



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 2006 OF 2022

**Manushyabal Vikas Va Sanshodhan Bahuddeshiya Sanstha
-Vs.-**

The State of Maharashtra and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr. D.V.Mahajan & Mr. Abdul Subhan, Adv. for the petitioner.
Mrs.K.R.Deshpande, AGP for the respondents-State.
Mr. Tejas Kene, Adv.for the respondent No.2.

**CORAM : AVINASH G. GHAROTE &
ABHAY J. MANTRI, JJ.**

DATE : 24TH FEBRUARY, 2025

Mr. Mahajan, learned counsel for the petitioner, has tendered across the bar an application for recalling of the order dated 10/02/2025, passed by this Court, which is taken on record and numbered as Civil Appln.(W) No.483 of 2025. The order dated 10/02/2025, records as under :

“1. Mr. Kene, learned Counsel for the respondent No.2, upon instructions, makes a statement that considering the time-frame, as the examination to the second year of the General Nursing and Midwifery (GNM) Course, which is to commence from tomorrow, it would be impossible for the respondent No.2 to verify the admission, issue the admit cards and make arrangements for the admission, it is not possible for us to consider the request of the petitioner to permit the students to appear in the examination commencing from tomorrow.

2. It is necessary to note that programme for

the admission, was already declared on 25/11/2024 and therefore, it was permissible for the petitioner to have approached the Court within a reasonable period of time therefrom so that necessary verification of the admission and the arrangements for appearing the students in the examination could have been made possible. It is, therefore, the petitioner/Institution, who is to blame for this lapse, which results in wastage of the academic year of the students, which are 60 in number. The students, therefore, would be entitled for compensation from the Institution for having wasted their entire year.

3. The petitioner is, therefore, directed to deposit in this Court an amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only) by 14/02/2025.

4. List the petition on 17/02/2025, in case the amount is not deposited.”

2. It is also necessary to note what has transpired thereafter, which is recorded in the order dated 17/02/2025 and 21/02/2025 which are quoted for reference as under:

Order dated 17/02/2025 :-

“Mr. Subhan, learned Counsel, in the first half had mentioned that he would be appearing for the petitioner in this matter, and his client was traveling to Nagpur and would reach some time in the second half. We have considering the nature of the order dated 10-2-2025, kept the matter at the end of the board. It is now been informed to us that Mr.Subhan, learned Counsel for the petitioner is traveling and, therefore, would not be available.

2. List the matter on 18-2-2025.

3. In view of the fact that Mr. Subhan, learned Counsel is appearing for the petitioner, the appearance of Mr. Anand Parchure, learned Counsel is discharged.”

and Order dated 21/02/2025 :-

“The order dated 10-2-2025, had directed the petitioner to deposit of Rs.50,00,000/- (Rupees Fifty Lakhs Only) in the Court by 14-2-2025 and also directed the matter to be listed on 17-2-2025, in case it was not so deposited.

2. On 17-2-2025, Mr. Subhan, learned Counsel for the petitioner, appeared in the first half and mentioned that he would be appearing for the petitioner in the matter and his client was traveling to Nagpur and would reach some time in the second half, on account of which we had kept the matter at the end of the board. At the end of board, when the matter was called out in the second half, it was indicated that since the counsel for the petitioner was traveling, he would not be available, on account of which we had kept the matter on 18-2-2025.

3. The matter is thereafter listed today. When Mr. Lonare, learned Counsel holding for Mr. Mahajan, states that Mr. Mahajan, learned Counsel would be appearing for the petitioner and he has left the Court. This is a conduct, which does not behove well for a counsel and for a client who is facing the order dated 10-2-2025, which has not yet been complied with. The petitioner is also not present in the court today neither is the amount stated to be deposited.

4. List the matter on 24-2-2025 at Sr.No. 1.”

3. The basic ground, for recalling of the order dated 10/02/2025, is that the petitioner has made several

attempts for getting the students admitted in the second year examination and therefore, costs ought not to be imposed, considering the bonafides of the petitioner.

4. In our considered opinion, the entire conduct of the petitioner, needs to be deprecated. This is so for the reason, that the petitioner-institution, who proposed to start the General Nursing and Midwifery (GNM) Course, which is a three years course, in response to the respondent No.2 inviting applications for establishment of new GNM course or enhancement of intake capacity in existing courses by an advertisement dated 18/07/2019, the petitioner had applied for permission to the respondent No.2 on 29/07/2019. The respondent No.2 upon receipt of the proposal, carried out the inspection on 02/11/2021 and forwarded the same to the respondent No.1-State, for consideration. For the purpose of consideration by the State, an amount of Rs.5,00,000/- was required to be deposited, which was not done by the petitioner and has not been done till date. It is only on deposit of Rs.5,00,000/-, the respondent No.1 then proceeds to make an inspection and then after considering the report of the inspection as well as the proposal by the respondent No.2 considers grant of approval for starting the new course. As the proposal to start GNM course by the petitioner was pending consideration, the petitioner without waiting for approval from the respondent No.1, admitted students in the first year GNM course in the academic session 2021-22, this in itself would indicate, that even without bothering to secure the approval to commence the course, the petitioner

has gone ahead and granted admission to students, 60 in numbers. The learned counsel for the petitioner does not dispute, that the process for admission of the students necessarily in terms of the provisions applicable, require the approval to be secured first and then only grant an admission and also does not dispute, that merely on the basis, that the name of the petitioner was included in the list published on 11/01/2021, by the respondent No.2 indicating receipt of proposals from institutions, that the admissions were granted. This would clearly indicate, that the admissions have been granted to the students without securing the approval. The position on record as of date, remains the same, that the petitioner institution has no recognition or approval to start and conduct the GNM course. An application has also been filed, seeking permission to deposit an amount of Rs.5,00,000/-, with the respondent No.1, for the purpose of consideration of the application by the petitioner, for grant of approval, so that further inspection can be made by the State and the application for grant of approval can be processed further. This clearly substantiates, what has been stated above, that the petitioner-institution has granted admission to the students not only for the first year course, but for the subsequent courses also. Mr. Mahajan, learned counsel for the petitioner, relies upon the interim order passed by this Court to justify such admissions, however, it is material to note, that the said order, was passed only with an intention, to protect the interest of the students. It is also necessary to record the order dated 13/10/2024, which is as under, which was only for the academic year 2021-22.

“Heard.

2. Considering the fact that in another identical matter, interim relief has been granted on different date subject to certain conditions, the same can be granted on similar conditions in this petition also.

3. The petitioner-society is permitted to provisionally admit students to first year GNM course at S.R.V. Nursing College of Nursing, Dawaki, Tq. Deori, District: Gondia, subject to the final result of this petition and also to the condition that no right or equity shall be created in favour of the admitted students by virtue of this order. The admitted students shall be informed that their admission is only provisional and subject to final result of the petition and that result of the first year examination of the students, if this petition remains pending, shall not be published without prior permission of this Court.

4. Stand over after six weeks.

5. Steno copy of the order be furnished to both the sides.”

5. It is also necessary to record, that even thereafter for the academic session 2022-23, the petitioner according to Mr.Kene, learned counsel for the respondent No.2, has granted admission in the first year GNM course to 60 more students without the approval of the State or for that matter any permission by this Court. This clearly demonstrates, that the lackadaisical attitude on the part of the petitioner. It would also indicate, that the petitioner, has no regard for the law as applicable in the matter, and

the intention throughout appears to be to subvert the due process of law, including the procedure for securing permission for opening the new GNM course. It is a trite position of law, that people, who play with the careers of others, for commercial gain for themselves, ought not to be spared. In the instant matter, the petitioner by its conduct has not only played with the career of the first batch of 60 GNM students admitted in the academic session 2021-22, whose admission was protected by this Court by the order dated 13/10/2022, but also the next batch of 60 students by admitting them without any recognition to the course or for that matter any interim order by this Court.

6. For the reasons recorded above, we do not see any reason whatsoever to recall the order dated 10/02/2025. The application bearing Civil Application (W) No.483 of 2025 is therefore rejected.

7. List the matter for tomorrow, i.e. on 25/02/2025 at Sr.No.1.

(ABHAY J. MANTRI,J) (AVINASH G. GHAROTE, J)