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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 27th May, 2022

+ **W.P.(C) 8006/2022, CM APPLs. 24348-24349/2022**

ST STEPHEN HOSPITAL COLLEGE OF NURSING Petitioner
Through: Mr. Rajeev Sharma, Senior Advocate
with Ms. Shruti Sharma and
Mr. Saket Chandra, Advocates.

versus

 UNION OF INDIA & ORS. Respondents
Through: Mr. T.P. Singh, Sr. Central Govt.
Counsel with Ms. Niyati, GP for R-1.
Mr. V.S.R. Krishna and Mr. Alok
Jain, Advocates for R-Indian Nursing
Council.
Ms. Ekta Sikri and Mr. Jasbir Bidhuri,
Advocates for R-GGSIPU.

+ **W.P.(C) 7008/2022 & CM APPL. 21457/2022**

NGO NURSING ASSOCIATION THROUGH ITS PRESIDENT DR.
RAHUL Petitioner
Through: Mr. Shekhar Devasa, Mr. Shekhar
Dubey, Mr. Manish Tiwari and
Mr. Amit Shahi, Advocates.

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. V.S.R. Krishna and Mr. Alok
Jain, Advocates for R-Indian Nursing
Council.
Ms. Ekta Sikri and Mr. Jasbir Bidhuri,
Advocates for R-GGSIPU.

+ **W.P.(C) 8318/2022, CM APPL. 25061-25062/2022**

LAKSHMI BAI BATRA COLLEGE OF NURSING OF CH AISHI
RAM BATRA PUBLIC CHARITABLE TRUST Petitioner
Through: Ms. Shefali Gupta and Mr. Balwant
Chaubey, Advocates.



versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through: Mr. V.S.R. Krishna and Mr. Alok Jain, Advocates for Indian Nursing Council.
Ms. Ekta Sikri and Mr. Jasbir Bidhuri, Advocates for GGSIPU.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present batch of petitions under Article 226 of the Constitution of India, 1950, *inter-alia*, seek direction(s) for quashing notifications/communications¹ and primarily extension of time for completion of admissions and fixing of dates of counselling for nursing courses at their respective colleges/ institutes for the Academic Year 2021-22.

PARTIES TO THE DISPUTE

2. Parties to the above-captioned petitions are as encapsulated in the table hereinbelow:

S. NO.	MATTER NO.	PETITIONER	RESPONDENT NO. 1	RESPONDENT NO. 2	RESPONDENT NO. 3	RESPONDENT NO. 4	RESPONDENT NO. 5
1.	W.P. (C) 8006/2022	St. Stephen's Hospital of Nursing	Govt. of NCT of Delhi	Indian Nursing Council	Guru Gobind Singh Indraprastha University	-	-

¹In W.P. (C) 8006/2022, notification dated 23rd December, 2021 issued by Indian Nursing Council. In W.P. (C) 8318/2022, communication dated 9th May, 2022 by Guru Gobind Singh Indraprastha University to Petitioner therein relying upon the above-noted notification dated 23rd December, 2021 issued by Indian Nursing Council; and notification dated 8th April, 2022 issued by the Indian Nursing Council. In W.P. (C) 7008/2002, communication dated 26th April, 2022 by Indian Nursing Council to Petitioner therein.



2.	W.P. (C) 8318/2022	Lakshmi Bai Batra College of Nursing	Govt. of NCT of Delhi	Indian Nursing Council	Guru Gobind Singh Indraprastha University	-	-
3.	W.P. (C) 7008/2022	NGO Nursing Association	Union of India	Indian Nursing Council	State of Maharashtra	The Commissioner, CET Cell	Medical Counselling Committee

3. Although the pleadings are not complete in all the cases, however, in view of the urgency projected by the Senior Counsel for the Petitioners and on consensus among the counsel for the parties, the cases were finally heard. The pleadings in all three petitions are similar – with the petitioners in W.P. (C) 8006/2022 & W.P. (C) 8318/2022 being identically placed. Further, since the reliefs as well as the grounds urged by Petitioners are also identical, the same were heard together and are being decided by way of a common order. For the sake of convenience, the facts, primarily in W.P.(C) 8006/2022, are being noted and discussed.

BRIEF FACTS

4. The National Eligibility-cum-Entrance Test (“NEET”) for undergraduate courses was conducted in September, 2021 and its results were declared in December, 2021.

5. Considering various representations received from State Governments *qua* extension of last date of admission for the Academic Year 2021-22, Indian Nursing Council [Respondent No. 2 in all petitions], *vide* notification dated 23rd December, 2021, fixed the last date of admissions as 21st March, 2022 and directed all Universities/ State Nursing Registration Councils (“SNRCs”)/ Nursing Institutions to ensure strict adherence to such timelines.



6. The first and second rounds of counselling held by Medical Counselling Committee were concluded on 9th February, 2022 and 5th March, 2022 respectively. In the first round of counselling, only 18 out of a total of 50 seats of the St. Stephen's Hospital of Nursing were filled. Thereafter, Guru Gobind Singh Indraprastha University [*hereinafter*, "**GGSIPIU**"] held the second round of counselling from 8th March, 2022 to 23rd March, 2022, wherein only 6 students were admitted, and subsequently, one student got her admission cancelled. The first mop-up round stood complete on 31st March, 2022. Similarly, after conclusion of the first and second rounds of counselling on 31st January, 2022 and 15th March, 2022 respectively, only 11 out of a total of 54 seats of Laxmi Bai Batra College of Nursing [Petitioner in W.P. (C) 8318/2022] stood filled.

7. Even though the second round of counselling was completed by 23rd March, 2022, no further round of counselling was held by GGSIPU. Considering that a number of seats still remained vacant at Petitioners as well as at other affiliated colleges/ institutes, they repeatedly requested the said University to hold further rounds of counselling. However, the said University did not agree, citing the notification dated 23rd December, 2021 issued by Indian Nursing Council, which stated that admission process for all nursing programmes for the Academic Year 2021 – 2022 must be completed by 31st March, 2022. Indian Nursing Council, *vide* communications dated 28th April, 2022, rejected requests on behalf of Petitioners and other colleges/ institutes for further extensions of the last date of admissions.



8. Thereafter, St. Stephen's Hospital of Nursing and other colleges/institutes made a representation dated 5th May, 2022 to the Joint Secretary (ME), Ministry of Health & Family Welfare, Government of India, seeking an extension till 31st May, 2021 as the third Counselling, Mop-up Round and Stray Round were yet to be conducted by GGSIPU. A similar representation was also made on behalf of Laxmi Bai Batra College of Nursing on 11th May, 2022. However, the said representations have not been acceded to, constraining the Petitioners to approach this Court.

9. Likewise, NGO Nursing Association [Petitioner in W.P. (C) 7008/2022] also seeks extension in cut-off date for admission to all nursing course for the Academic Year 2021-22 and issuance of a direction that admissions to all nursing courses, as done by the National Commission for Homeopathy (one of the Health Sciences courses), for the Academic Year 2021-22 should be permitted till 17th May, 2022. NGO Nursing Association contends that the mode and manner of admissions is common across all Health Science Courses and is based on the marks secured in the NEET Examination, yet the last dates of admission to undergraduate courses in different streams/ branches of Health Sciences Courses are different. It is also argued that B.Sc. Nursing Courses are opted by the candidates after the admission process for BAMS and BHMS is over. The last cut-off date for admission to BHMS course is 10th May, 2022, and thus, it is contended that the date of admission to B.Sc. Nursing Courses be extended at least till 17th May, 2022, in terms of notification dated 19th April, 2022 issued by the National Commission of Homeopathy.



ARGUMENTS ADVANCED

ON BEHALF OF THE PETITIONERS

10. Mr. Rajeev Sharma, Senior Counsel for the Petitioners, and other counsels on behalf of Petitioners, *inter alia*, have contended as follows:

10.1. For the purposes of admission to the B.Sc. (H) Nursing course, every year, GGSIPU conducts a Common Entrance Test (“CET”) and common counselling and admits students to its six affiliate nursing colleges *viz.* (i) St. Stephen's Hospital College of Nursing [Petitioner in W.P. (C) 8006/2022], (ii) Laxmi Bai Batra College of Nursing [Petitioner in W.P. (C) 8318/2022], (iii) College of Nursing Kasturba Hospital, (iv) School of Nursing Hindu Rao Hospital, (v) Vardaman Mahavir Medical College - Safdarjung Hospital, (vi) Dr. R.M.L. College of Nursing – of which, the last two are Central Government nursing colleges.

10.2. Petitioner-Institutes demand uniformity in extension of cut-off date for admissions to be maintained for the Academic Year 2021-22 across different Nursing courses and seek a direction for extension of time till 17th May, 2022 or such other date as is reasonable.

10.3. The grant of extension of cut-off-date to only two of the six nursing colleges affiliated to GGSIPU *viz.* Vardaman Mahavir Medical College - Safdarjung Hospital and Dr. R.M.L. College of Nursing, is irrational and discriminatory.

10.4. The date of counselling has already been extended to 15th May, 2022, and thus, Respondents’ stance that no further extension can be granted is misfounded and factually inaccurate. To this extent, reliance has been placed



on website of Medical Counselling Committee to show the previously extended date *i.e.*, 15th May, 2022.

10.5. The decision to refuse extension is arbitrary, discriminatory, not in public interest and mars the careers of several nursing students who are hopeful of getting admission in B. Sc. Nursing Course.

10.6. Nurses and nursing colleges are national resources – which should not be diminished as there is an acute shortage of nurses in the country. A large number of seats in various nursing colleges, including those at the Petitioner-Institutes as indicated in the letter dated 5th May, 2022, shall go to waste if an extension is not granted. No prejudice would be caused to Respondents by issuing the direction for holding further counselling. In fact, nothing prevented Indian Nursing Council as well as the Union of India and State Governments from allowing further counselling as a part of the admission process for filling up the seats in the other colleges.

10.7. The actions of the Union of India and Indian National Council is discriminatory, arbitrary, unreasonable and in violation of Article 14 of the Constitution of India.

ON BEHALF OF THE RESPONDENTS

11. Mr. V.S.R. Krishna, counsel for Indian Nursing Council and Ms. Ekta Sikri, counsel for Guru Gobind Singh Indraprastha University, *inter alia*, advanced the following submissions:

11.1. The date of admission for all nursing programmes had already been extended up till 7th April, 2022 pursuant to the judgment of the Bombay High Court dated 26th April, 2022 and in terms of notification dated 1st April



2022 – wherein it was categorically stated that no further extension shall be granted.

11.2. Before Bombay High Court, extension was sought up to 23rd April, 2022, however, the Court granted extension only till 7th April, 2022.

11.3. Cut-off date is a policy decision and cannot be interfered with by this Court, merely on the Petitioners' asking.

11.4. The admission process is practically complete in all nursing courses and any further extension would only lead to a chaotic situation and frustrate the admissions schedule.

11.5. Different councils have their own cut-off dates, and hence, extension of cut-off dates by one statutory council does not necessarily mean that the same shall be replicated by other statutory councils as well.

11.6. Petitioners and other colleges/ institutes have to complete the syllabus for Academic Year 2021-2022, whose Courses of study have already been delayed owing to various reasons, including COVID-19 pandemic. The next academic session *i.e.*, for Year 2022-2023 is due to begin, and therefore, the previous year's admissions have to be completed and finalised so that the delay that has occurred can be made up.

11.7. This Court does not have territorial jurisdiction to entertain the petition as no cause of action has arisen within the jurisdiction of this Court.

11.8. Reliance has also been placed upon the judgments of the Supreme Court in *Education Promotion Society for India v. Union of India*² and *Shikar and Anr. v. National Board of Examinations*,³ wherein it was held that extensions of timelines/ cut-offs set for admissions, on the mere ground

²(2019) 7 SCC 38.

³W.P. (C) 208 of 2022 decided on 5th April 2022.



that seats were lying vacant, could not be granted and that if such violation of schedules is permitted, the same would be akin to opening of a Pandora's box and the whole purpose of adhering to timelines will be defeated.

ANALYSIS

12. The Indian Nursing Council is a statutory autonomous body operating under the aegis of the Ministry of Health and Family Welfare, which lays down the standards of Nursing and also lays down the mode and manner for filling up the seats in Nursing Colleges. On the other hand, Medical Counselling Committee is responsible for conducting counselling for 15% of All India Quota Seats for undergraduate courses – which comprises of seats in Central Government hospitals and colleges. Thus, despite being affiliated to GGSIPU, counselling for seats in Vardaman Mahavir Medical College - Safdarjung Hospital and Dr. R.M.L. College of Nursing – which are Central Government nursing colleges, was to be conducted by Medical Counselling Committee. As for the four remaining GGSIPU-affiliated nursing colleges viz. (i) St. Stephen's Hospital College of Nursing, (ii) Laxmi Bai Batra College of Nursing, (iii) College of Nursing Kasturba Hospital, (iv) School of Nursing Hindu Rao Hospital, counselling was to be conducted by the GGSIPU itself.

13. Petitioners' primary grievance is that counselling for colleges which are Central Government nursing colleges has been permitted even after 23rd March, 2022 by the Medical Counselling Committee, however, the same benefit has not been extended to other colleges which come under their



respective states. In other words, they argue that Medical Counselling Committee's plea that an extension is not permissible beyond 31st March, 2022 is evidently incorrect, as counselling for seats in Central Government nursing colleges has continued up to 15th May, 2022.

14. There is no dispute that Medical Counselling Committee has continued with the admission process for Central Government nursing colleges right up to 15th May, 2022. However, the time period for carrying out the admission process for Petitioners and other non-Central Government colleges/ institutes was restricted by Indian Nursing Council up to 31st March, 2022, and later extended to 7th April, 2022. This extension was pursuant to a petition filed by the Private Nursing School & Colleges Management Association before the Division Bench of the High Court of Bombay (Aurangabad Bench), wherein, the Court, *vide* judgment dated 31st March, 2022, despite a request for extension till 23rd April, 2022, extended the last date for admissions to 7th April, 2022 for nursing courses. Further, while granting such extension, the Division Bench in paragraph no. 16 observed as follows:

"[...] It is made clear that no further extension would be granted."

15. Petitioners, on the other hand, contend that the said judgment did not restrain Respondents from further extending the deadline, in as much as the deadline was initially fixed by Indian Nursing Council itself and cite that the counselling process by Medical Counselling Committee continued up to 15th May, 2022. That itself cannot be ground to extend the cut-off date. The



fundamental question is whether Petitioners are legally entitled to yet another extension.

16. The admissions process cannot be continued endlessly and should have a definitive point of termination. The cut-off date is fixed prior to the commencement of admissions for that academic year in order to ensure that the admission process is completed within a suitable time frame and does not go on endlessly. By entertaining such a petition and granting a further extension, the entire process would be completely upset, and would lead to chaos.

17. Petitioner-Institutes and Association want to maximise their seat allocation for this academic year, however, that said, Petitioners do not have any vested legal right to seek an extension of the cut-off date. The mere possibility of Petitioners getting more admissions in case an extension is granted, is not a compelling enough reason for this Court to interfere with a policy decision of Indian Nursing Council. Similarly, potential financial hardship that Petitioners might face if the cut-off date is not extended also does not find favour with the Court for extension of the cut-off date. It must also be noted that stipulating cut-off dates, falls within the exclusive domain of regulatory authorities – such as Indian Nursing Council. The cut-off date in the instant case, therefore, cannot be held to be arbitrary. It has been repeatedly held that unless the Court finds any arbitrariness or capriciousness *qua* determining such cut-off dates, the Court shall not interfere.



18. The Court is also informed that the admissions process for the next academic session is already underway, and therefore, extending the cut-off date for counselling would result in disruption of the academic schedule. Thus, merely because the seats are lying vacant, in the considered opinion of the Court, that itself cannot be a ground to grant an extension to the cut-off date – in order to grant an opportunity to Petitioners to fill up the vacant seats. The schedule set out by Indian Nursing Council must be followed, and if extended, would open a “Pandora’s box” and the entire purpose of determining a schedule would be defeated.

19. The “hostile discrimination” and “irrationality” in the action/ decision of Indian Nursing Council to not extend the cut-off date for Petitioners and other non-Central Government colleges/ institutes, as strongly contested by the counsel for Petitioners, is also no ground to grant an extension – firstly, since extension of the cut-off date in Central Government nursing colleges under GGSIPU, in the opinion of the Court, cannot be a ground to seek parity. Secondly, there is rationality behind such decision, as explained by counsel for Indian Nursing Council. The Medical Counsel Committee extended the cut-off date for counselling to 15th May, 2022 on account of the delay in the conducting mop-up rounds. Therefore, the Court is not inclined to interfere and give a direction for extension of the cut-off date merely for that reason. Further, as rightly pointed out by counsel for the Respondents, Petitioners and other colleges and institutes have to complete their syllabus for courses for Academic Year 2021-2022 –whose Courses of study have already been delayed owing to various reasons, including COVID-19 pandemic.



20. The next session for the Academic Year 2022-2023 is due to begin, and therefore, the previous year's admissions have to be completed and finalised, and any order(s) of extension are bound to catapult the present academic year towards complete disarray.

21. Further, W.P. (C) 7008/2022 is also dismissed on the ground of lack of territorial jurisdiction. No cause of action has arisen within the jurisdiction of this Court. In the said petition, Respondents No. 3, 4 and 5 all have offices within the territory of the State of Maharashtra. NGO Nursing Association is also registered at Maharashtra. That apart, the question with regard to extension of the cut-off date, has already been considered by the High Court of Bombay. The relief as sought in W.P. (C) No. 7008/2022 is *qua* institutions which were allocated in the State of Maharashtra. Merely because Indian Nursing Council has its office at Delhi does not give NGO Nursing Association the right to file the present petition before this Court.

22. In terms thereof, the present petitions and all pending applications stand dismissed.

SANJEEV NARULA, J

MAY 27, 2022/nk

(corrected and released on 30th May, 2022)