3rd August 2021 passed by the Authority.

4. Writ Petition No.3156/2021 has been filed by three Petitioners who are similarly situated. These Petitioners have also taken admission in the three year Postgraduate Course without having secured 50% marks in the CET. Writ Petition No.3157/2021 has been filed by fifteen Petitioners who are also similarly situated. The Petitioners in these two writ petitions have taken admission in the Postgraduate course at the Respondent No.4 College.

5. Writ Petition No.3160/2021 has been filed by the nineteen Petitioners who also seek similar relief as has been sought in the Writ

Petitions to which reference has been made herein above.

6. Writ Petition No.3313/2022 has been filed by the sole Petitioner who is also similarly situated and who seeks identical relief.

7. Briefly, it is the case of the students who seek regularisation of their admission to the year Postgraduate Ayurveda Course that till the year 2015-16, the unaided private medical colleges in the State of Maharashtra had right to admit students through a CET. The admission were to be undertaken on the basis of merit in the ASSO-PGA-CET except to the extent of 15% NRI seats. The seats remaining vacant after completion of the admission process were permitted to be filled in at the college level. For the academic year 2016-17 the State of Maharashtra framed the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admission to the Postgraduate Ayurved, Unani and Homeopathy Courses) Rules, 2016 (for short 'Rules of 2016'). As per the Information Brochure relating to the CET for admission to Postgraduate course in Ayurveda PGA-CET-2016 and especially clause 3.3 it was stated that candidates who had obtained minimum 50% or more marks in PGA-CET-2016 and 40% in case of constitutional reservations would be eligible to seek admission. It is common ground that some of the Petitioners herein appeared in the CET conducted by the State in the academic year 2016-17 but they did

not get 50% marks for being considered eligible. Other Petitioners did not appear in the CET. The respective colleges with a view to fill in seats that remained vacant after completion of about six rounds of admission issued advertisement in December 2016 and invited applications for filling in those vacant post graduate seats as per the earlier practice. The Petitioners responded to those advertisements and were admitted in the Postgraduate Courses having duration of three years. The Petitioners pursued their education after appearing in the first year examination and submitted the synopsis for the second year. They claimed to have completed the course for the third year but they were not allowed to appear for the examination. It is in this background that the Petitioners have approached this Court praying that their admissions be regularised, their results for the exams undertaken by them be declared and they be permitted to complete the Postgraduate course.

8. During pendency of the writ petition on 3rd August 2021, the Authority through its Secretary informed the Registrar of the University that the Authority in its meeting held on 3rd July 2019 had considered the issue as regards regularisation of the Petitioner's admission but declined to approve the same for the reason that the Petitioners had not secured 50% marks in the CET/had failed to appear in the CET. By amending the writ petition, challenge is also raised to

the order dated 3rd July 2019 as communicated on 3rd August 2021.

9. The Authority has filed its reply in these writ petitions and has taken the stand that the Petitioners have been admitted to the Postgraduate Ayurveda Course in academic year 2016-17 in a manner not permissible by law. The eligibility for admission having been prescribed by clause 3.3 of the Information Brochure, it was undisputed that those Petitioners who had appeared in the CET had failed to secure 50% marks while the other Petitioners had not appeared in the CET. It is further stated that the Association of Management of Ayurvedic Medical Colleges had filed Writ Petition (I) No.19278/2017 seeking approval to the admissions made by students similar to the Petitioners. An ad-interim order was passed in that writ petition clarifying that neither the Petitioner therein nor the students who were given admissions could claim any equity on that basis. However, subsequently, that writ petition came to be withdrawn. It is state that since the Petitioners were not eligible for being considered for admission, it was not possible to approve their admissions.

10. On 26th July 2021 when these writ petitions were heard, this Court directed the respective Colleges to file affidavit-in-reply and also state whether the said Colleges were agreeable to refund the fees of the Petitioners alongwith compensatory damages and if so to quantify the

same and specify the period when they would be paid. Pursuant to this order, the respective Colleges have filed their affidavit-in-reply. The stand taken by them is that with a view to fill in seats that remained vacant after conclusion of the sixth round of admission and with a view to avoid financial loss, the said Colleges had filled up the vacant seats at their level. This was by following the practice that was adopted in academic year 2015-16. After making such admissions, the College forwarded the forms of the Petitioners to the University but the University refused to grant eligibility certificates to the Petitioners. It is further stated that the fees fixed by the Authority for the year 2016-17 was Rs.2,12,000/- per student considering the intake capacity. It is reiterated that it was on account of financial constraints that the Petitioners were admitted at the level of the Colleges.

11. The Colleges support the prayers made in the Writ Petitions and also submit that irreparable loss, prejudice and inconvenience would be caused to the Colleges if they would be directed to refund the admission fees or pay compensation to the Petitioners. A similar stand has been taken by the Petitioners in Writ Petition (st) No.20639/2021.

12. The learned Counsel for the Petitioners led by Shri Mihir Desai, learned Senior Advocate submitted that till the year 2015-16 by following the judgment of the Hon'ble Supreme Court in *P.A. Inamdar*

*vs. State of Maharashtra & others*¹ various unaided private Ayurvedic Private medical colleges in the State of Maharashtra had been admitting students through the CET. On completion of the admission process, the seats remaining vacant were being filled in at the level of the College itself. The Petitioners as students were desirous of pursuing Postgraduate studies in Ayurveda. They responded to the advertisement issued by the respective colleges and pursuant thereto secured admission in the three year Postgraduate Ayurveda Course. Since their admissions were made by relying upon the prevailing practice as per the earlier academic years, the Petitioners were under a bonafide belief that their admissions had been lawfully made and hence they pursued their studies. Having almost completed the three years course, the Petitioners could not now be told that their initial admission in the year 2016-17 was not liable to be approved. It is then urged that the admission process in the academic year 2016-17 continued till about six rounds of the same were completed. The situation in the matter of grant of admission to Postgraduate Ayurvedic Course was not very clear as the Rules of 2016 were published in the Government Gazzette only on 6th October 2016. The Information Brochure for PGA-CET-2016 was released thereafter without much publicity. In the anxiety of not losing an academic year, the Petitioners took admission in the three year Postgraduate Course. The belief of the Petitioners that their admissions were rightly made was fortified by

1 (2005) 6 SCC 537

the interim order passed in Writ Petition (st) No.19278/2017 alongwith connected writ petitions on 25th July 2017. The respective Colleges were permitted to undertake the admissions though by clarifying that the same would not create any equity either in the Colleges or in the students. The Petitioners having paid the requisite admission fees and having spent period of more than three years in pursuing the Postgraduate Course could not now be denied the benefit of having completed that course. Equity was in favour of the Petitioners and refusal to approve their admissions would not only put Petitioners in financial loss but they would also lose the time spent by them in pursuing those courses. It was thus submitted that considering the facts of the case and keeping in view the aspect that in the subsequent academic year 2017-18 and thereafter there was a relaxation in the eligibility criteria by permitting admissions to be made of candidates who secured less than 50% marks. It was prayed that the admissions of the Petitioners be approved. Reliance was placed on the decisions in *Dwarka Nath v/s. Income Tax Officer, Special Circle, Kanpur*², in support of the aforesaid contentions.

13. In the alternative and without prejudice to the aforesaid submissions, the learned Senior Advocate submitted that if this Court finds that the admissions of the Petitioners are not liable to be approved, this Court may consider the prayer for compensating the

2 AIR 1966 SC 81

Petitioners at the hands of the respective Colleges for the reason that Petitioners were admitted by the said Colleges without following the prescribed procedure. The Petitioners having paid the fees as demanded by the Colleges and they having spent period of more than three years in pursuing studies without any fruitful result, the Petitioners were entitled to be compensated for the loss of the academic years as well as for the money spent by them in pursuing the said course. Placing reliance on the decisions in *Krina Ajay Shad & ors. v/s. The Secretary, Association of Management of Unaided Private Medical & Dental Colleges, Maharashtra & ors.*³, *Saraswati Educational Charitable Trust & anr. v/s. Union of India & ors.*⁴, *National Medical Commission v/s. Mothukuru Sriyah Koumudi & Ors.*⁵ and the *Judgment of Division Bench of this Court in the case of Miss Firdos Vahajuddin Ansari v/s. State of Maharashtra and others*⁶; it was submitted that Petitioners were entitled to be suitably compensated in the matter.

14. The learned Counsel for the Authority relied upon the affidavit-in-reply filed by its Secretary and opposed the prayer for regularising the admissions of the Petitioners. He submitted that with the enactment of the Maharashtra Unaided Private Professional

3 SLP No.31900 of 2013 decided on 02.09.2014

4 Writ Petition (C)No.40 of 2018 (Supreme Court of India) decided on 24.2.2021

5 Civil Appeal No.3940/2020 decided on 01.09.2014

6 Writ Petition No.4916/2013 decided on 05.04.2017.

Educational Institutions (Regulation of Admission and Fees) Act, 2015 (for short 'Act of 2015') and especially Sections 3 & 5 thereof, it was clear that the Petitioners have been granted admissions in a manner that was contrary to the said provisions. He submitted that none of the Petitioners was eligible to be admitted as per the criteria prescribed by the PGA-CET 2016. From the academic year 2016-17 admissions at the college level were not permitted and all admissions had to be made in accordance with PGA-CET 2016. Since it was undisputed that none of the Petitioners was eligible for being admitted in the Postgraduate Ayurveda Course 2016-17 in accordance with PGA-CET 2016, no relief could be granted to the Petitioners. The Writ Petitions were, thus, liable to be dismissed. The learned Counsel for the University as well as the learned Assistant Government Pleader also opposed the Writ Petitions.

15. The learned Counsel representing the Colleges supported the prayer as made by the Petitioners for approving their admissions. It was submitted that the Colleges followed the practice that was prevailing in the year 2015-16. Since there were number of vacant seats that could not be filled in as per the modalities prescribed by PGA-CET 2016, those vacant seats were filled in by the Colleges by conducting an entrance test at their level. The financial implications of permitting such seats to remain vacant was also taken into

consideration while making the admissions. Considering the fact that in the subsequent academic years, the eligible criteria was relaxed and brought below 50% of the CET marks, as an exceptional case the admissions of the Petitioners were liable to be regularised. Reliance was placed on the decisions in *Rajan Purohit and others v/s. Rajasthan University of Health Sciences and others*⁷ as well as *Maharashtra Medical Education and Research Centre and another Vs. State of Maharashtra and others*⁸

The prayer for grant of compensation as made by the Petitioners, however, was opposed. It was stated that the Petitioners having responded to the advertisement as issued, it was not permissible for them to now contend that the Petitioners were entitled to compensation for being admitted to the Postgraduate courses without being eligible. The Colleges were already facing financial constraints on account of seats which remained vacant. Further financial burden could not be saddled on the Colleges. The College having imparted education to all the Petitioners-students, there would be no justification in directing the Colleges to refund the fees paid by them. The Petitioners had been permitted to complete the Postgraduate course in question and having received instructions, it would not be feasible to refund the admission fees. It was thus submitted that Petitioners were not entitled to any relief at this count.

7 (2012) 10 SCC 770

8 Writ Petition No.5328/2019 decided on 25th August 2020

16. We have heard the learned Counsel for the parties at length and we have perused the documents placed on record. For considering the submissions made on behalf of the Petitioners, it would be necessary to refer to certain relevant statutory provisions that would be applicable to the case in hand. The Act of 2015 that has come into force on 12th May 2015 has been enacted to regulate admissions and fees by unaided private professional institutions in the State of Maharashtra. Section 3 thereof prescribes the eligibility for admission to a professional course at any private professional education institution to be such as may be notified by the Government from time to time. Unaided institutions are also required to admit students in the manner as prescribed. Under Section 5 of Act of 2015 any admission made in contravention of the provisions of the Act of 2015 or the Rules made thereunder are treated to be void. The Rules of 2016 have been framed pursuant to the enactment of the Act of 2015. Those rules have come into effect from 6th October 2016. Rule 9 prescribes the Centralised Admission Process (for short 'CAP') for admission to various courses. The allotment of seats is also through the CAP rounds. For the academic year 2016-17 the State Common Entrance Cell published the Information Brochure for the Common Entrance Test for admission to Postgraduate courses. PGA-CET 2016 was held for selecting candidates to be admitted to the various courses conducted by private unaided Ayurvedic Colleges for

the year 2016-17. Clause-3 thereof prescribes the eligibility and clause 3.3. reads thus:-

“3.3.Candidate should have obtained minimum 50% or more marks in PGA-CET 2016 and 40% in case of constitutional reservation. Person with disabilities with General category must have secured not less than 45% marks in PGA-CET 2016 examination.”

It is thus clear that one of the conditions of eligibility is that a candidate has to secure minimum 50% or more marks in PGA-CET 2016. The minimum marks are 40% in case of constitutional reservations and for persons with disability in general category, the same is not less than 45%.

17. It is not in dispute that some of the Petitioners had appeared in PGA-CET 2016 examination but none of them secured minimum of 50% marks as prescribed by clause 3.3. The other Petitioners did not appear in PGA-CET 2016. It is thus an undisputed position on record that none of the Petitioners are eligible to be considered and then selected for admission to the Postgraduate courses in Ayurveda in the year 2016-17 as per clause 3.3. The only conclusion that can be arrived at in view of the aforesaid is that the admissions of the Petitioners having been made in contravention of the Act of 2015, the

Rules of 2016 and PGA-CET 2016. The same are, therefore, void in view of Section 5 of the Act of 2015.

The Petitioners seek to rely upon the practice prevailing till the year 2015-16 of private unaided Ayurvedic Colleges filling in vacant seats at their level by conducting an entrance test. This mode of filling in vacant seats was, however, not permissible in the academic year 2016-17. All vacant seats were to be filled in the manner prescribed by the Act of 2015, Rules of 2016 and PGA-CET 2016. With the field being occupied by the aforesaid statutory provisions, there would hardly be any legal basis to accept the contention as urged on behalf of the Petitioners that the prevailing practice ought to be accepted even for the academic year 2016-17. Reference made to decision in *Dwarka Nath (supra)* in that regard is of no avail for the reason that the practice prevailing earlier stands replaced by the statutory provisions. Hence, the Petitioners are not entitled to any relief on the ground that they took admission at the respective Colleges in accordance with the earlier practice.

18. It is not in dispute that the ad-interim relief granted on 25th July 2017 in Writ Petition (st) No.19278/2017 ceased to operate on 17th June 2019 with the unconditional withdrawal of the aforesaid writ petition. Similarly, the reliance placed on the decision in *Maharashtra Medical Education and Research Centre (supra)* is also misplaced for

the reason that the facts therein indicate that this Court considered the position as prevailing in the academic year 2015-16 and not in the academic year with which we are concerned in these writ petitions. We, therefore, find that there is no ground made out whatsoever to accept the contentions of the Petitioners that their admissions to the Postgraduate course as made in the year 2016-17 are liable to be regularised. The order passed by the Authority on 3rd July 2019 also does not deserve to be interfered with for the reason that it has been found that the Petitioners' admissions were not pursuant to PGA-CET 2016.

19. It is well settled that jurisdiction under Article 226 of the Constitution of India cannot be exercised to uphold any course of action that is not in accordance with the prescribed legal procedure. Granting relief to the Petitioners in these facts would result in condoning the illegal admissions granted by the Colleges and validating the admissions of the Petitioners who were not eligible to seek admission in accordance with PGA-CET 2016. Having found that the admissions of the Petitioners have been made in a manner contrary to the Act of 2015, the Rules of 2016 and PGA-CET 2016, the Petitioners would not be entitled to any discretionary relief. Mandatory statutory provisions referred to herein above cannot be bypassed. Moreover, there are no equities in favour of the Petitioners to

grant them relief in these facts.

20. Having found that the admissions of the Petitioners are not liable to be approved, the alternate prayer made by the students for grant of compensation as well as refund of tuition fees deserves consideration. We find that the respective Colleges disregarding the Act of 2015, the Rules of 2016 and PGA-CET 2016 proceeded to admit the students by issuing an advertisement at their level. Such course was not permissible in law. The justification sought to be put forth by the Colleges is that on account of financial constraints, they did not deem it proper to permit the seats to remain vacant. This can hardly be a justification for by-passing the mandatory statutory provisions. If such plea is permitted to be accepted, it would result in grave consequences thereby diluting prescribed minimum standards in the field of education. Under the garb of financial constraints, the Colleges cannot be permitted to disregard statutory provisions as well as the procedure prescribed and make admissions. The aspect of public law damages has been considered by the Hon'ble Supreme Court in *Krina Ajay Shah and others, Saraswati Educational Charitable Trust & another and Firdos Vahajuddin Ansari (Supra)*. In the present case there is no question of saddling any damages on the State or the University. It is only the Colleges who have transgressed the statutory provisions and have made admissions in breach of the provisions of law. We, thus, find that in

these facts, Petitioners would be entitled to compensatory relief that would have to be saddled on the Colleges.

21. We find that the Petitioners were required to pay admission fees for each academic year of the three year Postgraduate Course. It is no doubt true that the Petitioners are also partly responsible for the helpless position in which they find themselves. The Petitioners appear to have responded to the advertisement issued by the Colleges without actually verifying as to whether it was permissible for the Colleges to have filled the vacant seats as has been done in the present case. The Petitioners have not exercised diligence in the matter. Be that as it may, we find from the affidavit filed by the respective Colleges that the admission fees fixed by the Fees Regulating Authority in the year 2016-17 was Rs. 2,12,000/- approximately per student. In the facts of the present case, we are of the view that the Colleges should be directed to refund 50% of the admission fees that they have recovered from each Petitioner for each academic year. In addition, an amount of Rs. One Lakh is also liable to be paid by the respective Colleges to each Petitioner being an adhoc amount of compensation for the time spent by the Petitioners in pursuing the course in question which has now been rendered unfruitful. It is true that the amount identified may not be reflective of the actual amount of damages sustained by the Petitioners. The amount determined is adhoc in nature and if the

Petitioners desire to substantiate their claim for damages by seeking an amount over and above what has been granted herein, they are at liberty to initiate appropriate proceedings in accordance with law and seek to recover the same from the respective colleges. The amount of 50% admission fees for each academic year alongwith an amount of Rs. One Lakh per Petitioner be paid to the respective Petitioners within a period of three months from today. In view of aforesaid, Writ Petition Nos.3153/2021, 3156/2021, 3157/2021, 3158/2021, 3160/2021 and 3133/2022 are partly allowed in aforesaid terms while Writ Petition (St) No.20639/2021 stands dismissed with no order as to costs.

22. This order would come into effect after a period of four weeks from today.

(G.A.Sanap, J)

(A.S. Chandurkar, J)

Lata Panjwani, P.S.