



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

22 WRIT PETITION NO.772 OF 2024

Shrinivas Bahu-Uddeshiya Sevabhavi Sanstha,  
Loha, Tq. Loha, Dist. Nanded  
Through it's President  
Vitthal Baliram Dhage,  
Age 65 yrs., Occ. Business,  
R/o Limboni Galli, Loha,  
Tq. Loha, Dist. Nanded.

... Petitioner

... Versus ...

- 1 The State of Maharashtra,  
Through it's Principal Secretary,  
Department of Medical Education &  
Research, Mantralaya, Mumbai – 400 032.
- 2 Maharashtra Nursing Council,  
E.S.I.S. Hospital Compound,  
2<sup>nd</sup> Floor, Lal Bahadur Shastri Marg,  
Mulund (West), Mumbai – 400 080.
- 3 The Director of Medical Education & Research,  
4<sup>th</sup> Floor, St. George Hospital Campus,  
P. D'Mello Road, Fort, Mumbai.
- 4 Maharashtra State Board of Nursing &  
Para-Medical Education,  
4<sup>th</sup> Floor, St. George Hospital Campus,  
P. D'Mello Road, Fort, Mumbai.  
Through it's Director.

... Respondents

...

Mr. B.L. Sagar Killarikar, Advocate for petitioner

Mr. S.K. Shirse, AGP for respondent Nos.1 and 3

Respondent No.2 – served

Mr. M.D. Narwadkar, Advocate for respondent No.4

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

**DATE : 26<sup>th</sup> FEBRUARY, 2024**

**JUDGMENT : (PER : SMT. VIBHA KANKANWADI, J.)**

1 Present writ petition has been filed for following reliefs.

“B) By issuing Writ of Certiorari or Orders or directions the impugned letter dated 19.10.2023 (Exh.‘G’) issued by the Desk Officer of respondent No.1 directing the petitioner to deposit amount of Rs.05 Lakhs towards scrutiny fee may please be quashed and set aside, since the scrutiny is already over and the petitioner Society has already deposited Rs.25,000/- towards the scrutiny charges and thereupon the authorities have scrutinized the proposal as well as inspected the site.

C) By issuing appropriate writ, order or direction, the respondents be directed to include the name of the petitioner Society’s College on its Website and permit the petitioner Society to admit the students on the basis of merit by issuing provisional certificates for initiation of the Course.”

2 The petitioner is a registered Trust having aim and object of

imparting medical education. It was decided by the petitioner to seek permission to establish Nursing Course titled as “Auxiliary Nursing and Midwifery (A.N.M.). A proposal was submitted in the year 2011 and after verifying the proposal, essentiality certificate was issued by the Government and permitted the Society to establish and run the said course by letter dated 09.08.2012 with intake capacity of 20 students. The essentiality certificate was for the first three years, but due to some unavoidable reasons the Society could not start the said certificate course. Therefore, it applied for extension and renewal of essentiality certificate. Thereafter also the Society could not comply the norms within the stipulated period. Therefore, requests were repeatedly made from 2012 to 2020. Those were not considered. Therefore, the petitioner approached this Court by filing Writ Petition No.6055 of 2021 seeking direction. It came to be disposed of with directions on 20.04.2021 that the decision should be taken within stipulated period. The petitioner contends that upon the receipt of the order passed by this Court the authorities of the Maharashtra State Board of Nursing and Para-Medical Education asked the petitioner to deposit amount of Rs.25,000/- as inspection charges. Accordingly, the said amount came to be deposited on 04.07.2023. Petitioner was communicated by the said Board on 15.06.2023 that the petitioner should submit a fresh proposal. Accordingly, the petitioner has submitted the fresh proposal. The authorities inspected the premises and

by letter dated 09.08.2023 communicated the deficiencies to be cured by the Society. The petitioner cured those deficiencies and produced the appropriate documents in the office of Registrar, Maharashtra Nursing Council, Mumbai by letter dated 19.08.2023. In spite of all these facts the Desk Officer of respondent No.1 by letter dated 19.10.2023 directed the petitioner to deposit amount of Rs.5,00,000/- as an amount of scrutiny of the proposal. According to the petitioner, when it has already paid an amount of Rs.25,000/-, the further amount ought not to have been asked. The said communication being illegal the above reliefs have been prayed in the writ petition.

3            Heard learned Advocate Mr. B.L. Sagar Killarikar for the petitioner, learned AGP Mr. S.K. Shirse for respondent Nos.1 and 3 and learned Advocate Mr. M.D. Narwadkar for respondent No.4. In order to cut short, it can be said that they have argued in support of their respective contentions.

4            The facts are not much in dispute and, therefore, those are not repeated. Important point to be noted is that though the eligibility certificate was granted, the petitioner had not started the course for a considerable long time and thereafter this Court was required to interfere and direct the

concerned authority to consider the proposal submitted by the petitioner. Thereafter the things have moved further. Petitioner was directed to deposit Rs.25,000/- as inspection charges. Accordingly, it has been deposited and then the inspection was carried out, deficiencies were pointed out and the petitioner has cured those defects. Thereafter, there is demand of Rs.5,00,000/- as proposal scrutiny fee.

5           At the outset, it is to be noted that the Government has come with a specific case that the amount of Rs.5,00,000/- was demanded as per the Government Resolution dated 26.10.2017. It authorizes the Government to collect amount as 'Prastav Chhanani Shulka' (Proposal Scrutiny Fees) for various courses. There is no challenge to the said resolution by the petitioner. It is to be noted that the Board came to be established under The Maharashtra State Board of Nursing and Para-Medical Education Act, 2013. As per the Government Resolution dated 26.10.2017 the proposal is required to be submitted to the University i.e. Maharashtra Arogya Vidnyan Vidyapeeth. After the proposal is scrutinized the inspection would be carried out and after the inspection is carried out the eligibility certificate would be issued. For starting college under private unaided scheme the amount that was prescribed as scrutiny fee (which is non refundable) was Rs.5,00,000/- for Nursing Course. Therefore, whatever communication was made by the

Desk Officer calling upon the petitioner to deposit the said amount is as per the Government Resolution.

6 Another fact to be noted is that the petitioner has not provided the communication demanding amount of Rs.25,000/-. Only payment receipt has been produced, which appears to be issued by Maharashtra State Board of Nursing and Para-Medical Education. The payment is made on 07.04.2023. When the Government Resolution dated 26.10.2017 was already in existence, then how amount of Rs.25,000/- only could have been paid by the petitioner, is a question. The mode of payment has been given in the said Government Resolution, which should be through Challan in the Treasury Office or any Nationalized Bank or Reserve Bank of India. But in that case the Head, under which that amount was to be deposited, has been stated. The payment receipt produced by the petitioner is not under the said Head. Therefore, that cannot be taken as the payment as contemplated in the said Government Resolution. We, therefore, find no substance in the submissions on behalf of the petitioner. The said demand by the respondent-State cannot be said to be illegal. Hence, the writ petition stands dismissed.

**(S.G. CHAPALGAONKAR, J.)**

**( SMT. VIBHA KANKANWADI, J. )**

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