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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
WP No. 1080 of 2022**

(LAW STUDENTS ASSOCIATION Vs THE STATE OF MADHYA PRADESH AND OTHERS)

**WP/20438/2021, WP/28337/2021, WP/28338/2021, WP/03165/2022, WP/05841/2022,
WP/08737/2022, WP/14935/2022, WP/16851/2022, WP/27046/2022, WP/22164/2023**

Dated : 11-03-2024

Shri Alok Vagrecha - Advocate and Shri Deepak Tiwari - Advocate for the petitioner in W.P.No.1080/2022.

Shri Anshuman Singh - Advocate for the petitioner in W.P.No.16851/2022.

Shri Naman Nagrath - Senior Advocate with Shri Jubin Prasad for petitioner in W.P.No.22164/2023.

Shri Prashant Singh - Advocate General with Shri Bharat Singh - Additional Advocate General and Shri Abhijeet Awasthi - Advocate for the respondents-State.

Shri Mohan Sausarkar - Advocate for the Nursing Council.

Shri Sudhir Kumar Sharma - Advocate for the Central Bureau of Investigation.

Shri Hemant Shrivastava - Senior Advocate with Shri D.K. Bilaiya - Advocate and Shri Kapil Duggal, Shri Jagat Singh, Shri S.Hazari, Shri Pramod C. Nair, Ms Varidhi Pathak - Advocates for the interveners.

Variety of interlocutory applications have been filed by the parties, which are gradually being dealt with.

I.A.No.3349/2024 has been filed in W.P.No.1080/2022 by the applicants claiming themselves to be the colleges depicted as 'deficient' in the report of CBI submitted in deference to the order of this Court.

Learned counsel appearing of the applicants submits that albeit the

applicants-colleges are enlisted as 'deficient' in the CBI report, but they are necessary party to the proceedings, ergo, may be permitted to intervene so that they may place their stand before the Court as and when matter is taken-up for hearing.

Indeed, there is no vigorous opposition, but it is submitted by learned counsels for other parties that intervention at this stage is unwarranted inasmuch as the applicants-colleges were very much acquainted with the order passed by this Court directing CBI to conduct enquiry and they could have come-up at that stage, rather doing so, they chose to wait for dissemination of report and only after coming to know that these colleges could not stand upon the test of time and have been enlisted as 'deficient' came forward as interveners to roil the water.

Inevitably, the purpose of carrying out such exercise is to protect the interest of the students and thus we find that if this application for intervention is allowed, no prejudice would be caused to any of the parties, rather it would aid in the flow of justice. Accordingly, application is allowed.

I.A.Nos.3385/2024 and 3388/2024 have been filed in W.P.No.1080/2022 by the Colleges which are enlisted as 'deficient' in the report of CBI. Their melancholy is in respect of an order passed by this Court on 13.02.2024 directing the constitution of three-member expert committee and also shifting of students of deficient colleges to other colleges with an intent to evade academic loss to the students.

Learned counsel appearing for these applicants submits that such exercise would wreak-havoc to the colleges including the colleges which remove the deficiencies pointed-out and if their students are shifted to another

college, it would cause loss in duality i.e. financial and reputational. Ergo, they claim that the students of deficient colleges may also be permitted to participate in the examination for previous academic sessions.

We find it but obvious that shifting of students of colleges which cured the defects, would necessarily add to their hardship. Ergo, we modify the order to the extent that the students of colleges enlisted as deficient shall be allowed to participate in the examination. At the same time, the Committee will see whether the colleges have cured the deficiencies to get the recognition and affiliation for future years or not. It is made clear that this order would not only govern the students of deficient colleges categorised by CBI, but would also be available for the colleges which have not come to threshold of this Court so as to truncate the exercise of filing more applications for the same purpose. These applications are accordingly allowed with the above modification in the order dated 13.02.2024.

I.A.No.2885/2024 has been filed in W.P.No.1080/2022 under Order VI Rule 17 of CPC seeking amendment in the petition inasmuch as during the pendency of this petition, the Nursing College, their conduction of examinations, recognition, affiliation, etc. were governed by the provisions of M.P. Nursing Shikshan Sanstha Manyata Niyam, 2018, but when the Court has passed certain orders on the basis of report of CBI categorising the colleges into suited; deficient and unsuited, new rules have come viz. M.P. Nursing Shikshan Sanstha Manyata Niyam, 2024.

In turn, learned counsel for the petitioner submits that new rules are *de hors* the law and will have overreaching effect of the orders passed by this Court and the pleadings would be required to be amended challenging the provisions of new Rules, 2024.

Rules not only play a vital role in avoiding chaos, rather provide guidelines to dexterously navigate the path. We find no causation of prejudice to the parties, if such amendment is allowed. Accordingly, the application is allowed. At the same time, the petitioner is also permitted to make necessary amendment in the petition.

I.A.No.3492/2024 filed in W.P.No.1080/2022 by respondent No.13 seeking a direction for the CBI to conduct the inspection of Vinayak Nursing College, Ratlam as no report in regard to this college has been submitted by CBI. Simultaneously, it is also requested that this college may not be treated as suited college, cleared by CBI.

We dispose of this application directing CBI to conduct the inspection of Vinayak Nursing College, Ratlam and submit a report about the status of this college within a period of three weeks from the date of passing of this order.

I.A.No.2672/2024 filed in W.P.No.1080/2022 by CBI claiming that the police personnel, provided by the State Government to assist the team of CBI which carries out the inspection of Nursing Colleges for discerning their status, is for a temporary purpose as High Court directed CBI to make enquiry and submit report about the Nursing Colleges. As per CBI, such arrangement is temporary in nature, but instead of attachment, the police personnel may be sent on deputation so as to bring them under the control of CBI, which would ease the necessity of taking their services.

After mulling over such request, we do not concur with the submissions for the reason that the order of deputation is made under some policy and approval is taken from the concerned employee who is sent on deputation. The borrowing department has to make arrangement for payment of salary and other

benefits to deputationist from the State Government to Central Government or vice versa, during deputation. Obviously, it would engender subtle complexities. Ergo, the application is rejected. However, whatever arrangements made on earlier occasions to CBI for conducting the enquiry, the same arrangements shall be continued.

By way of applications i.e. I.A.Nos.3407/2024, 3427/2024, 3465/2024, 3474/2024 and 3488/2024, the students of unsuited colleges have made a request in unison that they may also be allowed to intervene in the matter and they may also be permitted to participate in the examination as has been done in the case of students of suited and deficient colleges. Averred it is in the application that the students got admitted in unsuited colleges have provided their services in the Government Health Centres during outbreak of COVID-19, in that, the doctors and permanent staff avoided their obligation in fear of peril to their life and when these students were asked to come-out, they without caring to their life, participated in mayhem by discharging duties in the Government Health Centres. It is also averred in the application that as regards the observation of this court in order dated 08.02.2024 giving reference to decision of Supreme Court *in re National Council for Teacher Education and another v. Venus Public Education Society and others (2013) 1 SCC 223*, that since the students are graduate, they are mentally sound to take decision in respect of choosing appropriate college for seeking admission - these students cannot be compared with the students who are graduate and can understand in better perspective about their future. Ergo, they want modification of the part of the order dated 08.02.2024 which restrains the students of unsuited colleges from taking part in the examination but allows the students of other colleges which are in the category of suited and deficient. Lastly, it is

requested that if the students are not allowed to participate in the examination, who are not at fault, will definitely lose their at-least 3-4 years of academic sessions.

On careful consideration of the documents made appendage to this application, it transpires that these students had borne the brunt of the responsibility when regular government staff took to their heels. Further, these students are not graduates and their mental status cannot be equated with the students who are graduate nor are they come in the circumference of students whom the Supreme Court had repelled to favour. Thus, we are of the opinion that the order dated 08.02.2024 is modified to the extent that students of unsuited colleges shall also be permitted to participate in the examination, but this arrangement and benefit would be a one-time-measure and if they do not clear the examination, no further benefit shall be given to them. These applications are allowed to the extent that not only the students, who are before this Court, but other students of unsuited colleges shall be allowed to participate in the examination as set-forth.

I.A.No.2564/2024 filed in W.P.No.22164/2023 by respondent No.3 seeking clarification in the order dated 13.02.2024 to the extent that finding recorded for regularizing the Session 2023-24 was in fact related to Session 2022-23 because as per respondent No.3 Session 2023-24 has already been proposed to be declared zero-year by the respondent/University.

The petitioner has submitted a reply to the said application and stated that the application for correction in the order dated 13.02.2024 is nothing but an application for recalling the order dated 13.02.2024 as a whole because if the said correction is done, it would tantamount to reversing the reliefs claimed by

the petitioner in his petition and the Court after reproducing the relief passed the said order.

As per Shri Nagrath, declaration of session 2023-24 as zero-year by M.P. Medical Science University (MPMSU) is precarious for the reason that the University is not the authority to take such a decision and this decision is neither taken by the State Government nor by the Nursing Council, therefore, question of modification of order does not arise. As per Shri Nagrath, the Court has passed infallible order that too in consonance with the reliefs claimed by the petitioner in his petition. Albeit, MPMSU has sent such proposal to the State Government but the State Government has not yet acted thereupon and now it is for the State to decide whether declaration of Session 2023-24 as zero-year is proper or not and if yes, then further sessions could be regularised or not. He accentuates that Nursing Council has already given its approval that last date of admission can be extended and as such declaration of zero-year would also cause great loss to the colleges which are otherwise found suitable.

We opine that on the face of decision taken by MPMSU primarily, if permission is accorded for admission then it would be arduous for the colleges to complete other formalities under which students are required to attend minimum period of classroom teaching and practical teaching. Thus, we deem it proper to keep the ball in the court of State Government to take decision either-way on the proposal of MPMSU and accordingly, this court will give its verdict. For the present, Session 2023-24 mentioned in the order dated 13.02.2024 shall be read as Session 2022-23. Thus, we allow the suited colleges to start enrollment of students for the Session 2022-23. The decision with regard to Session 2023-24 shall be taken by this Court after the decision is taken by the State Government on the proposal made by MPMSU.

List these matters on **20.03.2024**. To be taken-up on Board at 2.15 p.m.

(SANJAY DWIVEDI)
JUDGE

(ACHAL KUMAR PALIWAL)
JUDGE

Sudesh

