

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

**WRIT PETITION NO.11404 OF 2017
WITH
INTERIM APPLICATION NO.1397 OF 2022**

Kisan Dnyanoday Mandal Gudhe's
Homoeopathic Medical College
and Hospital

..... Petitioner

Vs.

The Union of India & Ors.

..... Respondents

Mr. Ratnesh M. Dube I/b. Mrs. Raghuwanshi Gauri Rajednra for the
Petitioner

Ms. Naveena Kumai for Respondent No.1 - Union of India

Mr. N. C. Walimbe, AGP for the State

Ms. Purnima Awasthi for Respondent No.2.

Ms. Sarika Shetye I/b. S.B.Shetye for Respondent No.3

**CORAM: S.V. GANGAPURWALA &
DHIRAJ SINGH THAKUR, JJ.**

DATED : JUNE 16, 2022

P.C.

1 The Petitioner was denied permission to admit the students for the Academic Year 2017-2018. The Petitioner filed the instant Writ Petition. The Division Bench of this Court, on 11th October 2017, by an interim order, granted ad-interim relief in terms of prayer clauses (E) and (F). Prayer clauses (E) and (F) read thus:

“(E) Pending hearing and final disposal of this Writ Petition, the impugned order dated 28/09/2017 issued by the Respondent No.1 Ministry of Health and Family Welfare, Department of Ayurveda, Yoga & Naturopathy and Homeopathy (AAYUSH), New Delhi, may kindly be stayed and suspended.

(F) Pending hearing and final disposal of this Writ Petition, the Hon'ble High Court may kindly permit the Petitioner college to admit the students for the academic year 2017-2018 for the B.H.M.S. Course in particular facts and circumstances as the Respondent No.1 has granted permission to all other similarly situated colleges on the basis of inspection report conducted for the academic year 2017-2018."

2 It would be appropriate to quote the interim order passed by this Court on 11th October 2017. The same reads thus:

"1] Issue notice to the Respondents, returnable on 08/11/2017. Mr. Yadav, learned AGP, waives service of notice on behalf of Respondent Nos. 4 and 5.

2] Mr. Bachati, learned Counsel appearing on behalf of the Petitioner, presses for grant of ad-interim protection on the ground that last date for admissions is 31st October, 2017.

3] Perusal of the material placed on record would reveal that Respondent No.2 has recommended allowing admissions for the Academic Year 2017-18 subject to the Colleges fulfilling the discrepancies reflected in the report of inspection before allowing admissions for the Year 2018-19. It could thus be clear that period granted by Respondent No.2 itself would apply to the admissions for Academic Year 2018-19. That period is yet to come. The Apex Court in catena of cases, starting from the judgment of the Constitutional Bench in State of T.N. and Another vs. Adhiyaman Educational & Research Institute and Others (1995) 4 SCC 104 has consistently taken a view that the Apex Body of the Experts in the field of Professional Education, will have a final word.

4] In the present case, it could clearly be seen that, though, Respondent No.2 has, in unequivocal terms, recommended the case of the Petitioner for admissions, it is Respondent No.1, who has rejected the same.

5] In that view of the matter, there shall be ad-interim relief in terms of prayer clauses (e) and (f)."

3 We have heard the learned Counsel for the parties.

4 It is contended by the learned Counsel for the Petitioner that for the subsequent Academic Years 2018-2019 and 2019-2020, the

Respondents have granted permission to the Petitioner to admit the students. For the Academic Year 2017-2018 also the recommendation was given allowing the admissions of the students, subject to College fulfilling the discrepancies before allowing the admission for the Academic Year 2018-2019 and it appears that before the deadline of the admission for the Academic Year 2018-2019 the Petitioner cleared the deficiencies and as such, permission was granted by the Respondents to admit the students for the subsequent Academic Years. The students are, now, in the final year of the course.

5 The learned Counsel also relies on the judgment of the Division Bench of this Court at Aurangabad in ***Writ Petition No.11666 of 2016 (Kaka Saheb Mhaske Vs. Union of India & Ors.) dated 17th November 2017*** and the judgment of the Division Bench of this court.

6 Considering the aforesaid, the Writ Petition is allowed in terms of the interim orders. No costs.

7 In light of the above, the Interim Application does not survive and stand disposed of.

(DHIRAJ SINGH THAKUR,J.)

(S.V. GANGAPURWALA, J.)