IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 216 OF 2026
IN
WRIT PETITION NO. 11991 OF 2026
WITH
CIVIL APPLICATION NO. 10959 OF 2026

1] Private Nursing Schools and Colleges
Management Association,
Having its registered office
At 3rd floor, Saniya Chambers,
Seven Hills, Jalna Road,
Chhatrapati Sambhajinagazr
District Chhatrapati Sambhajinagar
Through its President
Dr. Balasaheb Shivajirao Pawar
Age 58 years, Occ. Social work
R/o. Plot No. G.57, N.4,
CIDCO, Chhatrapati Sambhajingar

... Applicant
(Orig. Petitioner)

VERSUS

1] The State of Maharashtra
Through the Principal Secretary
Medical Education and Drugs
Department,
Mantralaya, Mumbai

2] The Commissioner,
CET Cell, (Admission Regulatory
Authority), 8th floor,
New Excelsior Building
A. K. Nayak Road,
Fort, Mumbai 400 001

3] Maharashtra State Board of Nursing
And Paramedical Education
Nursing Hostel Building
Ground Floor, Sait Georges
Hospital Compound,
P.D. Mello Road, Fort
Near C.S.M.T. Mumbai 400 001
Through its President and the Registrar

... Respondents
(Orig. Respondents)

APPEARANCE :-

- **Mr. V. D. Hon,** *Senior Advocate a/w Mr. A. D. Sonkawade, Advocate i/b. Mr. A. V. Hon, Advocate for the petitioner.*
- **Mr. S. R. Yadav-Lonikar,** *AGP for Respondent No. 1 – State.*
- **Mr. M. D. Narwadkar,** *Advocate for Respondent No. 2 – CET Cell.*
- ***Mr. S. V. Dixit,*** *Advocate for Respondent No. 3 – Board.*

CORAM : KISHORE C. SANT &
JITENDRA JAIN, JJ.

RESERVED ON : 22nd OCTOBER, 2026

PRONOUNCED ON : 26th OCTOBER, 2026

JUDGMENT [PER - JITENDRA JAIN, J.] :-

1. This Review Petition is filed by the original petitioner seeking review of order dated 19.10.2026, passed in Writ Petition No. 11991 of 2026. The parties are herein referred by their original designation in the writ petition.

2. Mr. Hon, learned senior counsel, for the petitioner referring to the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015 (2015 Act) submitted that this Act has been referred by the respondent in the brochure issued by them for introducing CAP round for admission to ANM program and GNM program. It is his submission, relying upon Sections 2(c), 2(d), 2(t), 3 and 4 of the said Act, that unless Common Entrance Test (CET) takes place, there is no

question of admission being granted through CAP. The pre-condition for giving admission through CAP is conducting of the CET exam. In the instant case, admittedly CET exam is not to be conducted for the year 2026-27, and therefore the question of admission through CAP does not arise. He submits that no regulations are introduced or framed governing CAP admission without CET. Learned senior counsel referred to various courses where regulations are formed for conducting CET exam and admission through CAP. He submits that no such regulation has been formed for the diploma courses under consideration. He submits that the regulation is formed for degree course in Nursing and not diploma courses with which we are concerned.

3. Learned senior counsel further submitted that letter of 29th June 2026 is internal communication by the respondent and not addressed to the petitioner, and therefore the petitioner was not aware about the admission through CAP process.

4. With regard to the direction issued in the order dated 19th October, 2026 for deposit of 10% fees, learned senior counsel submitted that no fees are taken from the students who belong to reserved categories, but the fees are reimbursed by the Government. He submits that admissions to approximately 28,000 students belonging to reserved categories, and therefore direction given to

deposit 10% fees is not justified. Learned senior counsel referred to Post-Matric Scholarship for SC, Post-Matric Scholarship for ST, and Post-Matric Scholarship for OBC and other categories in this regard.

5. Learned senior counsel relied upon following decisions in support of his submissions that a review petition is maintainable and this court should review its order dated 19th of October 2026.

i. Kamlesh Veerma Vs. Mayawati And Others[1]

ii. Perry Kansagra Vs. Smriti Madan Kansagra[2]

iii. Sanjay Kumar Agarwal Vs. State Tax Officer And Another[3]

6. Mr. Dixit, learned counsel for respondent no. 3 - board, referred to prayers in writ petition and submitted that there is no substantial challenge to CAP and, therefore, no review is maintainable. He further submitted that with respect to prayer clause 'C', the impugned order has protected the admission of the students by passing an order that those students who were admitted prior to the interim order are given choice to opt for CAP. He therefore submitted that the review is not maintainable.

7. Mr. Dixit, learned counsel, further referring to Section 3 and 4 of 2015 Act and more particularly, second proviso to Section 4, submitted that it is not mandatory that there should be a CET exam for admission through CAP. He submitted that CAP is mandatory for

1 (2013) 8 SCC 320
2 (2019) 20 SCC 753
3 (2024) 2 SCC 362

all CET exams but other way round is not correct. He submitted that reliance is placed by the petitioner on 2015 Act and Section 5 of the said Act provides that the admissions given contrary to provisions of the said Act are illegal and void of all the 28,000 students. Learned counsel also relied upon the definition of CAP under Section 2(c) of 2015 Act and submitted that there is no requirement of any regulation to be prescribed and in any case, the gaps, if any, can be filled in by giving directions under Article 162 of the Constitution of India and also under Section 24(2) of 2013 Act. . He submitted that on one hand, the petitioners are submitting that there is no regulation prescribed under 2015 Act and, therefore, admissions are in accordance with law and on the other hand relying on the same Act, submits that since there is no CET, question of CAP does not arise. He submits that the petitioners' submissions are self-contradictory.

8. Mr Dixit submits that in any case, none of the pre-conditions required for exercising review is satisfied in the present petition and, therefore, the petition should be dismissed.

9. Mr Dixit relied upon the following decisions:

i. ***Rai Sahib Ram Jawaya Kapur and Others Vs. State of Punjab***[4]

4 (1955) 1 SCC 553

10. Learned counsel for CET Cell and AGP supported the submissions made by Mr Dixit on the scope of review and submitted that the present petition does not fall within any of the parameters laid down for exercising the powers of review.

11. In rejoinder, learned senior counsel Mr Hon relied upon the decision in the case of ***Islamic Academy of Education and Another Vs State of Karnataka and Others***[5] which deals with the minority institution. Learned senior counsel further submitted that challenge to CET notification is made in Civil Application No. 10959 of 2026 and, therefore, submission made by the Board that there is no challenge to CAP is not justified.

12. We have heard learned senior counsel for the petitioner and learned counsel for the respondents.

13. Before we advert to the facts of the present case, it is necessary to lay down the parameters for exercising the power of review. The parameters as culled out from various paragraphs of the decisions of the Hon'ble Supreme Court relied upon by the parties are as under:-

> *"1] Kamlesh Verma (supra):*
>
> *20.1. When the review will be maintainable:*
> *(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within*

5 (2003) 6 SCC 697

knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" have been interpreted in Chhajju Ram v. Neki [(1921-22) 49 IA 144 : (1922) 16 LW 37 : AIR 1922 PC 112] and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulose Athanasius [AIR 1954 SC 526 : (1955) 1 SCR 520] to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. [(2013) 8 SCC 337 : JT (2013) 8 SC 275]

20.2. When the review will not be maintainable:

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii) Minor mistakes of inconsequential import.

(iii) Review proceedings cannot be equated with the original hearing of the case.

(iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi) The mere possibility of two views on the subject cannot be a ground for review.

(vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.

(ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.

2] Perry Kansagra v. Smriti Madan Kansagra, (Supra)

15.1. In Inderchand Jain [Inderchand Jain v. Motilal, (2009) 14 SCC 663 : (2009) 5 SCC (Civ) 461] it was observed in paras 10, 11 and 33 as under: (SCC pp. 669 & 675)

"10. It is beyond any doubt or dispute that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible in law. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered. It is also trite that exercise of inherent jurisdiction is not invoked for reviewing any order.

11. Review is not appeal in disguise. In Lily Thomas v. Union of India [Lily Thomas v. Union of India, (2000) 6 SCC 224 : 2000 SCC (Cri) 1056] this Court held: (SCC p. 251, para 56)

'56. It follows, therefore, that the power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. The review cannot be treated like an appeal in disguise.'

33. The High Court had rightly noticed the review jurisdiction of the court, which is as under:

'The law on the subject—exercise of power of review, as propounded by the Apex Court and various other High Courts may be summarised as hereunder:

(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

(iii) Power of review may not be exercised on the ground that the decision was erroneous on merits.

(iv) Power of review can also be exercised for any sufficient reason which is wide enough to include a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.'

In our opinion, the principles of law enumerated by it, in the facts of this case, have wrongly been applied."

3] Sanjay Kumar Agarwal v. State Tax Officer, (Supra)

16. The gist of the aforestated decisions is that:

16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

> *16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.*
>
> *16.4. In exercise of the jurisdiction under Order 47 Rule 1CPC, it is not permissible for an erroneous decision to be "reheard and corrected".*
>
> *16.5. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".*
>
> *16.6. Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions which have already been addressed and decided.*
>
> *16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.*
>
> *16.8. Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review."*

14. At the outset, provisions of the 2015 Act, which are now relied upon by the petitioner, were not relied or cited by the petitioner at the time when the writ was argued. It is not the case of the petitioner that these provisions were brought to the notice and relied upon and this court has not considered it. Secondly, the issue whether for CAP, CET is mandatory or not would require analysis of various provisions of 2015 Act relied upon by the parties and referred to hereinabove and the submissions made with regard to the regulations for other

courses. In our view, this would require interpreting various provisions and it cannot be construed as an error apparent on the face of the record but on the contrary it would be a case where the issue raised in the review petition is a debatable and on which two views are possible. Therefore, even on this ground, the submission made by learned counsel for the petitioner for reviewing the impugned order, cannot be accepted.

15. The issue whether CET is mandatory for admission through CAP, has been exhaustively argued for more than one and a half hour while hearing the review petition. Both the parties were at pains and at length to submit their respective stands on this issue. This itself indicates that this issue would require a detailed analysis and arguments and which cannot be gone into in the review petition. The petitioner has not been able to show any express provision which states that for admission through CAP, CET is mandatory. But on the contrary, it is by relying upon various provisions and interpretations that the petitioner is contending that for CAP, CET is mandatory. This cannot be, therefore, error on the face of the record.

16. The above submission has been vehemently opposed by respondent no. 3 - Board, by relying upon various provisions of the 2015 Act, including second proviso to section 4 which provides and which gives a clue that CET need not be mandatory for admission

through CAP. Therefore, in our view, such debatable point will never constitute an error apparent on the face of the record.

17. With respect to the direction issued in the impugned order, qua deposit of 10% fees, there is nothing on record to show that the 28,000 admissions given by the petitioners are given only to reserve category and not to any other person. On the basis of a statement across the bar in review petition, this submission cannot be accepted. Secondly the Post-Matric Scholarship Schemes relied upon by the petitioners in the review petition, were not referred to or relied upon at the time of the original hearing. Therefore, even on this count, submissions made by learned counsel for the petitioner cannot be gone into in review petition. It is also incomprehensible that none from open category is admitted and all admissions are from only reserved category. Therefore, the submissions now made would not fall within the scope of review powers.

18. With respect to the submission made that letter dated 29 June 2026 is an internal communication of the respondent, in our view, this submission has been considered by this Court in the impugned order in paragraph no. 26. Therefore, the petitioner cannot be permitted to re-argue the whole matter again in review petition.

19. The parameters laid down by the Hon'ble Supreme Court with regard to scope of review and which are reproduced above, if applied to the facts of the present case, in our view, the said parameters for exercising review powers are not satisfied in the present case for the reasons stated above and, therefore, the review petition does not deserve any consideration.

20. Learned counsel for the petitioner relied upon the decision in the case of ***Islamic Academy of Education and Another (supra)***. We fail to understand as to how this judgment is applicable to the facts of the present case and more particularly, in review petition, though this decision admittedly was not relied upon by any of the parties at the time of the hearing.

21. The submission that there are no regulations and, therefore, admission through CAP could not have been directed, also cannot be gone into in review petition. In the impugned order, we have traced the power to Section 24 of the Maharashtra State Board of Nursing And Paramedical Act,2013 (2013 Act) and have dealt with this issue in paragraph 32. In our view, therefore, even on this count in review petition, this Court cannot permit the petitioner to re-agitate the issue which is already considered in the impugned order.

22. With regard to the powers, the learned counsel for respondent no.3 - Board has relied upon the decision of the Supreme

Court in the case of ***Rai Saheb Ram Jawaya Kapur and Others (supra)*** and more particularly, Article 162 of the Constitution of India which is referred in paragraph 9 and 14 of the said decision. Whether this decision of the Supreme Court gives power to the board for issuing direction or not and whether such powers can be traced to Section 24, is an issue which requires a debate and on which we have already expressed our opinion in the impugned judgment. Therefore, this issue cannot be re-examine in review petition.

23. Civil Application No. 10959 of 2026 was filed by the petitioner challenging the notice dated 21st September, 2026, issued by the CET, prescribing the schedule for online registration for admission through the Centralised Admission Process (CAP).

24. The ground raised in the Civil Application for challenging the said notice is that the notice was issued after the interim order passed by this Court on 8th September, 2026. The challenge is not to the CAP process on the grounds now raised in the Review Petition.

25. In any case, this issue has already been adjudicated by this Court in its judgment and order dated 19th October, 2026, and any attempt now to re-argue the same point would be beyond the scope of the powers of review.

26. This matter has been argued for almost more than one and a half hours but the petitioner did not make any submission, as to what is the error apparent on the face of the record in the impugned order dated 19th October 2026, but sought to reargue the matter on merits, which is not permissible as per the above decision of the Hon'ble Supreme Court.

27. For all the above reasons, review application is dismissed.

[JITENDRA JAIN]
JUDGE

[KISHORE C. SANT]
JUDGE