

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

RAMESHWAR
LAXMAN
DILWALE

WRIT PETITION NO.383 OF 2024

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Association of the Management of Unaided
Institutes in Rural Areas,
thr. Its President Mr. Ramdas Zol .. Petitioner
Vs.
State of Maharashtra,
Thr. Its Dept. of Medical Education & Ors. .. Respondents

**WITH
WRIT PETITION NO.1356 OF 2024**

Dattakala Shikshan Sanstha .. Petitioner
Vs.
State of Maharashtra & Ors. .. Respondents

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Mr. Madhav V. Thorat with Mr. Amar Bodke & Ms. Trisha Choudhari, Advocates for the Petitioner in both petitions.
Mr. B. V. Samant, Additional Government Pleader with Ms. D. S. Deshmukh, Assistant Government Pleader for the respondent-State.
Mr. Sachindra B. Shetye with Ms. Dhanashri Mondkar, Mr. Akshay Pansare, Mr. Nipun Sawane, Advocates for the respondent no.3.
Ms. Priyanka Patil, Advocate for the respondent no.4.

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**CORAM : A.S. CHANDURKAR &
RAJESH S. PATIL, JJ
DATE : 14TH OCTOBER 2024.**

P.C. :

1. Since a challenge has been raised to Clause 3 of the Norms prescribed by the Maharashtra University of Health Sciences, Nashik-MUHS for the setting up new Occupational Therapy and

Physiotherapy colleges in both these writ petitions, they have been decided by this common order.

2. The petitioner in Writ Petition No.383 of 2024 is an Association of Management of unaided Institutes in rural areas. Its Members consist of various professional institutes including those who intend to conduct Operational Therapy and Physiotherapy colleges-OTPT colleges. They are aggrieved by Clause 3 of the requirements for opening of new Physiotherapy colleges as framed by the MUHS. The petitioner in Writ Petition No.1356 of 2024 intends to start a college imparting OTPT and is also aggrieved by said requirements under Clause 3. Clause 3 of the said requirements reads as under:-

3. Hospital:

There must be a parent or affiliated of 300 bedded hospital(s) with indoor and outdoor facility with physiotherapy exposure in the area such as Orthopedics, Surgery, including Burns, Hematology, Neurology; Gynaec-Obst, Pediatrics, Psychiatry, Respiratory Medicine, Dermatology, Radiology, Neuro-surgery and Plastic Surgery etc. to provide practical experience to the students. Hospital should be own and managed or there should be maximum six hospitals attached to the college not less than 50 beds each.

The breakup of 300 beds is as follows:

<i>Medical</i>	<i>50,</i>	<i>Surgical</i>	<i>50,</i>
<i>Obst. & Gyne.</i>	<i>50,</i>	<i>Pediatrics</i>	<i>25,</i>
<i>Ortho</i>	<i>50,</i>	<i>Eye / ENT</i>	<i>25,</i>
<i>ICU / ICCU</i>	<i>10,</i>	<i>Burns & Plastic</i>	<i>10.</i>

• *There should be affiliation of Psychiatric Hospital / Ward with 30 to 50 beds.*

• *Affiliated hospitals should be in a radius of 05-10 kms. From the college building.*

There should be

i) Physiotherapy Ward - 5000 Sq. ft. area

(Including fully equipped Physiotherapy department)

ii) Outpatient Physiotherapy unit - 3000 Sq. ft. area

> Own hospital or attached hospitals should be registered under:-

a) Bombay Nursing Home Act, 1949.

(Number of beds should be clearly mentioned in the certificate)

b) Shop Act. (If applicable)

> For attached hospital(s), there should be a Memorandum of Understanding (MOU) between the applicant and owner of the hospital(s) that the utilization of hospital(s) will be for minimum 5 years for the training of students. Each MOU should be on stamp paper of Rs. 100/- and duly notarized.

3. Mr. Madhav Thorat, the learned counsel for the petitioners submits that the norms laid down by the MUHS are

of such nature that it would not be possible for any OTPT college to be set up in a rural area. The requirement under Clause 3 was that such college should have affiliation with a hospital within the radius of 5-10 kms. Further, such Psychiatric hospital ought to have 30 to 50 beds. According to him, these norms cannot be satisfied in rural areas and hence the same being excessive in nature contravene the provisions of Article 19(1)(g) of the Constitution of India. He referred to the provisions of the Maharashtra State Council For Occupational Therapy And Physiotherapy Act, 2002 and especially Sections 16, 17, 39 and 40 thereof. According to him no Rules have yet been framed by the State Government in this regard. It is only in view of the norms laid down by the MUHS that the said requirements have to be fulfilled. Inviting attention to the requirements prescribed in the State of Tamilnadu, it was submitted that the number of beds prescribed there at an affiliated hospital was less and the radius of distance where such hospital was to be located was more. On the ground that the norms prescribed by MUHS could not be satisfied by Institutions in the rural areas thus resulting in violations of constitutional rights, it was urged that said requirement be quashed or appropriately modified. Reliance was placed on the

decision in *Indian Express Newspapers (Bombay) Private Ltd. and Others Vs. Union of India and Others*) (1985) 1 SCC 641.

4. Mr. Sachindra Shetye, the learned counsel appearing for the respondent no.3-MUHS opposed the writ petition by relying upon the affidavit in reply filed on its on behalf. He invited attention to the provisions of the Maharashtra University of Health Sciences Act, 1996 and especially Section 37 (h) and Section 63 (d). According to him, it was open for the MUHS to determine the minimum standards required while imparting education. The requirements having been considered by the Board of Education coupled with expert opinions obtained in that regard, it was submitted that there was nothing arbitrary in laying down such requirements. He invited attention to the exercise undertaken prior to laying down the norms and submitted that after due application of mind to all relevant aspects this exercise was undertaken. With a view to ensure that the students get the necessary training it was necessary that there were requisite number of beds at the affiliated hospital and that the same was located at a near distance. He therefore submitted that there was no reason to interfere in exercise of writ jurisdiction.

5. Ms. Priyanka Patil, the learned counsel appearing for the respondent no.4 also opposed the writ petition relying upon the affidavit in reply filed by the Registrar, Maharashtra State Council for Occupational Therapy and Physiotherapy.

6. Having considered the rival submissions and having perused the documents on record, we do not find any reason in this Court to interfere in exercise of writ jurisdiction. The issue pertains to the requirements prescribed for opening of a new Physiotherapy college. The norms in that regard have been framed by the MUHS. Its competence to do so is not in question especially in view of the provisions of the Act of 1996. Under Section 37 (h), the Board of Studies has power to prescribe for requirements with regard to taking of steps at various levels, the required qualifications, laboratory and hospital equipment as well as for formulating the norms and requirements for granting affiliation by the University. Similarly, under Section 63 (d) it is empowered to prescribe conditions of affiliation that includes availability of facilities like laboratories, building etc. as may be prescribed. On the basis of recommendation of experts in the field and the opinions received, the requirements for opening of a new physiotherapy college has been

prescribed. There is a requirement of affiliation either of a Psychiatric Hospital or Ward with 30 to 50 beds and the affiliated college is required to be within the radius of 5-10 kms distance.

7. In our view, the decision to prescribe requirements is an exercise to be undertaken by the University. On the basis of information collected by it, such requirement has been prescribed. The Court does not possess requisite expertise to determine as to whether these requirements are excessive or arbitrary. Considering the nature of the course being undertaken which is a matter to be considered by the such experts we are not in a position to record a finding that the requirements prescribed are unwarranted for this Court to interfere. Merely on the basis of the requirements prescribed in another State, it would not be prudent to interfere with such requirements. The geographical requirements would differ from place to place and the MUHS having been appointed as a competent authority to look into the matter, we do not find that on the basis that the material on record it can be held that the norms prescribed are unwarranted or arbitrary. For these reasons, the ratio of the decision in *Indian Express Newspapers*

(Bombay) Private Limited and another (supra) cannot be applied to the facts of the present case.

8. We therefore do not find any case made out to interfere in exercise of writ jurisdiction. The Writ Petitions are dismissed with no order as to costs.

[RAJESH S. PATIL, J]

[A.S. CHANDURKAR, J.]