



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9306 OF 2024

Ratnadeep Medical Foundation and
Research Centre, Ratnapur,
Tq. Jamkhed, Dist. Ahmednagar,
Through its Secretary,
Dr. Varsha Bhaskar More,
Age : 48 years, Occu. : Medical Practitioner,
R/o Ratnadeep Hospital, Nagar Road,
Near New Bus Stand, Jamkhed,
Dist. Ahmednagar

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai.
- 2] The Directorate of Technical Education,
Maharashtra State, Mumbai
- 3] Maharashtra State Technical Education Board,
Regional Office, Chht. Sambhajinagar
- 4] The Registrar,
Dr. Babasaheb Ambedkar Technological
University, Lonere, Tq. Raigad,
Dist. Raigad

.. Respondents

WITH

CIVIL APPLICATION NO. 10499 OF 2024 IN WP/9306/2024

(Aman Ramdas Andhale and others Vs. Ratnadeep Medical Foundation and
Research Centre Through its Secretary and others)

WITH

WRIT PETITION NO. 10567 OF 2024

Ratnadeep Medical Foundation and
Research Centre, Ratnapur,
Sanchalit Ratnadeep College of Pharmacy,
Ratnapur, Tq. Jamkhed, Dist. Ahmednagar,
Through its Secretary,
Dr. Varsha Bhaskar More,
Age : 48 years, Occu. : B.H.M.S., M.D.,

Homeopathy,
R/o Ratnadeep Hospital, Nagar Road,
Near New Bus Stand, Jamkhed,
Dist. Ahmednagar

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Principal Secretary,
Higher and Technical Education
Department, Mantralaya,
Mumbai.
- 2] The Directorate of Technical Education,
Maharashtra State, Mumbai – 400 001.
- 3] Maharashtra State Technical Education Board,
Through its Secretary, Mumbai
- 4] The Secretary,
Common Admission Regulating Authority,
Mumbai
- 5] Commissioner and Competent Authority,
State CET Cell,
Maharashtra State, Mumbai
8th Floor, Excelsior Theatre Building,
A.K. Nayak Marg, Fort,
Mumbai – 400 001

.. Respondents

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Advocate for petitioners in both WPs : Mr. D.S. Bagul
AGP for the respondent – State : Mrs. P.J. Bharad
Advocate for the respondent no. 3 in both WPs : Mr. S.S. Jadhavar
Advocate for respondent no. 4 in WP/9306/2024 : Mr. Avinash S. Borulkar
Advocate for respondent no.4 in WP/10567/2024 : Mr. M.D. Narwadkar
Advocate for applicant in CA/10499/2024 : Mr. M.V. Salunke

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**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

**RESERVED ON : 14 OCTOBER 2024
PRONOUNCED ON : 14 NOVEMBER 2024**

JUDGMENT (MANGESH S. PATIL, J.) :

Heard.

2. Rule. Rule is made returnable forthwith. Learned AGP and learned advocates for the respective respondents waive service.

3. At the joint request of both the sides, both these matters have been heard together and are being disposed of by this common judgment and order to avoid rigmarole, since the issues involved are exactly the same albeit in different form as would be discussed hereinafter.

4. The petitioner in both these petitions is the same educational institute running different courses affiliated to different universities. The issue / challenge in both these petitions is to the action of Dr. Babasaheb Ambedkar Technological University (hereinafter **the University**) which is arrayed as respondent no. 4 in writ petition no. 9306 of 2024 whereby, by the impugned communication dated 12-08-2024 (**Exhibit – J**), resorting to section 57 of the Dr. Babasaheb Ambedkar Technological University Act, 2014 (**University Act of 2014**) it has withdrawn the affiliation of the petitioner's B.Pharmacy course. It is also challenging the order passed by respondent no. 3 – Maharashtra State Technical Education Board (hereinafter **the Board**) date 12-07-2024 and communication dated 18-07-2024, whereby under section 32 of the Maharashtra State Board of Technical Education Act, 1997 (**MSBTE Act, 1997**) it has withdrawn

affiliation of its D.Pharmacy course and ordered transfer of in all 88 students undertaking education in it, to some other colleges mentioned therein. To the extent of Diploma in Pharmacy course (Code No. 2042), writ petition no. 10567 of 2024 has been preferred. The petitioner is also soliciting a writ of *mandamus*, directing the University and the Board to restore the affiliations and to include its name in the ongoing Centralized Admission Process for the academic year 2024-25 and to restore the students ordered to be shifted by the impugned communication / order.

5. Mr. Bagul for the petitioners would take us through the papers and would submit that prompted by political motives, the chairman of the petitioner / trust - society was sought to be implicated in a matter of alleged molestation and though the FIR was lodged after lapse of more than a year of the alleged incident, the government machinery moved swiftly to implicate him and in a high-handed manner. The Collector and Tahsildar also obliged it. The special investigation team was constituted under the guise of fact finding inquiry. The entire premises of the college was forcibly locked by the Tahsildar. It was unable to take necessary steps for continuation of affiliation. The apex body i.e. Pharmacy Council of India granted recognition to the petitioner's pharmacy courses even for the current academic year. Though the role of the respondents, the University and

the Board is limited, they have resorted to arbitrary and high handed action. No proper procedure for withdrawing the affiliation was followed. The petitioner was not extended appropriate opportunity to explain the facts and circumstances pitted against it. The explanations offered by it were not objectively considered and in a high-handed manner and motivated by political reasons, the impugned decisions have been taken.

6. Mr. Bagul would submit that the petitioner – institution has been running for several years without any objection from anybody. But *mala fide* and prompted by political reasons, the respondents, the University and the Board have taken drastic action. The political influence is evident even from the fact that in respect of some other courses affiliated to Savitribai Phule Pune University (**SPPU**), that university had also taken prompt and similar action of de-affiliation. Even Maharashtra University of Health Sciences (**MUHS**) has been acting against the petitioners' interest. De-affiliation may be quashed and set aside and the respondents, the University and the Board be directed to take appropriate steps so as to continue the affiliation and allow the petitioner – institute to participate in the ongoing admission process of Pharmacy courses.

7. Per contra, the learned AGP, learned advocate Mr. Borulkar for the university and Mr. Jadhavar for the Board and

Mr. Narwadkar and the admission regulating authority, respectively, and also the learned advocate Mr. Salunke for the intervenors, unanimously oppose the petitions, by adverting our attention to the factors leading to de-affiliation. The president of the trust was implicated for having molested a girl student, there was an approver amongst the students, several colleges affiliated to different universities and boards were being run in the same building by changing the display boards as and when there was inspection by the authorities, there was also allegation about recovery of additional charges / fees. Faced with the situation, the Collector had taken initiative and appointed a fact finding committee which prepared a report.

8. Finding that there was utter lack of infrastructure and faculty, besides the students were being harassed, steps were taken by both, the University as well as the Board for de-affiliation. Show cause notices were issued and following due process of law, the petitioner – institute's running B.Pharmacy and D.Pharmacy courses were de-affiliated and consequent orders for accommodating the students undertaking education in those courses was initiated. Petitioner - institute cannot invoke the limited jurisdiction under Article 226 of the Constitution of India.

9. We have considered the rival submissions and pursued the papers.

10. At the outset, it is necessary to emphasize that these being petitions under Article 226 of the Constitution of India, the scope for this Court to undertake judicial review of the impugned decisions, is limited. We can only examine sustainability and legality of the decision making process and cannot address to the factual disputes relating to the alleged lack of infrastructure, lack of faculty and harassment of students, physical as well as mental, pitted against the petitioner - institute.

11. Admittedly, the B.Pharmacy course being run by the petitioner is affiliated to the respondent - University whose functioning is regulated by the University Act of 2014, whereas the D.Pharmacy courses being run by it are affiliated to the respondent - Board whose functioning is regulated by the MSBTE Act, 1997.

12. To being with, one needs to bear in mind the fact that admittedly, both the courses of Pharmacy i.e. B.Pharmacy and D.Pharmacy would be under aegis of the Pharmacy Council of India, which is the apex body responsible for maintaining the standard of education in the field of Pharmacy. Admittedly, petitioner – institute has been running these courses with requisite permission and recognition by the Pharmacy Council of India till the last academic year i.e. 2023-24.

13. Admittedly, till last 2 - 3 months of the last academic year, there was absolutely no grievance of anybody, either the students or the faculty and even at no point of time, the University and the Board were having any objection in petitioner - institute running the Pharmacy courses. Everything seems to have happened from March 2024 onwards. Admittedly, it is at the instance of the Hon'ble Member of the Legislative Assembly, that the revenue administration was called upon to intervene and prompted thereby, the Collector of the district moved in action and the premises of the petitioner - institute was sealed by the Tahsildar. Pursuant to the order of this Court in writ petition no. 3842 of 2024 dated 27-03-2024, the premises were de-sealed. Even according to the respondents, the inspection carried out by the committee appointed by the District Collector leading to the sealing of the premises, was the genesis for the subsequent impugned actions regarding de-affiliation and transfer of the students.

14. We cannot object to the people's representative taking up lead in the agitation. We are simply pointing out this circumstance to demonstrate that independently, the University and even the Board, on their own, had not initiated any action and were comfortable in running of the Pharmacy courses by the petitioner - institute for all these previous years. They had never raised any objection as regards the quality of education and the infrastructure. Again, we do not intend to

take up the factual disputes being raised by the respondents, the University and the Board as regards the lack of infrastructure as well as lack of faculty and even those may be the consideration which the University and the Board as also the Pharmacy Council of India would be keen to examine. We are merely demonstrating that the Pharmacy courses being run by the petitioner – institute, are being run without any objection by these authorities and everything has begun at the end of the previous academic year. It is in the light of these peculiar facts and circumstances, even if the University and the Board were intending to undertake a process of de-affiliation, they were bound by the modalities prescribed under the relevant provisions of the respective Acts, viz. Section 57 of the University Act of 2014 and section 32 of the MSBTE Act, 1997.

15. As far as section 57 of the University Act of 2014, it is necessary to observe at the outset that for the reasons best known to the University, it has not filed any reply on affidavit. We are, therefore, left with the averments in the petitions, as are being substantiated by documents and the oral submissions of the learned advocate Mr. Borulkar, representing the University.

16. As per section 57 of the University Act of 2014, it is imperative for the University to indicate its intention to undertake a process of de-affiliation by issuing requisite notice to the institution to

show cause by putting forth the grounds which weighed with it in undertaking the process. Going by the papers produced with the petitions, a fact finding committee was constituted by the University by its communication dated 08-03-2024, consisting of four members and the committee submitted its report to the University on 09-03-2024 (**Exhibit - G**). This report, *inter alia* reads that the committee visited the premises along with the concerned Tahsildar, Police Inspector, students' representative, local activist and journalists on 09-03-2024 around 11.00 am. It mentions that the committee members had to wait at the gate for couple of hours and with the intervention of the Tahsildar, the gates were opened. None of the establishment was having labs for their use. Six laboratories were already sealed by a committee of Savitribai Phule Pune University, Pune (SPPU), three classrooms, 1 auditorium and 1 computer laboratory under development could be seen and the infrastructure was insufficient to run a Pharmacy undergraduate programme as per the Pharmacy Council of India norms. It was then reported that the faculty and other staff was insufficient. No chemicals / glassware / equipments were available etc. Conspicuously, this additional information regarding lack of faculty and staff, non-availability of chemicals etc. charging of exorbitant fees under different heads, were all expressly stated to be reported on the basis of the information supplied by the students who were making grievance. Which means that those were not the facts

actually experienced / noticed, with any direct knowledge, by the members of committee but were being reported having been told by the agitating students.

17. Conspicuously, the petitioner - institute by its response dated 11-03-2024 (paperbook page 78) had expressly informed the University that on 08-03-2024 there was *Mahashivratri* holiday, 09-03-2024 was a Saturday and 10-03-2024 was a Sunday, work of renovation was being undertaken and the articles from the labs were shifted elsewhere due to which there was no staff and the laboratories were not functioning at the time of inspection. Additionally, by another communication dated 26-03-2024, time was sought to give elaborate and detail response. The University then served the show cause notice dated 11-06-2024 in purported exercise of the powers under section 57 of the University Act, 2014. By communication dated 11-07-2024, the petitioner gave detailed point-wise reply (**Exhibit - I**) to all the objections being raised regarding operation and functioning of the institution. Additionally, permission was sought for transfer of the students from the B.Pharmacy course affiliated to the University to a similar course being run by the petitioner - institution which was affiliated to SPPU. However, by the impugned order dated 12-08-2024, the University withdrew the affiliation (**Exhibit – J**).

18. Substance of this impugned communication withdrawing the affiliation reads that pursuant to the show cause notice served to the petitioner - institution and after receipt of its explanation, the Planning and Evaluation (Monitoring) Board of the University on 16-07-2024, resolved as under :-

"The explanation given by the institute for the show cause notice dated 11/06/2024 is not at all satisfactory. Also it is not realistic and is far away from the reality observed by the fact finding committees. It was also observed that as per the request from the college for NOC of transferring the students to other institutes, the college has expressed their inability to run the college. Therefore, the Board resolved to put up the copy notice and the reply by the institute to the Academic Council for withdrawal of affiliation granted to Ratnadeep Pharmacy College Ratnapur-Jamkhed as per clause 57 (3) of the DBATU Act 2014."

It further reads about resolution on Item no. 4.1 of the Academic Council of the University dated 22-07-2024, as under :-

"After detailed discussions and deliberations, as per the section 57 of the DBATU Act 2014. The Academic Council having regard to the interest of students studying in the colleges, recommends to the Vice Chancellor to withdraw the affiliation given to Ratnadeep Pharmacy College Ratnapur and the Vice-Chancellor shall, thereafter, proceed to implement the recommendations in consultation with the Executive Council."

It then refers to the resolution on Item no. 3 of the Executive Council, in its meeting dated 30-07-2024, as under :-

"The members of the Executive Council have taken note of the developments and expressed deep concern about the matter. In the Academic interest of the students, the council approved the action recommended by the Academic Council for the de-affiliation of Ratnadeep Pharmacy College Ratnapur - Jamkhed. It was resolved to communicate the decision about the de-affiliation of

Ratnadeep Pharmacy College Ratnapur - Jamkhed to the concerned institute, Government of Maharashtra, Admission Regulatory Authority, Apex body (PCI) and all other concerned."

19. A careful perusal of this coupled with the provisions of section 57 of the University Act of 2014, would make it abundantly clear that the impugned order does not even insinuate, leave alone makes any specific reference about the Vice Chancellor of the university having approved of the action for withdrawal of affiliation, as is required by section 57. Besides, there is no specific and detail observation in any of these resolutions either of the Planning and Evaluation Board, the Academic Council or the Executive Council, to demonstrate that there was any deliberation on the shortcomings which prompted them to resolve, approve and recommend de-affiliation.

20. Surprisingly, the Planning and Evaluation (Monitoring) Board *ex facie* treated the request of the petitioner - institution vide its communication dated 11-08-2024 for transfer of the students of B.Pharmacy affiliated to the respondent - University to a similar course being conducted with affiliation to the SPPU, which course is apparently permissible under section 58 of the University Act of 2014, as a circumstance to substantiate its intention of de-affiliation of the petitioners' B.Pharmacy course. Precisely for these reasons, we are of the considered view that leaving aside the political angle, even the process for de-affiliation of the petitioners' B.Pharmacy course affiliated

to the University is not in accordance with law and the established principles regarding any decision making process. It has not meticulously followed it much less has been undertaken apparently without application of mind.

21. It does not even refer to any independent inspection having been carried out, except the one referred to herein-above dated 09-09-2024, which itself was based on merely the information gathered from the students. Besides, neither of the committees of the University had objectively dealt with the replies to the shortcomings offered by the petitioner – institute. Even there in nothing to demonstrate that all this exercise was approved by its Vice Chancellor. In view of such state-of-affairs, the process undertaken by the University, leading to de-affiliation of the B.Pharmacy course being run by the petitioner - institute pursuant to the impugned order, is not at all sustainable in law.

22. As regards the de-affiliation by the Board, of the petitioners' two D.Pharmacy courses, the process would be governed by the MSBTE Act of 1997 and particularly, section 32 thereof. As per section 32, a notice to show cause has to be served to the institution, in order to undertake the process of de-affiliation, with a minimum period of 30 days to respond. The notice served to the petitioner - institute by the Board dated 27-05-2024 calls upon it to give reply by 11-06-2024

and the affiliation has been withdrawn on 12-07-2024. It would clearly demonstrate that contrary to the provisions of section 32, the impugned order of de-affiliation itself has been taken / passed without extending any opportunity to the petitioner - institution to respond to it with a minimum period of 30 days prescribed therein. The affidavit in reply filed by the Board conspicuously omits to address this aspect of the matter which is crucial one. It is merely contended that the action of de-affiliation was preceded by a show cause notice, to which the petitioner institute did not respond.

23. It is trite that when a law requires a thing to be done in a particular manner, it has to be done in that manner alone. When section 32 of the MSBTE Act of 1997 mandates a minimum of 30 days period to respond to the show cause notice, calling upon the petitioner to attend hearing within 30 days and taking the decision and trying to substantiate it by way of affidavit in reply on the ground that it had not responded to the show cause notice, is a spacious plea. This circumstance, in our considered view, also buttresses the stand of the petitioner – institute that the entire action is prompted by *mala fides* and political reasons. In view of such state-of-affairs, even the process undertaken by the Board of de-affiliating the D.Pharmacy courses being run by the petitioner - institute, is also unsustainable in law.

24. In the light of above, since the action of de-affiliation impugned in the petition, one by the University and the other by the Board being not sustainable in law, those are liable to be quashed and set aside. Needless to state that it would always be open for the University and the Board, to undertake a fresh process, if they so intend, however, in accordance with law.

25. Consequently, even the impugned action of the respondent - University and the Board directing transfer of the students, also goes.

26. Though learned advocate Mr. Salunke for the intervenor - students submitted that the students who are not willing to undertake education in the petitioner – institute, may be permitted to be shifted to other colleges, we cannot address the issue inasmuch as once the impugned orders of de-affiliation are held to be not maintainable in law, the natural and logical consequences would follow.

27. As it is, as has been reported by the authorities, for undertaking the process of transfer only 24 students out of 88 students were available for counselling but only 15 out of those were eligible for being transferred to different institutes. Meaning thereby that majority of the students were even not available for the counselling for being shifted to some other institutes. Therefore, the request of the

intervenor - students in the form of intervention application while opposing the petitions, cannot be entertained.

28. The petitions are allowed.

29. The impugned orders of de-affiliation and the consequent communications directing transfer of the students are quashed and set aside.

30. Rule is made absolute.

31. Pending civil application is disposed of.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/