

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2660 OF 2023

1. Matoshri Ayurved College,
Hospital and research center,
Karjule Harya, Tal. Parner, Vitthal Nagar,
Kokate Vasti, Karjule Harya Parner,
District Ahmednagar Through its Secretary
2. Shivajirao Pawar Ayurvedic Medical College
And research Center, At. Pachegaon,
Tal. Newasa, Dist. Ahmednagar
Through its Secretary
3. Ratnadeep Medical Foundation,
And research Center, Gat No. 508,
Ratnapur, Tal Jamkhed,
Dist Ahmednagar
Through its Secretary. ... Petitioners

Versus

1. Union of India
Through Secretary Ministry of Ayush
New Delhi
2. The Secretary,
National Commission for Indian
System of Medicine, 61-65,
Institutional Area, Janakpuri,
D-Block, New Delhi-110058.
3. The Commissioner and
Competent Authority,
State Common Entrance
Test Cell, Maharashtra State
8 th floor, New Excelsior
Building A.K. Nayak Road,
Fort Mumbai 400 001,
4. Maharashtra University of Health
Science Nashik,
Mhasrul-Dindori Road, Nashik-4 ... Respondents

.....
Mr. V.D. Hon. Senior Advocate i/b Mr. A.V. Hon for the Petitioners
Mr. Bhushan Kulkarni, Standing Counsel for Respondent Nos. 1 & 2
Mr. S.G. Karlekar, advocate for Respondent No.3.
Mr. A.R. Syed h/f Mr. S.P. Brahme, advocate for Respondent No.4
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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 3rd MARCH, 2023.**

PER COURT :-

1. The Petitioners have put forth prayer clauses B, C, D and E, as under:-

- “B) Issue a writ of mandamus or writ in the nature of mandamus by directing the Respondents to extend the Cut-off date for AY 2022-23 for BAMS Course.
- C) Issue a writ of Certiorari or writ in the nature of certiorari Quash and set aside the communication dated 02.03.2023 issued by Respondent no 2.
- D) Pending the hearing and final disposal of this writ petition the Respondents be directed to extend the Cut-off date for AY 2022-23 for BAMS Course.
- E) Pending the hearing and final disposal of this writ petition grant stay to the communication dated 02.03.2023 issued by Respondent no 2.”

2. We have considered the submissions of the learned senior advocate representing the Petitioners, which are the three newly formed Ayurvedic Medical Colleges, the learned Standing

Counsel for Respondent Nos. 1 and 2 and learned advocate representing Respondent Nos. 3 and 4.

3. The Notice No.40, dated 16.02.2023, is published by the State Common Entrance Test Cell for NEET-UG-2022, in terms of the letter dated 14.2.2023, issued by the National Commission for Indian Medicines (NCIM), Ministry of AYUSH, Government of India and the National Commission for Homeopathy (NCH), and the last date for admission to the degree courses in Ayurveda, Homeopathy, Unani for the academic year 2022-23, was extended from 18.2.2023 to 4.3.2023. In view of the same, the State CET declared the following admission schedule for institutional level Round-II for private, unaided/minority, BAMS/BHMS/BUMS colleges for the academic year 2022-23, as under:-

“Schedule for Institutional Level Round -2 for Private Unaided/Minority BAMS/BHMS/BUMS Colleges For Academic Year 2022-23

Sr. No.	Activity	Dates
1.	Publication of Vacancy Position for State Quota & IQ Seats and list of eligible candidate for State Quota & IQ seats separately.	20/02/2023 after 06.00 pm
2.	The eligible desirous candidate must apply in person/any person to respective college in prescribe format.	21/02/2023 to 24/02/2023 upto 05.00 pm
3.	Publication of General Merit List and Quota Wise Merit list, Selection List and Wait List separately on notice board and the web site of respective Colleges.	24/02/2023 at 06.00 pm
4.	Joining period of selected candidates as per Selection List dated 24/02/2023 with All Original Documents and requisite fees.	25/02/2023 to 28/02/2023 upto 05.30 pm
5.	Publication of Vacancy, 2nd Selection List and	28/02/2023 at

Sr. No.	Activity	Dates
	Wait list on notice board and the web site of respective Colleges.	06.00 pm
6.	Joining period of selected candidates as per Selection List dated 28/02/2023 With All Original Documents and requisite fees.	01/03/2023 to 03/02/2023 upto 05.30 pm
7.	Publication of Residual Vacancy (if any) on notice board and the web site of respective Colleges.	03/03/2023 at 06.00 pm
6.	Reporting of eligible candidates with Original Documents and Requisite Fees to college for Residual Vacancy.	04/03/2023 upto 02.00 pm
7.	Filling of Residual Vacancy from reported eligible candidates from list published on the website on the basis of merit.	04/03/2023 02.30 pm onwards
8.	Reporting of admitted candidates in College Feedback Module	04/03/2023 upto 11.59 pm
9.	Cut-off date of admission for BAMS/BHMS/BUMS Courses A.Y. 2022-23	04/03/2023

Note: Candidate admitted in Institutional Level Round -1 will not be eligible for Institutional Level Round – 2.”

4. Petitioner No.1 College was granted affiliation by Respondent No.4 University, after removal of deficiencies, on 22.2.2023. In similar circumstances, Petitioner No.2 college was granted affiliation on 11.2.2023 and Petitioner No.3 college was granted affiliation on 20.2.2023. Each of these colleges were granted an intake capacity of 100 seats. Till today, Petitioner No.1 has received 30 admissions from the merit quota. Petitioner Nos.2 and 3 have received 65 and 03 candidates, respectively, from the merit quota. The last date for registration of desirous candidates for the institutional level Round-II in private colleges, was up to 5.00 p.m. on 24.2.2023.

5. The grievance of these Petitioners is that they would not get complete intake capacity. Around 70 seats with regard to Petitioner No.1, 35 seats with regard to Petitioner No.2 and 97 seats with regard to Petitioner No.3, out of 100 intake capacity, would be going vacant. As these colleges got affiliations belatedly, several students did not get the knowledge that these 3 colleges are available for Institutional round-2 admissions.

6. The NCI System of Medicines has informed all the Deans, Directors, Principals of all affiliated colleges vide communication dated 2.3.2023, that the cut-off date for the admission process and a request to reduce the percentile criteria for admitting the students, stands refused in the light of the order passed by The Hon'ble Supreme Court in the case of ***Union of India vs. Federation of Self-Financed, Ayurvedic Colleges Punjab and Ors. (Civil Appeal no. 603 of 2020).***

7. We are conscious of the various orders passed by the Hon'ble Supreme Court declining permission to extend the cut-off date for admissions and refusing to lower the percentile score to admit more students in such Medical Colleges on the plea that the seats are going vacant. We, therefore, do not deem it appropriate to pass any order of extending the cut-off date or enlarging the

admission process at the request of these Petitioners.

8. The learned senior advocate submits that Respondent Nos. 1 and 2 may consider this peculiar situation in the light of the larger interest of the students and such Medical Colleges, which would suffer a serious financial set back, if majority of the seats go vacant. He cites the case of Petitioner No.1 whose 70 seats would be going vacant and Petitioner No.3 whose 97 seats would be going vacant. The learned Standing Counsel submits that the Petitioners may approach Respondent No.2 on 6.3.2023 and tender their representation. The said authority would deal with the same as per the Rules and the policies applicable.

9. In view of the above, this Writ Petition is disposed off.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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