



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 157 OF 2025
IN
WRIT PETITION NO. 4892/2025

Ameya s/o Manoj Ghogare
Age 30 years, Occu. Education
R/o Ameya Hospital, Samtanagar,
Dharashiv, Tq. And district Dharashiv

...APPLICANT

VERSUS

1. The Union of India
Through the Secretary
Ministry of Health
New Delhi
2. National Medical Commission
Pocket No.14, 8, Phase-1,
Dadadeo Mandir Road,
Block P, Dwarka,
New Delhi 110 077
Through its Secretary
3. The Maharashtra University of Health
Sciences, Nashik
Through its Registrar

...RESPONDENTS

Shri. V. D. Hon, Senior Advocate i/b. Shri A. V. Hon, Advocate for the Applicant

Shri. R. B. Bagul, Advocate for Respondent No.1

Shri. S. K. Kadam, Advocate for Respondent No.2

CORAM : R. G. AVACHAT AND
PRAFULLA S. KHUBALKAR, JJ.
RESERVED DATE : 11.07.2025
PRONOUNCED DATE : 17.07.2025

ORDER [*Per : Prafulla S. Khubalkar, J.*] :-

1. Heard Shri V. D. Hon, learned Senior Advocate instructed by Shri. A. V. Hon, Advocate for the applicant, Shri. R. B. Bagul, Advocate for respondent No.1 and Shri. S. K. Kadam, Advocate for respondent No.2.
2. By this application for review, the applicant/petitioner is seeking review of the order dated 9th April 2025 passed by this Court in Writ Petition No.4892 of 2025.
3. The contention of learned Senior Advocate for the applicant is that the order dated 9th April 2025 passed by this Hon'ble Court is contrary to the provisions of law, equity and good conscience and therefore, there is an error committed which is apparent on the face of record.
4. He primarily submitted that the Regulations of the National Medical Commission (*hereinafter referred to as "NMC"*), which were framed in accordance with the provisions of Section 57 and Section 35 of the

National Medical Commission Act, 2019 (*hereinafter referred to as "the NMC Act, 2019"*), were not laid before Parliament in accordance with the requirement of Section 58 of the NMC Act, 2019, as revealed under the Right To Information Act, 2005. He therefore submitted that the Regulations which were relied upon by the respondents could not be made applicable, since the same were vitiated in law. He further submitted that, since the Regulations were not laid before Parliament, Clause 8.4 of the Regulations could not have been applied to the case of the applicant and thus, by wrongly applying the said clause, the applicant was deprived of revaluation of his marks. In support of his submissions that the Regulation is vitiated since it was not not laid before Parliament, he placed reliance on the judgment in the matter of **Association of Management of Private Colleges Versus AICTE and Ors. (2013) SCC 271**.

5. The learned Senior Advocate vehemently submitted that Section 58 of the NMC Act, 2019, requires the laying of every regulation before Parliament and on account of non-laying of this Regulation, he submitted that the regulation ought not to have been applied to the case of the applicant. He therefore submitted that this crucial aspect is not

considered while passing the order dated 9th April 2025 and this has resulted into an error apparent on the face of record.

6. Shri. R. B. Bagul, learned counsel for respondent No.1 and Shri. S. K. Kadam, learned counsel for respondent No.2 vehemently opposed the application. They submitted that the applicant has failed to demonstrate any error apparent on the face of record and the grounds for review are in the nature of grounds challenging the order sought to be reviewed. The learned counsel for the respondents submitted that the order dated 9th April 2025 was passed by this Court by considering the most crucial aspect that the applicant has raised challenge to Clause 8.4 of the Regulations only after having appeared at the examination. They submitted that the notification was issued by respondent No.2-NMC on 29.12.2023 and the applicant/petitioner appeared for the examination held in the year 2024 and after having failed to secure the minimum aggregate marks, he even applied for revaluation and thereafter, raised challenge to Clause 8.4 of the Regulations. As such, after having appeared at the examination with open eyes, the challenge to Clause 8.4 was not entertained by this Court by the order sought to be reviewed. The respondents therefore submitted that the

applicant/petitioner has failed to point out any kind of error apparent on the face of record which is an essential requirement for seeking review of the order.

7. The rival contentions thus fall for our consideration.

8. The applicant's contentions for seeking review are based on the fact which had come to his knowledge under the Right to Information Act, 2005, that the Regulations were not laid before the Parliament in accordance with the provisions of Section 58 of the NMC Act, 2019. In the light of this fact, the applicant/petitioner has relied upon the judgment in the matter of **Association of Management of Private Colleges (supra)** to contend that the said Regulations are vitiated in law. It is therefore necessary to have a look at the provisions of Section 58 of the NMC Act, 2019, which provides for laying the Regulations before Parliament. The provisions of Section 58 of the NMC Act, 2019, are reproduced in the application for review and the same are reproduced hereinbelow:-

58. Rules and regulations to be laid before Parliament:- Every rule and every regulation made, and every notification issued, under this Act shall be laid, as soon as may be after it is made,

before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification; both Houses agree that the rule or regulation or notification should not be made, the rule or regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

A perusal of Section 58 of the NMC Act, 2019, shows that it requires the laying of the Regulations before Parliament; at the same time, it contains an inbuilt saving clause which provides for saving of any actions which are previously done under the Rules or Regulations or Notification before modification or annulment. As such, the admissions process which is conducted in accordance with Clause 8.4 can be said to be saved and cannot be faulted.

9. It is crucial to note that all the contentions raised by the learned counsel for the applicant were raised in the writ petition and even

averred in the memorandum of the writ petition, as can be seen from Paragraph No.9 of the writ petition. Pertinently, the applicant/petitioner has also challenged provisions of Clause 8.4 of the Regulations, 2023 vide prayer clause “B” of the petition. It is also crucial to note that the applicant/petitioner has relied upon this judgment in the matter of **Association of Management of Private Colleges (supra)** in support of the submissions advanced in the writ petition. In this background, the order dated 9th April 2025 sought to be reviewed, shows that this Court had given due consideration to prayer clause “B”, by which Clause 8.4 of the Regulations was challenged and after considering the factual aspect, the final order was passed. Considering the fact that the applicant/petitioner had participated in the admission process being aware about Clause 8.4 and raised challenge to the same after having failed to secure required marks, the order was passed. As such, it is clear that the applicant’s writ petition was dismissed based on the principle that a candidate who participates in the admission process can not raise challenges to the Regulations/Rules governing admission by way of an afterthought. It is also crucial to note that the applicant has raised same grounds in the writ petition and the review application and the contention that the review

application is filed only after receiving information under the Right To Information Act, 2005, cannot be considered to be a valid ground for review.

10. The position of law about the scope of review is settled in a catena of decisions holding thereby that the scope of review is limited and it cannot be in the nature of an appeal. It is profitable to make reference to the authoritative pronouncements of the Hon'ble Supreme Court in the recent matter of **State of Telangana and Others Versus Mohd. Abdul Qasim (Died) Per Legal Representatives**, reported at (2024) 6 SCC 461 and **Shri Ram Sahu (Dead) Through Legal Representatives and Others Versus Vinod Kumar Rawat and Others**, reported at (2021) 13 SCC 1, in which, the Hon'ble Supreme Court has elaborately discussed and reiterated the principles for entertaining Review Applications. The position of law is fairly settled that power of review has to be exercised with circumspection and on rare occasions. In the instant case, the review applicant has utterly failed to demonstrate any error on the face of record. As such, the instant Application for review is devoid of substance.

11. In the instant case, a perusal of the grounds for review shows that all the grounds are in the nature of grounds of appeal which could be raised for challenging the order dated 9th April 2025. The applicant/petitioner has failed to raise any ground demonstrating any self-evident error on the face of record which can be identified on a mere cursory look and the error being so glaring that it requires interference in the form of a review.

12. In the light of the above mentioned factual and legal aspects, we are of the considered view that the applicant/petitioner has failed to make out a case for review of the order dated 9th April 2025 and the instant applicant for review deserves to be dismissed.

13. The application for review is **dismissed**.

14. No order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

(R. G. AVACHAT, J.)