IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11504 OF 2018

Tatyasaheb Ghatage Charitable Trust ...Petitioners
Hon. R. R. Patil College Of Homoeopathy And
Hospital And R.C. Sangli and Another

Versus

Union of India Through The Secretary And Others ...Respondents

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Mr. Kuldeep Nikam a/w Mr. Pratik Patil, for the Petitioners.
Mr. Shridhar A. Patil for Respondent No.1 – UOI.
Adv. Poornima Awasthi for Respondent No.2
Mr. A. P. Vanarase, AGP for the Respondent Nos.4 & 5.

CORAM : SHARMILA U. DESHMUKH &
ABHAY J. MANTRI, JJ.

DATE : OCTOBER 26, 2026

P. C. :

1. ***Rule.*** Rule made returnable forthwith and taken up for final hearing with consent.

2. The present Petition impugns the letter/order of disapproval dated 12th September, 2018 issued by Respondent No.1, whereby permission for the first year new batch admission for BHMS course of Homoeopathy for Academic Year 2018-2019 was refused to the Petitioners.

3. The Petitioner No.1 Trust runs a number of institutions, which

includes a Homoeopathic Medical College commenced with the batch of 50 students of BHMS undergraduate course. The Respondent No.1 had initially granted Letter of Intent on 24th March, 2017 and subsequently letter of permission was also granted on 16th August, 2017. The Petitioners also obtained affiliation of Maharashtra University of Health Sciences, Nashik ("**MUHS**"), which issued a certificate of consent of affiliation on 13th October, 2017. NOC was granted by the Government of Maharashtra on 4th October, 2017, pursuant to which the Homoeopathic Medical College for undergraduate course was set up by the Petitioners and the first year degree course was successfully completed. For the Academic Year 2018-2019, the Petitioners applied for permission to Respondent No 1, pursuant to which an inspection was conducted on 26th June, 2018 and inspection report was submitted on 26th June, 2018. MUHS, Nashik in the meantime raised certain issues and called upon the Petitioners to comply with certain deficiencies of teaching staff by their communication dated 31st July, 2018, which was responded to by the Petitioners on 5th August, 2018 requesting for grant of temporary approval, which was granted. An explanation and report about the compliances was submitted on 18th August, 2018. On 13th August, 2018, notice was received from Respondent No.1 seeking certain clarifications *qua* the inspection report by the Central Council of Homoeopathy (**CCH**). It is stated that though the deficiencies, which

were technical in nature, stood complied prior to the date of hearing, the impugned order came to be passed.

4. Learned counsel appearing for the Petitioners has taken this Court through the inspection report of CCH, which had reported about sufficient infrastructure and well-equipped department found during inspection. He would further point out the impugned order dated 12th September, 2018, which itself records about the compliances being done. He submits that the only reason why the impugned order has been passed is that the shortcomings were complied with after the show cause notice was issued. He submits that by an interim order, this Court had granted interim relief and as such the students were admitted. He submits that for the subsequent academic years, the approval has been granted, which shows that all the deficiencies have been complied with as per the applicable Regulations.

5. Mr. Patil, learned counsel appearing for Respondent No.1 would submit that pursuant to the inspection, there were certain deficiencies which were found and in view thereof, the permission was denied by Respondent No.1. He submits that opportunity of hearing was provided to the Petitioners' college and based on the same, the impugned order has been passed. He would further submit that the Hon'ble Apex Court in the case of ***Medical Council of India vs. Jaipur National University Institute for Medical Sciences and Research Centre, Jaipur and***

Another in Civil Appeal No. 6000 of 2018 has made categorical observation that the proper course is to hear the matter finally rather than passing interim directions. He would submit that the compliance with the Minimum Standard Requirements Regulations, 2013 ["**(MSR) 2013**"] is mandatory and as the same was not complied with, the impugned order has been passed.

6. We have considered the submissions and perused the material on record.

7. By the impugned order dated 12th September 2018, based on the inspection conducted by the CCH on 26th June 2018, the shortcomings were communicated to the Petitioners and opportunity of hearing was given on 20th August, 2018 in respect of the shortcomings. The impugned order further sets out in tabular form the deficiencies conveyed to the Petitioners, the submissions, the observations of the Hearing Committee as well as the remarks of the Ministry. The remarks of the Ministry in respect of the deficiencies, which are from Serial Nos. 1 to 5, would indicate that each of the deficiencies had been complied with by the Petitioners after receiving the hearing notice dated 11th August, 2018. The remark is that as the deficiency is complied with after receiving the show cause notice, the HCC (MSR) 2013 norms are not fulfilled. The overall observations of the Hearing Committee are as under:

"Overall Observations of Hearing committee :

1. It is observed that college was not having Professor/Reader and Lecturer in Departments of Surgery and Obs & Gynae on the day of inspection. College had recently recruited 01 reader and 01 lecturer on 16.08.2018 in each of the above said departments.

2. It is observed that college was not having charts and models in the department of pathology on the day of inspection. College had purchased charts and models on 14/08/2018.

3. It is observed that college was not having license to procure Alcohol/Spirit in the Department of Pharmacy on the day of Inspection. College has received the above said license on 18.08.2018.

4. It is observed that college's central library has 955 books on the day of inspection. College has added 1056 books in the central library out of which 800 books were purchased & 256 books were donated after inspection. It is also observed that college have purchased additional 30 chairs for library.

5. It is observed that college website was not updated on the day of inspection and today it is functional with updated information/details regarding principal of college, non-teaching and hospital staff. **"**

8. Upon perusal of the overall observations of the Hearing Committee, it is evident that all the deficiencies which were communicated to the Petitioners have been duly complied with. What is of importance is compliance with the short-comings. Once the deficiencies are complied with, the withholding of permission cannot be sustained. The fact that for the subsequent years the approvals have been granted for admission to BHMS course with 50 undergraduate seats would also indicate that there was necessary compliance by the Petitioners. By the order of 8th October 2018, this Court has noted that prior to the date of hearing, the Petitioners had removed all the lacunae which were brought to the notice of the Petitioners and in view thereof had granted ad-interim relief permitting the Petitioners to admit the

students to the undergraduate course of BHMS. The issue as to whether such an interim order could have been passed cannot now be considered as such an objection was required to be raised at the appropriate stage of grant of interim relief.

9. In the present case, we find that there is compliance of the deficiencies, maybe after the issuance of the show cause notice. However, as the applicable norms have been duly complied with by the Petitioners and even subsequent to the Academic Session of 2018-2019 approvals have been granted, the impugned order dated 12th September, 2018 is unsustainable.

10. Resultantly, the impugned order dated 12th September, 2018 is hereby quashed and set aside.

11. The Petition is allowed in terms of prayer clause (a).

12. The Respondent No.1 is directed to issue a formal permission to the Petitioners for the Academic Year 2018-2019 expeditiously and in any event within a period of four weeks from today.

13. Rule is made absolute in the above terms.

[ABHAY J. MANTRI, J.] **[SHARMILA U. DESHMUKH, J.]**