



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 17011 of 2016
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17011 of 2016
With
CIVIL APPLICATION (FOR ORDERS) NO. 2 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17011 of 2016
With
R/SPECIAL CIVIL APPLICATION NO. 17587 of 2016
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17587 of 2016
With
CIVIL APPLICATION (FOR AMENDMENT) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 17587 of 2016
With
CIVIL APPLICATION (FOR ORDERS) NO. 2 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17587 of 2016
With
R/SPECIAL CIVIL APPLICATION NO. 17588 of 2016
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17588 of 2016
With
CIVIL APPLICATION (FOR AMENDMENT) NO. 1 of 2025
In R/SPECIAL CIVIL APPLICATION NO. 17588 of 2016
With
CIVIL APPLICATION (FOR ORDERS) NO. 2 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17588 of 2016
With
R/SPECIAL CIVIL APPLICATION NO. 19159 of 2016
With
CIVIL APPLICATION (FOR JOINING PARTY) NO. 1 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 19159 of 2016
With
CIVIL APPLICATION (FOR ORDERS) NO. 2 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 19159 of 2016
With
R/SPECIAL CIVIL APPLICATION NO. 19413 of 2016
With



CIVIL APPLICATION (FOR ORDERS) NO. 1 of 2016
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 With
 CIVIL APPLICATION (FOR JOINING PARTY) NO. 2 of 2016
 In R/SPECIAL CIVIL APPLICATION NO. 19414 of 2016
 With
 R/SPECIAL CIVIL APPLICATION NO. 20190 of 2016
 With
 CIVIL APPLICATION (FOR AMENDMENT) NO. 1 of 2025
 In R/SPECIAL CIVIL APPLICATION NO. 20190 of 2016

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Approved for Reporting	Yes	No

PARUL UNIVERSITY
 Versus
 UNION OF INDIA & ORS.

Appearance:

MR UDAYAN P VYAS(1302) for the Petitioner(s) No. 1
 ADVOCATE NOTICE NOT RECD BACK for the Respondent(s)
 No. 1
 DS AFF.NOT FILED (R) for the Respondent(s) No. 2
 MR HARSHEEL D SHUKLA(6158) for the Respondent(s) No.
 2.1,2.2

CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI



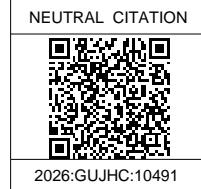
Date : 04/02/2026

COMMON ORAL JUDGMENT

1. In view of the fact that the amendment has been carried out and newly added Respondent Nos. 2A and 2B have already been joined as party respondents, rule is made returnable forthwith. Learned advocate Mr. Harsheel Shukla waives service of rule on behalf of newly added Respondent Nos. 2A and 2B.

2. Considering the fact that all these matters were heard together and relief was also granted in all these matters vide common oral order dated 25.11.2016, all these petitions were taken up together and are now being decided together.

3. Heard learned advocate Mr. Udayan P. Vyas for the petitioner, Learned advocate Mr. Ankit Shah for Respondent No. 1 in Special Civil Application No. 17011 of 2016, Learned advocate Mr. Sushil Shukla for Respondent No. 1 in the remaining matters, and Learned advocate Mr.



Harsheel Shukla for newly added Respondent Nos. 2A and 2B.

4. By way of each of these petitions, the respective petitioners have prayed for almost identical reliefs and, hence, with the consent of the learned advocates for the parties, Special Civil Application No. 17011 of 2016 is treated as the lead matter and, accordingly, the prayers are incorporated from Special Civil Application No. 17011 of 2016, which read as under:

“(A) That, this Hon’ble Court be pleased to issue writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order or direction commanding Respondents herein to grant extension of approval to Jawaharlal Nehru Homeopathic Medical College, being the constituent college of the Petitioner, for imparting education in the discipline of Homeopathy at the level of graduation leading to the qualification of BHMS for the academic year 2016-17;

(B) That, pending admission, hearing and final disposal of this Petition, this Hon’ble Court be pleased to allow Jawaharlal Nehru Homeopathic Medical College being the constituent college of the Petitioner to admit students commence the academic sessions in the discipline of



Homeopathy at the level of graduation leading to the qualification of BHMS for the academic year 2016-17 on such terms and conditions as the Hon'ble Court may deem fit and proper;

(C) That, this Hon'ble Court be pleased to grant such further and other relief as the nature and circumstances of the case may require;

(D) That, this Hon'ble Court be pleased to award the cost to this Petition."

5. As far as the facts are concerned, learned counsel are in agreement that the facts of all these petitions were elaborately stated while passing the common oral order dated 25.11.2016 by the Co-ordinate Bench, which gives an overview of the issue in question and the nature of relief. Therefore, in view of the suggestion made by the learned advocates for the parties, instead of narrating lengthy facts, I propose to reproduce the order dated 25.11.2016 passed by the Co-ordinate Bench, which reads as under:

" All the captioned petitions which involve similar facts and common issue, were considered for admission as well as for interim relief, by hearing at length learned senior counsel Mr.Dhaval Dave with learned advocate Mr.Udayan Vyas for the

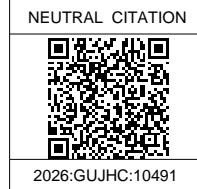


petitioners, learned advocate Mr.Nikunt Raval for the first respondent-Union of India, Ministry of AYUSH and learned advocate Mr.Harsh Parekh for the Central Council of Homeopathy-the second respondent.

2. Each of the petitioner/petitioner college has been running the Homeopathy Course to impart the education in that discipline leading to the Graduate or Post Graduate, as the case may be, Degree of BHMS. Their common grievance is that the approval to the extension of course is denied by the first respondent, on the alleged ground that the college is non-compliant with the requisite norms and standards, even though the second respondent-Homeopathy Council after inspection has opined favourably that there is a fulfillment of norms.

2.1 The petitioner of first petition No.17011 of 2016 runs the Jawaharlal Nehru Homeopathy College with capacity of 100 seats. In this petition as well as in 17587 of 2016 and 17588 of 2016, the petitioners have prayed for commanding the respondents to grant extension of approval to the Homeopathy Graduation Course for the Academic Year 2016-17. In Special Civil Application No.19159 of 2016, 19413 of 2016 and 19414 of 2016, the petitioner concerned has prayed for setting aside and staying the orders of the first respondent-Ministry of AYUSH whereby the college concerned is intimated about refusal of approval.

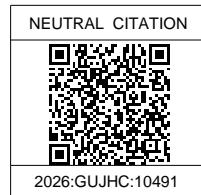
3. Taking out the relevant facts from the first Special Civil Application No.17011 of 2016, the petitioner runs Homeopathy College in the name of Jawaharlal Nehru



Homeopathy Medical College which was established in the year 2002-03. It has intake capacity of 100 seats. The new Regulations called Homeopathy Central Council (Minimum Standards Requirement of Homeopathy Colleges and attached Hospital) Regulations, 2013 came into force with effect from 08th March, 2013, replacing the previously prevalent Homeopathy Regulations, 1983. The Regulations of 2013 prescribed fresh norms and standards to be observed by the colleges imparting the homeopathy education. In the wake of coming into force of the new Regulations, the Central Council of Homeopathy carried out inspection to all the colleges from 15th May, 2013 onwards.

3.1 The colleges needed breathing time to be compliant with the newly introduced norms and standards. In that view, the Government of India and the Central Council of Homeopathy exchanged correspondences. By communications dated 26th August, 2013, 27th May, 2014 and 29th May, 2015 from the first respondent, a kind of moratorium was allowed to the Homeopathy Colleges in the enforcement of the requirements prescribed in the new Regulations of 2013. The colleges were given exemption from compliance thereof for the Academic Years 2013-14, 2011-15 and 2015-16. It is from the Academic Year 2016-17 that the Regulations-2013 are being enforced. This brought about a situation which is reflected in the controversy involved.

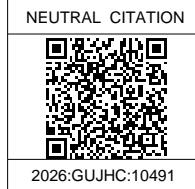
3.2 In case of petitioner of Special Civil Application No.17011 of 2016, the Council for Homeopathy carried out inspection on 02nd July, 2016. For other petitioners, such inspection was carried out on



different dates. The reports of inspection were favourable and indicated that there the requirements of new Regulations were fulfilled. The inspection report of the Central Council of Homeopathy in respect of the college of the petitioner of the first petition, which came to be obtained under the Right to Information Act, states with remark that "sufficient facilities. Recommended for admission for 2016-17.". On behalf of the Central Council of Homeopathy, affidavit is filed in which said inspection report and its recommendations have been confirmed. Since the inspection report was not on record, learned advocate for the Council was requested to get copy of the report which was received by him by e-mode. On going through the report, the Council also stated that it was favourable to the petitioner college.

3.3 However it appears that subsequently the first respondent-Ministry of AYUSH conducted an inspection. It was done on 03rd August, 2016 and on different dates for different petitioners. On the basis of the inspection, the first respondent has been refusing to accord extension of approval to the course of Graduation/ Post Graduation in the petitioner colleges.

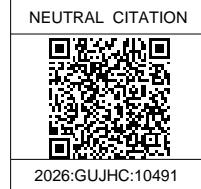
3.4 The controversy surrounds whether the first respondent-Ministry of AYUSH, Government of India, has powers to refuse the extension of approval to the existing Homeopathy Colleges to continue to run the course, even as in the inspection carried out by the Central Council of Homeopathy, these colleges are found to be fulfilling the norms and standards as per the Regulations of 2013.



3.5 The first respondent has taken a stand that it is the authority who is empowered to grant permission under Section 12A of the Homeopathy Central Council Act. In the affidavit-in-reply filed by the Under Secretary to Government of India, Ministry of AYUSH-the first respondent herein evinces such stand. It has contended that all colleges were inspected to assess the minimum standards and the requirements of infrastructure for teaching facilities as per the new regulations, that the principal of the petitioner college was informed about ht inspection to be carried out. It appears that the inspection was carried out on 03rd August, 2016. The say of the first respondent is that the applicant college is not fulfilling the criteria as per the Regulations to be eligible to be granted the permission of extension or for starting new course.

3.6 It is contended by the first respondent that "the Respondent No.1 is the authority under Section 12A of the Homeopathy Central Council Act, 1973 empowered to grant permission for establishment of any new college in the discipline of Homeopathy as also for commencement of any new course of programme in an existing Homeopathy College as also increase in intake of an existing Homeopathy college". This claim and the contention of the first respondent is the theme of the controversy herein.

4. At this stage, the provisions of Section 12A of the Homeopathy Central Council Act, 1973 may be glanced at. Falling in Chapter II-A, Section 12A provides for permission for establishment of new medical institution, new course or study, etc. The Section insofar as



relevant, reads as under.

"12-A. Permission for establishment of new medical institution, new course of study, etc.-(1) Notwithstanding anything contained in this Act or any other law for the time being in force,-

(a) No person shall establish a Homeopathic Medical College; or

(b) No Homeopathic Medical College shall-

(i) Open a new or higher course of study or training (including postgraduate course of study or training) which would enable students of each course or training to qualify himself for the award of any recognized medical qualification; or

(ii) increase its admission capacity in any course of study or training (including the postgraduate course of study or training),

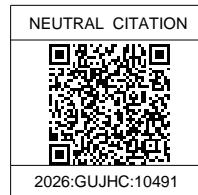
except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

Explanation 1.-

Explanation 2.-

Sub-section (2) to sub-section (7)"

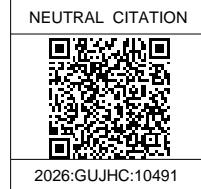
4.1 The contention of learned senior counsel for the petitioners is that the Section 12A is applicable in limited



contingencies and the question of prior approval of the Central Government would arise only in those contingencies. It was submitted that the powers under the said section do not extend to or apply to the grant of extension of approval to the existing college. It was submitted that the petitioner college which is already functional in the impartation of homeopathy education, is entitled to be granted the extension of approval to run the course for the current academic year.

4.2 Learned counsel for the petitioners relied on interim orders of different High Courts in support of the contention to submit that the issue similar to one involved in these petitions was considered by other High Courts and the petitions have been admitted. These are (i) order dated 26th October, 2016 passed by High Court of Judicature at Bombay, Nagpur Bench in Writ Petition No.6264 of 2016 in Homeopathic Education through its Secretary Vs the Union of India, (ii) order dated 09th January, 2009 passed by High Court of Judicature of Bombay, Aurangabad Bench in Writ Petition No.3512 of 2008 in Hindustan Education Society Vs Union of India (iii) Ayurved Shastra Seva Mandal Vs Union of India [2013(3) Scale 213] and (iv) order dated 14th September, 2011 passed by High Court of Judicature at Bombay, Aurangabad Bench in Writ Petition No.5194 of 2011 in Dhanraj Hiralal Jain Vs Union of India.

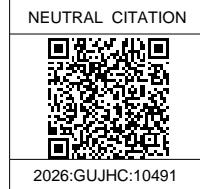
4.3 On the other hand, learned advocate for the first respondent harped on 2013 Regulations, in particular Regulation No.3(4), which provides that "The existing colleges and their attached hospitals established under Section 12A of the Act



and those colleges and their hospitals established prior to the 28th January, 2003 and recognized by the Central Council of Homeopathy shall fulfill the minimum standards requirements of infrastructure teaching and training facilities referred to in these regulations by the 31st December, 2014 for consideration of grant of permission for undertaking admissions in the coming academic years." Regulations 3(6) and 3(9) were also relied on which provide that the Central Council will visit the college and the college will have to fulfill the requirements before the specified date. Learned advocate for the first respondent sought to rely on decision of the Supreme Court in **Ayurveda Shastra Seva Mandal Vs Union of India [JT 2013 (4) SC 64]** in support of his submissions. However, it may be noted at this stage itself that the said decision was in the context of the provisions of Indian Medical Council Act, 1970 and based on the facts of that case.

4.4 Learned advocate for the first respondent further argued, as if was searching in vain, a convincing contention on merits, that the Secretary of the second respondent-Council was reported with caught in the anti-corruption case and therefore, little value should be attached to the inspection report of the Council guided by such office bearers. Not only that this submission was entirely extraneous, it was wholly besides the record and unsupported by any material in that regard.

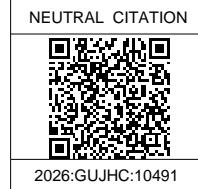
4.5 In addition to all the aforesaid aspects, yet another development was pointed out which deserves a reference. Bill called The Homeopathy Central Council



(Amendment) Bill, 2015 has been under consideration to be made law. The Bill was introduced in Rajyasabha on 06th May, 2016 and appears to have been referred to the Department related Parliamentary Standing Committee on Health and Family Welfare on 08th May, 2016. This is seen from the contents of the 86th Report on the aforesaid Bill, a xerox copy of which was made available by learned counsel for the petitioner to the Court. The statement of objects and reasons of the said proposed law states as under.

"The Homeopathy Central Council Act, 1973 was amended in the year 2002, to check growth of sub-standard colleges, increase in admission capacity and starting of new courses in such colleges. The permission of the Central Government is mandatory for establishing new colleges or starting new courses of study. The existing provision in the Homeopathy Central Council Act is, however, not enabling the Central Government to stop admissions in colleges, which are not conforming to standards specified in the regulations made under the said Act. Due to this, quality of Homeopathy education is being compromised."

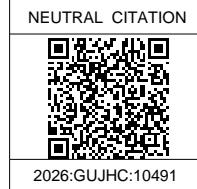
4.6 The 2015 Bill seeks to amend the Homeopathy Central Council Act, 1973 so as to (i) making provision for obtaining prior permission of the Central Government by Homeopathy Medical Colleges for admission of new batches and students in any course of study and (ii) to provide permission by the Central Council for five years. From the contents of the said Report, learned counsel referred to and



relied on to the Note dated 28th March, 2012 put up by the Attorney General of India stating that, "there is no provision under which permission can be granted or denied to undertake admissions in the forthcoming year. Section 12A of the Act deals with establishment of new medical institutions and new course of study. It does not contemplate grant of permission to make admissions year after year". Further, the Law Ministry also in its opinion rendered vide note dated 5.6.2012, was of view that, "on the question of putting a restriction on the admission is concerned, as there is no enabling provision in the Parent Act, as such, if the department, so desires, the enabling provisions for putting a restriction on the admissions may be got incorporated in the Parent Act by way of an amendment in the Parent Act.".

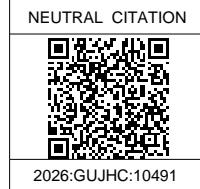
4.7 The aforesaid development and the aspects emerging therefrom buttresses the construction sought to be put up by learned counsel on the scope of application of Section 12A of the Act that the Bill to amend the law on the aforesaid lines is mooted, is a greatly bearing, if not clinching, aspect on the subject matter.

5. A reading of Section 12A go to show that it primarily relates to as the title itself suggest, (a) establishment of new medical institution, (b) establishment of new course of study. It contemplates that except without previous permission of the Central Government to be obtained in accordance with the provisions of the Section, a person, which would include university or a trust (but not the Central Government) and no Homeopathic Medical



College (i) shall not open a new course, (ii) shall not open a higher course of study, and (iii) shall not increase its admission capacity. For the purpose of opening of new or higher course for increasing admission intake, the other provisions of the Section provide for submission of scheme to the Central Government for its recommendations and further action. The question involved in this batch of petitions is about extension of approval to the existing college. All the petitioner institutions/colleges have been running since long and at present imparting the education. There is no new course to be opened. No opening of higher standards or studies are applied for. It is not the case of increasing the capacity. Therefore it was not possible to brush aside lightly the contention that the provision of Section 12A, and therefore the claim of power flowing for the first respondent thereunder to refuse the extension of approval to the existing course, may not be available to the first respondent-Ministry of AYUSH, Government of India.

5.1 On the basis of the aforesaid discussion, following *prima facie* aspects emerged strong-(i) in each case the Central Council of Homeopathy carried out the inspection and the report was favourable recommending the extension of approval to the Homeopathy Course being currently run by the petitioner/petitioner college concerned, (ii) for asserting his powers, the first respondent-Ministry of AYUSH carried out inspection on his own though there was already an inspection done by the Central Council of Homeopathy in the context of Regulations of 2013. The report of the Council was overlooked,



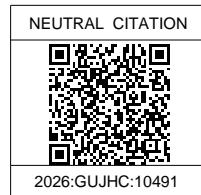
(iii) the petitioner/petitioner college have been imparting the education in the faculty of Homeopathy since years and they are denied the extension to run the course on the aforesaid controversy where the inspection report of the first and second respondents are at variance, (iv) on a *prima facie* interpretation of Section 12A under which the first respondent seeks to derive powers, in its ambit does not cover the aspect of extension of approval to the existing course. The other High Courts have taken view favouring the contention of the petitioner and the petitions are admitted with grant of interim relief, to which this Court on a consideration of the matter at this stage, endorses to. In any view, the controversy needs a final consideration after hearing the parties and going into the issues at length, (v) a *prima facie* case for continuance of course stands good in favour of the petitioner, though the petitioner may be put to certain conditions.

6. For all the aforesaid considerations cumulatively taken, a strong *prima facie* case is made out for admission as well as interim relief.

6.1 Therefore, there shall be Rule in each of the petition, returnable on 23rd March, 2017.

7. By way of interim relief, following directions are issued.

(i) The petitioners/colleges shall be allowed to admit students in the graduation course/post- graduation course, as the case may be, in the faculty of Homeopathy for the Year 2016-17 to the extent of their existing intake capacity



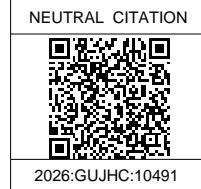
already approved during the previous Academic Year;

(ii) The first respondent-Government of India, Ministry of AYUSH shall forward within 15 days from the date of receipt of this order, a letter of No-objection intimating the respective college that it is permitted to admit students as above. This No-objection shall remain provisional and shall be subject to the final orders which may be passed in the petitions;

(iii) Presently the deadline of 30th November, 2016 is provided for completion of admission process. Having regard to the impeding time factor, each of the petitioners/colleges are allowed to undertake admission process upto 05th December, 2016 and shall complete the same by the said date;

(iv) The students who may be admitted to the graduation/post-graduation course, as the case may be, shall be specifically intimated that their admission is treated as being subject to the final orders which may be passed in the Special Civil Application concerned. This is to make the students know about the factum of currency of controversy and the pendency of petitions;

(v) During the pendency of the petition, the first respondent-Ministry of AYUSH may carry out fresh inspection by directing the second respondent-Central Council of Homeopathy to revisit and verify the availability of the infrastructure for teaching and other facilities at the respective colleges to make them in accordance with the Regulations of 2013,



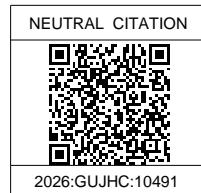
if found to be wanting. If deficiencies are noticed, the respective college may be permitted to make good the requirements in tune with the norms and standards under the 2013 Regulations;

(vi) In the first captioned petition, no formal order has been issued by the first respondent denying extension of approval for the current Academic Year. The aforesaid directions shall govern and the first respondent shall obey the same;

(vii) However, in Special Civil Application Nos.19159 of 2016, 19413 of 2016, 19414 of 2014 the first respondent-Ministry has passed express prohibitory orders dated 26th October, 2016, 26th October, 2016, 04th November, 2016, 16th November, 2016 and 16th November, 2016 respectively. The said orders shall remain stayed and the case of the petitioners be governed by the directions hereinabove.

Direct service is permitted."

6. In view of the above, learned advocate Mr. Udayan Vyas, at this stage, draws the attention of this Court to the fact that the aforesaid order dated 25.11.2016 was the subject matter of challenge by way of Letters Patent Appeal No. 389 of 2017 in Special Civil Application No. 17011 of 2016, wherein, vide order dated 08.02.2019, the Division Bench of this Court



disposed of the Letters Patent Appeal and confirmed the order dated 25.11.2016, which reads as under:

"1. Heard learned advocates for the parties.

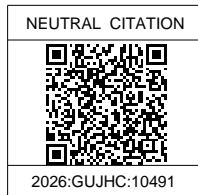
2. In this appeal under Clause 15 of Letters Patent challenge is to order dated 25.11.2016 passed by learned Single Judge wherein in the context of writ petition and prayer made therein following interim relief and directions were given after issuing rule in the main writ petition.

"7. By way of interim relief, following directions are issued.

(i) The petitioners/colleges shall be allowed to admit students in the graduation course/postgraduation course, as the case may be, in the faculty of Homeopathy for the Year 2016-17 to the extent of their existing intake capacity already approved during the previous Academic Year;

(ii) The first respondent-Government of India, Ministry of AYUSH shall forward within 15 days from the date of receipt of this order, a letter of Noobjection intimating the respective college that it is permitted to admit students as above. This Noobjection shall remain provisional and shall be subject to the final orders which may be passed in the petitions;

(iii) Presently the deadline of 30th November, 2016 is provided for

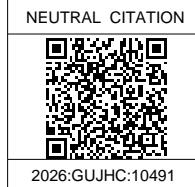


completion of admission process. Having regard to the impeding time factor, each of the petitioners/colleges are allowed to undertake admission process upto 05th December, 2016 and shall complete the same by the said date;

(iv) The students who may be admitted to the graduation/post-graduation course, as the case may be, shall be specifically intimated that their admission is treated as being subject to the final orders which may be passed in the Special Civil Application concerned. This is to make the students know about the factum of currency of controversy and the pendency of petitions;

(v) During the pendency of the petition, the first respondent-Ministry of AYUSH may carry out fresh inspection by directing the second respondent-Central Council of Homeopathy to revisit and verify the availability of the infrastructure for teaching and other facilities at the respective colleges to make them in accordance with the Regulations of 2013, if found to be wanting. If deficiencies are noticed, the respective college may be permitted to make good the requirements in tune with the norms and standards under the 2013 Regulations;

(vi) In the first captioned petition, no formal order has been issued by the first respondent denying extension of approval for the current Academic Year. The aforesaid directions shall govern and the first respondent shall



obey the same;

(vii) However, in Special Civil Application Nos.19159 of 2016, 19413 of 2016, 19414 of 2014 the first respondent-Ministry has passed express prohibitory orders dated 26th October, 2016, 26th October, 2016, 04th November, 2016, 16th November, 2016 and 16th November, 2016 respectively. The said orders shall remain stayed and the case of the petitioners be governed by the directions hereinabove."

3. Respondent No.1 being aggrieved and dis-satisfied with above interim order preferred this Letters Patent Appeal on several grounds and on 14.3.2017 this Court passed following order:

"Learned counsel appearing for both the sides request that this appeal be disposed off along with the main Special Civil Application which is pending. It is also represented that in identical matters, earlier orders are passed in Letters Patent Appeal No.1475 of 2016.

In view of the same, Registry is directed to place this appeal along with Special Civil Application No.17011 of 2016 on 16.3.2017."

4. Mr. Dhaval Dave, learned senior counsel appearing with Mr. Udayan P.Vyas, learned advocate would contend that Letters Patent Appeal No.1475 of 2016 preferred by Parul University wherein order dated 1.12.2016 was passed by learned Single Judge in Special Civil Application No.17012 of 2016 was under challenge and after hearing the



parties, a Division Bench of this Court in CAV Judgement dated 3.2.2017 allowed the appeal as well as Special Civil Application and the impugned order passed by the respondent authority dated 18.11.2016 came to be quashed and set aside. This Court further recorded that respondent had extended the date of giving admission in Homeopathy course upto 31.12.2016 and other such directions.

5. Aggrieved by the aforesaid order Special Leave Appeal No.1390- 1391 of 2018 was preferred before the Apex Court which came to be dismissed on 5.2.2018.

6. In the affidavit-in-reply dated 7.2.2019 filed by respondent No.1 Parul University wherein reference is made to the above litigation of SLP and even a decision of the Apex Court in the case of The Temple of Hanemann Homeopathic Medical College and Hospital v. Union of India (2018) 3 GLH 630 and further decision of this Court in above Letters Patent Appeal No.1475 of 2016 in the matter arising out from the decision of the High Court of Patna.

7. Thus, according to learned senior counsel, the subject appeal is now no more res integra. Further learned advocate for the appellant herein would contend that Special Civil Application NO. 17011 of 2016 in view of pleadings and prayer made therein would survive.

8. By disposing this Letters Patent Appeal, we allow the learned Single Judge to proceed with Special Civil Application No.17011 of 2016 in accordance with law.

9. Registry to place the above Special



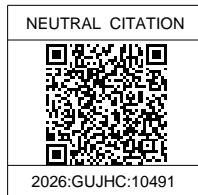
Civil Application before learned Single Judge taking the roaster of the subject writ petition as early as possible.

10. It is not in dispute that interim order passed by learned Single Judge was not stayed by this Court during pendency of these proceedings.

11. Accordingly, Civil Application (For Stay) also stands disposed of."

7. As far as Special Civil Application No. 20190 of 2016 is concerned, a similar interim order dated 08.12.2016 was passed, whereby relief was granted in favour of the petitioner institution/college, which was never the subject matter of challenge before the Division Bench and, therefore, has remained in operation without any challenge.

8. Now, in this factual background, learned advocate Mr. Udayan Vyas submitted that, in view of the interim order passed by the Co-ordinate Bench of this Court, the University or College, as the case may be in each of the petitions, was allowed to function and, consequently, the students who were protected by virtue of the



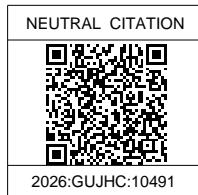
interim orders passed in favour of the respective University or College have completed their course. However, the only impediment is that, despite having completed the course of Homeopathy, they are not in a position to obtain registration for a license to practice, as well as the requisite letter of permission to be issued to the concerned institution. Unless such letter of permission is granted to the petitioner institution, no procedure for enabling the students to obtain a license to practice can be undertaken. Therefore, it was urged by learned advocate Mr. Udayan Vyas that, considering the fact that relief was granted in favour of the University, the ultimate sufferers in the event of dismissal of the petitions would be the students who have already undergone and successfully completed the course. He further submitted that this Court while keeping all legal issues open, may at least regularize the admissions of the students who studied during the academic year 2016–17 and have already



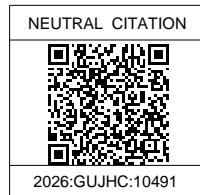
passed the course.

9. Learned advocate Mr. Sushil Shukla and Learned advocate Mr. Harsheel Shukla, appearing for the respondents, though vehemently opposed the petitions, could not dispute the fact that, in the event of dismissal of the petitions and if the relief granted in favour of the petitioners is vacated, the ultimate sufferers would be the students, as they have already completed the Homeopathic course in the academic year 2016–17 and onwards. They also could not dispute the fact that the students who are likely to be affected have not been joined as parties by the petitioners and, therefore, if any such adverse order is passed, the careers of those students would be jeopardized. They, therefore submitted that this Court may pass an appropriate order, though they are opposing the petitions.

10. I have heard learned Senior advocate Mr. D. C. Dave appearing with learned advocate Mr. Udayan Vyas for the petitioners in each of the

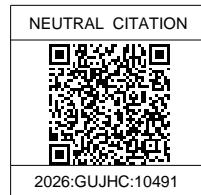


petitions, and learned advocate Mr. Sushil Shukla and learned advocate Mr. Harsheel Shukla for the respondents. The interim order dated 25.11.2016 as well as the order dated 08.12.2016 are self-explanatory and, by way of those orders, the Co-ordinate Bench has taken into consideration the totality of facts, which has been confirmed by the Division Bench vide order dated 08.02.2019. On the strength of the said interim orders, the institutions have continued to function and the students have also completed and passed the course. Now, at this stage, though the petitions have remained pending, if the Court considers the merits of the matter and the issues involved and ultimately comes to the conclusion that the petitions do not have any merit, in that case, ultimately, the sufferers would be the students, who are not before the Court, as rightly pointed out by learned advocate Mr. Sushil Shukla and learned advocate Mr. Harsheel Shukla. Even if the necessary permission to the College, as prayed for, is not



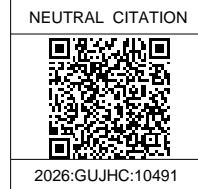
granted by this Court, in view of the permission granted to the College for subsequent years, the College would continue to function, and it would be only the students who would suffer. Therefore, the interest of justice would be served by keeping all legal issues open in these petitions. The respondents are directed to grant permission for license to practice as well as the LOP, i.e., Letter of Permission, to the College, and to grant all such other permissions and approvals as may be required for the functioning of the College, as if such permissions had been granted at the relevant point of time.

11. Accordingly, keeping in mind the larger interest of the students who have already passed out and who were the beneficiaries of the interim orders dated 25.11.2016 and 08.02.2019, necessary directions are required to be issued to the respondents to grant the LOP, i.e., Letter of Permission, as well as license to



practice Homeopathy and all other consequential permissions, as may be required, for the students as well as the College, so as to validate the degrees of the students who have already passed out.

12. However, as the petitions have been preferred by the respective Universities as institutions without joining the students as parties to the petitions, and for that reason this Court is constrained to pass this order to protect the interests of the students, who may not even be aware of such pending litigation and who have already completed their studies, and since the students are neither before this Court nor were any attempts made to bring them on record by joining them as party respondents, I deem it appropriate to impose costs of Rs. 25,000/- upon each of the petitioners while allowing these petitions in terms of the prayers made therein. **The costs of Rs. 25,000/- shall be deposited before the High Court Legal Services**



Committee within a period of eight weeks from today. It is clarified that this Court has passed the above order only keeping in mind the interests of the students who have already passed out and who may face difficulties in practicing as homeopathic doctors or otherwise if the petitions are not allowed, for no fault attributable to them. Therefore, while allowing the petitions, all legal issues are kept open. In view of the above, all these petitions are allowed. Rule is made absolute to the aforesaid extent.

13. In view of the above order, no further orders are required to be passed in any pending civil applications, and the same are disposed of accordingly.

(NIRZAR S. DESAI, J)

Pallavi