



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.8018 OF 2023**

Regional Institute of Occupational Safety and Health,
Propriety firm of Miss. Priyanka Subhash Ghatkar, Colony,
Age: 35 years, Occu. Director,
R/o. Office 3, Kalalaxmi Apartment, Samadhan
Kokanwandi,
Maharashtra-431 001.

..Petitioner

Versus

1. UNION OF INDIA,
For Ministry of Labour & Employment,
Served through Ministry of Law,
Branch Secretariate, 2nd Floor,
Income Tax Bhavan, Marine Line, Mumbai
2. Directorate General Factory
Advice Service & Labour
Institutes, having office at
Vyavasayik Suraksha aur
Swasthya Bhavan, N.S.
Mankikar Marg, Sion
Mumbai 400 022.
3. Associate Fellow of Industrial
Health Academic Council,
having office at
Vyavasayik Suraksha aur
Swasthya Bhavan, N.S.
Mankikar Marg, Sion
Mumbai 400 022.
4. Dr. Sweta d/o Yashajirao Patil,
Age- 32 years, Occupation- Doctor,
R/o C-90, Landage Nestworth SO Sector 10,
MIDC Bhosari, Pune-411026.
5. Dr. Parab Shrideep Arun S/o Parab Arun,
Age-36 years, Occupation- Doctor,
R/o DR. Shrideep Parab, B2/13,
Shubham Park, Sector-26, Nigdi, Pune-411044.
6. Dr. Namrata Barmappa Hirekurabaru,
Age- 33 years, Occupation- Doctor,
R/o Nisag Bunglow Society, Plot No. 42 A,

Near Ryan International School,
Bavdhan BR Pune-411020.

7. Dr. Ramchandra Arjun Shingare,
Age- 37 years, Occupation- Doctor,
R/o Nisag Bunglow Society, Plot No. 42 A,
Near Ryan International School,
Bavdhan BR Pune-411020.
8. Dr. Vishal Ramrao Wathore,
Age- 41 years, Occupation- Doctor,
R/o At Post Hardaf, Tq. Hadgaon,
Dist. Nanded-431712.
9. Dr. Pandit Kaluram Bhosure,
Age-38 years, Occupation- Doctor,
R/o Mayuru Residency, Flat No. 102,
Wing-A, Gram Panchayat Road,
AT Post Sanaswadi, Tq. Shirur,
Dist. Pune-412208.
10. Dr. Nikhil Mahaveer Paritkar,
Age-41 years, Occupation- Doctor,
R/o Flat No.4, "Ramleela" Complex,
Town Hall Road, Near Deepak Hospital,
Old Jalna, Jalna-431203.
11. Dr. Pallavi Bharat Rajput,
Age-41 years, Occupation- Doctor,
R/o C/o Shantanu Rathod, Plot No. 7-B,
Flat No.3, Second Floor, Vasani Nagar,
Near Hedgewar Hospital, Aurangabad-411001.
12. Dr. Sachin Vilasrao Chitnis,
Age- 53 years, Occupation- Doctor,
R/o Tirupati Hospital, X-278
Pandharpur, Waluj MIDC, Aurangabad-431136.
13. Dr. Feroz Javedalli Patel,
Age-35 years, Occupation- Doctor,
R/o Patel House, Behind SBI, Opp. Bus Stand,
Kalan Galli, Ausa, Dist. Latur-413520.
14. Dr. Rajendra Manikrao Shivle,
Age-49 years, Occupation- Doctor,
R/o Shrikrishna Hospital, Vadhu Bk Road,
At Post Koregaon, Bhima, Tq. Shirur,

Dist. Pune-412216.

15. Dr. Sunil Bhikulal Sontakke,
Age- 37 years, Occupation- Doctor,
R/o House No. 812, Behind Snehal Collection,
Ganesh Colony No.2, Rupee Nagar,
Pune-412114.
16. Dr. Pooja Jeevanrao Karad,
Age- 38 years, Occupation- Doctor,
R/o C-67, Near Mit Hospital,
N-4, CIDCO, Aurangabad-431001.
17. Dr. Ameet Prakash Chordiya,
Age-39 years, Occupation- Doctor,
R/o Plot No. 04, Opp. Milind College,
University Road, Aurangabad.
18. Dr. Bhushan Gulab Vitore,
Age-44 years, Occupation- Doctor,
R/o Flat No.1, Devendra Building,
Adinath Nagar, Garkheda Parisar,
Aurangabad-431001.
19. Dr. Amol Prasadrao Gitte,
Age- 43 years, Occupation- Doctor,
R/o Flat No. 704, Willocrest,
1- Hiranandani Park, GB Road,
Bramhand, Thane West-400607.
20. Dr. Mahavir Devendra Khot,
Age- 53 years, Occupation- Doctor,
R/o 5/3, Indira Co.Op. Hsg. Society,
Senapati Bapat Road Pune- 411016.
21. Dr. Umesh Narayanrao Rayte,
Age-40 years, Occupation- Doctor,
R/o Plot No. 232, Vitthal Krupa Soccity,
Samruddhi Nagar, Aurangabad-431003.
22. Dr. Vijay Bhimrao Patil,
Age- 36 years, Occupation- Doctor,
R/o Shivkrupa Nivas, Shivnagar, Tandulwadi Road,
At Post Tandulwadi, Tq. Baramati,
Dist. Pune-413102.
23. Dr. Aditya Atmaram Patil,

- Age- 36 years, Occupation- Doctor,
R/o Goverdhan Kunj, Plot No.34,
Parijat Nagar, N-4, CIDCO,
Aurangabad-431001.
24. Dr. Deepak Sadashiv Patil,
Age- 37 years, Occupation- Doctor,
R/o Telco Kapoor Housing Society,
Plot No. 31, Sector No. 24,
Nigdi, Pradhikaran, Pune-411044.
25. Dr. Pralhad Rajebhau Jadhav,
Age- 41 years, Occupation- Doctor,
R/o Jagdamba Hospital, Chakan Chowk,
Shikrapur, Tal. Shirur,
Dist. Pune 412208.
26. Dr. Venkata Krishnan R. Govindhoss,
Age- 26 years, Occupation- Doctor,
R/o Plot No. 187, Second Floor,
Nit Layout, Beside IDBI Bank,
Trimurti Nagar, Nagpur – 440022.
27. Dr. Nandkumar Manohar More,
Age- 44 years, Occupation- Doctor,
R/o Flat No. 84, New Hig. Mhada Colony,
Opp. Baba Petrol Pump, CBS Road,
Aurangabad-431001.
28. Dr. Virendra Kamalnarayan Jaiswal,
Age- 47 years, Occupation- Doctor,
R/o Kamal Palace, Plot No.1,
Anandone Housing Society,
Opp. Hotel Surbhi, N-7, CIDCO,
Aurangabad 431003.
29. Dr. Pramod Sudhakar Rao Lonikar,
Age- 58 years, Occupation- Doctor,
R/o Manik Hospital Bajaj Nagar, P-148,
Opp. Kamgar Kalyan Bhavan,
Waluj MIDC, Aurangabad-431136.
30. Dr. Bhoomi Bharat Bhanushali,
Age-28 years, Occupation- Doctor,
R/o LBS Road, A-2/301,
Veena Nagar Co-op. Housing Society,
Mulund (W), Mumbai 400080.

..Respondents

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Mr. A. M. Gaikwad, Advocate for the Petitioner.

Mr. S. W. Munde, Advocate for Respondent Nos.1 to 3.

Mr. H. D. Deshmukh, Advocate for Respondent Nos.4 to 30.

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**CORAM : SMT. VIBHA KANKANWADI AND
S. G. CHAPALGAONKAR, JJ.**

JUDGMENT RESERVED ON :- 12th MARCH 2024.

JUDGMENT PRONOUNCED ON :- 19th MARCH 2024.

JUDGMENT (Per: S. G. Chapalgaonkar, J.):

1. Rule. Rule made returnable forthwith. With the consent of the parties, matter is taken up for final hearing at the stage of admission.

2. The petitioner approaches this Court under Article 226 of the Constitution of India impugning the communication dated 05.07.2023 issued by respondent no.2, thereby, cancelling recognition given to the petitioner-Institute and also permit the candidates of the petitioner-Institute to appear in final examination, scheduled from 10.07.2023 to 14.07.2023 for "Post Graduate Certificate Course in Industrial Health - Associate Fellow of Industrial Health" for Academic Year 2023.

3. The petitioner contends that in the year 2021 respondent no.3 approved/recognized the petitioner-Institute to conduct full time 'Post Graduate Certificate Course in Industrial Health'. The said course is designed for those medical practitioners, having MBBS degree and aspires to work in Industrial Health and Services Centers. The statutory scheme under Factories Act requires that the Factory Medical Officer shall possess the certificate of Industrial Health and Safety. The duration of the course is three months as per guidelines. The petitioner has successfully conducted the training course. In the Academic Year 2023, the petitioner-Institute applied for recognition and

after getting approval, the students were admitted for the course from 05.04.2023 for the period of two months. In all 25 candidates were admitted. The list of admitted candidates was forwarded to respondent no.2. After commencement of the course, the academic syllabus was completed by 03.07.2023. The final exams were scheduled between 10.07.2023 to 14.07.2023. However, on 06.07.2023 the petitioner received communication from the Associate Fellow of Industrial Health Academic (AFIH) Council stating that the candidates of the petitioner-Institute will not be permitted to appear in final examination from 10.07.2023 for the reason that the Committee of AFIH observed that the center is run in a small flat, where no activities relating to AFIH were observed. The students or faculties were not found present at the premise. The attendance sent to AFIH Council was with forged signatures of the students. The fee charged from the students is Rs.2,00,000/- per candidate, but no student was available for conversation, no faculty was available or no library was found. Accordingly, the Committee recommended to not to permit the students of the petitioner-Institute to appear in the final examination. According to the petitioner, observations of the Committee are based on misconception of the facts. Since, the date of recognition of the Institute, many candidates have successfully cleared the examination with good score. The decision taken by the respondents is not in the interest of students. The abrupt decision is without following principles of natural justice. The petitioner-Institute possesses the requisite facilities and equipments as per the guidelines of 2020 notified by respondent no.2.

4. The respondent no.2 filed affidavit-in-reply justifying the action on the ground that the Performance Evaluation Committee constituted by Directorate General Factory Advice Services and Labour Institutes (DGFASLI) visited the petitioner-Institute on 31.05.2023 and submitted its report dated 03.07.2023 observing major discrepancies as

regards to the management of the petitioner-Institute. It was noticed that if the petitioner-Institute charged fee at the rate of Rs.2,00,000/- per candidate, no student was available for conversation, even faculty members were absent, the requisite infrastructure was not found in place. The Institute runs in a flat without any class room, faculty room, library or canteen. Therefore, in terms of the guidelines, the recognition of the petitioner-Institute has been cancelled and consequently impugned order came to be issued.

5. Mr. Gaikwad, learned Advocate for the petitioner submits that this Court vide order dated 07.07.2023 after considering the submissions advanced on behalf of the parties directed respondent no.5 to take immediate steps for conducting examination of the students from the petitioner-Institute in AFIH-2023 Session between 10.07.2023 to 14.07.2023. The performance of the students was made subject to outcome of the present petition. In pursuance of the aforesaid interim directions, respondent nos.4 to 30 appeared for examination. However, their results are now withheld. Mr. Gaikwad, learned Advocate further submits that only prayer that he press for is, direction for declaration of the results of respondent nos.4 to 30 and he would not press for any other prayer made in his petition.

6. Mr. S. W. Munde, learned Advocate appearing for respondent nos.1 to 3 invites our attention to the guidelines for Post Graduate Certificate Course in Industrial Health of three months duration, namely 'Associate Fellow of Industrial Health' (AFIH). Clause no.3.3 of the guidelines states as under:

“3.3. PERIOD OF RECOGNITION

Recognition shall be granted for period varying between 2 to 5 years. After evaluating the performance by the expert body of the academic council, **the recognition period may be extended further or withdrawn as the case may be.”**

7. He would submit that respondent no.3 is empowered to cancel the recognition, if after evaluation of the performance by the expert body, the performance of the petitioner-Institute is not found up to the mark. He would, therefore, submit that the action taken by the respondent-Authority is in tune with the Clause No.3.3 of the guidelines. The students who were admitted during the Academic Session of 2023 have not gone through the requisite training for want of infrastructure and other facilities with the petitioner-Institute. In such circumstances, the order of withdrawal of the recognition need not be disturbed.

8. We have considered submissions advanced on behalf of the learned Advocate appearing for the respective parties. It is not in dispute that the inspection committee of respondent no.3 after conducting field visit on 20.01.2021 approved the grant of recognition to the petitioner-Institute for conducting 'Associate Fellow of Industrial Health' (AFIH) Course for the period of two years from Academic Year 2021-2022. The recognition/approval was subject to certain conditions. The AFIH Academic Council of DGFASLI is the examination body for the purpose of award of certificates and registration of the successfully candidate. The petitioner-Institute has conducted the course in pursuance of the recognition granted under the office order dated 12.02.2021 and candidates undergone training with the petitioner-Institute have been awarded AFIH certificates.

9. It appears that, respondent nos.4 to 30 were admitted to the course from 05.04.2023 for the period of three months. The Committee of respondent no.3 visited the petitioner-Institute on 31.05.2023 and based on such visit, report has been submitted to respondent no.3. Consequently, the impugned communication dated 05.07.2023 had been issued by which the candidates at petitioner-Institute were prevented from appearing in the upcoming examination. In pursuance of the

interim order passed by this Court, the candidates have appeared for the examination.

10. We observed that the petitioner-Institute was granted recognition / approval by respondent no.3 under office order dated 12.02.2021 based on recommendation of the Inspection Committee. Some earlier batches for AFIH Course have been cleared from the petitioner-Institute. The respondent nos.4 to 30 were admitted and have completed course of three months. There is nothing to indicate that the recommendations of the Committee were either served to the petitioner before issuance of the impugned communication or opportunity of hearing was given to the petitioner in pursuance of the remarks of the Committee. In fact it was for respondent no.3 to ensure that recognized Institute possesses the requisite infrastructure as per the guidelines, before commencement of batch and advance report could have called from Committee. However, when the students are admitted and in midst of the Academic Session of three months, if any infirmity is found, the adverse action is not justified against the candidates of the Institute, thereby preventing them from appearing for examination. Such an action taken by the respondent is arbitrary and liable to be quashed and set aside.

11. In view of the aforesaid observations, Writ Petition deserves to be allowed in terms of prayer **Clause A-I only**.

12. Writ Petition is disposed of in aforesaid terms.

13. Rule is made absolute in above terms.

(S. G. CHAPALGAONKAR)
JUDGE

(SMT. VIBHA KANKANWADI)
JUDGE