

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

WRIT PETITION NO. 971/2021

(VAISHALI BHAGWAN AMBHOORE **VERSUS** STATE OF MAHARASHTRA & OTHERS)

*Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders.*

Court's or Judge's order

Shri S.D. Chande, counsel for the petitioner.
 Ms S.S. Jachak, A.G.P for the R-1, 3 & 6.
 Shri A.M. Sudame, counsel for the R-2.
 Shri O.A. Ghare, counsel for the R-4 & 5.
 Shri A.V. Khare, counsel for the R-7.

CORAM : A. S. CHANDURKAR AND G. A. SANAP, JJ.

DATE : FEBRUARY 18, 2022.

Heard.

By this writ petition, the petitioner seeks a direction to be issued to the respondent no.4-Savitribai Fule G.N.M. Nursing College, Washim to submit the examination form of the petitioner to enable her to appear for the supplementary examination in the Third Year Part-I of Revised General Nursing and Midwifery course that is to be held shortly.

It is the grievance of the petitioner that despite pursuing the aforesaid course with requisite attendance, her examination form has not been forwarded by the respondent no.4-College to the respondent no.7-Maharashtra Nursing Council.

On the other hand, the stand of the respondent no.4-College is that the petitioner has failed to complete the requisite attendance which has been prescribed for being eligible to appear in the said examination. According to the respondent no.4-College the prescribed attendance is 80% of the total college days. As per the affidavit filed by the respondent nos.4 and 5, the Clinical experience required for the course in question is 384 hours (8 weeks). For the Part-I of the Third Year course, Theory is for 140 hours and for Practicals it is 560 hours (14 weeks). Since there is a short-fall of this period, the form of the petitioner is not being forwarded to the respondent no.7.

On 10.02.2022, we had directed the learned counsel appearing for the respondent no.7-Council to obtain instructions as to whether the Council would be in a position to examine the entitlement of the petitioner to submit her examination form for appearing in the Third Year Part-I examination of R.G.M.N. course in the light of the alleged short-fall in attendance.

On instructions, it is submitted by the learned counsel for the respondent no.7-Council that the Council would be in a position to consider the entitlement of the petitioner based on the requisite attendance and completion of practical course.

In view of the fact that there is a dispute with regard to the eligibility of the petitioner to present herself for the said examination, the respondent no.7-Council is directed to consider the entitlement of the petitioner to appear for the said examination based on the requirements for pursuing the Third Year Part-I R.G.M.N. course. To facilitate such adjudication, the presence of the petitioner and the respondent no.4 with requisite records would be necessary. The respondent no.7-Council shall accordingly consider the representations of the petitioner and the respondent no.4 on 28.02.2022 at 11.30 a.m. The respondent no.7-Council shall consider the material placed before it and take a decision as regards entitlement of the petitioner to appear for the Third Year Part-I R.G.M.N. examination. Since this exercise would consume some time, the respondent no.4-College shall provisionally forward the examination form of the petitioner for acceptance which would be subject to the outcome of the adjudication by the respondent no.7-Council. If the respondent no.7-Council certifies that the petitioner is eligible to appear in the examination in question, the petitioner would be permitted to appear for the said examination. It is made clear that since the form of the petitioner has been directed to be accepted provisionally, the petitioner's attempt would depend upon the outcome of such enquiry and the petitioner shall not claim any equity on that basis. The respondent no.7-Council shall take its decision expeditiously considering the fact that this would be the last opportunity available to the petitioner to appear for the examination in question.

Another prayer made by the petitioner is for a direction to be issued to the respondent nos.4 and 5 to refund the amount of scholarship to which she claims to be so entitled. In that regard, the petitioner has sought to rely upon the information furnished to her by the Social Welfare Office under the Right to Information Act, 2005.

This aspect would require examination by the respondent no.6-Deputy Commissioner, Social Welfare Office, Washim. For aforesaid purpose, the respondent no.6 shall consider the aforesaid aspect after receiving documents from the petitioner and the respondent nos.4 and 5. A decision thereon be taken in accordance with law. The respondent no.4-College shall on conclusion of the enquiry in question return the original documents of the petitioner by retaining the photo copies thereof for its record.

With aforesaid directions, the writ petition is disposed of. No costs.

(G. A. SANAP, J.)

(A. S. CHANDURKAR, J.)

APTE