



Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.598 OF 2024

Dr Elizabeth J. Martins

... Petitioner

Versus

A. M. Shaikh Homoeopathic Medical
College And 2 Ors.

... Respondents

Mr Ankur Kumar, Advocate for the Petitioner.

**Mr Pravin N. Faldessai, Deputy Solicitor General of India, for
Respondent No.3.**

CORAM:**M. S. KARNIK &
VALMIKI MENEZES, JJ****DATED :****28th AUGUST 2024**

ORAL ORDER: (Per M. S. Karnik, J).

1. Heard learned Counsel for the Petitioner.
2. The Petitioner has passed BHMS Degree from A. M. Shaikh Homeopathic Medical College, Belgaum in the academic year 2024. The Petitioner is required to complete her internship which is of a duration of one year. It is the submission of learned

Counsel for the Petitioner that her mother's health is unstable and she needs constant assistance. It is orally submitted that the Petitioner's sister is also studying in Belgaum. The Petitioner's mother is based in Goa. We are informed that there is nobody to look after the mother. On record are placed medical documents which indicate that the Petitioner's mother is a case of uncontrolled diabetes mellitus with hypertension with urinary tract infection (asymptomatic) with non-alcoholic liver cirrhosis. The Petitioner's mother was discharged by the Goa Medical College & Hospital vide certificate dated 26.07.2023. It is the submission of learned Counsel for the Petitioner that considering the medical condition, the Petitioner's mother needs constant assistance. It is submitted that there is no one to look after her mother.

3. Having passed the BHMS Degree from A.M. Shaikh Homeopathic Medical College, the Petitioner is required to undergo one-year internship at the said College at Belgaum. The Petitioner has made an application to transfer her internship to Kamaxidevi Homeopathic Medical College & Hospital, Shiroda-Goa. Accordingly, an application was made by the Petitioner to the College in Goa on 16.05.2024 for issuance of NOC.

4. Shri Faldessai, learned Deputy Solicitor General of India, appears on behalf of Respondent No.3 - National Commission For

Homeopathy. Apparently, the NOC is not issued by the College in Belgaum or by the College in Goa in view of the Notification dated 28.05.2024 issued by the Respondent No.3 titled as 'Directions regarding migration/internship transfer of Students' which read as under:-

'F.No.3-90/2022/NCH/HEB/HEBNoti.Cir./1214-1220

Dated: 28 May 2024

Circular

To,

1. The Registrar of all the Universities (including Deemed Universities), having Homoeopathic Faculties (or Departments/Boards)
2. The Principals/Deans/Directors of all Homoeopathic Medical Colleges (including N.I.H & N.E.I.A.H).

'Sub: Directions regarding migration/internship transfer of students.'

Madam/Sir,

With reference to the subject cited above, it is to inform that we receive numerous applications from the students/institutes for migration of the students during BHMS course of internship. Migration of students from one Medical Institution to another Medical Institution in India shall be considered by the Commission only in exceptional cases on compassionate ground.

In view of the above, Homoeopathy Education Board, National Commission for Homoeopathy has specified certain criteria for compassionate grounds on which the college/university shall provide NOC for any request of migration/internship transfer of the student. Criteria are as follows:-

- Death of a supporting guardian.
- Disturbed conditions as declared by Government in the college area.

- Any illness of the candidate or disability, to be certified by the civil surgeon of respective area along with all the relevant documents.

Note:-Any request for migration/internship transfer shall be entertained through college/university only.

Thanking you.

Yours faithfully,

Sd/-

(Dr. Tarkeshwar Jain)

President, Homoeopathy Education Board'

5. The Petitioner had issued a legal notice to the College in Belgaum for transferring the internship to the College in Goa on 26.06.2024. It is the case of the Petitioner that the Petitioner's request made to the College in Belgaum and to the one in Goa for NOC is not considered as the reason is not falling in any of the categories specified in the Notification dated 28.05.2024.

6. Learned Counsel Shri Faldessai submitted that as the Petitioner is effectively seeking relief against the College in Belgaum, this Court may not have jurisdiction to entertain the present Petition. We had issued notice to Respondents No.1 and 2. There is no appearance on behalf of Respondent No.1 and 2. The office report indicates that service report is awaited in respect of Respondent No. 1 and 2. By order dated 26.08.2024, we had directed the Petitioner to serve private notice and to inform them

that the matter is listed today. Learned Counsel for the Petitioner submits that the notice has been effected by Speed Post on the Respondents and that the notices have been received by the Respondent No.1 and 2.

7. In the light of the order that we propose to pass, the presence of Respondents No.1 and 2 at this juncture may not be necessary. Having gone through the directions regarding migration/internship transfer of students issued by the Respondent No.3 and upon hearing Shri Faldessai who argued in support of the directions, it is apparent that migration/internship transfer of students can be considered by the Commission only in exceptional cases on compassionate ground. The whole object of such a direction is to mitigate the hardships to the students if there are exceptional circumstances on compassionate grounds existing. The criteria which is laid down in the said directive, in our opinion, cannot be said to be exhaustive so as to limit the power of the Commission to consider only such applications limited to the criteria laid down in the directions. The criteria obviously is illustrative in nature. In a given case, if the Respondent No.3 is of the opinion that an exceptional case of compassionate ground exists there is no warrant to limit the consideration and grant such an application if the Commission is satisfied that such an exceptional case does exist. Any good reason/circumstance which makes out

an exceptional case on compassionate ground will further the object of the directives.

8. In such view of the matter, the Petitioner to make applications to the Respondent No.1 and 2 College for NOC pointing out the exceptional circumstances prevailing in her case for migration/internship transfer on compassionate ground. The applications to be filed by 30.08.2024. The Respondent No.1 and 2 to forward the applications so received to the Respondent No.3 for its consideration immediately. The Respondent No.3 to decide on the applications within a period of two weeks from the date of its receipt. It is open for the Petitioner also to forward to Respondent No.3 the copies of the applications so made to the Respondent No.1 and 2 to expedite processing such applications for grant of NOC on its own merits.

9. The Petition stands disposed of with the aforesaid directions.
No costs.

VALMIKI MENEZES, J

M. S. KARNIK, J