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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10099 OF 2024**

Late Mrs Housabai Homeopathic
Medical College and Hospital Petitioner.
V/s
Union of India and Ors. Respondents.

**WITH
WRIT PETITION NO.8725 OF 2024**

Janseva Mandal Trust's
Sai Homeopathic Medical
College and Nityanand Hospital & Ors. Petitioners.
V/s
Union of India and Ors. Respondents.

Mr. Vaibhav Sugdhare a/w Mr. Suryajeet P. Chavan, Advocates for the
petitioners in Writ Petition No.10099 of 2024.

Mr. Vaibhav Sugdhare a/w Mr. Mahaji Phalke, Advocates for the
petitioners in Writ Petition No.8725 of 2024.

Mr. Rui Rodrigues a/w Mr. Ashutosh Misra, Advocates for respondent
no.1 (UOI) in both the above writ petitions.

Mr. Sameer Khedekar, Advocate for respondent no.4 in both the above
writ petitions

Ms. Purnima Awasthi, Advocate for respondent no.2 in both the above
writ petitions.

Mr. R.V. Govilkar, Senior Advocate a/w Mr. Sachindra Shetye, Ms.
Shaba N. Khan, Mr. Akshay Pansare, Advocates for Respondent No.3
(MUHS) in Writ Petition No.8725 of 2024.

Mr. Sachindra B. Shetye with Mr. Akshay S. Pansare, Advocates for Maharashtra University of Health Sciences, Nashik in Writ Petition No.10099 of 2024.

Mr. N.C. Walimbe, Additional Government Pleader with Mr. N.K. Rajpurohit, Assistant Government Pleader for the respondent-State.

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

DATE: 22nd August, 2024

P.C.:-

1] In these writ petitions, various Colleges conducting courses in Homeopathy have raised challenge to the orders dated 14/12/2023 as modified on 24/06/2024 issued by the 1st respondent – Ministry of Ayush, Government of India imposing penalty upon the said Colleges with a direction of reducing the number of seats for the academic year 2024-25 corresponding to the number of seats on which admissions were made in an irregular manner.

2] We have heard the learned counsel for the parties on the prayer of interim relief.

3] Mr. Vaibhav Sugdhare, the learned counsel for the petitioners submits that by the impugned communications, penal action has been

taken against the Colleges in the form of imposition of penalty and also reduction in the number of seats for academic year 2024-25. Before this penalty was imposed the petitioners were not given any opportunity of hearing. Since this action has been taken in breach of principles of natural justice, the effect and operation of the said communications deserves to be stayed. Referring to the order dated 30/08/2021 passed by the Admissions Regulating Authority of the State of Maharashtra, it was submitted that on an earlier occasion the State Government had relaxed the provisions of the Admission Rules as contained in the Admission Brochure. If such opportunity of hearing would have been granted, the petitioners would have been in a position to convince the Ministry of Ayush that such harsh action in the form of imposition of penalty was not warranted. Since the admission process for academic year 2024-25 was to commence shortly, it was prayed that interim relief as prayed be granted to the petitioners.

4] Mr. Rui Rodrigues, the learned counsel appearing for the 1st respondent opposed the prayer for interim relief. According to him, the order of penalty as issued on 14/12/2023 and thereafter modified on 24/06/2024 was the outcome of order in the earlier round of

litigation. He referred to the judgment of the Division Bench dated 12/12/2022 in Writ Petition No. 2223 of 2022 (*Jumrani Gautum Anilkumar and ors vs. Union of India Thr Ministry of Ayush & Ors*) with connected writ petitions. The said batch of writ petitions was filed by various students seeking regularization of their admissions. This Court did not grant any relief after observing that the Colleges had granted admission to the said petitioners in violation of the Admission Rules. The writ petitions were dismissed. The aggrieved students approached the Supreme Court in SLP No.1525 of 2023 (*Jumrani Gautam Anil Kumar & Ors. vs. Union of India & Ors.*) By its order dated 16/05/2023, the Supreme Court refused to interfere with the order passed by this Court. However, the Ministry of Ayush was directed to take a final decision after considering the aspect of relaxation. The students and the Colleges were granted liberty to make representations and a decision thereon was required to be taken. The Colleges filed their representations and after considering the same, the initial order of penalty dated 14/12/2023 came to be passed. Though one of the directions issued was to transfer the irregularly admitted students to other recognized Colleges, that direction was modified on 24/06/2024. Since this entire exercise was conducted by the body of experts, there

was no illegality in the same. The penalty was imposed after considering the representations and hence it could not be said that the impugned communications were vitiated for failure to grant an opportunity of hearing. Hence, there is no case made out for grant of interim relief.

5] Mr. R.V. Govilkar, the learned Senior Advocate appearing for the Maharashtra University of Health Sciences also opposed the grant of any interim relief by submitting that illegal admissions undertaken by the Colleges could not be regularized.

6] Having heard the learned counsel for the parties, we find that the fact that the present petitioners proceeded to admit students in violation of the Admission Rules was a finding recorded by this Court in the earlier round of litigation in *Jumrani Gautum Anilkumar and ors* (supra). Those findings were confirmed by the Supreme Court on 16/05/2023 when it held that this Court did not commit any error in holding that the students were ineligible for admission in respective academic years. However, the Ministry of Ayush was directed to look into the matter so as to consider whether the students could continue

with the courses in which they were admitted. It is thus clear that the fact that the students who were ineligible were admitted by the petitioners herein. Pursuant to the opportunity granted by the Supreme Court on 16/05/2023, the petitioners made representations to the Ministry of Ayush. It is thereafter that the order of penalty dated 14/12/2023 came to be issued.

Prima faice, in the facts of the present cases, we find that an opportunity to make representation which was granted to the petitioners was availed by them by submitting detailed representations. The matter was then considered by the Ministry of Ayush and it directed penalty of Rs 25 lakhs to be imposed on the Colleges that had admitted students below the qualifying criteria. Penalty of Rs 50 lakhs was imposed on those Colleges that admitted the students who had secured marks below 50% in the Higher Secondary Examination. Correspondingly it was directed that there would be reduction in the number of seats corresponding to the number of students admitted in an irregular manner for academic year 2024-25. Since the manner in which the penalty has been imposed has been indicated and which penalty has been uniformly applied and as reduction of seats as

directed is proportionate to the number of students admitted in an irregular manner, prima facie, we are of the view that this decision making process cannot be said to be vitiated for failure to grant any personal hearing to the petitioners. It has been taken after considering their representations. Moreover, the direction to transfer students who were irregularly admitted has been modified on 24/06/2024 by the Ministry of Ayush.

7] In that view of the matter, we do not find that any case has been made out to grant interim relief by staying the effect and operation of the aforesaid impugned communications. It is however directed that if during the pendency of the writ petitions, the petitioners without prejudice to the grounds raised in the writ petitions pay the amount of penalty as directed by the impugned communication dated 24/06/2024, the National Commission for Homeopathy would be free to process the necessary permissions of the Colleges in accordance with law. The direction for reducing the number of seats corresponding to the number of students admitted in an irregular manner is not stayed. This interim order is subject to final outcome of the writ petitions.

8] Stand over to 19/09/2024 for further consideration.

9] Parties to act on the authenticated copy of this order.

[RAJESH S. PATIL, J.]

[A.S. CHANDURKAR, J.]