



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

WRIT PETITION NO. 12677 OF 2024

**SAYALI CHARITABLE TRUSTS COLLEGE OF HOMOEOPATHIC
THROUGH ITS PRINCIPAL**

VERSUS

**UNION OF INDIA MINISTRY OF AYUSH
THROUGH ITS SECRETARY AND OTHERS**

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Advocate for the Petitioner : Mr. Bagul Dnyaneshwar Suresh

Advocate for respondent nos. 1 to 3 : Mr. A.G. Talhar

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**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 27th NOVEMBER 2024

PER COURT :

. Heard both the sides, considering the exigency in the matter.

2. Issue notice to the respondents. Mr. A.G. Talhar waives service of notice for respondent nos. 1 to 3.

3. The petitioner runs self-financed Homeopathic College, has approached this Court challenging orders dated 06.06.2024 passed by Respondent No. 3/Board, order dated 22.07.2024 passed by Respondent No. 2/National Commission and lastly order dated 18.11.2024 passed by the Respondent No. 1, refusing the annual approval/permission to the petitioner. Due to the impugned orders, the petitioner is unable to participate in the admission process for the year 2024-25.

4. Learned counsel for the petitioner Mr. D.S.Bagul submits that the statutory mandate has been flouted by the respondent authorities while passing the impugned orders. No opportunity was given to the petitioner to point out that all the defects were removed. Neither any opportunity was given to remove the defects. It is the submission of learned counsel that the college is being run since 2017 and up to the year 2023-24, the annual permission/approval, was being granted. The impugned orders are against the principles of natural justice.

5. Learned counsel Mr. A.G. Talhar appearing for the Respondent No. 1 opposes the submission of the petitioner. He would submit that there is no provision for extending hearing as such to the petitioner. There are concurrent findings of facts recorded by the authorities that petitioner was lacking infrastructure. Therefore, no interference is called for. Learned counsel submits that no specific ground was raised by petitioner in appeal in respect of granting opportunity to remove the defects and therefore there is no merit in the matter.

6. It transpires from record that Respondent No. 3/Board passed the impugned order on 06.06.2024. Section 29 of National Commission for Homeopathy Act, 2020 contemplates extending of opportunity to rectify the defects. The order passed by the authority does not reflect any such opportunity was given. Our attention is invited to the compliance/Explanation Report submitted by the petitioner on 18.06.2024. It was expected of the First Appellate authority i.e respondent No.2 /Commission to consider explanation

or compliance. It did not consider this aspect of the matter. Our attention is invited to Rule 27 (4) of the Regulation of 2023 which contemplates the opportunity to be extended to the applicant. We are of the considered view that impugned orders suffer from violation of principles of natural justice as well as non-compliance of the statutory provisions.

7. The respondents should have verified the explanation submitted by the petitioner. It was open to the Board to conduct inspection to ascertain the claim of the petitioner. The interest of the justice would be met in relegating matter to the Respondent No. 3 /Board to undertake scrutiny afresh. As this is not an adversarial litigation, the Respondent No. 3/ Board can be directed to look into the matter and to oversee as to whether the deficiencies have been removed or not.

8. The respondent no.3 has already observed in order that there were deficiencies. The petitioner shall submit the compliance report or the explanation to the respondent no.3 which can be considered by the respondent no.3 objectively and for that purpose petitioner shall cause its appearance before respondent no. 3/Board on 29.11.2024.

9. Considering the exigencies that Centralized Admission Process is underway, we are inclined to direct the Respondent No.3 to complete the exercise within one week.

ORDER

- i) The Writ Petition is allowed partly.
- ii) The judgment and orders dated 06.06.2024 passed by Respondent No. 3, 22.07.2024 passed by Respondent No.2 and 18.11.2024 passed by Respondent No. 1 are quashed and set-aside.
- iii) The matter is relegated to the Respondent No.3/Board for conducting objective scrutiny of the proposal as well as Compliance Report or explanation tendered by the petitioner.
 - a) The petitioner shall appear before the Respondent No.3/Board on 29.11.2024 and tender compliance report or explanation if not tendered earlier.
 - b) The Respondent No.3 shall decide the claim of the petitioner on its own merits as expeditiously as possible and in any case within one week from today.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]

V.S.J.