

**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR  
BEFORE  
HON'BLE SHRI JUSTICE SHEEL NAGU  
&  
HON'BLE SHRI JUSTICE VIRENDER SINGH  
WRIT PETITION No. 18869 of 2022**

**Between:-**

**NARMADA INSTITUTE OF  
PARAMEDICAL SCIENCES, DINDORI  
THROUGH ITS DIRECTOR ABHISHEK  
CHAKARDE, S/O SHRI B.L. CHAKARDE,  
AGED ABOUT 36 YEARS, R/O NEAR RTO  
OFFICE, JABALPUR ROAD, DINDORI  
(M.P.)**

**.....PETITIONER**

***(BY SHRI NAMAN NAGRATH – SENIOR ADVOCATE WITH  
SHRI JUBIN PRASAD - ADVOCATE)***

**AND**

- 1. MADHYA PRADESH MEDICAL SCIENCE  
UNIVERSITY JABALPUR THROUGH ITS  
VICE CHANCELLOR, MEDICAL  
COLLEGE CAMPUS, JABALPUR (M.P.)**
- 2. REGISTRAR, MADHYA PRADESH  
MEDICAL SCIENCE UNIVERSITY,  
MEDICAL COLLEGE CAMPUS,  
JABALPUR (M.P.)**

3. **M.P. PARA MEDICAL COUNCIL  
THROUGH ITS REGISTRAR 3<sup>RD</sup> FLOOR,  
PLATINUM PLAZA, MATA MANDIR  
ROAD, BHOPAL (M.P.)**

.....RESPONDENTS

***(RESPONDENTS NO. 1 & 2 BY SHRI SATISH VERMA –  
ADVOCATE AND RESPONDENT NO.3 BY SHRI ANURAG  
SHRIVASTAVA - ADVOCATE)***

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Reserved on : 15.09.2022

Passed on : 28.10.2022  
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**Per : Justice Sheel Nagu :**

**ORDER**

This petition filed under Article 226 of the Constitution of India by an Institute conducting courses *inter alia* in the field of Paramedical Sciences at Dindori, District Dindori, prays for following reliefs :

- “7.4(A) To quash the impugned order dated 03.03.2022 (Annexure/P-11) as being arbitrary, illegal and beyond the powers of the Respondent University.
- 7.5(B) To direct Respondent University to reconsider the case of the Petitioner College for grant of affiliation for the academic session 2018-19 on merits and forthwith grant such affiliation as has been granted to similarly placed colleges in the interest of justice.

7.5(C) To direct the Respondent University to conduct examination for the students of the Petitioner College for the academic session 2018-19 for the subjects in which they could not appear as a special case in the supplementary examination to secure the future prospects of the students of the Petitioner college.”

2. Learned counsel for rival parties are heard on the question of admission so also on final disposal.

3. The grievance of the petitioner in nut-shell as projected by learned counsel for petitioner is that despite having been granted recognition qua academic session 2018-19 *inter alia* for two years course in Medical Lab. Technician vide order dated 26.12.2018 (Annexure P/1), the respondent No.1/University has failed to grant affiliation for the said academic session despite the petitioner-Institute fulfilling all legal requisites thereby denying the students admitted in the academic session 2018-19 in the said course of their precious right of appearing in the examination for acquiring diploma to which they are otherwise lawfully entitled.

3.1 It is lastly submitted by learned counsel for petitioner by raising the ground of discrimination that in the cases of Oriental College Amarwada and Sardar Patel Institute of Paramedical Sciences Bannakheda, Jaora which were attended with similar facts and circumstances as available herein, the orders of affiliation have been granted pursuant to orders passed by this Court in W.P. No.26353/2021 (Oriental College Amarwada, Main Road Amarwada Vs. The State of Madhya Pradesh) decided on 06.01.2022 vide Annexure P/8 and W.P. No.9479/2022 (Sardar Patel Institute of Paramedical Sciences Bannakheda,

Jaora Vs. Madhya Pradesh Ayurvedigyan Vishwavidhyalaya, Jabalpur and another) decided on 03.08.2022 (Annexure P/10).

4. A bare perusal of the order of grant of recognition issued by the M.P. Paramedical Council (for brevity '**Council**') vide Annexure P/1, palpably reveals that the same was temporary in nature and subject to fulfillment of certain conditions enumerated therein including the following conditions.

“3. संस्था द्वारा म०प्र० सह-चिकित्सीय परिषद द्वारा बनाये गये प्रवेश नियमों के अनुसार ही छात्रों के प्रवेश की कार्यवाही की जावेगी ।

8. डिप्लोमा सह-चिकित्सीय पाठ्यक्रमों में छात्रों के प्रवेश के पूर्व संस्था को संबंधित विश्वविद्यालय से संबद्धता प्राप्त करना आवश्यक होगा ।

(emphasis supplied)

4.1 From the aforesaid conditional order of recognition, it is obvious that the petitioner-Institute was permitted to admit students latest by 10<sup>th</sup> of January, 2019 (wrongly mentioned as 10.01.2018 which was later modified by the Council), provided petitioner is admitted to the privileges of the University by way of affiliation.

4.2 It is not disputed at the bar that the petitioner-Institute admitted students in January, 2019 without any affiliation granted by the University qua the said course and academic session.

**4.3** In the entire petition, there is no averment as to when the petitioner applied for affiliation before the respondent-University. Further, there is no material in shape of any application or otherwise indicating towards the fact of petitioner- Institute having even applied for affiliation before the University.

**4.4** The University in its reply categorically stated on oath that petitioner-Institute did not make any application seeking affiliation for the academic year 2018-19. The respondent-University by referring to clause 15(f) of the Madhya Pradesh Ayurvigyan Vishwavidyalaya (Condition for Colleges/Institutions to admit the Privileges of the University and Withdrawal of such Privileges) Statute, 2013 (Annexure R-2/4 along with reply of the University) emphasized that there is a complete statutory prohibition against admission of students to Colleges before the College/course is admitted to the privileges of the University. Meaning thereby that no admission of students can take place in any academic session or any course in the absence of affiliation. The relevant clause 15(f) of the Statute for ready reference and convenience is reproduced below :

- “15.(a)       xxx   xxx   xxx  
 (b)       xxx   xxx   xxx  
 (c)       xxx   xxx   xxx  
 (d)       xxx   xxx   xxx  
 (e)       xxx   xxx   xxx  
 (f)       That no student shall be admitted to the college until the admission (affiliation) prayed for has been granted by the University.”

Learned counsel for University further urges that an Institute can be admitted to the privileges of the University by way of affiliation only after an application for the same is made after satisfying all the pre-requisites prescribed in the said Statute of 2013. The University counsel further submits that in the absence of any application for affiliation made prior to admission of students in January, 2019, the claim for affiliation by the petitioner qua academic session 2018-19 has been declined in the meeting of the Executive Council of the University convened on 03.03.2022 vide Annexure R-2/1 (along with reply of the university). Counsel for the University as regards ground of discrimination submits that in the cases of Oriental College Amarwada and Sardar Patel Institute of Paramedical Sciences Bannakheda, Jaora (vide Annexure P/8 & P/10), the said two Institutes were granted affiliation for the academic session 2018-19 because they had submitted their respective applications seeking affiliation prior to admitting students in the 2018-19 session. It is submitted that since the petitioner-Institute herein had not done so, the University has rightly declined grant of affiliation for the said course qua academic session 2018-19.

**5.** After having heard learned counsel for rival parties, this Court is of the considered view that the petition deserves to be rejected for the following reasons:

(i) The petitioner has failed to bring forth any material or evidence to demonstrate that an application seeking affiliation from the respondent-University was submitted prior to admitting students in the courses of Diploma in Medical Lab. Technician for the academic session 2018-19.

(ii) The grant of recognition by the Council by order dated 26.12.2018 (Annexure P/1) permitted admission of students in the 2018-19 session in the said course only after obtaining affiliation. Since petitioner-Institute never applied for affiliation, it is obvious that admissions of students in 2018-19 session in the courses of Diploma in Medical Lab Technician were made in breach of the mandatory conditions subject to which the recognition was granted.

(iii) The respondent-University in the given facts and circumstances where petitioner failed to apply for affiliation prior to the admission of students in 2018-19 academic session, was well within its jurisdiction to decline grant of affiliation retrospectively.

(iv) The ground of discrimination raised by petitioner-Institute by relying with the orders passed by Coordinate Bench of this Court in the case of **Oriental College Amarwada** (supra) and **Sardar Patel Institute of Paramedical Sciences Bannakheda, Jaora** (supra), is of no avail to the petitioner in view of petitioner having failed to establish the factum of preferring an application for affiliation, much less grant of affiliation prior to admitting students in January, 2019. Thus the reliance placed on the decisions of the Co-ordinate Bench in the case of **Oriental College Amarwada** (supra) and **Sardar Patel Institute of Paramedical Sciences Bannakheda, Jaora** (supra) where petitioners had filed application for affiliation, is of no avail to the petitioner.

(v) When the order of recognition (Annexure P/1) is subject to certain conditions including the condition that no admission should take place without grant of affiliation by the University concerned, then if the Institute admits students without the University admitting the Institute to its privileges then obviously the recognition granted by Annexure P/1 in the instant case ought to have been rendered otiose. The recognition Annexure P/1 was granted to the petitioner institute subject to certain conditions, one of which was not fulfilled and, therefore, on the occasion of breach of that condition as enumerated above, the conditional order of recognition (Annexure P/1) became a nullity in the eyes of law rendering all the admissions made by the petitioner/institute to be unlawful.

6. Before concluding, this Court would like to comment upon the sphinx like attitude of the M.P. Paramedical Council. The Council instead of rising to the occasion by objecting to the admission of students without affiliation, turned a Nelson's eye towards this glaring illegality.

6.1 The respondent-Council is a statutory body constituted under the Madhya Pradesh Sah Chikitsiy Parishad Adhiniyam, 2000. The said Adhiniyam of 2000 was promulgated to regulate the practice of paramedical practitioners and paramedical education, for which the respondent-Council was constituted as a body corporate in the name of M.P. Paramedical Council with the following powers and functions:

**“23. Powers and functions of Council.-**(1) Subject to the provisions of this Act and the rules made thereunder, the Council shall exercise such powers and perform such functions as may be necessary for carrying out the purposes of this Act.



(2) In particular and without prejudice to the generality of the foregoing provisions, the powers and the functions of the Council shall be -

- (a) to maintain the State register of paramedical practitioners;
- (b) to hear and decide appeals from the decision of the Registrar in such manner as may be prescribed by regulations;
- (c) to prescribe by regulations a code of ethics for regulating the professional conduct of registered paramedical practitioners;
- (d) to reprimand a registered paramedical practitioner, to suspend or remove the name from the State Register, or to take such other disciplinary action against him, as may, in, the option of the Council, be necessary or expedient.
- (e) to permit any member to be absent himself from three consecutive meetings of the Council.
- (f) to promote innovations, research and development in establishment of new paramedical subjects;
- (g) to formulate schemes for promoting paramedical education;
- (h) to promote an effective link between paramedical education and medical education, Ayurvedic, Unani, Homeopathy and biochemic systems and to promote research and development in these subjects;
- (i) to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualifications, quality instructions, assessment and examinations;

- (j) to fix norms and guidelines for changing tuition and other fees;
- (k) to advise the State Government in respect of grant of charter to any paramedical body or institution in the field of education;
- (l) to provide guidelines for admission of students to paramedical institutions and Universities imparting paramedical education.
- (m) to inspect or cause to be inspected any paramedical institution;
- (n) to constitute a board for conducting the examination to maintain uniformity of standard;
- (o) to perform such other functions as may be prescribed by rules;
- (p) to conduct the election of members under clause (xi) of sub-section (1) of section 4.”

(emphasis supplied)

The extent of powers and functions of the Council includes inspection of any paramedical institution as and when deemed necessary. This power of inspecting any institution is to ensure that the institution is being run in accordance with the laid down procedure and the law of the land. The Council also has power to withdraw recognition once granted *inter alia* on grounds that the institution does not conform to the standards prescribed by the Council.

**6.2** Unfortunately the respondent-Council which is a supervisory body to ensure that all pre-requisites under the Adhiniyam of 2000 and as well as other

relevant laws are followed, did not take any action against the petitioner-institute. The Council neither withdrew its conditional recognition nor it took any other action against the petitioner – Institute under the powers vested in it under the Adhinyam, 2000. Silence on the part of the respondent-Council permitted the petitioner Institute to continue with the illegality which ought to have been nipped in the bud by the Council. The Council by its inaction has rendered the academic career of the students in jeopardy and, therefore, is liable to be saddled with heavy cost to be paid to the students.

**6.3** The petitioner-Institute has also suppressed material fact as to whether it had made any application for seeking affiliation from the University and, therefore, the contention of learned counsel for the University that there is suppression of material fact in this petition appears to be correct. As such the petitioner-Institute is also liable to be saddled with cost.

**6.4** That though learned counsel for rival parties have placed reliance upon various decisions of this Court as well as the Apex Court but looking to peculiar facts of the present case where the petitioner has even failed to establish that any application for affiliation was made and that there was any order of affiliation issued by the respondent-University prior to admitting students in the said course in the academic session 2018-19, the said citations being based on facts which are at variance to the facts prevailing herein, are not being discussed to avoid prolixity.

**6.5** Before parting, it would be appropriate to mention that the Apex Court time and again has reiterated the importance of sticking to the time schedule which was laid down by way of a judicial order by the Apex Court in **Maa**

**Vaishno Devi Mahila Mahavidyalaya Vs. State of Uttar Pradesh and others, (2013) 2 SCC 617**, in a case pertaining to Teachers Training Course under the NCTE. The Apex Court in the said case and several cases has frowned upon the Institutes which admit students without recognition and affiliation.

**6.6** Consequent upon the aforesaid discussion, this Court declining interference rejects this petition by directing thus :

(i) The prayer made by the petitioner-Institute in its prayer clause is declined and the challenge by way of amendment to the order dated 03.03.2022 (Annexure P/11) is repelled.

(ii) The petitioner- Institute is directed to pay cost of **Rs.25,000/- (Rupees Twenty Five Thousand)** to each of the students admitted in the courses of Diploma in Medical Lab. Technician qua the academic session 2018-19 by digital transfer in the bank accounts of all the students and report compliance. Further, they shall be at liberty to claim damages, if any, before appropriate forum, if so advised.

(iii) The M.P. Paramedical Council owing to its inaction and failing to take any necessary step despite knowing about the illegal admission, is saddled with cost of **Rs.50,000/- (Rupees Fifty Thousand)** which shall be paid in favour of Secretary, M.P. State Legal Services Authority, Jabalpur.

(iv) The aforesaid cost be paid within 90 days, failing which the matter be listed as PUD for execution qua cost.

**7.** With the above directions, writ petition stands **dismissed**.

**(SHEEL NAGU)**  
**JUDGE**

DV

**(VIRENDER SINGH)**  
**JUDGE**