



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 4856/2022

Federation Of The Raj. Homoeopathic Med. College, Homeopathic Medical Colleges, Through Its Authorized Signatory Dr. Atul Kumar Singh S/o R.d. Singh, Aged About 52 Years, Presently Working As Director Mangilal Nirban Homeopathic Medical College And Research Institute, M.n. Hospital Campus, Near Karni Singh Stadium, Bikaner.

-----Petitioner

Versus

1. The Union Of India, Through The Secretary, Ministry Of Ayurveda, Yoga And Naturopathy, Unani, Siddha And Homeopathy (Ayush), B-Block, Gpo Complex, Ina, New Delhi-110023.

2. The State Of Rajasthan, Through The Principal Secretary, Department Of Ayurveda And Indian Medicine, Government Of Rajasthan, Secretariat, Jaipur.

3. The Ug/pg Ayush Counseling Board, Rajasthan 112-113, 1St Floor, Administrative Building, Dr. Sarvapalli Radha Krishnan Rajasthan Ayurved University, Nagaur Road, Karwar, Jodhpur Through Its Chairman.

4. The National Commission For Homeopathy, Jawaharlal Nehru Bhartiya Chikitsa Evam Anusandhan Bhawan, 61-65, Institutional Area, Opp. D Block, Janakpuri, New Delhi Through Its Registrar.

5. Dr. Sarvapalli Radha Krishnan Rajasthan Ayurved University, Nagaur Road, Karwar, Jodhpur Through Its Registrar.

-----Respondents

For Petitioner(s) : Mr. Akhilesh Rajpurohit.

For Respondent(s) : Mr. Sandeep Bhandawat.

HON'BLE MR. JUSTICE SANDEEP MEHTA

HON'BLE MR. JUSTICE FARJAND ALI

Order

04/04/2022



By way of this writ petition, the petitioner Federation seeks to assail the validity of the Notifications dated 14.12.2018 and 19.06.2019 and crave a consequential direction permitting the member colleges of the petitioner to take admission of non-NEET qualified students in the BHMS Course, in case NEET qualified students are not available.

Shri Akhilesh Rajpurohit, learned counsel representing the petitioner, placed reliance on the Delhi High Court's Judgment in the case of Priyanshu Undaviya & Ors. vs. Union of India & Ors.- WP(C) 451 of 2022, on 25.02.2022 whereby, the above referred notifications were quashed and struck down and directions have been given to allow the colleges to admit the students in the Homeopathy stream in case seats are still available after NEET qualified students have been adjusted.

The matter requires consideration.

Issue notice of the writ petition as well as stay application to the respondents. Shri Sandeep Bhandawat appears on behalf of respondents Nos.3 and 5. Thus, notices be issued to respondents Nos.1, 2 and 4 only.

In the meantime, the member colleges of the petitioner shall be allowed to take admission of those students who are not NEET qualified in BHMS course (Homeopathy Stream) subject to the condition that the NEET qualified students are not available for admission in the said course.

(FARJAND ALI),J

(SANDEEP MEHTA),J

88-Tikam/-

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ No. 16431/2018

1. Mangilal Nirban Homoeopathic Medical College, M.n. Hospital Campus, Near Karni Singh Stadium, Bikaner Through Its Principal Shri Mohd. Aizaz Sulemani, Aged About 34 Years, Son Of Shri Aziz Sulemani.
2. Madhav Homoeopathic Medical College, Madhav University Campus,abu Road, Sirohi Through Its Director Shri Krishan Kumar Singh, Aged About 61 Years, Son Of Shri Om Prakasth Singh.
3. Rajasthan Vidhyapeeth Homoeopathic Medical College, Dabok, Udaipur Through Its Authorized Signatory Dr. Pankaj Sharma, Aged About 58 Years, Son Of Dr. Madan Lal Sharma.
4. Madan Pratap Khunteta Homoeopathic Medical College, Homoeopathy University, Saipura, Sanganer, Jaipur Through Its Principal Shri Atul Kumar Singh, Aged About 49 Years, Son Of Shri Ramdev Singh.
5. Swasthya Kalyan Homoeopathic Medical College And Research Centre, A 10, Sitapura Institutional Area, Jaipur Through Its Director, Dr. Pahkan Sharma, Aged About 58 Years, Son Of Dr. Madan Lal Sharma.
6. Yuvraj Pratap Singh Homoeopathic Medical College, Shivaji Park, Alwar Through Its Principal Dr. Mukesh Kumar Sharma, Aged About 55 Years, Son Of Shri J.p. Sharma.
7. Sri Ganganagar Homoeopathic Medical College, Hanumangarh Road, Sri Ganganagar Through Its Authorized Signatory Ashwini Gogia Son Of Hari Chand Gogia, Aged About 50 Years.
8. Arogaya Homoeopathic Medical College, Village Naila, Agra Road, Jaipur Through Its Director Shri Vimal Kumar Kanwata, Son Of Shri Jagdish Prasad, Aged About 42 Years.
9. Federation Of The Rajasthan Homoeopathic Medical Colleges, Jai Villa, Narayan Singh Road, Near Trimurti Circle, Jaipur Through Its Authorized Signatory Dr. Pankaj Sharma, Aged About 58 Years, Son Of Shri Madan Lal Sharma.



----Petitioners

Versus

1. State Of Rajasthan, Through The Principal Secretary, Department Of Ayurved And Indian Medicine, Government Of Rajasthan, Secretariat, Jaipur.
 2. Dr. Sarvapalli Radhakrishnan, Rajasthan Ayurved University, Nagaur Raod, Karwad, Jodhpur Through Its Registrar.
 3. The Counseling Board Bams, Bums, Bhms, Bnys, Counseling Dr. Sarvapalli Radha Krishnan Rajasthan Ayurved University, Nagar Road, Karwar, Jodhpur Through Chairman, Counseling Board.
- The Union Of India, Through The Secretary, Ministry Of Ayurveda, Yoga And Naturopathy, Unani, Siddha And Homoeopathy (Ayush), B Block, Gpo Complex, Ina, New Delhi 110023



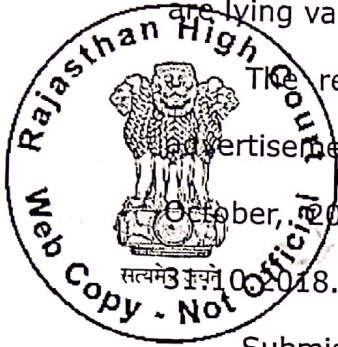
----Respondents

For Petitioner(s)	: Mr. M.S. Singhvi, Senior Advocate assisted by Mr. Akhilesh Rajpurohit.
For Respondent(s)	: Mr. B.L.Bhati, GC

HON'BLE MR. JUSTICE ARUN BHANSALI**Judgment / Order****24/10/2018**

In the present writ petition, the petitioners have questioned the validity of the stipulation indicated in Annexure-16 dated 12.02.2018 issued by the Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) providing that all concerned Universities shall admit students in AYUSH under Graduate courses for Academic Year 2018-19 on the basis of the merit list of National Eligibility cum Entrance Test (NEET) only.

It is, inter-alia, submitted that based on the said stipulation made in the direction dated 12.02.2018, the counseling has been held by the respondent No.3. Despite holding two rounds of counseling based on the requirements of having NEET alongwith the other eligibility criteria, majority of seats are lying vacant in the colleges, inasmuch as, in some institutions almost all the seats are lying vacant.



The respondent - Counseling Board has again issued an advertisement for holding last round of counseling on 28th & 29th October, 2018 as the admissions have to be granted before 10.10.2018.

Submissions have been made that the stipulation made in the order dated 12.02.2018 has already been struck down by Patna High Court in *Civil Writ Jurisdiction Case No.16541/2018 : Vihar Private Unani Medical Colleges & Anr. v. The Union of India & Ors.*, decided on 10.10.2018 and on account of the stipulation made in this regard again by the respondent- Counseling Board would result in the seats remaining vacant on account of non-availability of NEET qualified candidates.

A prayer has been made that the petitioners-Institutions may be permitted to admit the students on their own by issuing advertisement in the news-paper based on merit of 10+2 examination, which is the qualification indicated in the BHMS Regulations, 1983 (Annex.11).

Learned counsel appearing for the respondent No.3 on caveat made submissions that the Board had well in advance issued advertisement on 15.02.2018 regarding the requirement of the candidates having cleared NEET examination and that the NEET was held in the month of June, 2018 and therefore,

apparently there was no reason for the candidates not to appear for NEET. Further submissions have been made that irrespective of the submissions made, the selection of candidates cannot be left to the petitioners under any conditions.

The Patna High Court in the case of *Vihar Private Unani Medical Colleges* (Supra) after hearing all the parties inter-alia held as under :-



"In view of the discussions, as above, I am of the considered view that NEET could not be said to be compulsory for AYUSH (UG) Courses till necessary amendments are introduced in the Act and Regulations governing admission. The decision of the Union Government to provide NEET as compulsory for admission to AYUSH (UG) Courses, in my view, is unauthorised and contrary to the Regulations framed under Indian Medicine Central Council Act, 1970. Letter dated 12.02.2018 of the Central Government is accordingly set aside. The press communique dated 23.03.2018 issued by the State Government of Bihar (Annexure-11) is consequently not sustainable and is accordingly quashed."

(emphasis supplied)

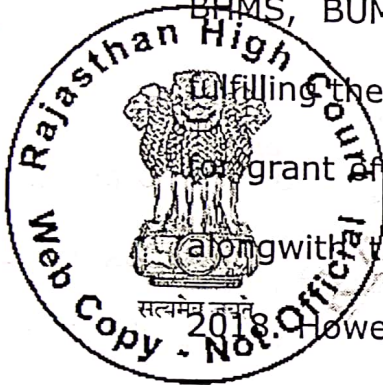
A perusal of the above order would indicate that the communication dated 12.02.2018 of the Central Government already stands set-aside and therefore, prima facie at this stage, it can be said that the stipulation as made by the Ministry of AYUSH regarding the NEET qualification is not sustainable. There is substance in the submissions made by learned counsel for the petitioners that in case, the admissions are not completed by 31.10.2018 and the condition ultimately is found to be illegal as has been found by the Patna High Court, same cannot cure the deficiency, which would result on account of non-admission of requisite students with the petitioners-colleges.

In view of the submissions made, issue notice. Issue notice of stay application also. Both are made returnable within a period of four weeks.

Notices, when issued, be given 'dasti' to learned counsel for the petitioners.

As respondent No.3 is already represented by the counsel, no need to issue notice to the respondent No.3.

In the meanwhile, the respondent No.3 is directed to issue an advertisement regarding counseling for grant of admission in BHMS, BUMS & BNYS courses with the stipulation that those fulfilling the eligibility conditions other than NEET, would be eligible for grant of admission and hold the counseling of such candidates alongwith the pre-scheduled counseling on 28th & 29th October, 2018. However, it is made clear that while holding the counseling and granting admissions to the students including the students who have not cleared NEET, the preference would be given to candidates, who have the NEET eligibility. The students without NEET eligibility, who are granted admission, a specific stipulation would be indicated that the same would remain subject to final outcome of the present writ petition.



(ARUN BHANSALI),J

Rm/217

(ARUN BHANSALI),J

सत्यमेव जयते

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ No. 17431/2018

1. Mangilal Nirban Homoeopathic Medical College, M.N. Hospital Campus, Near Karni Singh Stadium, Bikaner Through Its Principal Shri Ajjaz Aziz Sulemani, Aged About 40 Years, Son Of Shri Aziz Ahmed Sulemani.
2. Madan Pratap Khuntete Homoeopathic Medical College, Homoeopathy University, Saipura, Sanganer, Jaipur Thorough Its Principal Shri Atul Kumar Singh, Aged About 49 Years, Son Of Shri Ramdev Singh.
3. Swasthya Kalyan Homoeopathic Medical College & Research Centre, A-10, Sitapura Institutional Area, Jaipur Through Its Director Dr. Pankaj Sharma, Aged About 58 Years, Son Of Dr. Madan Lal Sharma.
4. Sri Ganganagar Homoeopathic Medical College, Hanumangarh Road, Sri Ganganagar Through Its Authorized Signatory Ashwini Gogia S/o Hari Chand Gogia, Aged About 50 Years.
5. Sri Ganganagar College of Ayurvedic Science & Hospital, Hanumangarh Road, Sri Ganganagar Through Its Authorized Signatory Ashwini Gogia S/o Hari Chand Gogia, Aged About 50 Years.

----Petitioners

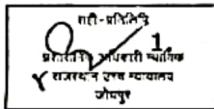
Versus

The State of Rajasthan, Through The Principal Secretary, Department of Ayurved and Indian Medicine, Government Of Rajasthan, Secretariat, Jaipur.

Dr. Sarvapalli Radhakrishnan, Rajasthan Ayurved University, Nagaur Road, Karwad, Jodhpur Thorough Its Registrar.

3. The Counseling Board BAMS, BUMS, BHMS, BNYS Counseling Dr. Sarvapalli Radha Krishnan Rajasthan Ayurved University, Nagaur Road, Karwar, Jodhpur Through Chairman, Counselling Board.
4. The Union of India, Through The Secretary, Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (Ayush), B-Block, GPO Complex, INA, New Delhi- 110023

----Respondents



15 NOV 2018

Scanned with CamScanner

For Petitioner(s) : Mr. Akhilesh Rajpurohit.
 For Respondent(s) : Mr. B.L. Bhati. R-3

HON'BLE MR. JUSTICE SANGEET LODHA

Order

15/11/2018

Heard.

Issue notice. Issue notice to stay petition.

Mr. B.L. Bhati, Advocate, has already appeared on behalf of respondent No.3. Let notices be issued to the respondents No.1, 2 and 4, returnable in four weeks.

In the meanwhile, the respondent No.3 is directed to issue advertisement regarding counselling for grant of admission in Post Graduate Course in Homeopathy with the stipulation that those fulfilling the eligibility criteria other than minimum qualifying marks in All India AYUSH Post Graduate Entrance Test (AIA-PGET)-2018 would be eligible for grant of admission and hold counselling of such candidates within a period of three days from date of issuance of advertisement. However, it is made clear that while holding the Counselling and granting admission to the students including the students who have not qualified AIA-PGET preference will be given to the candidates who have qualified AIA-PGET-2018.



राजीव गांधी आयोग के लिए समाज के उत्थान के लिए
 जायपुर

Regarding the students who are admitted to the Course without obtaining the minimum qualifying marks in the AIA-PGET-2018 stipulation would be indicated that their admission shall remain subject to the final outcome of the writ petition.

(SANGEET LODHA),J

DJ/- 57

15/11/18

15 NOV 2018