

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3548 OF 2025
IN
WRIT PETITION NO. 7847 OF 2014

Indian Medical Association, Pune Branch

... Applicant/Petitioner

V/s.

State of Maharashtra and Ors.

... Respondents

WITH
INTERIM APPLICATION NO. 6645 OF 2025
IN
WRIT PETITION NO. 7847 OF 2014
WITH
INTERIM APPLICATION NO. 8293 OF 2025
IN
WRIT PETITION NO. 7847 OF 2014
WITH
WRIT PETITION NO. 7846 OF 2014
WITH
CIVIL APPLICATION NO. 2177 OF 2014
IN
WRIT PETITION NO. 7846 OF 2014
WITH
WRIT PETITION NO. 7847 OF 2014
WITH
INTERIM APPLICATION NO. 3548 OF 2025
IN
WRIT PETITION NO. 7847 OF 2014
WITH
INTERIM APPLICATION NO. 8293 OF 2025
IN
WRIT PETITION NO. 7847 OF 2014
WITH
INTERIM APPLICATION NO. 6645 OF 2025
IN
WRIT PETITION NO. 7847 OF 2014
WITH
CIVIL APPLICATION NO. 2371 OF 2014

**IN
WRIT PETITION NO. 7847 OF 2014
WITH
INTERIM APPLICATION NO. 817 OF 2020
IN
WRIT PETITION NO. 7847 OF 2014**

Mr. S.U. Kamdar, Senior Counsel with Mr. Chirag Kamdar, Mr. Yashesh Kamdar, Ms. Kriti Singh i/b. Nahush Shah Legal for the Applicant/Petitioner

Mr. Mihir Desai, Senior Counsel with Mr. Jainendra Sheth for the Petitioner in WPSt. 23740/2025

Mr. Rajaram V. Bansode with Ms. Sheetal M. Ubale for Respondent No.4 in WP/7847/2014

Mr. Rui Rodrigues for Respondent No.5 in WP/7846/2014 in IA/3548/2024

Mr. S.V. Gavand for Respondent No.9 in WP/7846/2014

Mr. Pralhad Paranjape with Mr. Manish Kelkar for Respondent No.4 in WP/7847/2014

Ms. Amruta Nerlekar i/b. Mr. Rahul Nerlekar for Respondent No.7 – MMC

Mr. Shubham Kalyan Kanada i/b. Mr. Shrikrishna Ganbavle for Respondent No.4

Mr. Ganesh K. Gole with Kunjan Makwana for Respondent No.8 – NMC in WP/7847/2014

Ms. Purnima Awasthi for Respondent No.5 – (NCH)(CCH) in WP/23740/2025 and WP/7946/2014 to 7847/2014

Mr. Ashutosh Kumbhakoni with Ms. Sneha Goyal, Mr. Pradeep Kumar i/b. T.R. Yadav for Respondent No.9 in WP 7847/2014

Ms. Padma Chinta i/b. Mr. Harshad Bhadbhade for Respondent No.10 in WP 7846/2014

Ms. Dhanashri Mondkar-Hule with Ms. Vrushali Shivgan i/b. Sachindra Shetye for Respondent No.11

Dr. Birendra Saraf, Advocate General and Mr. B.V. Samant, Addl.G.P and Mr. S.P. Kamble, AGP for Respondent Nos. 1 to 3 - State

**CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.**

DATE : 17th SEPTEMBER 2025

P.C. :

1. By this Interim Application, the Petitioner has sought a stay of the communication dated 27th February 2025 passed by the Hon'ble Health Minister in a Meeting held on 25th February 2025. Further relief is sought for injunction restraining Respondents No. 7 and 12, the Maharashtra Medical Council (**MMC**) and the Administrator of the **MMC** from registering any such Homeopathy Doctors enrolled in such Certificate Course being subject matter of challenge in the present Writ Petition for enrolling such persons on the roll of the **MMC** either separately or otherwise.

2. The Interim Application has been taken out in the above Writ Petition No. 7847 of 2014 which has been filed challenging the vires of Maharashtra Act No. XIX of 2014 dated 29th June 2014 ("**the said Act**") which amends the Maharashtra Homeopathy Practitioner's Act, 1960 ("**MHPA**") and the Maharashtra Medical Council Act, 1965 ("**MMCA**").

3. It is relevant to set out certain facts which have led to the filing of the present Interim Application. These are as under :

(i) Pursuant to the filing of the Writ Petition, it had come up for interim relief on 24th December 2014. The Division Bench of this Court had vide order dated 24th December 2014 rejected the prayer for interim relief sought for by the Petitioner. The prayer included stay of the operation of the amendment to the **MHPA** vide **the said Act**. The Division Bench of this Court was of the view that the interim relief sought for by the Petitioner would adversely affect the health services to the majority population of the State as narrated in the affidavit of the Respondent – State. Liberty had been granted to the Petitioner to take out a separate application for grant of interim relief only in relation to the course upon a final decision being taken regarding the nature of the course, its syllabus, etc. It was observed by the Division Bench that the issue whether the certificate course meets the requirement of relevant law will have to be decided. Further, it was also observed that if such a course required approvals of the various authorities in accordance with law, the Respondent - State would have to take necessary approvals.

(ii) The Petitioner being aggrieved by the order dated 24th December 2014 filed an Appeal before the Supreme Court being Petition for Special Leave to Appeal C.C. No. 9134 of 2015. The Supreme Court by an order dated 9th July 2015 did not interfere with the said order dated 24th

December 2014 by observing that the said order is only an interim order and that too a speaking order. The Special Leave Petitions were accordingly dismissed. This Court was requested to decide the Writ Petition as expeditiously as possible.

(iii) The Petitioner, in view of the liberty granted to them by the said order dated 24th December 2014 filed Civil Application No. 3368 of 2015 in the present Petition in view of the final decision taken with regard to the Modern Pharmacology Certificate Course (**“said Course”**) which was commencing in June 2016. The Civil Application was moved for urgent interim relief and by an order dated 14th March 2016 passed by this Court, it was held that there was no necessity for granting interim relief as prayed for in the Civil Application since the said Course was to commence in June 2016 and would extend for over one year and until then, there was no possibility of the candidates undertaking the said Course, actually practicing modern pharmacology (allopathy). It was clarified that the admissions to the said Course as well as further actions shall be subject to the final orders made in the above Writ Petition and that none of the candidates or the Respondent - State would claim any equities in the matter. The Respondent - State was directed to make it clear and known to the aspirants that their admission and continuance in the Course would be subject to the final orders that shall be made in the above Writ Petition.

(iv) Thereafter, the State Government commenced conducting the said Course in the year 2016 and the said Course has been continued on an annual basis till date.

(v) The MMC - Mumbai had also challenged the vires of the said Act and had not registered any of the successful candidates who had passed the said Course upon its commencement.

(vi) In or around 2022, the MCC - Mumbai was superseded and its administration was taken over by an Administrator appointed by the State Government.

(vii) On 27th February 2025, oral directions had been issued by the Hon'ble Health Minister to the MMC - Mumbai to commence the registration of homeopathic doctors, who had completed the said Course on the register of the MMC.

(vii) The oral direction dated 27th February 2025 was followed by a written direction dated 24th April 2025. The written direction had referred to the said order dated 14th March 2016 and had considered the legal position that there was no impediment in maintaining a separate register as per the provisions of Section 2(h) of the said Act, subject to the final order of the above Writ Petition.

(viii) A Notification dated 30th June 2025 was issued by the MMC - Mumbai inviting persons having passed the said Course to come forward and get themselves registered.

(ix) By a subsequent Notification dated 11th July 2025, the MMC - Mumbai withdrew its earlier Notification dated 30th June 2025.

(x) On 5th September 2025, the Respondent – State issued a letter/communication to the MMC - Mumbai directing it to commence the process of enrolling homeopathy graduates/doctors on its roll and to create a separate register for such homeopathy doctors, who have passed the said Course, so as to enable them to practice in allopathy medicine.

(xi) By a subsequent Notification dated 11th September 2025, the MMC - Mumbai directed the homeopathy doctors who had completed the said Course and qualified, to register themselves with the MMC through a dedicated portal launched by it on its official website with effect from 17th September 2025 and to strictly adhere to the procedure as laid down in the earlier Notification dated 30th June 2025 issued by the MMC - Mumbai.

(xii) The present Interim Application has thereafter been taken out seeking the aforementioned relief.

4. Mr. Kamdar, learned Senior Counsel appearing for the Petitioner/Applicant has submitted that the MMC - Mumbai by the impugned

Notification dated 11th September 2025 has allowed the homeopathy practitioner's who have graduated in the said Course to be inserted in a separate register to be maintained. He has submitted that this is contrary to the provisions of the Indian Medical Council Act, 1956 ("**IMC Act**") and in particular Sections 10(a), 10(b), 10(c), 15 and 19, which has occupied the field for prescribing the standards of medical education in India. He has submitted that by virtue of the said Act, the Maharashtra Homeopathy Practitioner's Act, 1960 ("**MHPA**") has been amended and the homeopathy practitioners who have passed the said Course as approved by the Respondent – State are now expressly permitted to practice Modern Scientific Medicine. He further submitted that the amended Section 20 itself stipulates that the said Course contemplated has been approved by the State Government which is wholly impermissible in law.

5. Mr. Kamdar has relied upon the judgment of the Supreme Court in *Bahrul Ismail and Ors. v/s. Indian Medical Association and Ors.*¹ at paragraphs 45, 52, 65 and 85. The Supreme Court had occasion to consider the constitutional validity of Assam Rural Health Regulatory Authority Act, 2004 and while striking down the same has categorically held that in order to be enrolled on any State Medical Register, the person must possess sufficient qualifications as recognised in the Schedules to the IMC Act. He has submitted that this judgment has been followed in the recent judgment

1 2023 SCC OnLine SC 79

of this Court in the case of *Suhas Hari Pingle v/s. Union of India, Through its Ministry of Health and Family Welfare and Ors.*² at paragraph 58.

6. Mr. Kamdar has submitted that the said Course is not included in the Schedules to the IMC Act. It has not been approved by the Central Council or Central Government in accordance with the procedure contemplated by Section 10A to 10C, 15 and 19A of the IMC Act. Mr. Kamdar has placed reliance upon the judgment of the Supreme Court in *Poonam Verma v/s. Ashwin Patel and Ors.*³ at paragraphs 26-38 in support of his submission that the form of cross-pathy (i.e. practice in multiple streams of medicines) even where there are overlapping subjects has been deprecated and is prohibited in India.

7. Mr. Kamdar has submitted that the MMC - Mumbai (Respondent No.7) has independently filed a Writ Petition which is pending before this Court challenging the said Act on similar grounds. He has submitted that MMC - Mumbai is presently administered by an Administrator appointed by the State Government and that elections to the body are already overdue. Thus, he submitted that the Administrator would be bound to abide by the directions of the Respondent – State to register the holders of the said Course notwithstanding the fact that the elected body of the MMC - Mumbai had challenged this very said Act.

² O.S.PIL(L) 12934/2024 dtd. 24/03/2025

³ (1996) 4 SCC 332

8. Mr. Kamdar has submitted that the said Act amounts to taking a policy decision which dilutes the standards of medical education in the State of Maharashtra as well as amounts to enrolling new doctors in a newly created separate register which is totally beyond the jurisdiction and powers of the Administrator. He has placed reliance upon the judgment of the Supreme Court in *S.M. Kamble and Ors. V/s. Joint Registrar, Co-operative Society*⁴ at paragraphs 15 to 17.

9. Mr. Kamdar has submitted that this Court in the said order dated 24th December 2014 had although not granting stay of the said Act had recognised that the validity of the Certificate Course in Modern Pharmacology approved by the Respondent – State is also brought into question in light of Section 10A of the IMC Act. However, it was held that since at that point in time, the nature of the proposed Certificate Course had not yet been determined, the issue of its validity i.e. the nature of the course and the manner in which it was introduced, could only be adjudicated after the nature of the course and its syllabus, etc. was decided.

10. Mr. Kamdar has submitted that express liberty had been granted to the Petitioner to take out a separate application for the grant of interim reliefs in relation to the said Course after a final decision in this regard was taken. He has submitted that pursuant to the liberty granted, the Civil

4 (2006) SCC 127

Application No. 3368 of 2015 had been filed by the Petitioner. This was upon the introduction of the said Course vide Notification dated 20th May 2015. He has submitted that this Court by the order dated 14th March 2016 had considered it not necessary for granting interim relief in view of the said Course yet to commence in June 2016 and which would extend for over one year. He has submitted that this Court was therefore of the view that there was no possibility of the candidates undertaking this Course, actually practicing modern pharmacology (allopathic) and thus, there was no imminent threat of the actual practice of allopathy by homeopathic practitioners at that time.

11. Mr. Kamdar has submitted that it is crystal clear from the said orders passed by this Court at the interim stage of the Writ Petition that there was no prior rejection of the prayer seeking an injunction against the practice of allopathy medicine by the homeopathy practitioners who had passed the said Course.

12. Mr. Kamdar has submitted that the present impugned Notifications, in particular, Notification dated 11th September 2025, issued by the MMC - Mumbai which purports to implement the prior Notification dated 30th June 2025, which had been withdrawn vide its Notification dated 11th July 2025, has directed all the qualified doctors of the said Course to register themselves with the MMC - Mumbai through a dedicated portal

launched on the official website, effective from 17th September 2025 and further directed all the qualified doctors in the said Course to strictly adhere to the procedure as laid down in the earlier Notification dated 30th June 2025, issued by the MMC - Mumbai.

13. Mr. Kamdar has submitted that the register proposed to be maintained, though separately, has been included within the meaning of the term “Register” as defined in Section 2(h) of the MMC, Act. In doing so, the persons whose names are proposed to be entered in this separate Register, will be entitled to practice Modern Scientific Medicine (i.e. Allopathy) within the State, as entry of their names in the State Medical Register maintained under the provisions of the MMC Act would circumvent the bar created by Section 15 of the IMC Act, which prohibits any person other than a medical practitioner enrolled on a State Medical Register to practice Allopathy.

14. Mr. Kamdar has placed reliance on Section 2(f) and 2(k) of the IMC Act which are of relevance and in particular the phrase “medicine” to mean modern scientific medicine only; and the phrase “State Medical Register” to mean the register maintained under any law for the time being in force in any state regulating the registration of practitioners of medicine.

15. Mr. Kamdar has submitted that the effect of the impugned Circular is to enable homeopathy practitioners to commence the practice of allopathic medicine without even first being enrolled on a State Medical

Register, which is entirely impermissible as admitted and acknowledged by the Respondent – State by virtue of its action to commence the enrollment of such persons in a separate Register pursuant to the letter dated 24th April 2025.

16. Mr. Kamdar has submitted that the relief sought for in the present Interim Application is necessitated by virtue of the homeopathy practitioners who have completed the said Course being entered in the register and thus, would be eligible to commence the practice in allopathic medicine. He has accordingly submitted that the present application be allowed.

17. Dr. Birendra Saraf, learned Advocate General has submitted that the said order dated 24th December 2014 passed by the Division Bench of this Court had considered the arguments which are now being canvassed by the Applicant/Petitioner. These are the very same arguments which were previously urged by the Petitioner/ Applicant at the time when the said order dated 24th December 2014 came to be passed. After detailed consideration of these arguments, this Court had passed the said order declining to stay the operation of the said Act / amendments carried out by the Respondent – State to the MMCA and MHPA.

18. Dr. Saraf has submitted that by this Interim Application, what the Petitioner effectively seeks is a “second bite at the same cherry” which is

impermissible in law. He has submitted that no new grounds have arisen or occasioned for the Petitioner to seek the same injunctive relief which had been sought by it in 2014, viz. stay of operation of the said Act that was enacted 11 years ago.

19. Dr. Saraf has submitted that liberty had been expressly granted to the Petitioner/Applicant in the said order dated 24th December 2014 in relation to the said Course, as and when it was determined. In exercise of that liberty, Civil Application bearing No.3368 of 2015 had been filed by the Petitioner, which came to be rejected vide order dated 14th March 2016. Hence, the Petitioner/Applicant was unsuccessful in securing any interim relief.

20. Dr. Saraf has submitted that the said Act has not been disturbed and is in conformity with the law laid down by the Supreme Court in ***Dr. Mukhtiar Chand (supra)*** and ***Bahrul Ismail (supra)***.

21. Dr. Saraf has submitted that the registration of the qualified doctors of the said Course with the MMC - Mumbai through a dedicated portal launched by it and their strict adherence to the procedure laid down in the earlier Notification issued by the MMC dated 30th June 2025 is only in implementation of the provisions of the said Act. He has submitted that the MMC Act has received assent of the President of India as on 17th November

1965. He has submitted that under Section 28 of the MMCA, the Respondent – State is empowered by a Notification in the Official Gazette to amend the Schedule to the MMCA and direct inclusion therein, of any such qualification, subject to such conditions as may be specified in respect of that qualification. He has submitted that in exercise of such power under Section 28 of the MMCA, the said Act has come into force and the qualification of the said course has been included in the Schedule to the MMCA.

22. Dr. Saraf has placed reliance upon the competency in the medical condition in relation to the said Course which has been introduced in the year 2016 and he has submitted that under the competency in the medical conditions, the candidates/doctors who qualify in the said Course are to only provide primary care of medical conditions which are not of a serious nature requiring surgery to be performed and where such medical condition is of a serious nature or requires surgery to be performed, the doctor qualifying in the said Course is required to refer the patient to a medical facility. He has accordingly submitted that the registration of the doctors who have qualified in the said Course would not in any manner prejudice the Petitioner. He has submitted that the registration of the qualified doctors in the said Course may be made subject to the final orders passed in Writ Petition No.7847 of 2014 and that none of the candidates who have qualified in the said Course and who are registered practitioners shall

claim equities as held by the Division Bench of this Court in the said order dated 14th March 2016.

23. Mr. Kumbhakoni, learned Senior Counsel appearing for Respondent No.9 has supported the submissions of Dr. Saraf. He has also placed reliance upon the competency in the medical conditions with respect to the said Course which had been introduced in the year 2016. He has also submitted that the registration of the doctors qualified from the said Course will not in any manner prejudice the Petitioner. He has submitted that the very same arguments which had been made before the Division Bench of this Court when the said order dated 24th December 2014 had been passed by the Petitioner has again been reproduced verbatim before this Court in the present Interim Application. He has submitted that this should not be countenanced and the Interim Application requires to be rejected.

24. Having considered the submissions, it is necessary to refer to the said order dated 24th December 2014 passed by the Division Bench of this Court at the interim stage of the above Writ Petition. Paragraph 25 of the said order reads as under :-

“ 25. As pointed out earlier, right from the year 1992, the Ayurvedic Practitioners have been permitted to practice modern scientific medicine to the extent of knowledge received by them of modern scientific medicine. Moreover, in the affidavit of the State Government to which we have made a reference earlier, it is stated that the amendments were required to be brought as a matter of policy to ensure that the adequate number of Doctors

*are made available for the rural population and to implement various health schemes as narrated therein. The object of the amendments is to ensure that the medical relief is extended to a large percentage of population which resides in the rural areas. Thus, the amendments are based on a policy decision of the State to ensure that health services are available to the majority population in rural areas. The decision of the Apex Court in the case of **Bhavesh Parikh** deals with the issue of grant of stay of operation of fiscal statutes. There is no reason why the principles laid down therein should not apply to the impugned statutory amendments based on the policy of the State. The grant of stay, as narrated in the affidavit of the State, will adversely affect the health services to the majority population of the State. Therefore, no case is made out for grant of stay.”*

25. The Division Bench of this Court had considered that from the year 1992, Ayurvedic Practitioners had been permitted to practice modern scientific medicine (allopathy), to the extent of knowledge received by them of modern scientific medicine. The amendment brought about by the said Act is a matter of policy to ensure that adequate number of doctors are made available for the rural population and to implement various schemes as narrated in the affidavit of the Respondent – State. The object of the amendment is to ensure that medical relief is extended to a large percentage of population who resides in the rural areas.

26. This Court referred to the case of **Bhavesh D. Parikh and Ors. v/s. Union of India**⁵, where the Supreme Court considered the issue of grant of stay of operation of Fiscal Statutes. This Court had considered that there is no reason why the principles laid down therein should not apply to the

⁵ (2005)5 SCC 471

impugned statutory amendments based on the policy of the State. The affidavit of the Respondent – State had been considered in the context of grant of stay and the narration therein that it will adversely affect the health services to the majority population of the State was the main consideration for non-grant of stay sought for by the Petitioners.

27. Further, we are of the view that the liberty granted to the Petitioner by the said order dated 24th December 2014 to take out the application for grant of interim relief in relation to the said Course upon it having been determined, has already been exercised by the Petitioner by filing Civil Application No. 3368 of 2015. The Civil Application sought urgent interim relief in view of the said Course having been determined and commencing in June 2016. This Court by the said order dated 14th March 2016 had taken the view that there was no necessity to grant the interim relief as prayed for, as the course was to commence in June 2016 and would extend for over one year. The admission to the said Course as well as all further actions were made subject to the final orders in the above Writ Petition. It was further clarified that none of the candidates or for that matter neither the State Government shall claim any equities in the matter.

28. It is the contention of Mr. Kamdar on behalf of the Petitioners that the said order dated 14th March 2016 had considered that there was no possibility of the candidates undertaking this Course, actually practicing

modern pharmacology medicines (Allopathy). However, by the impugned Notification, the candidates who have qualified in the said Course upon their being registered with the MMC – Mumbai would now be suitable to practice modern scientific medicine. Hence, there is now a necessity to grant the interim relief which had not been granted earlier. This contention overlooks the fact that the registration of the candidates that is sought to be permitted by the impugned Notification is only in implementation of the said Act, which itself has not been stayed by this Court and as has been held in the order dated 14th March 2016, any such registration of the qualifying candidates in the said Course would necessarily have to be made subject to the final orders passed in the above Writ Petition. Accordingly, the candidates who are now being registered with MMC - Mumbai would not be entitled to claim any equities in the matter.

29. In so far as the reliance placed by Mr. Kamdar on the IMC Act and particularly Sections 10(a), 10(b), 10(c), 15 and 19 in submitting that the IMC Act occupies the field for prescribing standards of medical education in India and that the said Act is in breach of the standards and for which further reliance is placed on the judgments in *Bahrul* (supra), *Dr. Mukhtiyar* (supra) as well as *Poonam Verma* (supra), apart from other judgments, all submissions which are best reserved for being addressed at the stage of final hearing of the Writ Petition.

30. Accordingly, we find no merit in the present Interim Application. We make it clear that the candidates qualifying in the said Course who are being registered with the MMC – Mumbai through the dedicated portal shall not claim any equities by virtue of them having been registered. They shall strictly comply with the competencies in the medical conditions as prescribed for the said Course and referred to by Dr. Saraf and shall not transgress such competencies. These competencies in our view do not in any manner prejudice the Petitioner as the patients who suffer from serious medical conditions, which are diagnosed by the qualified doctors in the said Course are to be referred to the medical facilities which include that of the Petitioner.

31. We make it clear that the registration of the candidates who have qualified in the said Course shall be subject to the final orders passed in the above Writ Petition.

32. The Interim Application is accordingly disposed of in the above terms. There shall be no order as to costs.

33. The Writ Petition along with other companion Writ Petitions shall be placed on **10th November 2025 at 3:00 p.m.** for final hearing.

(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)