

Dusane

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

WRIT PETITION NO.3233 OF 2021

Mahila Homeopathic Medical College ... Petitioners
& Anr.

Versus

Union of India & Ors. ... Respondents

BHALCHANDRA
GOPAL
DUSANE

Digitally signed by
BHALCHANDRA
GOPAL DUSANE
Date: 2022.08.12
10:43:45 +0530

Mr. Mihir Desai, Senior Counsel a/w Mr. Rajaram Bansode i/by Ms.
Sheetal Ubal for Petitioners.

Mr. Ashutosh Gole for Respondent No.1.

Ms. Purnima Awasthi for Respondent No. 2-NCH

Mr. Rui Rodrigues for UOI.

Mrs. S.S. Bhende, AGP for State.

**CORAM : S.V. GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

DATED : 10TH AUGUST 2022

P.C. :

1. The Petitioners assail the order dated 31st March 2021 and the order dated 11th March 2022 confirming the order dated 31st March 2021 thereby refusing permission to the Petitioners to admit the students for the academic year 2020-2021.

2. Mr. Mihir Desai, learned Senior Counsel for the Petitioners submits that the Petitioner has been granted permission for the academic year 2021-2022, the permission for the academic year 2020-2021 is denied. In fact, the Respondent did not verify the documents. In the order also observed that the genuineness of the documents could not be verified. According to the learned Senior Counsel, the fact that for the .. subsequent academic year 2021-2022, the permission was granted would be sufficient to infer that no deficiency exist. Learned Senior Counsel further submits that when the impugned order was passed not granting the permission to the students for academic year 2020-2021, the Petitioner filed petition before this Court bearing Writ Petition No. 2424 of 2021. The Division Bench of this Court under order dated 5th February 2021 directed the Respondents to permit the Petitioner to admit the students. The said Writ Petition is disposed of. Pursuant to the impugned order of this Court, the Petitioner admitted the students for the academic year 2020-2021.

3. We have also heard learned Advocate for the Respondent. Learned counsel for Respondent no.2 affirmed that the Petitioner has been granted permission for the academic year 2021-2022.

4. It is not disputed that for the academic year prior to 2020-2021 and subsequent to 2020-2021, the Petitioner-College is granted permission to run the BHMS Course. For the academic year 2020-2021, the permission is not granted purportedly on the ground that there are discrepancies in the documents on the following grounds :

"Overall observations of 2020-21 :

1. There were major discrepancies in many documents of the teaching staff produced by the College. In absence of attendance register and bio-metric attendance record, the authenticity of presence of these staff in the College could not be ascertained.
2. Genuine availability of teachers in the Department of Anatomy and Part-time teachers could not be verified by the hearing committee.
3. Some Lecturers getting double salary than Readers and Professors as per Acquittance roll. While some Professors and Readers were getting Rs.15,000/- as salary.

4. The College did not fully comply with the provisions of Employee's Provident Funds and Miscellaneous Provident Act, 1952 and E.S.I. Act, 1948 and Relevant Rules and Regulations.

13. Whereas, in view of the above compliance it has been concluded that deficiencies were existing in 2020-21 on the basis of which permission was denied to the Pourvi Shikshan Prasarak Mandal's Mahila Homeopathic Medical College by Ministry of AYUSH."

5. For the academic year 2021-2022, the permission has been granted by the National Commission for Homeopathy, meaning thereby that the deficiency as existed is already removed by the Petitioner-College. Even under the interim orders of this Court passed by the Co-ordinate bench, the petitioner was permitted to admit the students thereby the Petitioner admitted the students with the intake capacity of 100.

6. Considering the interest of the students admitted pursuant to the interim order and further the permission granted by the Counsel for the academic year 2021-2022 and also the fact that the impugned order does

not with certainty conclude about the deficiency, we set aside the impugned orders and direct Respondent No. 2 to grant permission to the Petitioner for the academic year 2020-2021.

7. In view of disposal of the present petition, Writ Petition (St) No. 2424 of 2021 also stands disposed of in terms of the interim order therein.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)