

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

WRIT PETITION NO. 8886 OF 2018

Dr. Zakir Hussain Education Society,
Through its Treasurer,
Siddiqui Sufiyan Aziz Mohd. Zulfekharoddin,
Age : 46 years, Occu. Service,
R/o. Altamash Colony,
Aurangabad, Tal. & Dist. Aurangabad.

.... Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Director of Medical Education &
Research, Mumbai.
3. The Registrar,
Maharashtra Nursing Council,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.
4. The Director of Maharashtra State Board of
Nursing and Para Medical Education,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
...

**ALONG WITH
WRIT PETITION NO. 7823 OF 2014**

Shri. Ashtavinayak Shikshan Prasarak Mandal,
N-11, T. V. Centre, HUDCO, Aurangabad,
through its Secretary,
Dnyaneshwar S/o. Narayanrao Jadhav,
Age : 40 years, Occu. Agri.

.... Petitioner

Versus

1. The State of Maharashtra

through its Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai-32.

2. The Indian Nursing Council,
Combined Council Building,
Kotla Marg, Temple Lane, New Delhi,
through its Secretary.
3. The Maharashtra Nursing Council,
E.S.I.C. Hospital Compound, Nurses Hostel,
Second Floor, LBS Marg, Mulund (West),
Mumbai, through its Registrar.
4. The Maharashtra Nursing and Para Medical Board,
through its Registrar, Maharashtra State,
Directorate Medical Education and Research,
4th Floor, St. George Hospital Campus,
P.D. Melo, Fort, Mumbai-400 001. Respondents

Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2 : Shri Alok Sharma
Advocate for Respondent No.3 : Shri C.A. Jadhav

..

ALONG WITH
WRIT PETITION NO. 13020 OF 2017

Shivpratap Gramvikas Mandal's
Dnyanai Institute of Nursing School,
Karegaon, Tal. & Dist. Parbhani,
Through its President. Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Department of Health and Family Welfare,
Mantralaya, Mumbai-32.
2. The Registrar, Maharashtra Nursing Council,
EISIS Hospital Compound, Nurses Hostel,
2nd Floor, L.B.S. Marg, Mulund (West),
Mumbai-400 080.
3. The Secretary, Indian Nursing Council,
Combined Council Building,
Kotla Road, Temple Lane, New Delhi.
4. Maharashtra Nursing and Para Medical Board,
through its Registrar, Maharashtra State,
4th Floor, St. George Hospital Campus,

P.D. Melo Road, Fort, Mumbai-400001.

.... Respondents

...
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
...

ALONG WITH
WRIT PETITION NO. 10823 OF 2018

Atmaram Maharaj Sevabhavi Sanstha,
through its President,
Bhalchandra S/o. Prabhakar Walkikar,
Age : 38 years, R/o. Shelgaon (Bk.)
Tq. Ardhapur, Dist. Nanded.

.... Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Director of Medical Education &
Research, Mumbai.
3. The Registrar,
Maharashtra Nursing Council,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.
4. The Director of Maharashtra State Board of
Nursing and Para Medical Education,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
....

ALONG WITH
WRIT PETITION NO. 10832 OF 2018

Rajureshwar Shikshan Prasarak Mandal,
through its President,
Ramesh S/o. Trimbakrao Gawande,
Age : 41 years, R/o. Takli (Bhokardan),

Post. Baghulgaon, Tal. Bhokardan,
District Jalna.

.... Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Director of Medical Education &
Research, Mumbai.
3. The Registrar,
Maharashtra Nursing Council,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.
4. The Director of Maharashtra State Board of
Nursing and Para Medical Education,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
....

ALONG WITH
WRIT PETITION NO. 11641 OF 2018

Gitai Sevabhavi Shikshan Sanstha,
Pimpalkautha (MAGARE),
Tal. Mudkhed, Dist. Nanded,
through its Secretary,
Sachin S/o. Shankarrao Magare,
Age : 39 years, Occu. Agril.,
R/o. Pimpalkautha (Magare)

.... Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Director of Medical Education &
Research, Mumbai.
3. The Registrar,

Maharashtra Nursing Council,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.

4. The Director of Maharashtra State Board of Nursing and Para Medical Education,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.

.... Respondents

...
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
....

ALONG WITH
WRIT PETITION NO. 13006 OF 2018

Shri. Bhagwanbaba Sevabhavi Sanstha,
through its Secretary,
Mahadeo S/o. Baliram Munde,
Age : 40 years, Occu. Social Work,
R/o. Tadsonna, Tal & Dist. Beed.

.... Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Director of Medical Education &
Research, Mumbai.
3. The Registrar,
Maharashtra Nursing Council,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.
4. The Director of Maharashtra State Board of
Nursing and Para Medical Education,
5th Floor, Bombay Mittal Annex,
Gunbow Street, Opp. Residency Hotel,
D. N. Road, Fort, Mumbai.

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
....

ALONG WITH
WRIT PETITION NO. 9799 OF 2019

1. Shivanjali Bahhudeshiya Sanstha's
Shri. Swami Samarth Nursing School (RANM)
Garkheda Parisar, Tq. & Dist. Aurangabad,
through its Secretary,
Shri. Shantanu Ranganath Pawar,
Age : 33 years, occu. Doctor,
R/o. Indraprastha Housing Society,
Garkheda Parisar, Tq. & Dist. Aurangabad.
2. Shivanjali Bahhudeshiya Sanstha's
Hudco Nursing School (RANM)
T. V. Centre Road Hudco, Tq. Dist. Aurangabad,
through its Secretary,
Dr. Shantanu Ranganath Pawar,
Age : 33 years, occu. Doctor,
R/o. Indraprastha Housing Society,
Garkheda Parisar, Tq. & Dist. Aurangabad. Petitioners

Versus

1. The State of Maharashtra
through the Secretary for Medical Education
and Drug Department, Mantralaya, Mumbai.
2. The Directorate, Medical Education and Research,
Government Dental College and
Hospital, 4th Floor, Saint Georges Hospital Compound,
Fort, Mumbai-01, through its Director.
3. The Maharashtra Nursing Council,
05th Floor, Bombay Mutual Annex,
Gunbow Street, Opposite Residency Hotel,
D. N. Road, Fort, Mumbai-400 001.
through its Registrar.
4. Maharashtra State Board of Nursing and
Para Medical Education,
Govt. Dental College and Hospital Building,
St. George's Hospital Campus, Fort,
Mumbai, through its Registrar. Respondents

.....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4 : Shri M.D. Narwadkar
.....

ALONG WITH
WRIT PETITION NO. 11223 OF 2019

Ajit Pratishthan
through its Secretary,
Dr. Ajit S/o Raghunathrao Kendre,
Age : 45 years, Occu : Medical Practitioner,
R/o. Near Bus Stand, Main Road,
Parali Vajinath, Tal. Parli (V),
District Beed

.. Petitioners

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Maharashtra State Board of
Nursing and Para Medical Education,
Through its Registrar,
4th Floor, St. George Hosptial Compound,
P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council
Bombay Mutual Annex,
Opp. Residency Hotel, Fort Mumbai,
Through its Registrar

.. Deleted as per the
Court order dtd.13.09.2019

.... Respondents

.....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar
.....

ALONG WITH
WRIT PETITION NO. 11235 OF 2019

Ajit Pratishthan
through its Secretary,
Dr. Ajit S/o Raghunathrao Kendre,
Age : 45 years, Occu : Medical Practitioner,
R/o. Near Bus Stand, Main Road,
Parali Vajinath, Tal. Parli (V),
District Beed

.. Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,

Mantralaya, Mumbai.

2. The Maharashtra State Board of Nursing and Para Medical Education, Through its Registrar, 4th Floor, St. George Hospital Compound, P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council Bombay Mutual Annex, Opp. Residency Hotel, Fort Mumbai, Through its Registrar

.. Deleted as per the Court order dtd.13.09.2019

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar

.....

ALONG WITH
WRIT PETITION NO. 11246 OF 2019

Kai. Nanasahab Tatyasaheb Chaudhari
Sevabhavi Sanstha,
Through its Secretary,
Ajay s/o Ashokrao Choudhari
Age : 39 years, Occu : Agri,
R/o. Bori, Tal. Jintur,
District Parbhani

.. Petitioner

Versus

1. The State of Maharashtra through its Principal Secretary, Medical Education and Research Department, Mantralaya, Mumbai.
2. The Maharashtra State Board of Nursing and Para Medical Education, Through its Registrar, 4th Floor, St. George Hospital Compound, P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council Bombay Mutual Annex, Opp. Residency Hotel, Fort Mumbai, Through its Registrar

.. Deleted as per the Court order dtd.13.09.2019

.... Respondents

Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar

Advocate for Respondent No.2: Shri M.D. Narwadkar

.....

ALONG WITH
WRIT PETITION NO. 11248 OF 2019

Shriram Pratishtan's,
Apurva Nursing Institute,
through its Principal,
Mohsin Nasrulla Pathan,
Age : 32 years, Occu : Service,
R/o. Vidya Vihar Sankul,
Ravalgaon Road, Selu,
Tal. Selu, Dist. Parbhani

.. Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Maharashtra State Board of
Nursing and Para Medical Education,
Through its Registrar,
4th Floor, St. George Hospital Compound,
P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council
Bombay Mutual Annex,
Opp. Residency Hotel, Fort Mumbai,
Through its Registrar

.. Deleted as per the
Court order dtd.13.09.2019

.... Respondents

....

Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar

.....

ALONG WITH
WRIT PETITION NO. 11253 OF 2019

Fulabai Munde Mahila Mandal,
through its President,
Harubai Shankarrao Munde
Age : 60 years, Occu ; Household,
R/o. Hibbat, Tal. Mukhed, Dist. Nanded

.. Petitioner

Versus

1. The State of Maharashtra

through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.

2. The Maharashtra State Board of
Nursing and Para Medical Education,
Through its Registrar,
4th Floor, St. George Hospital Compound,
P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council
Bombay Mutual Annex,
Opp. Residency Hotel, Fort Mumbai,
Through its Registrar

.. Deleted as per the
Court order dtd.13.09.2019

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar
.....

ALONG WITH
WRIT PETITION NO. 11273 OF 2019

Prabhat Bahuuddeshiya Sevabhavi Sanstha,
Through its Secretary,
Ashok Annasaheb Kakade,
Age : 44 years, Occu : Agri,
R/o. Selu, Tal. Selu, Dist. Parbhani

.. Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Maharashtra State Board of
Nursing and Para Medical Education,
Through its Registrar,
4th Floor, St. George Hospital Compound,
P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council
Bombay Mutual Annex,
Opp. Residency Hotel, Fort Mumbai,
Through its Registrar

.. Deleted as per the
Court order dtd.13.09.2019

.... Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre

AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar

.....

ALONG WITH
WRIT PETITION NO.11339 OF 2019

Dr. Dahiphale Medical Foundation Trust's
School of Nursing,
Through its Principal,
Miss. Sunita Digambar Mhaske,
Age : 28 years, Occu : Service,
R/o. Chunilal Petrol Pump,
Old Kamalnayan Bajaj Hospital,
Jalna Road, Aurangabad,
Dist. Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra
through its Principal Secretary,
Medical Education and Research Department,
Mantralaya, Mumbai.
2. The Maharashtra State Board of
Nursing and Para Medical Education,
Through its Registrar,
4th Floor, St. George Hospital Compound,
P.D'Mellow Road, Fort, Mumbai
3. The Maharashtra Nursing Council
Bombay Mutual Annex,
Opp. Residency Hotel, Fort Mumbai,
Through its Registrar

.... Respondents

.....

Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar
Advocate for Respondent No.3 : Shri C.A. Jadhav

.....

ALONG WITH
WRIT PETITION NO. 11424 OF 2019

Swapnapuja Shikshan Sanstha,
Through its Secretary,
Swapnil S/o. Ramkrishna Jangle,
Age: 39 years, Occu : Social Work,
R/o. Vishal Nagar, Aurangabad
Tal. & Dist. Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra through the Secretary for Medical Education and Drugs Department Mantralaya, Mumbai
2. The Secretary, Social Justice and Special Assistance Department, Maharashtra State Mumbai
3. The commissioner, Social Welfare Department, Maharashtra State, Mumbai
4. The Director, V.J.N.T., O.B.C. and S.B.C. Social Welfare Department Maharashtra State, Pune – 1.
5. The Regional Deputy Commissioner, Social Welfare Department, Aurangabad Region, Aurangabad
6. The Assistant Commissioner, District Social Welfare Office, Aurangabad Respondents

....
Advocate for the Petitioner : Shri S.S. Thombre
AGP for Respondent – State : Shri S.B. Yawalkar
Advocate for Respondent No.2: Shri M.D. Narwadkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
.....

ALONG WITH
WRIT PETITION NO.11543 OF 2019

Gramin Shikshan Prasarak Mandal's
Padmavati Nursing School (RGNM)
N-11, A Sector, Plot No.32, Sudarshan Nagar,
T.V. Center, Dist. Aurangabad
Through its President
Santosh s/o Tulshiram Salve,
Age : 39 years, Occu : Service,
R/o. Plot No.1 Safalya Nagar,
Harsool T- Point, Aurangabad

.. Petitioner

Versus

1. The State of Maharashtra through the Secretary for Medical Education and Drug Department Mantralaya Mumbai -32
2. The Directorate,

Medical Education and Research,
Government Dental College and Hospital,
4th Floor, Saint Georges Hospital Compound
fort, Mumbai – 01
Through its Director

3. The Maharashtra Nursing Council,
5th Floor, Bombay Mutual Annex,
Gunbow Street, Opposite Residency Hotel,
D.N. Road, Fort, Mumbai 400 001
Through its Registrar

4. Maharashtra Nursing and Paramedical
Education State Board, Govt Dental College
and Hospital Building, St. George's Hospital
Campus, Fort, Mumbai
through its Registrar

.... Respondents

....
Advocate for the Petitioner : Shri N.D. Sonwane
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4: Shri M.D. Narwadkar

.....

ALONG WITH
WRIT PETITION NO.11549 OF 2019

Chatrapati Shahu Education Society's
Subhadra Institute Nursing School (RANM)
Panchpimpli, Post Koheborgaon,
Tq. Biloli, Dist. Nanded
Through its President
Krishnarao Kondbarao Bhise
Age : 52 years, Occu : Pensioner,
R/o. Subhadra Building behind Akshay
Plaza Tilak Nagar, Tq. and Dist. Nanded

.. Petitioner

Versus

1. The State of Maharashtra
through the Secretary for
Medical Education and Drug Department
Mantralaya Mumbai -32

2. The Directorate,
Medical Education and Research,
Government Dental College and Hospital,
4th Floor, Saint Georges Hospital Compound
fort, Mumbai – 01
Through its director

3. The Maharashtra Nursing Council,
5th Floor, Bombay Mutual Annex,

Gunbow Street, Opposite Residency Hotel,
D.N. Road, Fort, Mumbai 400 001
Through its Registrar

4. Maharashtra Nursing and Paramedical
Education State Board, Govt Dental College
and Hospital Building, St. George's Hospital
Campus, Fort, Mumbai
through its Registrar

.... Respondents

....
Advocate for the Petitioner : Shri N.D. Sonwane
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4: Shri M.D. Narwadkar

.....

ALONG WITH
WRIT PETITION NO.11573 OF 2019

Shrikant Charitable Trust's
Kalpana Chawal Nursing School (RANM)
Shriramnagar, Parbhani,
Dist. Parbhani
Through its Secretary
Chandan Shrihari Patil
Age : 46 years, Occu : Service,
R/o. At Sonwala, Post- Magrul,
Tq. Jalkot, Dist. Parbhani

.. Petitioner

Versus

1. The State of Maharashtra
through the Secretary for
Medical Education and Drug Department
Mantralaya Mumbai -32
2. The Directorate,
Medical Education and Research,
Government Dental College and Hospital,
4th Floor, Saint Georges Hospital Compound
fort, Mumbai – 01
Through its Director
3. The Maharashtra Nursing Council,
5th Floor, Bombay Mutual Annex,
Gunbow Street, Opposite Residency Hotel,
D.N. Road, Fort, Mumbai 400 001
Through its Registrar
4. Maharashtra Nursing and Paramedical
Education, State Board.
Govt Dental College and Hospital Building,

St. George's Hospital Campus, Fort, Mumbai
through its Registrar

.... Respondents

....
Advocate for the Petitioner : Shri N.D. Sonwane
AGP for Respondents – State : Shri S.B. Yawalkar
Advocate for Respondent No.3 : Shri C.A. Jadhav
Advocate for Respondent No.4: Shri M.D. Narwadkar
.....

**CORAM: S. V. GANGAPURWALA
AND
AVINASH G. GHAROTE, JJ.**

DATE : 05TH NOVEMBER, 2019

ORAL ORDER :

1. It is contended by the learned Advocate for the petitioners that, the petitioners in all these writ petitions are issued with the Essentiality Certificate by the State Government. The Essentiality Certificate is acted upon. The permission is also granted by the Maharashtra Nursing Council (MNC) at the relevant time. Pursuant thereto, all these institutions have started the course of RANM/RGNM. Only because the permission of the Indian Nursing Council was insisted, the course could not be continued further after 2016-17.

2. Mr. Thombre, the learned counsel for the petitioners submits that, this court in Writ Petition No.11260 of 2017 under its Judgment and Order dated 09.10.2017 has held that, it is not necessary to obtain the permission of the Indian Nursing Council.

3. Mr Thombre, the learned counsel for the petitioners submits that, once the Essentiality Certificate has been granted and the same is acted upon, the permission is granted by the MNC, it is not necessary to

obtain fresh Essentiality Certificate. From the year 2018-2019 in place of Maharashtra Nursing Council, the Board of Nursing and Para Medical Education came into existence (hereinafter referred to as the "Board"). It will not be necessary for the petitioner to again obtain the permission from the Board. The learned counsel further submits that, the insistence of the Board to obtain the fresh permission if the permission is not obtained from the Indian Nursing Council before 2017, is erroneous. The same would not be in conformity with the Judgment of the Division Bench of this Court in Writ Petition No. 11260 of 2017. The learned counsel for the petitioners does not dispute that, the petitioners are required to obtain affiliation from the Board every year. The learned counsel submits that, all these petitioners have paid the affiliation fees to the Board. The inspection has been carried out pursuant to the interim orders of this Court. In view of that, the respondents be directed to grant affiliation to the petitioners and the petitioners be allowed to admit the students.

4. Mr. Yawalkar, the learned Addl. Government Pleader submits that, the guidelines are issued as per the Government Resolution dated 13.07.2018. The learned Addl. Government Pleader relied upon clauses 4 and 6 of part 'B' of G.R. dtd.13.07.2018 and submits that, in case the Indian Nursing Council has granted approval to the proposal of the petitioners prior to 11.09.2017, then the same shall be considered as final and there would be no need for fresh permission. However, if the institutions do not have the permission of the Indian Nursing Council prior to 11.09.2017, then the Institutions are required to apply afresh to the Board. The learned Addl. Government Pleader further submits that, the permission that was granted to these institutions were provisional

permissions for the particular academic year. No final permission was granted to these institutions. As such, these institutions cannot claim any vested right. The petitioners will be required to abide by the clauses of Govt. Resolution dated 13.07.2018. The period of Essentiality Certificate has also come to an end. As the period of Essentiality Certificate came to an end, they are required to apply afresh to the Board. Mr Yawalkar, the learned AGP submits that, there is distinction between recognition and affiliation. The affiliation granted to the petitioners will be applicable to the particular year.

5. Mr Narwadkar, the learned counsel for the Board submits that, the respondents are bound by the conditions enumerated under the Govt. Resolution dated 13.07.2018. Moreover, the perspective plan has been prepared wherein the necessity of the Nursing courses has been detailed. The petitioners-Institutions are not considered in the said list and if the petitioners are directed to be given affiliation or permission, then the whole perspective plan would be defeated.

6. We have considered the submissions.

7. It appears that, all these petitioners – institutions are issued with the Essentiality Certificate by the State Government. Pursuant to the Essentiality Certificate, the MNC has granted permission to the petitioners to start the courses. The petitioners have started the courses, the students were admitted for two years. Subsequently, the petitioners were not allowed to admit the students on the ground that the suitability certificate from the Indian Nursing Council has not been obtained. The

association of the petitioners-institutions filed Writ Petition before this Court bearing Writ petition No.11260 of 2017. This Court under its judgment and order dated 09.10.2017, allowed the writ petition holding that, once the permission is granted by the Maharashtra Nursing Council, it is not necessary to obtain the suitability certificate from the Indian Nursing Council. Para 24 of the said Judgment would be relevant. The same reads thus :

“24. On analysis of provisions of Central enactments as well as State enactments and various judgments, it shall have to be concluded that once the State council grants recognition and/ or affiliation and so far as Graduation and Post-Graduation courses are concerned, if Maharashtra University of Health Sciences grants affiliation and the State Council accords permission and issues letter of intent or permission, the Institution can offer training in Diploma or Degree courses in Nursing and it is not mandatory for such Institutions to secure recognition/permission from Indian Nursing Council. The functions of Indian Nursing Council are restricted to the aspects governed by provisions of Central enactment. Effect of refusal to accord approval in respect of Courses operated in the State or by Institutions, is that Diploma or Degree offered by such Institutions or University shall have validity only in the concerned State and the candidate securing such Diploma or Degree Certificate shall not be entitled to practice in any other State. This position has been reiterated in the judgment of Full bench of Karnataka High Court as well as Division Bench of Kerala High Court, which have been accepted by Indian Nursing Council in its reply.”

8. We had, under the order dated 26.02.2019, recorded the arguments of Mr Thombre, the learned advocate for the petitioner, to the effect that, Essentiality Certificate is required to be obtained only once. The same is valid for a period of three years so as to obtain recognition from the Council. If the recognition is given by the MNC within three years from the date of issuance of Essentiality Certificate, then no fresh Essentiality Certificate is required to be obtained. Reliance is placed on Clause 7 of the Govt. Resolution dt. 21.03.2005. We had asked the learned AGP to clarify on the said aspect. Pursuant thereto, the affidavit is filed by the Deputy Secretary, Medical Education and Drug Department,

Mantralaya, Mumbai. Para No.13 of the said affidavit reads thus :

“13. I humbly submit that, as mentioned in the order of the Hon’ble High Court dated 26.02.2019, submission made by the advocate of the petitioner is true. Once the state government issue the Essentiality Certificate for the course of diploma level nursing institution, the concerned institution should obtain the approval of the relevant council or Board, in the prescribed three year validity period. After getting recognition and affiliation from the state nursing council or Board, the concerned institution can admit students. The continuation of affiliation should be obtained by the Institution from concerned council or Board.”

9. It is abundantly clear from the aforesaid excerpt of the affidavit that, once the State Government issues the Essentiality Certificate for the diploma level Nursing Institution, the concerned institution should obtain the approval of the relevant Council or the Board in the prescribed three years' validity period. After getting the recognition and affiliation from the State's Nursing Council or the Board, the concerned institution can admit the students. The continuation of the affiliation should be obtained by the institution from the concerned Council or the Board.

10. It is not disputed by the parties herein that, within the period of three years of the issuance of the Essentiality Certificate, the petitioners herein obtained the permission from the Council. As such, it is not necessary for obtaining the Essentiality Certificate again.

11. The petitioners herein possess the Essentiality Certificate from the Government and also possess the permission from the Maharashtra Nursing Council to start the course. For two years the students have been admitted by these institutions. These institutions do not possess the suitability certificate / permission of the Indian Nursing Council. The issue of seeking permission / suitability certificate from the Indian Nursing Council is no longer *res-integra* in view of the Judgment of the Division

Bench of this Court dtd. 09.10.2017 in Writ Petition No.11260 of 2017, wherein this Court has held that, once the Essentiality Certificate is issued by the State Government and the permission is granted by the MNC, it is not necessary to obtain suitability certificate from the Indian Nursing Council.

12. In view of the fact that it is not necessary to obtain the permission / Suitability Certificate from the Indian Nursing Council, the insistence of the respondents to apply afresh to the Board if the permission is not granted by the Indian Nursing Council prior to 11.09.2017, would not be in conformity with the order of this Court in Writ Petition No. 11260/2017, referred to supra. The said condition would be an onerous condition and against the dictum of this Court.

13. The petitioners possessed the Essentiality Certificate and within the validity period of the Essentiality Certificate the permission is obtained from the MNC. As accepted by respondent no.1 that Essentiality Certificate is required to be obtained only once, the respondent cannot insist for the fresh application from the petitioners for permission only on the ground that prior to 11.09.2017 Indian Nursing Council has not given recognition / permission to the petitioners-institutions as the said permission is not required under the statute and as per the judgment of this Court in Writ Petition No.11260 of 2017.

14. The permission granted by the MNC though provisional, there is no provision for grant of provisional permission. It is only because the

condition was imposed that the petitioner should obtain permission / Suitability Certificate from the Indian Nursing Council, it appears that, the permission granted was provisional. However, as this court had held in Writ Petition No.11260 of 2017 that it is not necessary to obtain the permission / Essentiality Certificate from the Indian Nursing Council, the same will have to be construed as a permission from the MNC.

15. The reliance placed by Mr. Yawalkar, the learned Addl. Government Pleader on Section 28 of the Maharashtra State Board of Nursing and Para Medical Education Act, may not be much relevant. The said section applies when the Board is required to grant permission to start new nursing and para medical institution and not considering the application of the institutions who have already been granted permission by the Maharashtra Nursing Council and the Essentiality Certificate by the State Government. The said provision will be restricted to the Management seeking permission to open a new institution. The judgment relied upon by Mr Yawalkar, the learned Additional Government Pleader, in the case of the ***Principal and others vs. Presiding Officer and others*** reported in ***AIR 1978 SC 344*** would not enure to the benefit of the respondents. It only lays down the distinction between recognition and affiliation.

16. The next question that would be required to be considered is about the perspective plan. As per the clauses of the perspective plan, the perspective plan is not applicable to the minority institutions and they are entitled to establish the institution irrespective of the perspective plan. The existence of the petitioner-colleges is not considered in the

perspective plan. Of course, it is for the Board and the authorities to consider the said aspect.

17. We have made it clear that, as far as the aspect of affiliation is considered, it is for the Board to consider the application of the petitioners for grant of affiliation.

18. It is submitted that, all these institutions have applied for affiliation to the Board and have paid the necessary fees. We had passed an order in the writ petition that the respondent Board may carry out the inspection upon the payment of necessary fees by the institutions. We are told that, Board has carried out the inspection pursuant to the interim orders passed by this Court.

19. It is further submitted that, 11.11.2019 is the last date of admission of the students.

20. In light of that, we direct the Board to take decision on the applications of the petitioners for affiliation on its own merits considering all relevant aspects of the matter on or before 10.11.2019.

21. With the aforesaid observations and directions, writ petitions are disposed of. No costs.

22. Authenticate copy be provided.

[AVINASH G. GHAROTE]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

Gajanan