



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4626 OF 2024

1. Jamkhed Homeopathic Medical College,
Ratnapur at Jamkhed, Ratnapur,
Taluka Jamkhed, Dist. Ahmednagar
2. Ratnadeep Medical Foundation And
Research Center and Ratnadeep
Hospital, Nagar Road, Ratnapur,
Taluka Jamkhed, Dist. Ahmednagar

Through Secretary
Dr. Varsha Bhaskar More
Age : 48 yrs, occ : medical practitioner
R/o Ratnadeep Hospital, Nagar Road,
Near Bus Stand, Jamkhed,
Taluka Jamkhed, Dist. Ahmednagar

Petitioners

Versus

1. The State of Maharashtra
Through Secretary for Medical
Education and Drugs Department,
Mantralaya, Mumbai
2. The Maharashtra University of
Health Science, Nashik, Dindori
Road, Mhasrool, Nashik
Through its Registrar.

Respondents

**WITH
WRIT PETITION NO. 4642 OF 2024**

1. Ratnadeep Ayurvedic Medical
College, Ratnapur, Taluka Jamkhed,
Dist. Ahmednagar
2. Ratnadeep Medical Foundation And
Research Center and Ratnadeep
Hospital, Nagar Road, Ratnapur,
Taluka Jamkhed, Dist. Ahmednagar

Through Secretary
 Dr. Varsha Bhaskar More
 Age : 48 yrs, occ : medical practitioner
 R/o Ratnadeep Hospital, Nagar Road,
 Near Bus Stand, Jamkhed,
 Taluka Jamkhed, Dist. Ahmednagar

Petitioners

Versus

1. The State of Maharashtra
 Through Secretary for Medical
 Education and Drugs Department,
 Mantralaya, Mumbai
2. The Maharashtra University of
 Health Science, Nashik, Dindori
 Road, Mhasrool, Nashik
 Through its Registrar.

Respondents

WITH
WRIT PETITION NO. 4764 OF 2024

1. Shree Sai Nursing (B.Sc.) College
 At Jamkhed, Ratnapur,
 Taluka Jamkhed, Dist. Ahmednagar
2. Ratnadeep Medical Foundation And
 Research Center and Ratnadeep
 Hospital, Nagar Road, Ratnapur,
 Taluka Jamkhed, Dist. Ahmednagar

Through Secretary
 Dr. Varsha Bhaskar More
 Age : 48 yrs, occ : medical practitioner
 R/o Ratnadeep Hospital, Nagar Road,
 Near Bus Stand, Jamkhed,
 Taluka Jamkhed, Dist. Ahmednagar

Petitioners

Versus

1. The State of Maharashtra
 Through Secretary for Medical
 Education and Drugs Department,
 Mantralaya, Mumbai

2. The Maharashtra University of Health Science, Nashik, Dindori Road, Mhasrool, Nashik Through its Registrar.

Respondents

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Mr. V.D. Hon, Senior Advocate, i/b Mr. A.V. Hon,
Advocate for the petitioners.

Ms. P.J. Bharad, A.G.P. for respondent No.1 and 2.

Mr. A.S. Bayas, Advocate for respondent No.2.

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**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

JUDGMENT RESERVED ON : 25.11.2024

JUDGMENT PRONOUNCED ON : 30.01.2025

Judgment (Mangesh S. Patil, J.) :

. Heard. Rule in all the writ petitions. It is made returnable forthwith. Learned A.G.P. waives service for respondent No.1 and learned Advocate Mr. Bayas waives service for respondent No.2 - Maharashtra University of Health Science (MUHS).

2. By way of these separate petitions preferred under Article 226 of the Constitution of India, the same Management running Homeopathy, Ayurvedic and Nursing Colleges affiliated to respondent No.2 university, is challenging similar communication dated 26.04.2024, whereby, for the selfsame reasons, affiliation of the petitioner's all these colleges has been permanently withdrawn under Section 73 of the

Maharashtra University of Health Sciences Act, 1998 (MUHS Act) from the academic year 2024-2025 onwards.

3. Since the grounds for withdrawal of affiliation are the same, all these petitions are being disposed of by this common judgment, to avoid rigmarole.

4. Mr. Hon, learned senior advocate for the petitioners takes us through the papers and submits that the impugned decisions permanently withdrawing affiliation, are arbitrary and illegal. The decisions suffer from vice of being contrary to the principles of natural justice and are liable to be quashed and set aside.

5. Mr. Hon would submit that the institutions were being smoothly run for number of years and at no point of time, any objection was raised either by the respondent MUHS or the parent bodies. It is only in the beginning of the year 2024, when the colleges started demanding tuition fees from and out of scholarships received by several students under different schemes, that the students started agitation which was blown out of proportion. There was political interference and without any authority, the Collector moved in action. The entire premises was sealed. President of the trust was

maliciously prosecuted by couple of girl students. Simultaneously, all the affiliating universities and boards including the respondent MUHS also moved in action in respect of different affiliations. The premises of the petitioner's college was put under seal of the Tahsildar. Simultaneously all these universities/boards started issuing notices, hurriedly calling upon the petitioners to furnish the explanations. No sufficient opportunity was being extended. Even while the premises was sealed, the institutions were stated to have been not running, which was impossible. Even when the explanations were offered, those were not considered in the proper perspective and the issue was prejudged. The decisions to withdraw affiliation was reached without following due process of law and are liable to be quashed and set aside.

6. Mr. Hon would also advert our attention to the decisions of this Court in few other matters of the petitioner institution in respect of some other courses affiliated to Savitribai Phule Pune University wherein similar actions were set aside.

7. The learned A.G.P. submitted that due process of law has been followed by respondent No.2 MUHS and this Court, in exercise of the powers under Article 226 of the

Constitution of India, cannot sit in appeal and should only be concerned with the decision making process and not its correctness.

8. Learned advocate Mr. Bayas for the respondent university, referring to the affidavit in reply, additional affidavit and written notes of arguments, would submit that necessary procedure as contemplated under Section 73 of the MUHS Act has been duly followed. The conclusions are based on not one but two inspections and pursuant to the inspection reports. The petitioner was called upon to respond, by extending the time stipulated under that provision. A personal hearing was also conducted and after consideration of the issue by the planning committee, the academic council of the university made recommendation which is approved by the Vice Chancellor. He would, therefore, submit that the procedure contemplated in law has been meticulously followed.

9. On facts, Mr. Bayas would submit that several shortcomings were noticed during the inspection which were not satisfactorily explained by the petitioners. Though three different colleges were being run, they were not having separate area and infrastructure as per the norms. Not only these three courses, but few other courses were being run

from the same building. There were no permanent signages because those used to be changed if and when the concerned apex body was to undertake the inspection. There was no adequate staff. There were no patients. Realizing that the institution was misleading the respondent university and other establishments as well, by running different courses showing the same infrastructure and having undertaken objective scrutiny and having reached a reasoned conclusion, that continuation of affiliation would adversely affect reputation of the university, that the decision was taken for permanently withdrawing the affiliations of all the three colleges of the petitioner. There is no arbitrariness or illegality.

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

11. At the outset, it would be apposite to remind ourselves of the circumscribing limits while exercising the powers under Article 226 of the Constitution of India. The matter in issue being withdrawal of the affiliation to the respondent MUHS, these being the matters pertaining to the standard of education, to be imparted and the responsibility of which vests with it, there would be inherent limitation on the powers of this Court in scrutinizing the decisions of the MUHS

in taking recourse to Section 73 and for withdrawing the affiliations permanently. We shall be concerned with the decision making process and we cannot sit in appeal.

12. With this preface, let us take up the issue. Section 73 of MUHS Act reads as under :

“73. Withdrawal of affiliation or recognition.

(1) If an affiliated college or recognised institution fails to comply with the conditions of affiliation or recognition as provided in section 63 or to allow the local managing or advisory committee as provided in section 67 to function properly or to take action as per direction issued under this Act or if it is conducting the college or recognised institution in a manner prejudicial to the interest of the University or the standards laid down by it, the Planning Board may issue a notice to the management to show cause as to why the privileges conferred on the college or recognised institution by affiliation or recognition should not be withdrawn in part or in whole or modified.

(2) The Planning Board shall mention in the notice, the grounds on which it proposes to take the action, as proposed in sub-section (1) and shall send a copy of the notice to the principal of the college, or head of recognised institution. It shall also specify in the notice, the period, being a period which shall not be less than thirty days, within which the management should file its written statement in reply to the notice.

(3) On receipt of such written statement or on expiry of the period specified in the notice issued under sub-section (1), the Planning Board shall place before the Academic Council, the notice and the written statement, if any, with or without the motion for withdrawal or modification of such privileges.

(4) The Academic Council shall, having regard to the interest of students studying in the colleges or recognised institutions, recommend to the Vice-Chancellor the action to be taken in this behalf and the Vice-Chancellor shall, thereafter, proceed to implement the recommendations”.

So far as the process contemplated therein is

concerned, the planning committee of the MUHS, pursuant to the two inspections carried out, one by one man committee and the other by three member committee, called upon the petitioners by its notice dated 20.03.2024, to show cause as to why affiliation to its colleges shall not be withdrawn permanently by resorting to Section 73. As contemplated therein, time of 30 days was granted to furnish the explanation. There is also record to demonstrate that the petitioners, by moving applications, sought time to file replies. In order to extend an opportunity of being heard and to consider the explanation to be furnished, by issuing a notice dated 12.04.2024, the petitioners were called upon to attend the hearing on 22.04.2024. Admittedly, the petitioner institutions' secretary together with a faculty member and a staff remained present before the planning committee together with their written explanation dated 19.04.2024.

13. True it is that simultaneously, the Collector of the District had also moved in action and even took initiative in appointing a committee for carrying out the inspection and copies of the reports were forwarded to different establishments / universities. Premises was also sealed and pursuant to the order of this Court dated 27.03.2024 in

another matter, the Tahsildar was directed to conduct a *panchnama* and de-seal the premises and hand over the keys to the secretary of the trust. It is also equally true that like the MUHS even Savitribai Phule Pune University and the Directorate of Higher and Technical Education, also moved in action in respect of the colleges / courses affiliated to them. Even they made a similar attempt to de-affiliate / de-recognize those colleges / courses. The actions were challenged before this Court in couple of writ petitions namely writ petition No.9709 of 2024 and writ petition No. 3286 of 2024 and the petitioners' challenges therein were upheld by the judgments dated 24.09.2024 and 27.09.2024, respectively. Admittedly, the actions of the respective University / Board were subjected to scrutiny under the relevant enactments in holding that the processes as was laid down in the concerned Acts were not followed. Since the MUHS is governed by the MUHS Act and the impugned actions have been taken in purported exercise of power under Section 73 thereof, the decisions of this Court, in the aforementioned two matters, would be of no relevance.

14. Coming back to the matter in hand, the planning committee of the respondent university conducted hearing in presence of secretary of the petitioner trust on 22.04.2024. It

also recorded the minutes and those were placed before the academic council. The inspection report of three member committee was objectively considered and de-affiliation was recommended, which has been approved by the Vice Chancellor, as is contemplated in law. Therefore, it can safely be said that the process as contemplated in law under the provision of Section 73 of the MUHS Act, was strictly complied with.

15. As regards the objective scrutiny of the shortcomings, it was found that all the three courses Ayurvedic, Homeopathy and Nursing, were being conducted from the same property, extent of which was barely 6 *Acres* 84 *Gunthas* when as per the norms, Ayurvedic college requires minimum of 5 *Acres*, Homeopathy college requires minimum of 4 *Acres* and for Nursing college, the requirement is of 2 *Acres*. It was also noticed that the proposals for starting these colleges were moved in different years and by showing the same property. No dedicated hospitals required for all the three courses were available. No permanent name plates / signages were found. The departments were being used interchangeably and taking into account *inter alia* several other shortcomings, as a cumulative effect, the

recommendations for de-affiliation were forwarded by the academic council and were accepted by the Vice Chancellor.

16. In our considered view, there is not enough material to demonstrate any flaw in the decision making process or the decision to withdraw the affiliations permanently, is either arbitrary or perverse.

17. There is no merit in the petitions and those are dismissed.

18. Rule stands discharged.

(PRAFULLA S. KHUBALKAR)
JUDGE

(MANGESH S. PATIL)
JUDGE