

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.11269 OF 2024

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| 1. Shree Chhatrapati Shivaji Education Society, |] | |
| Dharwad, Karnataka |] | |
| 2. Shree Chhatrapati Shivaji Education Society's |] | |
| Rural Institute of Ayurveda Research Centre |] | |
| and Hospital, Satara |] | .. Petitioners |

Versus

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|--|---|----------------|
| 1. National Commission for Indian System of |] | |
| Medicine, Ministry of AYUSH, |] | |
| Government of India, New Delhi |] | |
| 2. State of Maharashtra, |] | |
| Through the Secretary, |] | |
| Mantralaya, Mumbai |] | |
| 3. Zilla Parishad, Satara, |] | |
| Through Health Department, Satara |] | |
| 4. Union of India, |] | |
| Through Ministry of Health & Family Welfare, |] | |
| Department of AYUSH, New Delhi |] | .. Respondents |

Mr. R.V. Pai, Senior Advocate, with Ms. Siddhi Bhosale, Advocate for the Petitioners.

Mr. Srikrishna R. Ganbavale, Advocate for Respondent No.1.

Mr. B.V. Samant, Additional Government Pleader, with Mr. S.P. Kamble, Assistant Government Pleader for Respondent No.2-State of Maharashtra.

Mr. Ratan L. Adhe, i/by Mr. Pankaj P. Deokar, Advocates for Respondent No.3.

**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ**

DATE : 26TH AUGUST, 2024.

ORAL JUDGMENT : { Per A.S. Chandurkar, J. }

1. Rule. Rule made returnable forthwith and heard learned counsel for the parties.

2. The challenge raised in this writ petition is to the decision taken by the 1st respondent – National Commission for Indian System of Medicine (“NCISM”) on 5th August 2024 thereby denying conditional permission to the 2nd petitioner for intake of 50 seats in the Undergraduate B.A.M.S. Course for the Academic Year 2024-25.

3. After hearing the learned counsel for the parties, we are of the view that it would not be necessary to enter into the merits of the adjudication undertaken by NCISM that is impugned in the writ petition for the reason that according to its learned counsel, the 97th Board Meeting of the Medical Assessment and Rating Board for Indian System of Medicine was held on 12th July 2024 after which the impugned decision denying conditional permission was taken on 5th August 2024. In the interregnum between holding of the said meeting and arriving at a decision, the petitioners claim to have obtained various statutory permissions on the strength of which it seeks grant of conditional permission. The petitioners have been denied conditional permission for failure to submit (i) renewed Hospital Registration Certificate for the academic year 2024-25; (ii) Final Fire NOC Certificate issued by the Government of Maharashtra; and (iii) Pollution Control Certificate and CCA for Bio-Medical Waste issued by the Maharashtra Pollution Control Board for the Ayurvedic Hospital for the year 2024-25.

4. Insofar as renewal of Hospital Registration Certificate for the academic year 2024-25 is concerned, the Principal of the College has on 5th August 2024 made a request to the Health Department of the 3rd respondent – Zilla Parishad, Satara to renew its Hospital Registration Certificate. This request is under consideration.

. Insofar as issuance of Final Fire NOC Certificate is concerned, the petitioners' claim that on 30th July 2024, the Maharashtra Industrial Development Corporation has issued Provisional No Objection Certificate for its existing hospital at the ground floor and first floor subject to fulfillment of various conditions including those under the Maharashtra Fire Prevention and Life Safety Measures Act, 2006.

. As regards the Pollution Control Certificate and CCA for Bio-Medical Waste is concerned, the petitioners contend that on 2nd August 2024, renewal of Combined Consent to Operate and BMW Authorization (CCA) has been issued to it.

5. The NCISM did not have an opportunity to consider these aspects. In the light of these developments, we are of the view that the interest of justice would be served by directing the NCISM to re-consider its decision dated 5th August 2024 in the light of the aforesaid material now available with the petitioners. Such re-consideration is warranted as the aforesaid

documentary material is now available and it is the case of the petitioners that it is entitled for grant of conditional permission for academic session 2024-25 on this basis. We note that the NCISM has issued directives in the matter of counselling and admission to various Undergraduate Courses including the B.A.M.S. for the academic year 2024-25. Round-1 of the counselling is to commence from 6th September 2024.

6. In view of the aforesaid, the following directions are issued :-

- (i) The decision taken by the 1st respondent – National Commission for Indian System of Medicine on 5th August 2024 is set aside to enable it to re-consider its decision for the reasons indicated above.
- (ii) A fresh decision be taken by 4th September 2024 on its own merits after hearing the petitioners and the same be communicated to them.
- (iii) The respondent no.3 - Zilla Parishad, Satara shall also take a decision on the communication dated 5th August 2024 (Exhibit 'N-4') by 30th August 2024.
- (iv) All points raised on merits are kept open.

7. Rule accordingly. The writ petition is disposed of. No costs. Parties to act on authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]