
(2020) 05 MP CK 0033

In the Madhya Pradesh High Court

Case No : Writ Petition No. 28558 Of 2019

Choudhary Rustam Singh Nursing College

APPELLANT

Vs

State Of M.P. & Another

RESPONDENT

Date of Decision : 11-05-2020

Acts Referred:

Madhya Pradesh Upcharika, Prasavika, Sahai Upcharika-Prasavika Swasthya
Paridarshak Registration Adhiniyam, 1972 — Section 17(1), 24, 33(1)
Madhya Pradesh Nursing Shikshan Sanstha Manyata Niyam, 2018 — Rule 5

Citation : (2020) 05 MP CK 0033

Hon'ble Judges : S. A. Dharmadhikari, J; Vishal Mishra, J

Bench : Division Bench

Advocate : Vivek Jain, H. D. Mishra, Vivek Khedkar, D. P. Singh

Final Decision : Dismissed

Judgement

1. I.A. No.71/2020, an application for adopting the return filed in W.P. No.28607/2019, moved on behalf of respondent no.2, is allowed.

Heard on I.A. No.6403/2019, an application for intervention.

The intervention application has been filed on behalf of one Raj Veer S/o Hakim Singh. However, neither there is any averment nor counsel for the Intervener has been able to satisfy this Court as to his

locus standi in the matter.

The I.A., accordingly, stands rejected.

2. With consent, the matter is heard finally.

3. The petitioner is aggrieved by the non grant of recognition/renewal for the academic session 2018-2019 for GNM course and direction has been sought to allow the students of the petitioner-Institution to

participate in the examinations for the academic session 2018-2019.

4. Case of the petitioner-Institution is that it is a Society registered under the M.P. Societies Registration Act, 1973 running Nursing Institute/College in the name and style of Choudhary Rustam Singh

Nursing College. Petitioner-Institution is having the recognition for last couple of years.

The contention of learned counsel for the petitioner, in essence, is that online process of submitting fee could not be completed due to inoperability of the web-portal and other technical glitches. The fees

was sent through demand draft, but the same was not accepted. It is further contended that reminders were sent and in anticipation of renewal/extension, petitioner-Institution gave admissions to the

students for academic session 2018-2019. It is submitted that because of non grant of recognition by the respondent/Authorities, future of bright students of the College is jeopardized. In identical cases, the

Apex Court, as well as, this Court has granted interim relief by permitting the students to fill-up the examination forms and appear in the examinations. On these contentions, petitioner-Institute seeks

directions to the respondents/Authorities to grant recognition/extension for the aforesaid Courses for academic session 2018-2019.

5. Respondent No.2- Madhya Pradesh Nurses Registration Council has adopted the return filed in W.P. No.28607/19. It is submitted that the petitioner/college has not brought on record the details of

students to whom admission has been granted for the academic session 2018-19. It is submitted that the State of Madhya Pradesh in exercise of its powers conferred by Section 24 read with Section 33(1)

of Madhya Pradesh Upcharika, Prasavika, Sahai Upcharika-Prasavika Swasthya Paridarshak Registration Adhiniyam, 1972 has framed Rules, viz, Madhya Pradesh Nursing Shikshan Sanstha Manyata

Niyam, 2018 (for short â??Rules of 2018â?), brought in vogue vide Notification No.F-5-22/2018/55-2, dated 16/10/2018 published in Madhya Pradesh Gazette (Extraordinary), dated 16/10/2018 w.e.f.

01/12/2018. It is urged that under the Rules of 2018 every institution running Nursing and GNM Course were required to submit application on-line for renewal under Rule 5 thereof. It is contended that as

the Rules of 2018 were brought in vogue for the first time the last date for on line application was extended upto 22/12/2018. It is further contended that public notice was also issued by the Council on

16/11/2018 as to the schedule for on-line registration from 17/11/2018 to

07/12/2018, inspection by MPNRC from 15/12/2018, start of session from 01/01/2019. It is contended that since the petitioner did

not apply under the Rules of 2018 and admitted the students, it is not entitled for any relief.

It is further contended that the Indian Nursing Council has no legal right to grant recognition as has been held by the Apex Court in Civil Appeal No.12759-12761 of 2017 "The Karnataka State

Association of the Management of Nursing and Allied Health Science Institutions and others Vs. Indian Nursing Council and others, wherein it has been held that "the Indian Nursing Council has no

authority to grant recognition to the institutions imparting nursing courses."

Further, an intimation dt.20.04.2018 was sent by the Indian Nursing Council in the nature of guidelines and minimum requirements, which reads thus :

3. The eligible Organizations/Establishments should obtain Essentially Certificate/No objection Certificate from the concerned State Government where the GNM School of Nursing is sought to be established. The

particulars of the name of the School/Nursing Institution alongwith the name of the Trust / Society [as mentioned in Trust Deed or Memorandum of Association] as also full address shall be mentioned in No Objection

Certificate/Essentiality Certificate.

4. After receipt of the Essentiality Certificate/ No objection Certificate, the eligible institution shall get recognition from the concerned State Nursing Council for the GNM programme for the particular Academic Year, which is a mandatory requirement."

Learned counsel has drawn attention of this court to Circular dt.16.07.2018 issued by the Director Medical Education, wherein it has been categorically mentioned that the process of amendment of rules

for opening the new nursing institution and increasing the seats is underway and therefore at present no proposal of any institution for nursing course would be accepted and that further information

would be displayed on the website.

It is further contended by learned counsel appearing for respondent/MPNRC that petitioner-Institution had been reminded from time to time that they should not admit students till the recognition was

granted to them.

Issue notice.

Meanwhile, the students may be allowed to appear in the examination which is being conducted.

(NIDHI AHUJA) (PARVEEN KUMARI PASRICHA)

COURT MASTER (SH) BRANCH OFFICER??

Thereafter, the Apex Court, vide order dated 4/2/2020, dismissed the SLP by the following order:-

â??SLP (C) No. 406/2020

On 13th January, 2020, this Court allowed the applications for impleadment and issued notice in the matter. Interim relief was also granted in the form of students being allowed to appear in the examination which is

being conducted. We have been informed that a number of persons have availed of this benefit. We have also been told that as a result of this order, not only a number of Interlocutory Applications have been

filed in this Court but a large number of writ petitions have also been filed in the Madhya Pradesh High Court at Gwalior, piggybacking on this order.

Having heard learned counsel for the petitioner as also the learned counsel appearing on behalf of the respondents, what is clear, on a perusal of the special leave petition before this Court and the counter affidavit filed by

respondent Nos.2-3 before us, which includes the Madhya Pradesh Nurses Registration Council (hereinafter referred to as â??MPNRCâ??), it is clear that a show cause notice had been issued to the institution in question on

11.04.2019 after which, on 20.05.2019, the MPNRC cancelled the recognition granted to the institution on various grounds.

Neither of these documents is either adverted to in the list of dates or in the special leave petition that has been filed long after viz., on 06.01.2020. This would, obviously, amount to suppression of material facts. This being the

case, and having regard to the fact that today, having obtained interim orders before this Court, the petitioner now seeks to withdraw the special leave petition, we make it clear that the interlocutory application for withdrawal is

dismissed. Given the above, the special leave petition itself is dismissed with Rs.2 lakhs as costs to be given to the Supreme Court Legal Services Committee within two weeks from today.

(NIDHI AHUJA) (NISHA TRIPATHI)

AR-cum-PS

Â Â Â BRANCH OFFICERÂ??

While granting interim relief, this Court had made it very clear that the aforesaid interim order would not create any equity in favour of the Institution and shall be subject to outcome of the present petition,

as well as, orders passed by the Apex Court in similar cases wherein SLPs have been preferred. It was further made clear that Institution shall file an affidavit informing this Court that they have informed

each and every student individually within ten days therefrom.

7. Per contra Shri Vivek Khedkar, Advocate appearing for M.P. Nurses Registration Council submitted that admittedly the Institution did not have the recognition for the academic session 2018-2019.

Unfortunately, petitioner-Institution violated the norms with adamantine audacity and sought indulgence of the Court either in the name of mercy or sympathy for the students or financial constraint of the

Institution and also on the ground of inappropriate treatment by the statutory regulatory bodies for not taking any decision in respect of grant of recognition and thereby compelled this Court to pass interim

order contending that future of the students would be jeopardized. As such, he sought dismissal of the writ petition with heavy cost.

8. Heard, learned counsel for the parties.

9. Coming back to the main issue. Rule 5 of the Rules 2018 lays down the procedure for recognition/ renewal, it stipulates:

â??â??5. -

(1) ?

(2) ? -

?

(3) - 8

? ?

(4) 4 - (3) 4 - (4)

?

(5) 4 , ,

?

(6) 9 ?

(7) ?

(8) ?

(9) , -

???

10. It is further noticed that besides public notice dated 16/11/2018; corrigendum was issued on 04/12/2018 by the Council stating therein:

?? / ,

2018 16/10/2018 ? 01 ? 2018 ? ? ? ?

?? ? 2018-19 ? ? ? ? 0 0 ?

?? ? ? ? , ? -

1. - (nursingpermission.dme@gmail.com) ? 1

-07/12/2018

2. -15/12/2018

3. -20/12/2018

11. In *Abhyudya Sanstha Vs. Union of India and others* [(2011) 6 SCC 145] it is observed by their Lordships:

??22. ??...However, with a view to make business and earn profit in the name of education, the appellants successfully manipulated the judicial process for allocation of the students. Therefore, there is no valid ground much

less justification to confer legitimacy upon the admission made by the appellants in a clandestine manner. Any such order by the Court will be detrimental to the national interest. The students who may have taken admission

and completed the course from an institution, which had not been granted recognition, will not be able to impart value based education to the future generation of the country. Rather, they may train young minds as to how one

can succeed in life by manipulations. Therefore, we do not consider it proper to issue direction for regularising the admissions made by the appellants on the strength of the interim orders passed by this Court.

25. The appellants are directed to pay Rs.1 lakh to each of the students by way of compensation in lieu of the injury inflicted upon them by way of misrepresentation about their entitlement to admit the

students to D.Ed. course.??

12. In *Adarsh Shiksha Mahavidyalaya and Ors. Vs. Subhash Rahangdale and Ors.* [AIR 2012 SC 1097], it is held:

??33.(ix) Once the recognition is withdrawn under Section 17(1), the concerned

institution is required to discontinue the course or training in teacher education and the examining body is obliged to cancel the affiliation. The

effect of withdrawal of the recognition is that the qualification in teacher education obtained pursuant to the course or training undertaken at such institution is not to be treated as valid qualification for the purpose of

employment under the Central Government, any State Government or University or in any educational body aided by the Central or the State Government.

(xiv) If any institution admits any student in violation of the Norms and Standards laid down by the NCTE, then the Regional Committee shall initiate action for withdrawal of the recognition of such institution and pass

appropriate order after complying with the rules of natural justice.

(xv) The students admitted by unrecognised institution and institutions which are not affiliated to any examining body are not entitled to appear in the examination conducted by the examining body or any other authorised

agency.â??

13. The Apex Court in the case of National Council For teacher Education and another Vs. Venus Public Education Society and others ((2013)1 SCC 223) as under:-

â??33. Now, to the last plank of submission of the learned counsel for the respondent. It is urged by him that NCTE had procrastinated its decision at every stage and such delay was deliberate and, therefore, the Society was

compelled to admit the students and impart education, regard being had to the fact that there were really no deficiencies. As has been laid down in many a pronouncement of this Court that without recognition from NCTE and

affiliation from the university/examining body, the educational institution cannot admit the students. An educational institution is expected to be aware of the law. The students who take admission are not young in age. They

are graduates. They are expected to enquire whether the institution has recognition and affiliation. If we allow ourselves to say so, the institution had given admission in a nonchalant manner. Possibly, its functionaries

harboured the idea that they had incomparable fertile mind. The students who had taken admission possibly immersed with the idea that ignorance is a bliss. It is also necessary to state that the institution had the anxious

enthusiasm to commercialise education and earn money forgetting the factum that such an attitude leads to a disaster. The students exhibited tremendous anxiety to get a degree without bothering for a moment whether their

error, if any, had sanctity of law. Such attitudes only bring nemesis. It would not

be wrong to say that this is not a case which put the institution or the students to choose between Scylla and Charybdis. On the contrary, both

of them were expected to be Argus-eyed. The basic motto should have been ""transparency"". Unfortunately, the institution betrayed the trust of the students and the students, in a way, atrophied their intelligence. The

institution decidedly exhibited characteristics of carelessness. It seems that they had forgotten that they are accountable to law. The students, while thinking ""vision of hope"" chose to play possum. The law does not

countenance either of the ideas. Hence, the plea propounded with anxiety, vehemence and desperation on behalf of the respondent is not acceptable and, accordingly we unhesitatingly repel the same.

14. The Apex court in the case of Pt. Bateswari Dayal Mishr Shiksha Samiti Vs. Madhya Pradesh Nurses Registration Council and Others ((2019)5 SCC 379) has held as under:-

10. Though it may be true that the appellant institution had been granted affiliation for running B.Sc (Nursing) course since 2006, but from the record it is clear that for the academic session 2018-19, there was no permission

accorded by the Madhya Pradesh Nurses Registration Council for running the B.Sc (Nursing) or M.Sc (Nursing) courses. The prayer made in the appeal is not clear as to whether the appellant Institution is seeking permission

for running B.Sc (Nursing) course or M.Sc (Nursing) course. A copy of writ petition has also not been enclosed and as such it is not possible to know as to what prayers had been made in the writ petition filed before the

Madhya Pradesh High Court. The same is not even clear from the impugned judgment of the Madhya Pradesh High Court dated 13-11-2018.

11. The specific case of respondent 1 is that the appellant institution had filed incomplete form for registration of the course for academic session 2018-2019 and that no documents to support its claim had been filed. Further,

the last date for filing online form for registration for the academic session 2018-2019 was 22-12-2018. Admittedly the consent for affiliation by the University concerned was given only on 2-2-2019 for M.Sc (Nursing) course.

As such, the said consent of the affiliation was not even available with the appellant institution prior to the last date of filing of the application form. Thus, the question of granting permission to run the M.Sc (Nursing) course

for the academic session 2018-2019 would not arise, as admittedly the form filled by the appellant cannot be said to be complete, with all details and supporting documents.

15. Admittedly, in the present case, the petitioner-Institution was not having

recognition for the academic session 2018-2019 till the last date of filling of examination forms, yet they have admitted the

students. In view of decision in the case of Venus Public Education Society (Supra) , no admission could have been granted. It cannot be lost sight of that the College, without having recognition and without

fulfilling necessary conditions for recognition, has gone on to admit students putting the future of students at stake.Â The said action of the petitioner-Institution, in the light of above settled legal position,

cannot be countenanced. Therefore, in the opinion of this Court, petitioner-Institution is liable to pay cost of Rs.1,00,000/- (Rupees one lac only), 50% of which be deposited with the Principal Registrar of

this Court for being utilized for upliftment of the dispensary situated in the High Court premises, Gwalior and the remaining 50% be deposited with the Prime Minister's Citizen Assistance and Relief in

Emergency Situations Fund (PM CARES Fund), within a period of thirty days from the date of receipt of certified copy of this order.

The petition, accordingly, stands dismissed for now. However, in case the aforesaid cost is not deposited within the period stipulated above, coercive action shall be initiated against the petitioner-Institution

for recovering the cost, for which the Registry shall place this petition before this Court for further directions.

Needless to say that the petitioner shall be at liberty to take recourse to appropriate proceedings in the wake of subsequent cause of action or if occasion so arises, in accordance with law.