



[2024:RJ-JD:39891]

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

S.B. Civil Writ Petition No. 13307/2024

Indira Education Institute Of Nursing, Through Its Director Dr. Ram Sagar Nagar S/o Shri Mangilal Ji Nagar, Aged About 53 Years R/o 5-6, Opp. U.t.i. Community Centre, Sector 4, Hiran Magari, District Udaipur, Rajasthan.

----Petitioner

Versus

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

----Respondents

For Petitioner(s) : Mr. Ankur Mathur with Mr. Harshvardhan Singh

For Respondent(s) : Mr. NS Rajpurohit, AAG assisted by Ms. Ruchi Parihar

JUSTICE DINESH MEHTA**Order****25/09/2024**

1. By way of present writ petition, the petitioner has prayed thus:-

"(a) The record of the case may be called for.

(b) The respondents may be directed to allow the petitioner institution to admit 100 students in GNM Course in consonance with the permissible accorded.

(c) The respondents may further be directed to include the name of the petitioner institution in the list of eligible



institution for the purpose of counselling for the academic session 2024-2025 onwards in GNM Course with intake capacity of 100 students.

(d) The respondent federation/association may be directed to recommend the authorities for enhancement of seats and also be directed to include the petitioner institution in its counseling with intake capacity of 100 seats.

(e) The respondent authorities may further be directed to accept the fees for enhanced intake capacity of seats.

(f) Cost of litigation and damages may also be allowed in favour of the petitioner.

(g) Any other appropriate writ or order or direction which is favorable to the petitioner in the facts and circumstances of the case may kindly be granted to the petitioner."

2. Various submissions have been made before this Court on previous dates of hearing and on last occasion (10.09.2024), this Court has issued following direction to Mr. N.S. Rajpurohit, learned Additional Advocate General appearing for the respondent-State:-

"(3). List these cases on 23.09.2024, on which date the respondent - State shall come with a categorical stand as to whether the petitioners - institutions to whom NOCs have been granted will be entitled to take part in the counselling for the seats mentioned in respective NOCs or for lesser number of seats and reasons thereof."

3. Today, before responding to the above query, learned Additional Advocate General submitted that the officer in-charge has brought to his notice that an order dated 07.11.2023 was passed by Co-ordinate Bench of this Court in petitioner's own writ petition being **S.B. Civil Writ Petition No.9837/2022**, filed for previous academic year (2022-2023). He pointed out that in the



said order, while following the judgment of Co-ordinate Bench of this Court in the case of Mayurakshi College of Nursing, Jodhpur vs. State of Rajasthan & Ors. (S.B. Civil Writ Petition No.15732/2022), this Court had expressed its concern about petitioner approaching the Court again and again and even gone to the extent of recording that - in case, petitioner files subsequent writ petition and prays for grant of any interim order without applying for NOC, the same shall be deemed to be in defiance of the directions issued in the present writ petition (S.B. Civil Writ Petition No.9837/2022).

4. The operative part of the order dated 07.11.2023 reads thus:-

"4. This Court is of the opinion that the issue in question would be covered by the observations and decision of the co-ordinate bench in Mayurakshi's case (*supra*).

However, it is hereby reiterated that the present order would operate only qua the academic session 2022-23. As observed in Mayurakshi's case (*supra*), if the petitioner Institutes are desirous to continue the course in question for the next academic session, it would mandatorily have to apply for a fresh NOC before the State Government/State Nursing Council.

5. The case of the petitioner Institutes with regard to NOC shall be considered and decided by the State Government/State Nursing Council within a period of 45 days from the said application. The decision as taken by the State Government/State Nursing Council qua the intake capacity shall be binding on the Institutes.

6. **It is further made clear that if in future, the petitioner Institutes apply before this Court for grant of any**



interim order in its favour without applying for issuance of the NOC to the State Government, the same shall be deemed to be in defiance of the directions issued in the present writ petitions.

7. The present writ petitions are disposed of with directions as issued in the case of Mayurakshi's case (supra) and the observations made above.

8. Stay petitions and all pending applications, if any, also stand disposed of."

5. Mr. Rajpurohit, learned AAG submitted that the petitioner had neither applied for fresh NOC nor has it cared to make a reference of above referred order (07.11.2023) passed in petitioner's own writ petition, let alone placing copy of such order on record!

6. He argued that by virtue of the earlier order dated 07.11.2023 passed in petitioner's earlier writ petition, the petitioner could not have filed a fresh writ petition, without applying for NOC.

7. Mr. Mathur, learned counsel for the petitioner tried to canvass that the petitioner is already having an NOC and hence, there is no reason for applying for fresh NOC. He also submitted that a review petition (**S.B. Review Petition No.117/2023**) has been preferred by him in the case of **Bansal Nursing Charitable Trust (S.B. Civil Writ Petition No.11450/2016)** which is pending consideration.

8. He submitted that since the above review petition was pending, the petitioner bonafidely believing that there was no requirement of applying for fresh NOC, has preferred this writ





petition. He added that it was due to inadvertence that he omitted to bring the order dated 07.11.2023 to the notice of this Court.

9. Having heard learned counsel for the parties, this Court is of the view that in the face of the order dated 07.11.2023 passed in petitioner's earlier writ petition (S.B. Civil Writ Petition No.9837/2022), the petitioner could not have filed a fresh writ petition seeking indulgence of the Court, without applying for the NOC.

10. It is surprising rather startling to note that in the earlier round of litigation, the petitioner was represented by none other than the counsel who is representing it in the present writ petition. It is easier said than believed that the petitioner omitted to produce copy of the earlier order dated 07.11.2023 passed by this Court.

11. It is a matter of grave concern that on the previous date of hearing Mr. Mathur has strongly relied upon the order dated 20.10.2023 but has kept the above referred order (dated 07.11.2023) out of the Court's knowledge.

12. Co-ordinate Bench of this Court in unequivocal terms had directed that the earlier order would be confined to year 2022-23 and the petitioner shall have to apply for NOC.

13. The petitioner's action firstly of not applying for NOC and then, filing the present writ petition with impunity and not making a reference is nothing short of misleading.

14. The matter has been got listed on 9 occasions in last 40-45 days citing urgency. Substantial hearing has taken place on the previous date and during which learned counsel cited all other orders but the one which has been shown by Mr. Rajpurohit today.





15. Filing of the present writ petition is therefore, clearly in defiance of the earlier order passed by Co-ordinate Bench of this Court. And then, non-disclosure of earlier writ petition and not bringing the said order to the notice of the Court is like adding fuel to fire - it cannot be taken lightly.

16. The writ petition is, therefore, dismissed with a cost of Rs.5,00,000/-. The petitioner shall pay such cost to the State Government; the amount of Rs.5,00,000/- shall be utilized for the welfare of nurses of TSP area.

17. In case, petitioner fails to pay the aforesaid amount within a period of two months from today, the State shall recover it as arrears of land revenue. The State shall be free to de-recognize the petitioner's Institute, in such event.

18. As a cost of Rs.5,00,000/- has been imposed, this Court desists from initiating contempt proceedings against the concerned persons.

19. The stay application also stands dismissed accordingly.

(DINESH MEHTA),J

415-raksha/-