

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

WRIT PETITION NO.14374 OF 2023

Shri Krushna Educational and Cultural Mandal,
56/57, Ramdas Colony, Near Omkareshwar Mandir,
Jalgaon, Tq. and Dist. Jalgaon
Through its President
Shri Gulabrao Baburao Deokar,
Age : 66 years, Occu : Agriculture,
56/57, "Madhuban Bungalow", Ramdas Colony,
Near Omkareshwar Mandir, Jalgaon,
Tq. and Dist. Jalgaon

.. Petitioner

Versus

1. The Union of India,
Through Secretary to Government of India,
Ministry of Ayurveda, Yoga and Naturopathy,
Unani, Siddha and Homeopathy, "AYUSH Bhavan",
'B' Block, GPO Complex, INA, New Delhi
2. The National Commission for Indian System of Medicine,
61-65 Institutional Area, Opp. 'D' Block, Janakpuri,
Delhi, Through its Chairperson
3. The Medical Assessment and Rating Board for
Indian System of Medicine, 61-65 Institutional
Area, Oppo. 'D' Block, Janakpuri, Delhi
Through its President
4. The State of Maharashtra
Through its Principal Secretary,
Department of Health and Family Welfare,
Government of Maharashtra, 10th Floor,
B-Wing, GT Hospital Complex Building,
Mumbai
5. The Director, Department of AYUSH/ISM,
Directorate of (ISM/AYUSH), Maharashtra State,
Govrnment Dental College and Hospital Building,
4th Floor, St. George Hospital Compound,
P-Demelo Road, Fort, Mumbai

.. Respondents

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Advocate for Petitioner : Mr. Yogesh B. Bolkar
DSGI for Respondent No.1 : Mr. A. G. Talhar
Standing Counsel for Respondents No.2 & 3 : Mr. Alok Sharma
AGP for Respondent / State : Mr. S. V. Hange

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**CORAM : MANGESH S. PATIL
AND
NEERAJ P. DHOTE, JJ.**

DATED : NOVEMBER 30, 2023

PER COURT :

. Heard Mr. Bolkar, learned advocate for the petitioner, Mr. Talhar, DSGI for the respondent no.1, Mr. Sharma, learned advocate for the respondents no.2 and 3 and Mr. Hange, the learned AGP

2. The petitioner intends to start a new Ayurveda College and is aggrieved by the decision in the second appeal preferred under Section 29 (6) of the National Commission for Indian System of Medicine Act, 2020 (hereinafter referred to as the 'Act').

3. After hearing both the sides it transpires that the second appeal was dismissed simply on the ground that it was preferred beyond the period of seven days prescribed by the statute.

4. One needs to bear in mind the fact that it is a matter of statutory appeal still, the dispute is not of adversarial nature, so that by lapse of time some right accrues to the other side. It is a matter of grant of permission for starting a new Ayurveda Medical College, which is

supposed to comply with several requisites. Even there is provision to extend an opportunity to overcome the shortcomings. If such is the state of law, the stand of the second appellate authority not to consider the second appeal on its own merits and refusing to do so simply on the ground that the second appeal was preferred beyond the time stipulated in Section 29 (6) of the Act is not sustainable in law.

5. Considering the fact that the delay was meagre, coupled with the fact that independently the petitioner was also seeking first appellate authority to reconsider its decision after the shortcomings were complied with, but again there was a delay of merely 15 minutes in uploading the documents, in our considered view, interest of justice would be met by calling upon the respondent no.1 to decide the petitioner's second appeal under Section 29 (6) of the Act on its own merits.

6. We allow the writ petition partly, directing the petitioner to appear before the respondent no.1 on 04.12.2023 and the respondent no.1 shall decide the Second Appeal as expeditiously as possible, within two to three days thereafter.

[NEERAJ P. DHOTE]
JUDGE

[MANGESH S. PATIL]
JUDGE