IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.3970 OF 2025
IN
REVIEW APPLICATION (ST) NO.8943/2025
IN
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 ... APPLICANTS

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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Advocate for applicants : Mr. V.D. Hon, Senior advocate i/b. Mr. A.V. Hon
AGP for respondent No.1 : Mr. S.R. Wakale
Advocate for respondent No.2 : Mr. A.S. Bayas

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AND

CIVIL APPLICATION NO.3978 OF 2025
IN
REVIEW APPLICATION (ST) NO.8947/2025
IN
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 ... APPLICANTS

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

...

Advocate for applicants : Mr. D.S. Bagul h/f. Mr. A.V. Hon
AGP for respondent No.1 : Mr. S.R. Wakale
Advocate for respondent No.2 : Mr. A.S. Bayas

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AND
CIVIL APPLICATION NO.3982 OF 2025
IN
REVIEW APPLICATION (ST) NO.8941/2025
IN
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 ... APPLICANTS

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

...

Advocate for applicants : Mr. D.S. Bagul h/f. Mr. A.V. Hon
AGP for respondent No.1 : Mr. S.R. Wakale
Advocate for respondent No.2 : Mr. A.S. Bayas

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

DATE : 07.04.2025

ORDER (MANGESH S. PATIL, J.) :

These are the civil applications preferred by the same management running different colleges praying for condonation of delay of 18 days in filing review applications in respect of a common order dated 30.01.2025 passed in the respective petitions.

2. The petitions were preferred for quashing and setting aside a common order passed by the respondent – Maharashtra University of Health Sciences (MUHS), whereby, the affiliations granted for running three different colleges, namely; Homeopathy, Ayurvedic and Nursing has been permanently withdrawn by three different but similar communications dated 26.04.2024, in exercise of the powers under Section 73 of the Maharashtra University of Health Sciences Act, 1998 (MUHS Act), from the academic year 2024-2025 onwards. The petitions were dismissed by the order which is now sought to be reviewed. Though it is a matter of condonation of delay, we have heard the learned Senior advocate Mr. Hon and also learned advocate Mr. Bagul, as regards the right of the petitioners to seek a review of the common order.

3. Mr. Hon and Mr. Bagul took us through the papers and would submit that the order of permanent withdrawal of affiliation by resorting to Section 73 of the MUHS Act was the subject matter of challenge. It was alleged that it was passed without following the process or the modalities prescribed by the relevant Direction No.6/2024 issued by the vice-chancellor of the MUHS in purported exercise of the powers

under Sub-Section (8) of Section 16 read with Sub-Section (10) of Section 48 of the MUHS Act. They would endeavour to impress upon us as to how the decision for withdrawal of affiliation permanently would not stand the scrutiny of the modalities prescribed under statutory directions issued by the vice-chancellor of the MUHS. In the process they would vehemently submit that a ground which was never notified to the petitioners regarding non-availability of land of the requisite extent, as upheld by this Court in paragraph No.15 of the order sought to be reviewed. They would submit that when the Direction 6/2024 and other similar Directions expressly require the grounds to be notified before a drastic decision for permanent de-affiliation is sought to be taken, this would lend a ground for this Court to undertake the review. They would submit that this being a formal defect or a sufficient ground, the matters need a review.

4. It is to be noted that the applicants are seeking powers of review to be exercised, parameters of which are well settled. The decision for permanent withdrawal of affiliation by taking recourse to Section 73 of the MUHS Act was a subject matter of challenge in the writ petitions. By the order sought to be reviewed, we had objectively scrutinized as to how there was no flaw in the decision making process, inasmuch as, there was objective scrutiny and material to justify the conclusion, necessary process was followed including extending an opportunity of being heard to the petitioners and their active

participation. Once having reached that conclusion, as a logical and legal corollary, we had refused to exercise the powers under Article 226 of the Constitution of India.

5. As far as sustaining the challenge on the ground of not following the Directions issued pursuant to Sub-Section (10) of Section 48 read with Sub-Section (8) of Section 16 and Section 73 of the MUHS Act, if those are statutory rules, assuming for the sake of arguments that those were, as is being strenuously submitted by Mr. Hon, were placed before this Court, absence of any reference to those Directions in the order under review cannot be said to be an error apparent on the face of record or a formal defect or any other sufficient cause, so that this Court can undertake rescrutiny by referring to these Directions. If those Directions have any statutory recognition, the petitioners cannot be heard now by referring to these Directions which actually were never placed on record, to say that there is a formal defect or error apparent on the face of the record.

6. Apart from the above state of affairs, it is pertinent to note that at least in two of these three matters, an attempt was made to put up a challenge to the order under review by approaching the Supreme Court which dismissed the SLPs *in limine*. We are not oblivious of the consistent view of the Supreme Court in the matter of **Kunhayammed Vs. State of Kerala; (2000) 6 SCC 359** and the decision in the matter of **Khoday Distilleries Ltd. and Ors. Vs. Mahadeshwara S.S.K. Ltd.; (2012)**

12 Supreme Court Cases 291, laying down the parameters for exercise of the review jurisdiction when the SLP is dismissed *in limine*. It is not the issue as to if in spite of dismissal of the SLP review is maintainable or otherwise. In our considered view, even if the SLP is dismissed *in limine* without assigning any reason and review is maintainable, that does not dispense with the responsibility on the party seeking a review to make out the grounds for exercising such extraordinary jurisdiction.

7. The fact situation in the matter is peculiar. The ground being demonstrated in these review applications is to re-agitate and challenge the order passed in exercise of the powers under Section 73 of the MUHS Act. Attempt has been made to demonstrate that the order was passed without following the modalities prescribed by various statutory Directions issued by the learned vice-chancellor of the MUHS.

8. On our query the learned advocate Mr. Bagul could place before us a copy of the appeal memo preferred before the Supreme Court which clearly demonstrates that as a ground, a specific reference was made to these Directions to demonstrate as to how the modalities prescribed therein were no followed before taking a decision that was impugned in the writ petitions for permanent withdrawal of the affiliation. While putting up a challenge to the order sought to be reviewed, attempt was made before the Supreme Court to demonstrate that statutory Directions were not followed. Even if it is a matter of record that the SLPs were dismissed, no leave was obtained from the

Supreme Court precisely for resorting to this very ground for seeking review of the order. Even if, as laid down in the matters of **Kunhayammed** and **Khoday Distilleries** (supra) it has been laid down that dismissal of SLP *in limine* would not preclude a party from seeking a review, when a specific ground for putting up a challenge to the order of this Court was agitated before the Supreme Court and even if no reasoned order was passed while dismissing the SLPs, the propriety demands that the petitioners ought to have solicited leave of the Supreme Court to rake up this issue before this Court as a ground for seeking review.

9. It would be anomalous to comprehend that, as laid down in **Khoday Distilleries** (supra), if the Supreme Court has refused to exercise the discretionary jurisdiction under Article 136 of the Constitution of India, in spite of the petitioners having expressly resorted to put up a challenge to the order of this Court by referring to the non-observance of the modalities prescribed under statutory Directions issued by the vice-chancellor, this Court circuitously allows this very ground to be resorted to for exercise of review jurisdiction. It would be anomalous to consider a situation, wherein, the ground put forth does not find favour with the Supreme Court which refuses to exercise the discretionary jurisdiction and still that is being resorted to by this Court for reviewing the order, challenge to which has been dismissed *in limine* that too without seeking any leave of the Supreme Court.

10. Hypothetically, if a party is able to make out a ground for undertaking a review jurisdiction on the trite principles, read with Section 115 of the Code of Civil Procedure, leave of the Supreme Court may not be necessary when it has dismissed the challenge to the order sought to be reviewed *in limine*. It is in these peculiar circumstances, in our considered view, the petitioners cannot now resort to and seek to demonstrate as to how the orders sought to be reviewed had failed to consider non-observance of the modalities laid down in the statutory Directions issued by the vice-chancellor, before the orders impugned in the writ petitions whereby affiliations were withdrawn permanently, can be reviewed.

11. Therefore, with respect, the decision in the matter of **Kunhayammed** and **Khoday Distilleries** (supra) do not come in aid of the petitioners who have failed to make out the grounds which would enable us to exercise the review jurisdiction.

12. The civil applications together with the review applications are dismissed.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

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