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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

911 WRIT PETITION NO.11732 OF 2022

**PRAKASHCHAND JAIN BAHUUDDESHIYA SANSTHA'S
SHRI. PRAKASHCHAND JAIN INSTITUTE OF NURSING
(ANM)**

VERSUS

**THE STATE OF MAHARASHTRA, THROUGH THE
SECRETARY AND ANOTHER**

....

Mr T. M. Venjane, Advocate for petitioner;
Mr S. G. Karlekar, A.G.P. for respondent No.1
Mr M. D. Narwadkar, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
SANJAY A. DESHMUKH, JJ.**

DATE : 7th January, 2023

PER COURT:

1. In this petition, the petitioner seeks a decision from the State Government under Section 28 of the Maharashtra State Board of Nursing and Paramedical Education Act, 2013. The proposal has been forwarded under Section 28(4) to the Government. The petitioner desires a decision from the Government under Section 28(5), since the proposal has to be met with a verdict, on or before the last day of December of the year.

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2. Section 28 of the Maharashtra State Board of Nursing and Paramedical Education Act, 2013, reads as under :-

“28. (1) The Board shall grant permission to start new nursing and Paramedical Institution by observing the standards laid down under the Indian Nursing Act, 1947 and the directions issued by the Central Government regarding Paramedical Education as per the provisions specified under this section.

(2) The management seeking permission to open a new institution shall apply in the prescribed form to the Member-Secretary of the Board before the last day of the year preceding the year for which, the permission is sought.

(3) The Board shall conduct an inspection after receipt of payment of inspection fee within prescribed time and submit its report to the State Government.

(4) All such applications received within the aforesaid prescribed time-limit shall be scrutinized by the Board and be forwarded to the Government on or before the last day of December of the year.

(5) Out of the applications recommended by the Board, the Government may grant permission to such institutions as it may consider right and proper in its absolute discretion, taking into account the Government's budgetary resources, the suitability of the managements seeking permission to open new institutions and the State level priorities with regard to location of institutions for nursing and Paramedical Education:

Provided that, in exceptional cases and for the reasons to be recorded in writing, any application not

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recommended by the Board may be approved by the Government for starting a new institution of nursing and Paramedical Education.

(6) No application shall be entertained directly through the Government for the grant of permission for opening new institution of nursing and Paramedical Education.”

3. There is no dispute that the proposal of the petitioner has been forwarded to the Government by the Maharashtra State Board of Nursing and Paramedical Education. In this matter, we are not considering the controversy, as to whether the word “forwarded” appearing in sub-section (4), should be read as “forwarded with positive or negative recommendations”, in the light of the power of the Board that is visible from sub-section (5) and the proviso thereunder. Since, this issue is not addressed to us, we keep the same open so as to be dealt with in a proper case wherein such an issue is raised.

4. There is no dispute that the Board has forwarded the proposal of the petitioner, which is not considered, since there was no scope under the perspective plan. The said proposal is lying with the State from 31/12/2021 till today. Such proposal has to meet a decision at the hands of the Government before the last day of December of the year, as set out in sub-section (4).

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5. In view of the above and considering the long pendency of this proposal with the Government, we direct the respondent Principal Secretary, Medical Education and Research Department, Mantralaya, Mumbai, to consider this proposal on its own merits and pass an order, on or before 30/01/2023.

6. Needless to state, we have not expressed any opinion about the merits of the proposal of the petitioner.

7. This petition is, therefore, disposed off in the light of the above directions.

(SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)

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