



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

S.B. Civil Writ Petition No. 17097/2024

1. Nirogdham Jan Kalyan Seva Sansthan, Aklera, Jhalawar Through Its Authorized Signatory Deepak Kumar S/o Shri Kanwar Lal Meena, Aged About 28 Years.
2. Keshav Ayurvedic Medical College And Hospital, Aklera, Jhalawar, Through Its Authorized Signatory Deepak Kumar S/o Shri Kanwar Lal Meena, Aged About 28 Years.

----Petitioners

Versus

1. The Union Of India, Through The Secretary, Ministry Of Ayurveda, Yoga And Naturopathy, Unani, Siddha And Homeopathy (Ayush), B-Block, Gop Complex, Ina, New Delhi - 110023.
2. The National Commission For Indian System Of Medicine, Ministry Of Ayush, Government Of India, T-19, 1St And 2Nd Floor, Block-Iv, Dhanwantri Bhawan, Road No. 66, Punjabi Bagh (West), New Delhi - 110026.
3. The Medical Assessment And Rating Board, National Commission For Indian System Of Medicine, Ministry Of Ayush, Government Of India, T-19, 1St And 2Nd Floor, Block-Iv, Dhanwantri Bhawan, Road No. 66, Punjabi Bagh (West), New Delhi - 110026.
4. The Ug/ Pg Ayush Counseling Board, Ayush Bhawan Room No. 107, 212-214 Sector 26 Pratap Nagar, Jaipur, Rajasthan, Through Its Chairman.
5. Dr. Sarvepalli Radhakrishnan Rajasthan University, Karwar, Nagaur Road, Jodhpur, Rajasthan Through Its Registrar.

----Respondents

For Petitioner(s) : Mr. Akhileah Rajpurohit
For Respondent(s) : Mr. N.S. Rajpurohit, AAG with
Ms. Ruchi Parihar
Mr. Sundeep Bhandawat
Mr. Uttam Singh Rajpurohit for Mr.
Mukesh Rajpurohit, Dy.S.G.
Ms. Prenal Lodha for Mr. Sunil Joshi



JUSTICE DINESH MEHTA

Order

16/10/2024

1. Mr. Rajpurohit, learned counsel for the petitioners submitted that the respondents have found the petitioners' faculties to be deficit by 8 in number, whereas their faculty position was in accordance with norms.

2. Learned counsel for the petitioners submitted that Unique Teacher's Code of 5 faculties, out of 8 faculties of petitioners had been deactivated by the respondents, which action of the respondents was challenged by those faculties by way of filing S.B. Civil Writ Petition No.17115/2024, wherein this Court vide order of even date directed the concerned respondent to revive their Unique Teacher's Code.

3. He further submitted that in almost similar circumstance, on 27.09.2024, this Court has passed an interim order in a writ petition filed by similarly situated petitioners (*being S.B. Civil Writ Petition No.15004/2024 : J.R. Tantia Charitable Trust & Ors. Vs. Union of India & Ors.*) and prayed that similar order be passed in petitioners' case as well.

4. Learned counsel appearing for the respondent Nos. 2 and 3 opposed the prayer for grant of interim relief while relying upon recent orders passed by Hon'ble the Supreme Court on 30.09.2024 rendered in the following cases:-

(i) *National Commission for Indian System of Medicine & Anr. Vs. Rajiv Gandhi Ayurvedic College & Hospital & Ors. : SLP No.22743/2024;*



(ii) *National Commission for Indian System of Medicine & Anr. Vs. Veena Vadini Ayurved College and Hospital & Ors. : SLP No.22691/2024.*

5. Learned counsel relied upon the observation made by Hon'ble the Supreme Court in the cases of National Commission for Indian System of Medicine (supra) and submitted that grant of interim relief in the matters like the one in hand would create an irretrievable situation and the future of the students would be jeopardized if the writ petitions filed by the institutions are ultimately dismissed.

6. Learned counsel appearing for the respondent Nos.4 and 5 submitted that the order as has been passed by this Court on 27.09.2024 in the case of J.R. Tantia (supra) be not passed in the instant case, because fee is required to be collected by the Counseling Board and then in turn remitted to the institutions. He submitted that if this Court is inclined to pass an order in tune with the order dated 27.09.2024, the same be passed with appropriate modification.

7. Mr. Akhilesh Rajpurohit, learned counsel for the petitioners, in turn, submitted that the matter before Hon'ble the Supreme Court in the case of *Rajiv Gandhi Ayurvedic College & Hospital* (supra) etc. was entirely different, inasmuch as in that case, the institution preferred a writ petition (being Writ Petition No.28960/2024) before Madhya Pradesh High Court without there being a separate writ petition filed by the teachers/faculties. That apart, despite the fact that in previous year, similar order passed by the Madhya Pradesh High Court had been stayed by Hon'ble the Supreme Court, the Madhya Pradesh High Court has passed an



interim order on 05.09.2024, for which, Honb'le the Supreme Court has made observations in its order dated 30.09.2024 passed in SLP No.22743/2024.

8. Heard learned counsel for the parties for the purpose of grant of interim relief.

9. True it is that, in normal circumstances the High Court should observe a restraint in passing interim orders, giving right of admission to institution. But, in the present case, if the factual backdrop is considered, the respondents have found 8 faculties to be short and out of these 8 faculties which were engaged by the petitioners, 5 faculties have approached this Court with a grievance that their Unique Teacher's Code have been withdrawn for unsustainable and arbitrary grounds. This Court while finding their claims to be genuine, passed the following interim order of even date in S.B. Civil Writ Petition No.17115/2024):-

"Meanwhile, effect and operation of impugned orders dated 23.08.2024 (Annex.3) in case of all the petitioners shall remain stayed. Petitioners' Unique Teacher's Code be revived forthwith and they be allowed to serve the respondent - College in accordance with law."

10. Such being the position, this Court is of the prima-facie view that stand of the respondents that the petitioners are lacking in possessing the requisite number of faculties is not correct. If the number of the faculties whose Unique Teacher's Code have been wrongly deactivated by the respondents is taken into account, (as by order of even date, their Unique Teacher's Code has been ordered to be activated) then, the number of faculties (34



faculties) as shown in Annexure-19 is well above requisite norm of 30 faculties.

11. Such being the position, according to this Court, it would be iniquitous and unjust on the part of the respondents to not allow the petitioners' institution to take part in the ongoing counseling - if interim order is not granted, the petitioners' right to admit the students would be completely jeopardized.

12. Considering similar factual and legal matrix, this Court has already passed interim order dated 27.09.2024 in the case of J.R. Tantia Charitable Trust (supra), hence, this Court is inclined to pass similar order *albeit* with the modification as prayed by Mr. Bhandawat.

13. The President, Medical Assessment and Rating Board shall consider petitioners' representation in accordance with law vis-a-vis the interim order passed in the case of each faculty of petitioners' college and send his finding to Mr. Sunil Joshi, learned counsel for the respondents.

14. The petitioners shall also be free to file identical representation/appeal before the Appellate Authority, who shall decide petitioners' appeal in accordance with law while taking into account the submissions so made and the observations made hereinabove.

15. Meanwhile, the respondents shall provisionally reflect petitioners' name in the list of eligible institutes/colleges for grant of admission along with seat matrix (60 students in UG (BAMS) course).

16. The respondents shall be free to put a note on its website to the effect that admissions given in the petitioners' college(s) are



provisional and subject to further order(s) to be passed in the present writ petition.

17. The Counseling Board shall collect applicable fee, but shall not remit the same to the petitioners without the leave of the Court.

18. List this case on 24.10.2024.

(DINESH MEHTA),J

550-Arvind/-

