

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6565 OF 2021

Apurv A. Patil & Ors.

..Petitioners

V/s.

Union of India through Ministry of
Ayush and Ors.

..Respondents

WITH
INTERIM APPLICATION NO.4095 OF 2021
IN
WRIT PETITION NO.6565 OF 2021

Ms. Astha M. Pawar and Anr.

Applicants

V/s.

Apurv A. Patil and Ors.

Respondents.

Mr. Suryajeet P. Chavan for the Petitioners.

Mrs. S. S. Bhende, AGP for Respondent

Ms. Naveena Kumai, Panel Counsel for Respondent No.1.

Ms. Shaba N. Khan i/b R. V. Govilkar for Respondent No.5.

Mr. Sameer Khedekar for Respondent No.7.

CORAM : SUNIL B. SHUKRE AND
AMIT BORKAR, JJ.

DATE : 23 FEBRUARY 2022.

P. C.

Heard. Rule. Rule made returnable forthwith by

consent of the parties.

2. Reply tendered across the bar by Respondent No.7 along with annexures is taken on record. In our considered view, the purpose of these Petitions stands substantially served by accepting the reply so filed. Ofcourse, learned counsel for the Petitioners submits that so far as seven students are concerned, there have been no rejection orders expressly passed by Respondent No.7 and so, their claims of continuation of their admissions to BHMS course must be accepted. The decision taken by Respondent No.7 regarding approval to the admission granted is administrative in nature and, therefore, it is not necessary for Respondent No.7 to always expressly say that admissions of 'X' number of students are approved and admissions of 'Y' number of students are rejected and it is enough for the said Authority to say that out of 'Z' number of students admissions of 'X' number of students are approved and when it is said so, it would only mean by necessary implication that admissions of rest of the students from out of total 'Z' number of students have been rejected.

3. Learned counsel for the Petitioner also submits that non consideration of the claim of Petitioner No.3, Ms. Samruddhi S. Thorat is arbitrary as her name had been forwarded to Respondent No.7 for due verification and therefore, Respondent No.7 could not have refused to take decision as regarding her name on the ground that Petitioner No.3 was not a

party to the earlier round of litigation. He also submits that Respondent No.7 was bound to verify and consider the claim of Petitioner No.3 irrespective of the fact if she was a party to the earlier round of litigation or not.

4. We are of the view that if a strict view in such a case is taken, it would be possible to say that there is no fault of Respondent No.7 in his not verifying the claim of Petitioner No.3 on the said ground. But, on deeper consideration other view is possible and it being beneficial to students, must be adopted. These Petitioners along with few more Petitioners had filed Writ Petitions before this Court which were Writ Petition (Stamp) Nos.94490/2020, 944960/2020 and 94997/2020, where main relief sought was regarding grant of approval to the admission taken by the Petitioners to the First Year, BHMS course. In these Petitions, the other Co-ordinate Bench directed, by order passed on 22/12/2020, that necessary proposals for verification and scrutiny of documents of students who have been admitted for August 2019-2020 shall be forwarded by Respondent-Colleges to the Director of Ayush through the Ministry of Ayurvedic, Government of India and upon receipt of said proposal, this Court further directed, that Admissions Regulating Authority would examine and verify the same within two months from the receipt thereof. Accordingly, the proposals were received by Respondent No.7 and were also considered by

the Committee and the result of such proposal is now before this Court in the nature of reply filed today directly in this Court. The direction given to the Respondent-College was for submission of the proposals for verification and scrutiny of the documents of all the "students" and not just of the Petitioners in that round of litigation. Therefore proper way to understand the order was to read it as applicable to all those "students" whose proposals were received and not just the Petitioners. It would thereafter have been more appropriate for Respondent No.7 to also have considered, examined and verified the proposal of all the students whose names were forwarded to it for the same. This can be done even now but, for that matter these Petitions need not be kept pending.

5. Upon careful consideration of the reply filed by Respondent No.7, it is seen that admissions taken by Petitioner Nos.1, 4 and 6 have not been approved by Respondent No.7 as they have been found not eligible for seeking admission to BHMS course. Because of their ineligibility to seek admission, their Petitions cannot be allowed. Learned counsel for these Petitioners, however submits that it was not within the scope of verification, that eligibility of these Petitioners was also examined by Respondent No.7. With due respect we would disagree with the learned counsel for the Petitioners. The order dated 22/12/2020 is very clear and it says that the proposals were to be

submitted for the purpose of verification and scrutiny of documents of the students who have been admitted to the College and such a direction would also include the authority to examine the eligibility of the students on the basis of documents submitted by them. So, the Petitions of Petitioner Nos.1, 4 and 6 deserves to be dismissed and are dismissed accordingly.

6. As regards Petitioner No.3, we find from the reply of Respondent No.7 that no decision whatsoever has been taken by Respondent No.7 and in our considered view, it must be taken by Respondent No.7 for the reasons recorded earlier, in terms of the order passed by this Court on 22/12/2020 and, accordingly, we direct Respondent No.7 to take a decision in her case and also in case of similarly situated students, whose names along with documents have been forwarded to Respondent No.7. The decision regarding these students including Petitioner No.3 shall be taken by Respondent No.7 at the earliest and in any case within 7 days from the date of receipt of the proposal in respect of these students and for this purpose we direct Respondent Nos.4 and 6 to resubmit the proposal to Respondent No.7 within a period of 7 days from the date of the order.

7. The result of these students, one of whom is Petitioner No.3, shall be provisionally declared and these students including Petitioner No.3 shall be provisionally permitted for

examination subject to the decision of Respondent No.7 regarding their eligibility.

8. It is made clear that if these students including Petitioner No.3, upon scrutiny and examination of their documents and claims are found to be ineligible, or any of them is/are not found to be eligible, such of these students shall lose all their rights in respect of the course, which they have studied uptill the decision of Respondent No.7.

9. As regards the remaining Petitioners reply shows that they have been found to be eligible to secure admission to the course in question, and therefore, the Petitions of Petitioner Nos.2-Tushar D. Naykode, 5-Ms. Darshana M. Kadam, and 7-Mr. Rajvardhan M. Pol, 8-Ms. Sayali A. Sadafule, 9-Ms. Pradnya R. Sutar, 10-Ms. Aishwarya A. Mhamane, 11- Ms. Naziya Y. Lathiwala, 12-Ms. Jasmin M. Shaikh, 13-Ms. Gouri A. Ingawale, 14-Ms. Kaveri P. Hasmani and 15-Ms. Suhana N. Kanat are hereby allowed in terms of prayer clauses (a) and (b). Rule accordingly. No costs.

10. All pending Interim Applications are disposed of in view of the final order.

(AMIT BORKAR, J.)

(SUNIL B. SHUKRE, J.)