



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 2488/2023

Shri Maharashi Dadhich Shiksha Samiti (Smd College Of Nursing), Behind Sencor Factory, Naya Nohra, Baran Road, Kota, Rajasthan Through Its Secretary Shri Raj Dadhich S/o Shri R.n. Dadhich, Aged About 43 Years.

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Medical And Health (Group-Iii) Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Additional Director, Medical And Health (Group-Iii) Department, Government Of Rajasthan, Jaipur.
3. Rajasthan Nursing Council, Through Its Registrar, B-39, Sardar Patel Marg, C-Scheme, Jaipur, Rajasthan.
4. Rajasthan University Of Health And Science, Through Its Registrar, Kumbha Marg, Pratarp Nagar, Jaipur, Rajasthan.
5. Rajasthan Private Nursing Schools And Colleges Federation, Through Its Chairman, 357, Laxmi Nagar, Paota B Road, Jodhpur, Rajasthan 342001.

----Respondents

Connected With

S.B. Civil Writ Petition No. 9029/2022

Siddhant College Of Nursing, Jhalawar Road, Kota, Rajasthan, Through Its Chairman B.s. Poswal S/o L.r. Poswal, Aged About 50 Years.

----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical And Health Department, Government Of Rajasthan, Government Secretariat, Jaipur (Rajasthan).
2. Rajasthan Nursing Council, Through Its Registrar, B-39, Sardar Patel Marg, C-Scheme, Jaipur, (Rajasthan).
3. Rajasthan University Of Health And Science, Through Its Registrar, Kumbha Marg, Partap Nagar, Jaipur, Rajasthan.
4. Private Physiotherapy, Nursing And Para Medical



2. Rajasthan Nursing Council, Through Its Registrar, B-39, Sardar Patel Marg, C-Scheme, Jaipur (Rajasthan).
3. Rajasthan Private Nursing School College Federation, Lal Kothi, Jaipur Through Its President.
4. Private Physiotherapy, Nursing And Para Medical Institutions Society, Jodhpur, Through Its Secretary, Plot No. 273, Subhash Nagar, Pal Road, Jodhpur Rajasthan.

-----Respondents

S.B. Civil Writ Petition No. 19514/2022

Ambika Vikas Sansthan, (Ambika School Of Nursing), B-22, Saraswati Nagar, Bassni, Jodhpur Rajasthan Through Its Secretary Deepak Shrivastav S/o Shri S.p. Shrivastav, Aged About 65 Years.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Medical And Health Department, Government Of Rajasthan, Government Secretariat, Jaipur (Rajasthan) .
2. Rajasthan Nursing Council, Through Its Registrar, B-39, Sardar Patel Marg, C-Scheme, Jaipur, (Rajasthan).
3. Rajasthan University Of Health And Science, Through Its Registrar, Kumbha Marg, Pratap Nagar, Jaipur, Rajasthan.
4. Private Physiotherapy, Nursing And Para Medical Institutions Society, Office Jodhpur Through Its Secretary, Plot No.273, Subhash Nagar, Pal Road, Jodhpur, Rajasthan.

-----Respondents

S.B. Civil Writ Petition No. 19643/2022

Savitri Devi B.sc. Nursing College, Karni Coach, Udairamsar, Bikaner Being Run By Society Murli Singh Yadav Memorial Prashikshan Sansthan, Udairamsar, Bikaner Through Its President Kuldeep Yadav S/o Manmohan Singh Yadav, Aged 43 Years, Resident Of Karni Coach, Udairamsar, District Bikaner (Rajasthan).

-----Petitioner

Versus



For Petitioner(s) : Mr. Ankur Mathur
Dr. A.A. Bhansali
Mr. Akhilesh Rajpurohit
Mr. B.S. Sandhu
Mr. Chandra Shekhar Kotwani
Mr. Shreyansh Mardia
Mr. Himanshu Jain
Mr. Falgun Buch
Mr. Rishabh Purohit
Mr. Vikas Bijarnia
Mr. Hans Raj Nimbar
Ms. Usha Tanwar

For Respondent(s) : Mr. Virendra Lodha, Sr. Advocate
Mr. Sangram Singh, G.C.
Ms. Vandana Bhansali, A.G.C., on VC
with Ms. Vrinda Samdani
Mr. Sheetal Kumbhat
Dr. Mohit Singhvi
Mr. Himanshu Shrimali
Mr. Mahendra Vishnoi
Ms. Akshiti Singhvi
Mr. Kalpatru Tripathi

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI

Order

27/04/2023

1. These matters pertaining to the B.Sc. (Nursing) Course and G.N.M Course.
2. Though, this Court is ceased off a number of propositions in the nursing matters, but learned counsel for the parties have jointly submitted that broadly there are five propositions, which are pending before this Court to be adjudicate in the bunch of writ petitions. The five propositions are as follows:-

Nursing Matters – Proposition

Category-I

Own 100 Bed Hospital/Exempted

- *Submit undertaking and documents within 7 days.*



- *Include in Counselling for 2022-23 and then issue NOC within time frame.*
- *University/ State Government to be directed to conduct Counselling.*

Category-II

Parent 100 Bed Hospital – NOC Rejected -Inspection prior to issuance of Policy (7/6/22)

- *Discriminatory as selected blue eyed institutions have been granted NOC.*
- *Policy cannot operate retrospectively.*
- *Include in Counselling for 2022-23 and then issue NOC within time frame.*
- *University/ State Government to be directed to conduct Counselling.*

Category-III

Parent 100 Bed Hospital – NOC Rejected -Inspection after issuance of Policy (7/6/22)

- *Await outcome of decision of Learned Division Bench in D.B.S.A.W. No.-11/2023*

Category-IV

Application for grant of NOC pending with State Government after positive inspection report.

- *Include in Counselling for 2022-23 and then issue NOC within time frame.*
- *University/ State Government to be directed to conduct Counselling.*

Category-V

Petitions filed by Institutions/ Students (admitted in 2021-22 by Interim Order) for Enrollment, examinations, results and other connected reliefs.





- *Petitions to be allowed as prayed.*

3. It is again requested by learned counsel for the parties that to avoid any kind of overlapping, each category may be dealt with separately and separate orders be passed by this Court on separate dates.

4. Such joint submission is plausible in the given circumstances, when no counseling, at this juncture is pending and there is no urgency as such of immediate relief for the students. However, this does not preclude the students and the institutions from getting a broader relief regarding the continuance of the courses.

5. Thus, with the consent of learned counsel for the parties, today category-I matters are taken up for adjudication.

6. Learned counsel for the petitioners submits that the policy of own 100 bed hospital, whether to be sustained by the Hon'ble Division Bench of this Court or to be quashed, shall not have any impact on the present cases as if the policy goes away, still the eligibility to run the course shall remain and if the policy stays, then also the colleges will qualify for conducting courses in question. The necessary component of the policy is own 100 bed hospital and the petitioners qualify on this major count, as per their respective lawyers.

7. Learned counsel for the petitioners further stated at bar that they have their own 100 bed hospital and they fulfill all other conditions, for which the NOC has to be granted.

8. Learned counsel for the petitioners submit that in a brazen manner, the respondents while introducing the policy of own 100



bed hospital, had not granted NOC in the time frame, thus, it is precluding the petitioners from participating in counselling for the session 2022-23.

9. Learned counsel for the petitioners also submit that the respondents be directed to revisit the NOC, while examining the documents pertaining to own 100 bed hospital as well as any other criteria, which is required for grant of NOC and in case, the petitioners are found suitable, then appropriate NOC be issued in a time bound manner.

10. Learned counsel for the petitioners further submits that in case, the State permits a number of seats intake for the course in question, then the other respondents also be directed to conduct fresh counselling for the session 2022-23, to enable the petitioners for running the session in question and protecting them from declaring the zero session, which would cause immense damage to the fabric of the institutions.

11. Dr. Mohit Singhvi, Ms. Vrinda Samdani, Mr. Sangram Singh, Mr. Sheetal Kumbhat, learned counsel, who are present in person alongwith counsel who are present on video conference- Mr. Virendra Lodha, learned Senior. Advocate and Ms. Vandana Bhansali, learned Additional Government Counsel, assure the Court that if the petitioner-institutions are having their own 100 bed hospital and are fulfilling all the conditions required for grant of NOC, then a swift exercise shall be undertaken by them and appropriate relief shall be extended to the petitioner- Institutions.

12. When this Court proposed a period of seven days, Ms. Vandana Bhansali, learned Additional Government Counsel submitted that due to practical difficulty in examining details as



well as number of institutions, it would be in the interest of justice that 30 days be provided, she assures that the complete exercise shall be undertaken accordingly and the necessary outcome shall be declared in a chart for the present petitioners. The result of the exercise to be undertaken shall include the status of NOC, status of own 100 bedded hospital and the status of any other pertinent criteria for the particular institute, required for grant of NOC. Such details shall be provided in a chart, which should be available to the petitioners within a period of 30 days from date of receiving a certified copy of this order.

13. In view of the above submissions, this Court while adjudicating category No.1 out of the broader propositions jointly framed by learned counsel for the parties; allowing the present writ petitions directs the respondents to abide by the assurances given by their counsel and revisit the NOC and grant the same to the petitioners within a period of 30 days from the date of receiving a certified copy of this order, in case they are fulfilling the condition of own 100 bed hospital criteria as well as other eligibility criteria for grant of NOC.

14. In case, there is any rejection, it shall have to carry a speaking order for each institute, giving reasons.

15. It is further directed that once such result is declared within a period of 30 days; if intake capacity is available for the students of the respective courses and the minimum time period for required attendance is remaining, the respondents shall be required to take a considered decision for conducting fresh counselling for the vacant seats equitably between the institutions, which succeed in the process of grant of NOC.



16. In case, the affiliation fee or any other fee chargeable by the State and the University is the issue for grant of NOC, then the petitioners shall be given at least one chance to submit such amount, strictly in accordance with law.

17. It is needless to say that, such considered decision on fresh counselling shall be taken while keeping into consideration the interest of the on going academic session, the students concerned and the institutions.

18. In case, any grievance remains, the parties shall be at liberty to come back to the Court.

19. It is made clear that the list of cases falling in the category-I has been jointly submitted by all the respective counsel for the parties.

20. If any case in the list of present cause title falls outside the purview of category-I, the respondents shall be at liberty to reject the NOC.

(DR. PUSHPENDRA SINGH BHATI), J.

Nirmala/-