



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 14273 OF 2023

Sarang S/o Rohidas Waghmare,
Age : 35 years, Occu. Education,
R/o Sant Namdev Nagar, Dhanora Beed,
District – Beed

.. Petitioner

Versus

- 1] The State of Maharashtra,
Through its Principal Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai – 32.
- 2] The Director of Medical Education and
Research, Mumbai
- 3] Dental Council Of India,
Aiwan-E-Galib Marg,
Kotla Roa, New Delhi,
Through its Secretary
- 4] The Maharashtra University of
Health Sciences, Nashik
- 5] Maharashtra Institute of Dental Sciences
and Research Dental College, Latur
Through its Principal

.. Respondents

...
Advocate for petitioner : Mr. S.S. Thombre
AGP for the respondent – State : Mrs. S.S. Joshi
Standing Counsel for respondent no. 3 : Mr. Alok Sharma
...

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

DATE : 25 OCTOBER 2024

ORDER (MANGESH S. PATIL, J.) :

Heard. Rule. Rule is made returnable forthwith. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner who was admitted to B.D.S. course in the admission process undertaken in the year 2011-12, is challenging the circular no. 33 of 2015 dated 16-04-2015 of respondent no. 4 – Maharashtra University of Health Sciences, Nashik (MUHS) issued pursuant to respondent no. 3 – Dental Council of India's (DCI) revised B.D.S. Course Regulations, 2007 dated 25-07-2007, providing that any student who does not clear B.D.S. course in all the subjects within a period of 9 years, including one year compulsory rotatory paid internship, from the date of admission, shall be discharged from the course.

3. Learned advocate for the petitioner Mr. Thombre would submit that the petitioner was admitted to the B.D.S. course in the academic year 2011-12 in Jamnalal Dental College and Hospital, run by Vidharbh Medical Education and Research Foundation, Akola. Since recognition of the college was withdrawn, the petitioner and the fellow students preferred writ petition no. 2502 of 2012 and even the institute preferred writ petition no. 3982 of 2011, before the Nagpur bench of the High Court. By the common order dated 19-12-2012, institute's petition was dismissed, however, the students' petition was allowed and the state Government was directed to transfer these 40 students to other colleges and further directed the respondent – MUHS to allow the students to appear for the first year B.D.S. examination

that was to be held in Summer – 2013. Accordingly, the petitioner was accommodated in respondent no. 5 – college and appeared at the Summer – 2013 examination. He would, therefore, submit that pursuant to the impugned circular and the regulations of 2007, the petitioner was supposed to clear first year B.D.S. examination within three years from the date of his admission. Having failed to clear the first year, he sought to appear for the first year B.D.S. examination in Winter – 2014, that was to be conducted from 22-11-2014. In view of regulation of 2007, he was not being permitted to appear in the examination on the ground that he had failed to clear first year B.D.S. course within three years from the date of admission.

4. Aggrieved thereby, he had filed writ petition no. 7971 of 2014. Taking into consideration the afore-mentioned peculiar facts and circumstances of the case wherein first college was de-recognized and the petitioner and other students were shifted to some other colleges, by the order dated 12-11-2014, a co-ordinate division bench expressly observed that the appearance of the petitioner for first year B.D.S. examination in Summer – 2013 was the first year out of those three years, for the purpose of computation and had directed the respondent – MUHS, to allow the petitioner to appear for the examination.

5. Mr. Thombre would submit that since Summer – 2013 was the first examination at which the petitioner appeared for first year of B.D.S. course, the respondent ought to have allowed him to appear for the examination of Winter – 2015. Referring to the same regulation of 2007 and ignoring the observations of this Court in writ petition no. 2502 of 2012, the petitioner was not allowed to appear for the examination in Winter – 2015, on the ground that he has failed to clear the entire B.D.S. course within three years from the date of admission.

6. Mr. Thombre would further submit that since the stipulation regarding clearing of entire B.D.S. course within 9 years from the date of admission was issued for the first time by way of Amendment Regulations of 2015, those would not be applicable to the petitioner and the petitioner is entitled to clear the B.D.S. course uninterruptedly, since prior to issuance of Regulations of 2015, there was no stipulation of period within which the entire B.D.S. course was to be completed. He would rely on decisions in the matters of ***Bhakti and others Vs. The State of Maharashtra and others; 2018(5) MhLJ 365*** (Aurangabad Bench – Writ petition no. 13510 of 2017 with connected petitions decided on 06-03-2018) and ***Anjali Sunilrao More Vs. The State of Maharashtra and others*** (writ petition no. 4326 of 2019 with connected petitions - Aurangabad Bench dated 20-11-2019).

7. Mrs. Joshi, learned AGP would submit that if the petitioner is considered to be regulated by Regulation of 2007, he ought to have cleared the first year B.D.S. examination within three years. Even if in writ petition no. 7971 of 2014, this Court had expressed that due to the supervening and unprecedented events, the period of three years was not to be reckoned from the actual date of admission, still, it had expressly stated that after completing the first year, he was entitled to appear in the first year B.D.S. examination in Summer - 2013. He would, therefore, submit that even in that case, the petitioner could have cleared first year latest in the examination of Summer – 2015.

8. Mr. Sharma would submit that even if the petitioner intends to derive the benefit of the Amendment Regulations of 2015, that is mandatory completion of entire B.D.S. course within 9 years, ignoring the initial period, after completing first year, the petitioner had appeared at Summer 2013 first year B.D.S. examination and ought to have completed the entire B.D.S. course within eight years thereafter. Since this amendment regulation of 2015 provided for nine years including one year compulsory rotatory paid internship, which could be only after passing the entire B.D.S. course, the period of 8 years would get over by 2022, and even the period of 9 years would get over by Summer - 2023 and, consequently, the petitioner is not entitled now to appear and seek to undertake the B.D.S. course.

9. Mr. Sharma submits that the fact situation in the matter of ***Bhakti*** and ***Anjali*** (supra) were not akin to the petitioner's case and the petition be dismissed.

10. We have considered the rival submissions and perused the papers.

11. Admittedly, B.D.S. course regulations of 2007, stipulated as under:-

"Any student who does not clear first BDS examination in all subjects within three years from the date of admission shall be discharged from the course".

By way of amendment dated 27-04-2015, the afore-mentioned clause was modified as under:-

"Any student who does not clear the BDS course in all the subjects within a period of 9 years including one year compulsory rotatory paid internship from the date of admission shall be discharged from the course."

In the year 2017, it was partially modified as under:-

"In partial modification of DCI's Revised BDS Course (7th Amendment) Regulations, 2015 approved by GOI letters dated 27.01.2015 & 25.02.2015 and notified in the Official Gazettee on 27.04.2015, the following proviso is here by added:-

Provided these regulations shall also be applicable to the students admitted in BDS Course in any Dental Institution from the academic session 2008-09 onwards but has not cleared their 1st year BDS Course within a period of 3 years from the date of admission."

Pending approval of the Central Government for inserting the said proviso, the respective Hon'ble Court wherever the issue is pending be approved of this position and also that during pendency of the approval of GOT, this Council would

have no objection if the students affected by 7th Amendment are allowed/permitted to continue their course in their respective Dental College but subject to approval of Central Government."

12. By the impugned circular issued by the respondent - MUHS, dated 16-04-2015, and the examination notification no. 13/2015 of the even date, it was *inter alia* directed as under:-

"In the academic interest of the students, the Hon'ble Vice Chancellor has accorded approval for following substitution clause with immediate effect along with other conditions; subject to approval by the Academic Council:

"Any student, who does not clear the BDS course in all the subjects within a period of 9 years, including one year compulsory rotatory paid Internship from the date of admission, shall be discharged from the course."

A) *All students admitted in the BDS course w.e.f. Academic Year 2012-13, 2013-14 & 2014-15 shall be governed as per above criteria prescribed by the Dental Council of India and no extension or relief will be given to the students of these batches.*

B) *However, the other students admitted in the BDS Course prior to above academic years should pass the BDS Course University examination as per details given below :*

Sr. No.	Academic Year of Admission	Completion of 8 years of University Examinations	Last University Examination of any year (i.e. I st to IV th year)
1	2004-2005	Summer - 2012	Winter-2016
2	2005-2006	Summer - 2013	Winter-2016
3	2006-2007	Summer - 2014	Winter-2016
4	2007-2008	Summer - 2015	Winter-2016
5	2008-2009	Summer - 2016	Winter-2016
6	2009-2010	Summer - 2017	Summer-2017
7	2010-2011	Summer - 2018	Summer-2018
8	2011-2012	Summer - 2019	Summer-2019

C) After passing Final year University Examination of BDS Course as per above schedule, it is mandatory for the students to complete their one year Internship Training Programme within the prescribed period of nine years."

In view of such regulation and particularly, the last one, all the students admitted in the B.D.S. course in the academic year 2011-2012 ought to have completed the entire B.D.S. course by Summer 2018, since that would be the eighth year for such students.

13. The facts and circumstances in the matter of **Bhakti** and **Anjali** (supra) were peculiar and would not enure the benefit of the petitioner. In **Bhakti's** matter, it was held that since her admission was prior to the amendment of regulation dated 27-04-2015, and since she had already cleared the first year B.D.S. examination prior thereto, within three years from the date of admission, her case was not governed by the 28-04-2017 modification, which is not the fact situation in the matter in hand. Following **Bhakti's** decision, in similar set of facts, **Anjali** and other students were also equally held to be not regulated by the outer limit of 9 years, prescribed by amendment of 2015, having already cleared the first year B.D.S. examination within three years of the date of admission.

14. In writ petition no. 7971 of 2014, this Court, in the light of peculiar fact situation, had declared that Summer of 2013 was the first year out of the three years provided for in the regulation, 2007, the

petitioner was entitled to appear for the first year B.D.S. examination in Summer – 2013. If that was to be reckoned as first year of the period of eight years for the petitioner to complete the entire B.D.S. course, it would come to an end by Summer of 2022.

15. Assuming for the sake of arguments that the petitioner's case is not governed by stipulation of putting the outer limit of 9 years for completing the entire course with paid mandatory internship from the date of admission, introduced for the first time by the amendment dated 27-04-2015, since it was a stipulation even prior thereto, as has been rightly submitted by Mr. Sharma, he ought to have completed the entire first year B.D.S. course within three years of the date of admission as per regulation of 2007. Even in that case, treating Summer - 2013 is the end of the first year, the period of three years for the petitioner would end in Summer 2015. Meaning thereby that even granting a leeway pursuant to the order of this Court in writ petition no. 7971 of 2014, the petitioner ought to have cleared first year B.D.S. course examination latest by Summer of 2015.

16. In fact, the petitioner has not been challenging the amended regulation of 2015 and rather has himself made that request and has been allowed to do so in the form of his appearance in Winter - 2015 examination for the first year B.D.S. course, as is evident from

the photocopy of the marksheet tendered across the bar by the learned advocate Mr. Thombre.

17. Resultantly, assuming that the petitioner's case is covered by only regulation of 2007, he having failed to clear the first year B.D.S. course within three years including the extension granted by this Court in writ petition no. 7971 of 2014, he stands discharged. Additionally, the petitioner, even if pursuant to the amended regulation of 2015, was entitled to complete the B.D.S. course within 9 years, he had failed to clear even the first year B.D.S. course within eight years excluding the initial period, as per the concession granted in writ petition no. 7971 of 2014.

18. In the light of above, there is no merit in the petition and it is dismissed.

19. Rule is discharged.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

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