

PT. BATESWARI DAYAL MISHR SHIKSHA SAMITI A

v.

MADHYA PRADESH NURSES REGISTRATION COUNCIL & ORS.

(Civil Appeal No. 3137 of 2019) B

MARCH 15, 2019

[R. F. NARIMAN AND VINEET SARAN, JJ.]

Education/Educational institutions:

Medical institutions – B.Sc (Nursing) Course and M.Sc (Nursing) Course – Grant of recognition – On facts, appellant institution running nursing college filed writ petition seeking grant of recognition for running B.Sc (Nursing) Course and M.Sc (Nursing) Course for the academic session 2018-19 – Disposal of, by the High Court – Issuance of direction to the State Nurses Registration Council to hold inspection and decide the issue of recognition by 20.11.2018 and in case of non-grant of recognition, last date of admission being 30.11.18, appellant institution be allowed to hold classes for B.Sc as well as GNM (Course) for the academic session 2018-2019 – Appeal before this Court seeking direction to the Nursing Council to grant recognition to the appellant institution – Held: Though the appellant institution had been granted affiliation for running B.Sc (Nursing) course since 2006, but for the academic session 2018-19, no permission was accorded by the Nurses Registration Council for running the B.Sc (Nursing) or M.Sc (Nursing) courses – From the prayer made in the appeal, it is not clear as to whether the appellant institution is seeking permission for running B.Sc (Nursing) course or M.Sc (Nursing) course – Copy of the writ petition not enclosed, as such it was not possible to ascertain as to what prayers had been made in the writ petition filed before the High Court – Also same not clear from the impugned judgment of the High Court – Furthermore, appellant institution filed incomplete form for registration of the course for academic session 2018-19, and no supporting documents were attached – Consent of the affiliation was not available with the appellant institution prior to the last date of filing of the application form –

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- A *Institution is not in tribal or hilly areas, and it does not have its own Parent Hospital - Thus, grant of permission to run the M.Sc (Nursing) course for the academic session 2018-19 would not arise*

Dismissing the appeal, the Court

- B **HELD:** 1.1 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 the 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 High Court.
- D The same is not even clear from the impugned judgment of the High Court. [Para 7][1022-C-E]

- 1.2 The respondent no. 1 has categorically stated that the online application Form submitted by the appellant was incomplete and no supporting documents were attached with the same. The appellant has not filed any proof to show that it had given all required particulars in the online application form. In the absence of the copy of the writ petition having been filed before this Court, it cannot be ascertained as to whether there was any such averment made even in the writ petition. It has also not been stated by the appellant institution that the requisite documents were filed along with the application form (which is categorically stated by the respondent no. 1 to be incomplete). The very fact that the certificate of affiliation was issued in favour of the appellant institution by the Madhya Pradesh Medical Science University, Jabalpur, on 02.02.2019, which was much after the last date for submission of the online application form, would make it clear that the said document of affiliation was not even available with the appellant institution at the time of filing of the online application form. [Para 11][1023-F-H; 1024-A]

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1.3 Even otherwise, in the communication of the Indian Nursing Council dated 16.04.2018 to the Registrar of the respondent no. 1, Madhya Pradesh Nurses Registration Council, it was categorically mentioned that “please ensure that for GNM & B.Sc (N) programme, who have applied for this academic year has a Parent Hospital of minimum 100 beds, whereas the institutions are exempted from Parent Hospital located in tribal & hilly areas only”. The institution of the appellant is admittedly not in tribal or hilly areas, and it is also not denied that it does not have its own Parent Hospital. From the perusal of the inspection note which was carried out by the respondent no. 1 in compliance of this Court order, it is clear that the renewal of the appellant society and the papers relating to the land and building were found to be complete and also that there were 48 faculty members, but the complete online application form had not been submitted and no renewal fees had been deposited and further, the institution did not have recognition certificate for the academic session 2018-19. In the said inspection report, it has also been stated that the appellant institution did not have its own hospital but was affiliated to certain hospitals, which hospitals had only certified that they were not affiliated to any other institution. [Para 9, 10][1023-A-D]

1.4 The judgment of the High Court cannot be faulted and there was no occasion for granting permission to the appellant institution for running the M.Sc (Nursing) course for the academic session 2018-19. [Para 12][1024-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3137 of 2019.

From the Judgment and Order dated 13.11.2018 of the High Court of Madhya Pradesh, Principal Seat at Jabalpur in WP No. 25716 of 2018.

Jasbir Singh Malik, Manish Kumar Tirthpuria, Ms. Usha Nandini V., Advs. for the Appellant.

V. S. R. Krishna, T. Mahipal, Rahul Kaushik, Ms. Bhuvneshwari Pathak, Shilpi Satyapriya Satyam, Siddharth Chakravorty, Tapan Trivedi, Advs. for the Respondents.

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- A The Judgment of the Court was delivered by
VINEET SARAN, J. 1. Leave granted.
2. Heard learned counsel for the appellant as well as Shri Rahul Kaushik, learned counsel for the respondent no. 1, Madhya Pradesh Nurses Registration Council.
- B 3. Appellant institution is a society which runs an institution by the name of Dayal Nursing College, Gwalior. It is claimed by the appellant institution that it is running the B.Sc (Nursing) course since 2006, and also certain other courses like ANM, GNM and Post Basic B.Sc (Nursing) courses since 2008, 2010 and 2018 respectively. Since the appellant institution was not granted recognition for running the B.Sc (Nursing) course for the academic session 2018-19 and also recognition for starting of M.Sc (Nursing) course, the appellant filed a Writ Petition No. 25716 of 2018, which was disposed of on 13.11.2018 (along with a bunch of similar petitions). Relying on a judgment of the Supreme Court in some other earlier case, the Division Bench of the Madhya Pradesh High Court at Jabalpur disposed of the writ petition (along with other writ petitions) with the direction that the State Nurses Registration Council (for short 'SNRC') shall hold an inspection as soon as possible and decide the issue of recognition latest by 20th November, 2018, and in case the SNRC did not recognise the appellant institution, considering that the last date of admission was then declared to be 30th November, 2018, the appellant institution would be allowed to hold classes for B.Sc (Nursing), as well as GNM (Diploma Course) for the academic session 2018-19. Challenging the said order, this appeal has been filed with the prayer to "*direct the Indian Nursing Council/State Nursing Council to grant recognition to the petitioner institution for its courses for the academic session 2018-19*". The copy of the writ petition filed before the Madhya Pradesh High Court has not been filed and thus we are unable to know as to what prayers were made before the Madhya Pradesh High Court [i.e. whether it was for grant of recognition for B.Sc (Nursing) course or M.Sc (Nursing) course, or both]. We are also unable to know as to what were the grounds taken by the appellant institution before the High Court in support of its prayers.
4. The submission of the learned counsel for the appellant institution is that the institution has been running B.Sc (Nursing) course since the year 2006 but because the SNRC did not conduct the inspection, recognition for B.Sc (Nursing) course could not be granted in favour of

the appellant institution. It has been contended that despite mandamus having been issued by the Division Bench of the Madhya Pradesh High Court vide its order dated 13.11.2018, yet no inspection was conducted; and that it was only in pursuance of the order dated 05.03.2019 issued by this Court in this appeal that an inspection was conducted by the SNRC on 08.03.2019. In the said report, according to the appellant institution, no deficiencies were pointed out with regard to the faculty, laboratory, class rooms and other infrastructure facilities. It has also been contended that the appellant institution has consent of affiliation for the academic session 2018-19 granted by the Madhya Pradesh Medical Science University, Jabalpur on 02.02.2019 for “*the proposed new course of M.Sc. Nursing with Subjects (1) – COMMUNITY HEALTH NURSING – 10 Seats; (2) – MENTAL HEALTH NURSING – 10 Seats*”. It has thus been submitted that the appellant institution be granted recognition for B.Sc (Nursing) and M.Sc (Nursing) courses for the academic session 2018-19, which is to commence from 15.03.2019 as per the extended date.

5. Per contra, Shri Rahul Kaushik, learned counsel appearing for the respondent no. 1, Madhya Pradesh Nurses Registration Council has contended that the “*Madhya Pradesh Nursing Shikshan Sanstha Manyata Niyam 2018*” was gazetted on 16th October, 2018 and the Rules came into force from 1st December, 2018. As per the said Rules, the online application forms for academic session 2018-19 were to be submitted by the institutions, for existing courses, seat enhancement and new courses, between 17th November, 2018 and 22nd December 2018. According to the respondent, the form submitted by the appellant institution was incomplete, as it did not give the faculty details, nor did it upload any supporting documents along with the form. The appellant institution was thus not given permission even for under-graduate courses for the academic session 2018-19. It was further contended that the appellant institution did not have its own Parent Hospital, which was necessary as per the communication dated 16.04.2018 of the Indian Nursing Council and as such, the case of the appellant institution could not also be considered for M.Sc (Nursing) course. It was contended that since the appellant did not have permission even for B.Sc (Nursing) course before the initial last date of admission, which was 31.12.2018, the question of considering the appellant institution’s application for running M.Sc (Nursing) course could not be considered. Learned counsel for the respondent submitted that the appellant institution did not have its

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- A own hospital but it claimed to be affiliated to Family Hospital, Gwalior (50 beds) and SSIMS Hospital, Gwalior (95 beds) and District Government Hospital, Gwalior (200 beds). However, there was no permission for training in Government Hospitals granted by the Director, Medical Education and as such the affiliation with the said hospitals (which had granted no objection certificate to the effect that such hospitals were affiliated to any other college) was of no consequence. Learned counsel for the respondent thus submitted that the prayer made in this appeal does not deserve to be granted.

6. We have heard learned counsel for the parties and have perused the record.

- C 7. 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 the 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.

- F 8. The specific case of the respondent no. 1 is that the appellant institution had filed incomplete form for registration of the course for academic session 2018-19, and that no documents to support its claim had been filed. Further, the last date for filing the online form for registration for the academic session 2018-19 was 22nd December, 2018. Admittedly the consent for affiliation by the concerned University was given only on 02.02.2019 for running the 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.
- G Thus, the question of granting permission to run the M.Sc (Nursing) course for the academic session 2018-19 would not arise, as admittedly the form filled by the appellant cannot be said to be complete, with all details and supporting documents.

9. Even otherwise, in the communication of the Indian Nursing Council dated 16.04.2018 to the Registrar of the respondent no. 1, Madhya Pradesh Nurses Registration Council, it was categorically mentioned that "*please ensure that for GNM & B.Sc (N) programme, who have applied for this academic year has a Parent Hospital of minimum 100 beds, whereas the institutions are exempted from Parent Hospital located in tribal & hilly areas only*". The institution of the appellant is admittedly not in tribal or hilly areas, and it is also not denied that it does not have its own Parent Hospital.

10. From the perusal of the inspection note dated 08.03.2019, which was carried out by the respondent no. 1 in compliance of this Court order dated 05.03.2019, it is clear that the renewal of the appellant society and the papers relating to the land and building were found to be complete and also that there were 48 faculty members, but the complete online application form had not been submitted and no renewal fees had been deposited and further, the institution did not have recognition certificate for the academic session 2018-19. In the said inspection report, in paragraph 6, it has also been stated that the appellant institution did not have its own hospital but was affiliated to certain hospitals, which hospitals had only certified that they were not affiliated to any other institution.

11. The crucial issue to be considered is whether the appellant institution had applied to the respondent no. 1, Madhya Pradesh Nurses Registration Council within the last date, which was 22nd December, 2018 or not, and if so applied, whether the same was complete in all respects. The respondent no. 1 has categorically stated that the online application form submitted by the appellant was incomplete and no supporting documents were attached with the same. The appellant has not filed any proof to show that it had given all required particulars in the online application form. In the absence of the copy of the writ petition having been filed before this Court, it cannot be ascertained as to whether there was any such averment made even in the writ petition. It has also not been stated by the appellant institution that the requisite documents were filed along with the application form (which is categorically stated by the respondent no. 1 to be incomplete). The very fact that the certificate of affiliation was issued in favour of the appellant institution by the Madhya Pradesh Medical Science University, Jabalpur, on 02.02.2019, which was much after the last date for submission of the

- A online application form, would make it clear that the said document of affiliation was not even available with the appellant institution at the time of filing of the online application form.

12. In view of the aforesaid, we are of the firm view that the judgment of the Madhya Pradesh High Court cannot be faulted and B there was no occasion for granting permission to the appellant institution for running the M.Sc (Nursing) course for the academic session 2018-19. The appeal is devoid of merit and is, accordingly, dismissed.

Nidhi Jain

Appeal dismissed.