

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

907 WRIT PETITION NO.4235 OF 2023

AASAWARI KIRAN PUROHIT AND OTHERS
VERSUS
GOVERNMENT OF INDIA AND OTHERS

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Mr.S.S. Thombre, Advocate for the Petitioners.
Mr.A.G. Talhar, Advocate for Respondent No.1.
Mr.N.S. Choudhary, Advocate for Respondent No.2.
Mr. S.K. Kadam, Advocate for Respondent No.3

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**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 19th APRIL, 2023.**

PER COURT :-

1. These three Petitioners are said to be practicing doctors.

They have put forth prayer clauses B and C as under :-

“(B) By issuing a writ of mandamus, orders, directions or any other appropriate writ in the like nature, direct Respondent No.2 to allow and permit the petitioners to appear the DNB-PDCET-2023 scheduled on 23rd April, 2023, by issuing necessary Admit Cards in their favour;

(C) Pending hearing and final disposal of this writ petition, direct Respondent No.2 to allow and permit the petitioners to appear the DNB-PDCET-2023 scheduled on 23rd April, 2023, by issuing necessary Admit Cards in their favour, and for that purpose, issue necessary orders;”

2. We have heard the strenuous submissions of the learned Advocates for the respective sides. The undisputed factors are as under :

(a) All these Petitioners have acquired the qualification of M.B.B.S.

(b) All of them were admitted to the Diploma in Medical Radiology and Electrology course (DMER) with the College of Physicians and Surgeons (CPS) at Mumbai, in between 17.10.2017 to 12.02.2018.

(c) The entrance examination conducted by the National Board of Examinations in Medical Science known as Diplomate National Board-Post Diploma Centralized Entrance Test (DNB-PDCET 2023) provides for guidelines containing the eligibility criteria for the two years diploma course in so far as appearing for the entrance examinations. Clause 4.1 reads thus :-

“4.1 Candidates who have passed the final examination leading to the award of Post Graduate Diploma from Indian Universities which are duly recognized as per provisions of the NMC Act 2019 and the repealed Indian Medical Council Act 1956 can apply for the DNB-PDCET 2023 in the same Broad specialty through online application system at website <https://nbe.edu.in> or <https://natboard.edu.in>”

(d) The Diploma in Medical Radiology and Electrology (DMRE) was recognised as a Diploma course for students, who had acquired the said qualification from the College of Physicians and Surgeons of Mumbai, on or after December 2009.

(e) By the notification dated 22.01.2018, issued by the Ministry of Health, Family Welfare, 36 diploma courses conducted by CPS,

Mumbai lost their recognition. DMRE was one of them.

(f) The Under Secretary, Government of India, Ministry of Health and Family Welfare issued a clarification dated 18.10.2022 declaring that those students, who had acquired diploma qualification from CPS, Mumbai or from other similar delisted institutions, between 17.10.2017 and 12.02.2018 (both days inclusive), would be deemed to have acquired the recognized DMRE qualification.

(g) By Government of India Gazette Notification dated 23.10.2017, 36 out of the 39 diploma courses conducted by the CPS, Mumbai were held to be recognized only upto the publication of the Government of India Gazette notification dated 12.02.2018.

(h) The Honorary Executive Director, vide communication dated 24.03.2023, has issued a clarificatory note indicating that those 36 CPS Mumbai diploma courses which were derecognized by notification dated 12.02.2018, would be considered to be recognized during the period 17.10.2017 to 12.02.2018. The Petitioners are, therefore, qualified to appear for the DNB-PDCET-2023.

(i) Shri Kadam, the learned Advocate representing Respondent No.3 refers to a communication dated 13.04.2023, stating that the courses run by CPS Mumbai, do not come under the monitoring control of the National Medical Commission.

3. A similar matter preferred by **Anita Kishanrao Videkar Vs.**

Union of India through its Secretary and others, 2021(5) Mh.L.J. 557, was considered by this Court at the Principal Seat and considering the above, an interim order was passed permitting the petitioner to appear for the same examination of 2021.

4. In view of the above, issue notice to the Respondents, returnable on 30th June, 2023. The learned DSGI waives service of notice on behalf of Respondent No.1. Mr.N.S. Choudhary, the learned Advocate waives service of notice on behalf of Respondent No.2 and Mr.S.K. Kadam, the learned Advocate waives service of notice on behalf of Respondent No.3.

5. Considering the above, more particularly the fact that the diploma course qualification acquired by these three petitioners, by taking admission with CPS, Mumbai in between 17.10.2017 and 12.02.2018, having been declared to be a recognized diploma course, we permit the petitioners to appear for the examination scheduled on 23rd April, 2023. The Admit Cards for these three petitioners shall be issued expeditiously and the Respondents would ensure that there is no impediment for these petitioners to appear for the examination.

6. Since the dictation of this order is completed at the stroke of

lunch recess, the Respondents would convey the said order to the concerned authorities as it has been dictated in the open court.

7. The learned DSGI submits that the competent authorities have formed a Committee under the Chairmanship of DGHS and comprising of 7 more members, which would be considering the issue of derecognition of the courses conducted by CPS, Mumbai.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

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