

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 905 OF 2021

Pragati Adiwasi Gramin Vikas Sanstha,
Management of Sant Gajanan Maharaj Nursing School,
State Bank Colony, Shegaon, District- Buldhana – 444203,
through its President Shri Prakash Sonaji Kalaskar,
aged about 46 years, R/o Shegaon, District – Buldhana.

PETITIONER

.....VERSUS.....

1. State of Maharashtra,
through its Secretary,
Medical Education & Drugs Department,
Mantralaya, Mumbai – 32.
2. Maharashtra Nursing Council,
5th Floor, Bombay Mutual Annex, Gunblow Street,
Opposite Residency Hotel,
D.N. Road, Fort – Mumbai.
3. Maharashtra State Board of Nursing and Para-Medical Education,
through Directorate of Medical Education and Research,
4th Floor, Saint Georges Hospital Compound,
Fort, Mumbai – 1.

RESPONDENTS

Shri Manish Shukla, Advocate for the petitioner.
Ms. S.S. Jachak, Assistant Government Pleader for respondent No.1/ State.
Shri M.M. Sudame, Advocate for respondent No.3.

CORAM : A. S. CHANDURKAR AND M.W. CHANDWANI, JJ.

DATE : 12/10/2022

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The State Government had granted permission to the
petitioner – Institution to start Nursing School with intake capacity of 20

students on 12/8/2011. The Essentiality Certificate dated 12/8/2011 was valid for a period of three years from the date of issue. Based on this certificate, the Nursing Council granted permission to the Institution to start Auxiliary Nursing and Midwifery (ANM) course from the academic session 2011-12. At the end of the period of three years, since no further permission was granted, the petitioner had approached this Court by filing Writ Petition No. 3340/2014 wherein this Court permitted the students to undergo examination at the end of academic session 2013-14. The Indian Nursing Council was also directed to complete the verification of the Institution so as to enable the results of the students to be declared. This arrangement continued and the students continued taking education therein. On 14/5/2019, the Institution again applied to the Maharashtra Nursing Council to grant permission to admit students in the academic session 2019-20 and also to declare results of the students who had appeared in the examination. By an interim order, such permission was granted. In the present Writ Petition, the action of the Maharashtra State Board of not declaring the results of the students who had appeared in the examination conducted in October-2020 was sought to be challenged.

3. Initially, by an interim order dated 21/9/2021, the students who were admitted in the second year of the ANM course were permitted to undertake their examinations but the results were directed not to be

declared. However, by a subsequent order dated 19/8/2022, the said results were permitted to be declared. In the meanwhile, the Institution applied for provisional affiliation for the new ANM programme for the academic session 2022-23 and the Maharashtra State Board on 29/1/2022 granted such provisional affiliation for the academic session 2022-23. By the order dated 19/8/2022, this Court observed that in the light of the Government Resolution dated 30/7/2018, affiliation for the earlier period after 2014 could be considered by the State Government. In response thereto, an affidavit has been filed by respondent No.1 wherein it has been stated that in the light of the Government Resolution dated 13/7/2018 and as per the provisions of the Maharashtra State Board of Nursing and Paramedical Education Act, 2013, the State Board will be competent to grant affiliation/ continuation of affiliation after following the due procedure. It is also seen that an inspection was carried out by the State Board and in the report dated 28/1/2022, it was noted that the Institution was found feasible with the admission capacity of 20 students for the academic session 2021-22.

4. We thus find that from 2014 onwards, the Institution has been continuing to impart education in the ANM course and results of the students are being declared pursuant to the interim orders. In the meanwhile, the State Board inspected the Institution on 28/1/2022 and

thereafter granted provisional affiliation on 29/1/2022 for the academic session 2022-23.

5. In these facts and as respondent No.1 has stated that the State Board will be competent to grant affiliation/ continuation of affiliation, it is directed that respondent No.3 – State Board shall consider the entire material placed on record as well as the fact that the Institution was inspected on 28/1/2022 which was followed by grant of provisional affiliation and thereafter take a decision to continue the affiliation from the year 2014 onwards. Such decision be taken within a period of four weeks from today. If necessary, the Institution can be directed to comply with any other shortcomings if noticed by the Board. In view of the order dated 5/5/2022 by which the Board was directed to declare the results, it is informed that the results have been declared but the marksheets have not been issued to the concerned students. The Board shall do the needful in that regard.

6. With these directions, the Writ Petition is disposed of. Rule accordingly. No costs.

(M.W. CHANDWANI, J.)

(A.S. CHANDURKAR, J.)

SUMIT

Digitally signed by SUMIT CHETAN
AGRAWAL
Signing Date: 13.10.2022 18:00