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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5538 OF 2015

1. Mr. Shubham Chandrakant Choudhary,
Residing at Flat No.2, Bhavin-III,
Virat Nagar, Virar(W), District Thane.
2. Ms. Snehal Milind Deshpande,
Residing at F/8, Vahad Apartments,
Chaitanya Wadi, Near Dhanvantari,
Hospital, Buldhana, District Buldhana.
3. Ms.Mitali Salve,
Residing at 259/10181, Sagar Sangeet,
Co.op. Housing Society Ltd.,
Kannamwar Nagar, Vikhroli(E), Mumbai
4. Ms. Ruchi Hemant Malik,
Residing at Flat No.A-103, Amber Tower
Kander Pada, Dahisar(W), Mumbai-68.

...Petitioners

Versus

1. The Secretary,
Association of Management of Unaided
Private Medical & Dental Colleges,
Maharashtra (AMUPMDC), having office
at Shreeji House, 75 Mint Road,
Fort, Mumbai-400 001.
2. The Secretary,
Pravesh Niyantran Samiti,
Government of Maharashtra,
305, Government Polytechnic Building,
49, Kherwadi, Ali Yawar Jung Marg,
Bandra(E), Mumbai-400 051.
3. The Registrar,
Maharashtra University of Health Science
Nashik, having office at Vani Road,
Mhasrul, Nashik-422 004.

4. The Principal Secretary,
Higher & Technical Education,
Government of Maharashtra,
Mantralaya, Mumbai-400 032.
5. The Medial Council of India
Through its Chairman,
Having office at Pocket 14, Sector-8,
Dwarka, Phase-I, New Delhi-110 077.
6. The Chief Secretary
The State of Maharashtra,
Having address at Mantralaya,
Mumbai-400 032.
7. Godavari Foundation's
Dr. Ulhas Patil Medical College & Hospital
NH6, Jalgaon-Bhusawal Highway,
Jalgaon-425 309.
8. Nashik District Marathi Vidya
Prasarak Samaj's Medical College,
Vasantdada Nagar, Adgaon,
Nashik, District Nashik-422 003.
9. Ashwini Rural Medical College Hospital
And Research Centre,
Kumbhari, Solapur-413 001.
10. Institute of Medical Science & Research.
Vita Road, Mayani, Taluka Khatav
Vidyagiri, District Satara.
11. Annasaheb Chudaman Patil Memorial
Medical College
Opp. Jawahar Soot Girni, Sakri Road
Dhule- 424 001.
12. NKP Salve Institute of Medical
Science & Research Centre,
Digdoha Hills, Hingana Road,
Nagpur-440 019.

13. Terna Medical College & Hospital,
Sector-12, Phase-II, Nerul,
Navi Mumbai-400 706.
14. Yogita Dental College & Hospital.
Khed, Ratnagiri-415 709
15. Swargiya Dadasaheb Kalmegh Smruti
Pratishthan, SDK Dental College,
Wanadongri, Wadhamna Road,
Hingna, District Nagpur-440 012.
16. ACPM Dental College,
Opp. Jawahar Soot Girni,
Sakri Road, Dhule-424 001.
17. Terna Dental College & Hospital,
Sector-12, Phase-II, Nerul,
Navi Mumbai-400 706.
18. Vidarbha Youth Welfare Society's
Dental College, Tapowan,
Vadali Road Camp, Amravati-444 602.
19. Tatyasaheb Kore Dental College &
Research Centre, Warnanagar,
New Pargaon, Hatkanangale,
District Kolhapur-416 137.
20. Yerala Medical Trust's and Research
Center's Dental College,
Sector-4, Kharghar, Navi Mumbai-210.
21. MGV's KBH Dental College & Hospital,
Panchwati, Mumbai-Agra Road,
Nashik-422 003.
22. S.M.B.T. Dental College (Ghulewadi),
At Amrut Nagar, Post Sangamner,
District Ahmednagar-422 608.

23. Mahatma Gandhi Mission's Dental College, having address at Sector-18, Kamothe, Navi Mumbai-209. ... Respondents

Mr. Shrishailya S. Deshmukh for the Petitioners.

Ms. Neha Sule i/b Mr. Bhushan V. Mahadik for Respondent Nos.13 & 17.

Ms. Kavita N. Solunke, AGP for the Respondent No.6 (State).

Mr. Amar Bodke i/b Mr. M. V. Thorat for Respondent Nos.9, 11, 13, 16, 17, 20 & 21.

**CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.**

DATE : 21st FEBRUARY 2024

JUDGMENT: (per Jitendra Jain, J.)

- 1. Rule.** Rule made returnable forthwith. Heard finally by consent of the parties.
- 2.** This Petition under Article 226 of the Constitution of India is filed by the Petitioners seeking appropriate writ to direct the Respondents to pay each Petitioner an amount of Rs.20,00,000/- each on account of public law damages for wrongfully denying the right to admission to the medical course for the academic year 2012-13.
- 3.** At the outset, the learned counsel for the Petitioners submitted that insofar as Petitioner No.2 is concerned, the Respondent No.6-State has granted the relief sought for by paying a sum of Rs.20,00,000/- on 25th March 2019, and therefore, the adjudication of the present Petition is restricted to only balance three Petitioners.

Brief facts are as under :-

4. The Petitioners are students who were aspiring to take admission in medical course and therefore appeared in Common Entrance Test (CET) conducted by Respondent No.1-AMUPMDC in the year 2012. The Petitioners cleared the exam but however due to irregularities conducted by various Medical Institutions / Colleges they could not get the admission for medical course although the students less meritorious than the Petitioners managed to get admission. The Respondent No.6-State constituted a committee to examine the irregularities. The Committee gave its report and recommended strict action against the Institutions/officials who were involved in the irregularities.

5. Some of the students challenged the admission process before this Court in Writ Petition No.214 of 2013 which came to be dismissed on 12th August 2013. The said order of the dismissal was carried in appeal to the Supreme Court. The Supreme Court, on 2nd September 2014 in the case of *Krina Ajay Shah & Ors. vs. The Secretary, Association of Management of Unaided Private Medical & Dental Colleges, Maharashtra & Ors.*¹ directed the State Government to compensate the students by paying a sum of Rs.20,00,000/- towards public law damages and further directed Respondent No.6-State to take action against

1 SLP (C) No.31900 of 2013 dt. 2nd September 2014

officers involved in the irregularities which resulted into meritorious students being denied admission. Admittedly, the Petitioners before us today were not the Petitioners before the Supreme Court. However, based on the said decision of the Supreme Court, the Petitioners have approached this Court seeking similar relief, that is, payment of Rs.20,00,000/- on account of public law damages.

6. The Petitioners submits that they are similarly placed to students who were before the Supreme Court and therefore the relief granted by the Supreme Court should also be granted to them. The Petitioners further submitted that identical relief has been granted to other students who could not get admission for the academic year 2012-13. The Petitioners stated that they have pursuant to letter issued by Respondent No.6-State already submitted all the documents including the undertaking but they have not received sum of Rs.20,00,000/- till today. The Petitioners, therefore, prayed for appropriate directions to Respondent No.6-State to make the payment of Rs.20,00,000/-.

7. Per contra, the Respondent No.6-State submitted that the present Petitioners were not before Supreme Court and therefore they cannot seek the relief by filing the present Petition. The Respondent No.6, therefore, submitted that the Petitioners are not entitled to public law damages of Rs.20,00,000/- and therefore this Court should dismiss

the present Petition.

8. We have heard the learned counsel for the Petitioners and the learned counsel for the Respondents and with their assistance have perused the documents annexed to the Petition, reply and compilation of documents filed by the parties.

9. At the outset, we wish to state that the Petitioners in para 14 of the Petition have averred that they are similarly placed as those who were before the Supreme Court in SLP (C) No.31900 of 2013 and therefore denying the payment on account of public law damages is violative of Article 14 of the Constitution of India. The Respondent No.6-State in the reply filed have not disputed this averment. Therefore, in our view, if the Petitioners are similarly placed as those who were before the Supreme Court then the Respondent No.6 cannot deny the relief of payment of Rs.20,00,000/- to each Petitioner.

10. Secondly, the present petition was filed by four students Respondent No.6 vide letter dated 25th March 2019 have after referring to the above referred order of the Supreme Court paid a sum of Rs.20,00,000/- although Petitioner No.2 was not the party before the Supreme Court. If that be so, we failed to understand as to how Respondent No.6-State can submit that since the other three Petitioners were not before the Supreme Court they are not entitled to sum of

Rs.20,00,000/-. This stand of Respondent No.6-State is contrary to their own act of making payment of Rs.20,00,000/- to Petitioner No.2. Therefore even on this count, the Respondent No.6-State is not justified in denying payment of Rs.20,00,000/- to other Petitioners.

11. Thirdly, the Respondent No.6-State themselves have vide letter dated 9th March 2015 issued to the Petitioner Nos.1, 3 and 4 have sought certain documents so that Respondent No.6 can process and make payment of Rs.20,00,000/- as per the Supreme Court decision in SLP (C) No.31900 of 2013. We are informed by the Petitioners that they have complied with the said requisition by filing an undertaking and various documents namely Aadhaar card, bank details etc. However, the Petitioners have not received the payment of Rs.20,00,000/- till today. There is no justification given by Respondent No.6-State for having issued such communication and the Petitioner having complied with why the payment was not made from 2015 onward till today. Therefore on this count also, the stand taken by the Respondent No.6-State to deny the payment is contrary to their own stand. However since in the petition there is no averment on the Petitioners having complied with the requisition, we direct Petitioner Nos.1, 3 and 4 to once again file the documents requisitioned by Respondent No.6 vide letter dated 9th March 2015 so that the claim can be processed.

12. In view of above, we are of the opinion that the petition is required to be allowed. We therefore pass the following order :-

ORDER

- (i) The Petitioner Nos.1, 3 and 4 to file the details called for vide letter dated 9th March 2015 within a period of two weeks from today.
- (ii) The Respondent No.6-State is directed to process the claim and make payment of Rs.20,00,000/- each to Petitioner Nos.1, 3 and 4 within a period of eight weeks from the expiry of two weeks as (i) per above.
- (iii) Petition is allowed in terms of prayers clause (a-1) :
- “(a-1) that this Hon’ble Court be pleased to issue appropriate writ, order or direction thereby directing the Respondents to pay each Petitioners, an amount of Rs.20,00,000/- lakh each on account of public law damages, for wrongfully denying the right to admission to the medical course in the academic year 2012-13”*
- (iv) Petition is allowed in terms of the above order.
- (v) Rule is made absolute in above terms with no order as to costs.

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)