

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1682 OF 2023

a/w

INTERIM APPLICATION NO.4536 OF 2023

IN

WRIT PETITION NO.1682 OF 2023

Dr. J.J. Magdum Trust, Jaysingpur and another]	Petitioners
versus	
Union of India and others]	Respondents

a/w

INTERIM APPLICATION NO.4550 OF 2023

IN

WRIT PETITION NO.1682 OF 2023

Rabade Sanjana Ananda and others]	Applicants
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IN THE MATTER BETWEEN:

Dr. J.J. Magdum Trust, Jaysingpur and another]	Petitioners
versus	
Union of India and others]	Respondents

a/w

WRIT PETITION NO.452 OF 2021

a/w

INTERIM APPLICATION NO.457 OF 2025

IN

WRIT PETITION NO.452 OF 2021

a/w

INTERIM APPLICATION NO.4537 OF 2023

IN

WRIT PETITION NO.452 OF 2021

Dr. J.J. Magdum Homeopathic Medical College]	
through It's Principal and another]	Petitioners
versus	
Union of India and others]	Respondents

a/w
WRIT PETITION NO.11881 OF 2018

The Principal, Dr. J.J. Magdum Homeopathic Medical College, Jaisingpur	]	
Versus	]	Petitioner
Union of India and others	]	Respondents

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Dr. Uday Warunjikar (through V.C.) a/w Ms. Neha Deshpande, for Petitioners.

Mr. Pravin Faldesai (Deputy Solicitor General) a/w Ms. Divya Arvind Pawar,
for Respondent No.1.

Ms. Purnima Awasthi (through V.C.) for Respondent No.5.

Mr. Nagesh Chavan, for Respondent No.4 in Writ Petition No.452 of 2021,
for Respondent No.6 in Writ Petition No.11881 of 2018 and for Respondent
No.4 in Writ Petition No.1682 of 2023.

Mr. A.P. Vanarase, A.G.P, for Respondent – State in Writ Petition No.1682 of
2023.

Mr. R.P. Kadam “B” Panel Counsel for Respondent – State in Writ Petition
No.452 of 2021.

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CORAM : M.S. KARNIK &
AJIT B. KADETHANKAR, JJ.

DATE : 28th NOVEMBER, 2025.

ORAL ORDER: [PER M.S. KARNIK, J.]:

1. Not on board. Upon mentioning, taken on board.

2. Heard Dr. Warunjikar, learned Counsel for the petitioners, Mr. Faldesai,
learned Deputy Solicitor General, for respondent No.1, Ms. Awasthi, learned

Counsel for respondent No.5, Mr. Nagesh Chavan, for respondent No.4 in Writ Petition No.452 of 2021, for respondent No.6 in Writ Petition No.11881 of 2018 and for respondent No.4 in Writ Petition No.1682 of 2023, Mr. Vanarase, learned A.G.P for respondent – State in Writ Petition No.1682 of 2023 and Mr. Kadam, “B” Panel Counsel, for respondent – State in Writ Petition No.452 of 2021.

3. The petitioners pray for various reliefs. Briefly stated, it is the case of the petitioners that the petitioners are running Undergraduate and Postgraduate courses of Bachelor of Homeopathic Medicine and Surgery (BHMS) among other courses. The Colleges have not complied with the deficiencies as specified by the respondent No.5 – National Commission for Homeopathy. Permission to admit the students for academic years 2018-2019, 2020-2021 and 2023-2024 was granted by the interim orders passed by this Court subject to inspection that was to be carried out. An affidavit-cum-undertaking on behalf of the petitioners has been filed by Dr. Sunil Balaso Banue which reads thus;

“1. Dr. Sunil Balaso Banne Age: 57 Years, the holding the post of the Principal in the petitioner no. 1 college, residing at Jaysingpur, Tal Shirol Dist. Kolhapur, do state on solemn affirmation that this undertaking is being filed on behalf of the petitioners to the Writ Petition:-

“ I say that this petitions are filed due to the reduction of intake seats of the petitioner college due to

deficiency pointed by the respondents for the academic year 2018-2019, I am filing this undertaking on behalf of the petitioners before this Hon'ble Court. I further say that in Writ Petition no. 11881 of 2018 filed by the petitioner before this Hon'ble High Court, the respondents herein pointed out the deficiencies by an letter dated 1/8/2018 for the academic year 2018-2019. The deficiencies are mentioned at page no. 31 of the Writ Petition. By an order dated 17/10/2018 passed by the Hon'ble High Court (Coram Hon'ble Justice B R Gavai and Hon'ble Justice M S Karnik), Rule has granted and also interim protection also granted in favour of the petitioner. I say that all the deficiencies which were pointed out by the respondents, the same have been cleared by the petitioners College. On 29/12/2018, the petitioners institute submitted a compliance report to the Deputy Secretary of the Govt. of India, AYUSH, New Delhi. The Copy of the compliance report is annexed herewith and marked as **Exhibit A.**

2. I say that So far as the Writ Petition no. 452 of 2021 filed by the petitioner again reduction of the intake seats of the petitioner's college for the academic year 2020-2021, by an letter dated 09/10/2020 (Page No. 50 of the Writ Petition) the deficiencies were pointed out the petitioners. By an order dated 18/12/2020 passed by the Hon'ble High court (Coram: Hon'ble Justice A A Sayed and Hon'ble Justice S P Tavade) has granted Rule and also granted interim

*relief in favour of the petitioner. I say that the compliance has been made by the petitioner on 14/10/2020 and compliance report has been submitted to the Deputy Advisor of the AYUSH, New Delhi. The Copy of the compliance report is annexed herewith and marked as **Exhibit B**.*

*3. I say that So far as the Writ Petition no. 1682 of 2023 filed by the petitioner again reduction of the intake seats of the petitioner's college for the academic year 2022-2023, by an letter dated 05/12/2022 (Page No. 85 of the Writ Petition) the deficiencies were pointed out to the petitioners. By an order dated 23/02/2023 passed by the Hon'ble High court (Coram: Hon'ble Justice G S Patel and Hon'ble Justice Dr. Neela Gokhale) has granted Rule and granted interim relief in favour of the petitioner. I say that the compliance has been made by the petitioner on 08/12/2022 and compliance report has been submitted to the respondents. The Copy of the compliance report is annexed herewith and marked as **Exhibit C**.*

4. I say that for the year 2023-2024, 2024-2025, the respondent's authority has granted affiliation for the said academic years. I crave leave to refer and rely upon the said orders as and when required.

5. I say that the petitioner's college is already removed the deficiency as pointed out by the respondents from time to time. I further undertake that

if any deficiencies will be found in future, the same will be removed within such time frame as directed by the authority. Therefore, this undertaking is filed”.

4. In the said affidavit-cum- undertaking which is submitted to this Court, it is stated that all the deficiencies have been rectified and the Colleges have complied with all the requirements. Compliance report has also been submitted to the respondents. In the affidavit-cum-undertaking, it is stated that Colleges have cured the deficiencies as pointed out by the respondents from time to time. The Colleges further undertake that, if any deficiencies are found in future, the same will be removed in the time frame as directed by the Authority.

5. Ms. Awasthi, learned Counsel for respondent No.5 submitted that such an affidavit-cum-undertaking has been filed by the petitioners not at the instance of the respondent No.5. Ms. Awasthi further submits that admission Rules have changed from 21st September, 2020 and annual permission is now required. The Colleges, in such circumstances, have to comply with the new Rules. It is only after the procedure is followed that the permission to conduct the course is granted on year to year basis.

6. The petitions are filed in respect of those students who were admitted prior to the change of these Rules. However, in so far as the admission process conducted by the Colleges on the basis of the Rules which were in force prior to 2020, the students have completed their course and in fact even the

provisional results have been declared. It is in view of pendency of the petitions, finality is not being given to the results so declared, is the submission of the learned Counsel for the petitioners. We find that an affidavit-cum-undertaking has been filed pointing out that the Colleges have complied with all the requirements in all respects and the deficiencies have been rectified/cured. Ms. Awasthi submitted that since the students have already passed the examinations, without admitting to any submission of the petitioners, in the interest of justice, further course of action is left for this Court to be decided.

7. Considering the affidavit-cum-undertaking filed by the petitioners, to which there is no contra material produced and considering that now the students have already passed the examinations, in our opinion, ends of justice would met if University is directed to grant final eligibility to the students who cleared the Fourth BHMS course from the petitioners – Institutions, concerned with these petitions.

8. Having regard to the interim orders passed by this Court which we have perused and now that the new Rules have come into existence, in our opinion, no purpose would be served by keeping the present petitions pending.

9. The petitions are disposed of in the above terms. In view of disposal of the petitions, Interim Applications stand disposed of.

10. It is made clear that we have not recorded any concession on behalf of any of the respondents and this order is passed in the peculiar facts of the present case since the students have passed final year examinations and as the provisional results have already been declared.

[AJIT B. KADETHANKAR, J.]

[M.S. KARNIK, J.]