



2025:DHC:4909



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Judgment Delivered on: 30.04.2025*+ **W.P.(C) 15479/2024 & CM APPL.4970/2024****SHUBHANSHU SHARMA AND ORS**

.....Petitioners

Through: Mr. Amit Prasad, Mr. Sanchit Gawri,  
Mr. Shubhankar Sengupta and Mr.  
Aarush Bhatia, Advs.

versus

**NATIONAL COMMISSION FOR INDIAN SYSTEM OF  
MEDICINE AND OTHERS**

.....Respondents

Through: Mr. Kumar Prashant, Mr. Parmod  
Kumar Vishnoi and Mr. Kartik  
Nigam, Advs. for R-1/NCISM.  
Mr. Jivesh Kumar Tiwari and Ms.  
Samiksha, Adv. for R-3/University.  
Mr. Farman Ali, SPC with Ms. Usha  
Jamnal and Mr. Krishan Kumar,  
Advs. for R-6/UOI.  
Mr. Sanjay Khanna, SC with Ms.  
Pragya Bhushan, Mr. Tarandeep  
Singh and Ms. Vilakshana Dayma,  
Advs. for R-7/NTA.  
Mr. M.A. Niyazi, SC for CBSE with  
Ms. Anamika Ghai Niyazi, Ms. Kirti  
Bhardwaj, Ms. Nehmat Sethi and Mr.  
Arquam Ali, Advs. for R-8/CBSE.

**CORAM:****HON'BLE MR. JUSTICE VIKAS MAHAJAN****JUDGMENT****VIKAS MAHAJAN, J (ORAL)****CM APPL. 22297/2025 (by the petitioners under Section 151 CPC  
seeking directions)**

1. The case set out by the petitioners in the present petition is that the



petitioners are the students of S.S. Ayurveda Medical College and Hospital/respondent no.2 (hereinafter “the college”) which was established by Shree Vijay Shanti Suri Education Trust (hereinafter referred to as “the Trust”).

2. The Trust / college applied for recognition of college to the Central Council of Indian Medicine under Section 13A of the Indian Medicine Central Council Act, 1970 for 60 seats in Under Graduate Course in Bachelor of Ayurvedic Medicine and Surgery (UG-BAMS) for the academic year 2018-19 *vide* its application dated 31.05.2017.

3. An inspection of the college was conducted on 12.10.2018, however, no decision in regard to recognition was communicated to college till 15.11.2018 which was the last date for counselling. The Trust/college, therefore, filed a writ petition W.P. (C) 12398/2018 seeking mandamus to the respondents therein to pass an order on its application for recognition dated 31.05.2017, as well as, praying for permission to participate in the counselling process.

4. In the interim, this Court passed an order dated 19.11.2018 in the said writ petition whereby the college was permitted to proceed with admissions and counselling for 66 seats of UG-BAMS Course. It was also observed that the counselling would abide by the outcome of the proceedings of the writ petition. Incidentally, the admissions were not permitted on the prayer of the petitioners herein nor they were party to the said petition. The relevant part of the interim order dated 19.11.2018 reads as under:

*“14. The petitioner is permitted to proceed with admissions and counselling for 66 seats of the BAMS Course in its institution, within a period of one week from today. The said counselling*



*would, needless to say, abide by the outcome of the present proceedings”*

5. Pursuant to the aforesaid order dated 19.11.2018, college admitted 44 students. Over a period of time, only 28 students have continued in the college, who are the petitioners herein, while others left or migrated to other colleges.
6. The aforesaid petition i.e. W.P (C) 12398/2018 was disposed of by this Court *vide* order dated 30.09.2019 observing that the writ petition had worked itself out, when the respondents therein informed the Court about the rejection of Trust’s application for recognition of college for the academic session 2018-19 *vide* order dated 14.11.2018 passed by Union of India/Ministry of AYUSH.
7. It appears that the order dated 14.11.2018, whereby the application seeking grant of recognition was rejected, was not brought to the notice of the Court at the time when aforesaid interim order dated 19.11.2018 was passed permitting the respondent no.2/college to proceed with admissions and counselling for 66 seats of UG-BAMS Course.
8. Sequel to above, an application was made by the Trust/ college for recognition for the next academic year 2019-2020. However, since no action was taken on the same, the respondent no.2 again approached this Court by filing a writ petition W.P. (C) 8156/2019 *inter alia* seeking direction to the respondents therein to grant permission to the college to admit 60 Under Graduate students in BAMS Course for the Academic Session 2019-20. The application of Trust / college for grant of recognition to the college for Academic Session 2019-2020 was also rejected by the UOI / Ministry of AYUSH *vide* order dated 30.09.2019.
9. The first rejection order dated 14.11.2018 rejecting recognition for the



academic session 2018-19 was challenged by the Trust and college by filing a writ petition W.P. (C) 10840/2019. The second rejection order dated 30.09.2019 rejecting recognition for the academic session 2019-2020 was also assailed by the Trust and college by filing yet another writ petition W.P. (C) 10912/2019.

10. All this while the 44 students, including 28 present petitioners, who were admitted by the college on the basis of an interim order dated 19.11.2018 passed in W.P.(C) 12398/2018, were continuing with their studies in the respondent no. 2/college without any recognition having been granted to the said college. Since the sword of uncertainty as to their future was hanging over the heads of said students, therefore, when W.P.(C) 10840/2019 came up for consideration on 11.10.2019, the learned counsel for the college apprised the Court that pursuant to the directions issued by the Court on 19.11.2018 in W.P.(C) 12398/2018, 44 students were enrolled in BAMS Course and they are on the verge of sitting for their First Year Examination. Accordingly, the Court *vide* order dated 11.10.2019 asked the respondents therein to seek instructions as to how one is to proceed further in so far as the said 44 students are concerned. The relevant paras of the order dated 11.10.2019 reads as under:

*“7. Mr. Nandrajog, learned senior counsel, who, appears for the petitioners says that while W.P.(C) 12398/2018 was pending adjudication an interim order was passed by this Court on 19.11.2018 whereby the petitioner was permitted to proceed with admission qua 66 seats in the BAMS course.*

*7.1 It is pertinent to note that the Court while issuing the direction had placed a caveat which was that the petitioner would abide by the outcome of the writ proceedings.*

*8. Mr. Nandrajog, says that pursuant to the directions issued by this*



*Court on 19.11.2018, 44 students were enrolled in the BAMS course and that they are on the verge of sitting for their first year exam.*

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*11. Learned counsel for the respondents will take instructions as to how one is to proceed further insofar as 44 students who already stand enrolled are concerned.”*

11. Subsequently, *vide* order dated 23.10.2019 passed in W.P.(C) 10840/2019 this Court directed the respondent no.3/university to hand over the examination enrolment form in respect of the concerned 44 students with further direction to allow the students to take the examination. The Court observed that merely because the students are allowed to take examination, no equity will be claimed if the petitioners fail in the writ petition. The Court also directed that the concerned students will be informed by the petitioners with respect to the pendency of the captioned writ petition and order passed by this Court. The relevant part of the order dated 23.10.2019 reads as under:

*“1. On the previous date i.e. 11.10.2019, I had asked Ms. Suparna Srivastava to take instructions as to how one is to proceed further insofar as 44 students who stand already enrolled pursuant to order dated 19.11.2018 passed by my predecessor.*

*2. The record shows that in the concerned academic session (i.e. 2018-2019), 44 students were enrolled pursuant to order dated 19.11.2018. However, it transpired much later that an order had been passed by respondent No.1/UOI on 14.11.2018, to the effect, that Letter of Intent (LOI) will not be issued to the petitioner. It is this order which is assailed in the captioned writ petition*

*3. Insofar as the subsequent academic session (i.e. 2019-20) is concerned, Mr. Sudhir Nandrajog, learned senior counsel, informs me that a fresh writ petition being W.P.(C) No.10912/2019 has*



been filed. Learned senior counsel submits that notice in the said writ petition was issued on 14.10.2019, which is made returnable on 30.1.2020.

4. Having heard the counsel for the parties, what is clear is that the counsel for respondent No.1/UOI did not inform the Court on 19.11.2018 that an order had been passed against the petitioner on 14.11.2018. What made it worse is the fact that the order dated 19.11.2018 was allowed to operate and no application was moved for vacation or modification of the said order.

5. Ms. Srivastava submits that the petitioner who had also known about the order should have approached the Court. In response, Mr. Nandrajog says that the order dated 14.11.2018 was not received by the petitioner.

6. The fact remains that the Court is faced with an odd situation, which is that the concerned 44 students have progressed in their studies and are now ready to take the first year BAMS Course examination.

**7. Therefore, for the moment, respondent No.4 University will hand over examination enrolment forms in respect of the concerned 44 students. Upon enrolment forms being filled up and requisite steps being taken, these students will be allowed to take the examination, which I am told, is slated for 1.11.2019. Needless to add, merely because the students are allowed to take examination, no equity will be claimed if the petitioners fail in the writ petition. The concerned students will be informed by the petitioners with respect to the pendency of the captioned writ petition and order passed by this Court. The petitioners will upload the order on their website as well."**

(emphasis supplied)

12. Accordingly, students took the said first year BAMS course examination. It appears that for subsequent years as well, the respondent no.3/university conducted examination for the students who continued to study in the college. As noted above, only 28 students have continued in the college and they have now completed their course (UG-BAMS) of four and



a half years. The present petition has been filed by said 28 students with the following prayer:

*“a) Pass a Writ of Certiorari or any other writ, order or direction in the nature thereby for setting aside the Communication Bearing Ref. No. (BOA, Degree Recog.) 12/Rj-03/2024 dated 05.06.2024 issued by the Respondent No.1 denying Recognition/Inclusion of Undergraduate Qualifications of the Petitioners after completion of their respective BAMS Course for Academic Year 2018-19; and*

*b) Pass a further writ of mandamus or any other writ, order or direction in the nature thereby directing the Respondent no.1 & 5 to recognize/include the undergraduate (BAMS) qualifications of the Petitioners after completion of their respective BAMS course for academic year 2018-19 and pass further necessary consequential directions to the respondent no. 3 and 4 to issue permanent registration numbers to the petitioners;”*

13. The W.P.(C) 10840/2019 filed by the Trust and college against the order of rejection of recognition order dated 14.11.2018 was disposed of by this Court *vide* order dated 24.05.2023 noting that college has not been granted permission to admit the students after Academic Year 2018-2019 onwards and therefore, it may file a fresh application for grant of recognition. However, the students admitted in the respondent no.2 college were allowed to complete their course, subject to fulfilling the basic eligibility criteria stipulated for their admission in the concerned course. It was also observed that if the respondent-University finds that any of the students do not fulfil the basic eligibility criteria for admission, appropriate orders in that respect be passed so that the concerned student would be at liberty to take up appropriate proceedings thereafter, in accordance with law. The relevant excerpts from the order dated 24.05.2023 reads thus:

*“1. The petitioners in the instant petition seek for directions to set aside the impugned order dated 14.11.2018 passed by respondent*



*no.1 whereby, the petitioners were denied permission for granting admissions to UGBAMS course for the Academic Year 2018-2019.*

*2. Learned counsel appearing on behalf of the petitioners submits that in terms of interim order dated 19.11.2018, passed in W.P.(C) 12398/2018, this court permitted the petitioners to proceed with admissions and counselling for 66 seats of UG-BAMS course in its institution. The arrangement was made subject to the outcome of the said writ petition, however the fact remains that the students who were admitted in terms of the order passed by this court are on the verge of completion of their course.*

*3. He, further submits that while deciding the similar controversy in W.P.(C)11169/2018, vide order dated 24.03.2023, this court has confirmed the interim order therein and made it absolute, allowing the students in the concerned institution to complete their course.*

*4. Learned counsel appearing on behalf of respondent no.2 submits that in the instant case the petitioner-institution has not been granted recognition after the Academic Year 2018-2019. According to her the present batch is the last batch which has been admitted by the petitioner-institution by way of the interim order passed by this court. According to her, if the petitioner institution does not fulfil the requirement under the applicable regulations in the year 2018, there is no question of allowing the students to complete their course.*

*5. Learned counsel appearing for respondent-University also states that as per his instructions, there are certain students who are not fulfilling the basic eligibility criteria to be admitted in the concerned course.*

*6. I have considered the submissions made by learned counsel for the parties.*

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*10. In view of the aforesaid, it is seen that the petitioner-institution has not been granted permission to admit the students after Academic Year 2018-2019 onwards and therefore, if the petitioner institution has any grievance with respect to grant of recognition, it is entitled to raise the same in appropriate proceedings, in accordance with law or to file a fresh application*



*for grant of recognition. However, in view of the prayer made by the petitioners, the admission made by the petitioner-institution as per the order passed by this court dated 19.11.2018 deserve consideration.*

**11. Let the students admitted in the petitioner-institution be allowed to complete their course, subject to fulfilling the basic eligibility criteria stipulated for their admission in the concerned course. However, if the respondent-University finds that any of the students do not fulfil the basic eligibility criteria for admission, let appropriate orders in that respect be passed so that the concerned student would be at liberty to take up appropriate proceedings thereafter, in accordance with law.**

13. With the aforesaid observation, nothing more is required to be stated. The instant petition stands disposed of.

14. The date already fixed i.e. 13.10.2023, stands cancelled.

(emphasis supplied)

14. In the present writ petition, this Court vide order dated 12.12.2024 noted the above quoted order dated 24.05.2023 passed in W.P.(C) 10840/2019 and further observed that there should be no impediment in recognising the courses undergone by the students by the concerned agencies so long as the students fulfil the basic eligibility criteria stipulated for their admission. The order passed on 12.12.2024 reads as under:

***“1. The Court takes the order dated 24.05.2023 passed in the W.P.(C) 10840/2019, where the students admitted in the Institutions were allowed to complete their course, subject to fulfilling the basic eligibility criteria stipulated for their admission for the concerned course.***

**2. Therefore, there should be no impediment in recognising the courses undergone by the students by the concerned agencies so long as the students fulfil the basic eligibility criteria stipulated for their admission in the concerned course.**

**3. Accordingly, all the respondents are directed to comply with the aforesaid.**



4. *In the meantime, respondents shall also be at liberty to file a reply.*

5. *With the aforesaid observations, let the matter be called out on 31.01.2025.”*

(emphasis supplied)

15. As noted above, *vide* order dated 24.05.2023 passed in W.P.(C) 10840/2019, a direction was given to the respondent/University to verify the eligibility of the petitioners. The said direction was reiterated *vide* order dated 12.12.2024 passed in the present writ petition, whereby all the respondents were given direction to verify whether the petitioners fulfil the eligibility criteria of admission.

16. Some correspondence was done by the respondent no.3/University with respondent no.6/IOI (through Ministry of AYUSH) *albeit* in the months of February - March 2025, but as a matter of fact, eligibility criteria of 28 petitioners was not verified fully as revised cut-off marks and last date of admission was not received from the Ministry of AYUSH. In this regard, respondent no.3/University filed a short affidavit dated 24.03.2025 providing details of such correspondence/communication, relevant part of which reads as under:

*“6. That the Registrar had sent a letter dated 20.02.2025 to the Chairman, UGPG AYUSH Counseling Board, Government of Rajasthan, AYUSH Bhawan, Jaipur vide e-mail dated 20.02.2025, at 5:25PM seeking about the cut off marks and last date of NEET 2018, and vide reply e-mail dated 20.02.2025, 5:48PM, it was informed that:*

*“The cutoff was revised by the Ministry of AYUSH, and the Record of Reduced scores can only be obtained from the Ministry of AYUSH, Government of India. The Record of Reduced scores is not available at the Counseling Board.”*



*Copy of letter dated 20/02/2025 is attached herewith as Annexure A alongwith true typed and translated copy.*

*Copy of reply email dated 20/02/2025 is annexed herewith as Annexure B.*

*7. That the date of document verification was thereafter rescheduled to 28.02.2025 with the consent of the petitioners.*

*Copy of meeting proceeding details dated 24.02.2025 is annexed herewith as Annexure C alongwith true typed and translated copy.*

*8. That on 24.02.2025, the answering Respondent wrote a letter to the Chairman, Central AYUSH Admission Advisory Committee, Ministry of AYUSH, Government of India, New Delhi (Respondent no.6) and requested to provide information about the revised cut off marks and last date for admission in BAMS course in the year 2018-19, but no information had been received till date.*

*Copy of letter dated 24.02.2025 is annexed herewith as Annexure D alongwith true typed and translated copy.*

*9. That on 28.02.2025, the members of the committee, constituted by the university vide office order dated 29/01/2025, verified the documents of 28 petitioners, their 10th, 12th marksheets, NEET score card and other documents, available with them.*

*Copy of office order dated 29/01/2025 is annexed herewith as Annexure E.*

*Copy of summary of document verification alongwith attendance sheet dated 28.02.2025 is annexed herewith as Annexure F (Colly).*

*10. That the answering respondent has again sent a letter to Respondent no. 6 i.e. Ministry of AYUSH, New Delhi on 17<sup>th</sup> March 2025 for the information about the revised cut off marks and last date for admission in BAMS course for the academic year 2018-19.*

*Copy of letter dated 17/03/2025 is annexed herewith as Annexure G alongwith true typed and translated copy.*

*11. That the answering respondent i.e. Respondent no. 3 is awaiting the information about the revised cut off marks and last date for admission in BAMS course for the*



*academic year 2018-19 from the Respondent no. 6 i.e. Ministry of AYUSH, Government of India, New Delhi for further confirmation from their end.”*

17. This Court *vide* order dated 22.04.2025 had impleaded the CBSE as respondent no.8, and directed it to verify the score card of the petitioners. The CBSE filed the documents on record and Mr. M.A. Niyazi, learned standing counsel for the CBSE made a statement to the effect that all the score cards pertaining to the NEET exam, which have been placed on record by the petitioners, have been verified.

18. Likewise, the respondent no.6/Union of India through Ministry of AYUSH also filed a short affidavit dated 23.04.2025 placing on record the eligibility criteria at the relevant time. It has been stated in the affidavit that the qualifying percentile was reduced to 35<sup>th</sup> percentile for candidates belonging to the General (Unreserved) category, and to the 25<sup>th</sup> percentile for candidates belonging to the Other Backward Classes (OBC), Scheduled Castes (SC) and Scheduled Tribes (ST) categories. However, the qualifying percentile for persons with disabilities (PwD) falling under the General Category was fixed at the 30<sup>th</sup> percentile. It has been further stated in the affidavit that cut-off date for admission to Under Graduate Courses for the Ayurveda, Siddha, Unani and Unani, and Homeopathy [ASU & H] colleges for the Academic Year 2018-2019 was fixed as 30.09.2018. However, on account of administrative exigencies the same was initially extended to 31.10.2018 and thereafter extended till 15.11.2018. The relevant part of the affidavit filed by the respondent no.6 reads thus:

*“5. It is submitted that during the academic year 2018-19, the eligibility criteria for admission to undergraduate courses in Ayurveda, Siddha, Unani and Unani, and Homeopathy (“ASU &*



H”) colleges were reviewed by the competent authorities, keeping in view the significant number of seats remaining unfilled across various institutions. It is further submitted that in order to ensure optimal utilization of available seats and to prevent the academic session from being adversely affected due to vacancies, **the required minimum qualifying percentile in the National Eligibility-cum-Entrance Test (“NEET”) 2018 was revised through a policy decision taken by the Central Government, in consultation with the Ministry of AYUSH and relevant regulatory bodies. Accordingly, the qualifying percentile was reduced to the 35th percentile for candidates belonging to the General (unreserved) category, and to the 25th percentile for candidates belonging to the Scheduled Castes (SC), Scheduled Tribes (ST), and Other Backward Classes (OBC) categories. Furthermore, in line with the principles of reasonable accommodation and in compliance with the provisions of the Rights of Persons with Disabilities Act, 2016, the qualifying percentile for persons with disabilities (PwD) falling under the General category was also fixed at the 30th percentile.** A True Copy of letter No. R-13040/33/2016-HD(TECH)/PART dated 01.11.2018 is annexed herewith and marked as **ANNEXURE R-02.**

6. It is submitted that, with regard to **the cut-off date for admission to undergraduate courses in ASU & H colleges for the academic year 2018-19, the original deadline was fixed as 30.09.2018. However, in view of administrative exigencies and to facilitate completion of the admission process in a fair and inclusive manner, the said cut-off date was initially extended to 31.10.2018, and thereafter further extended to 15.11.2018, by the competent authority.** It is further submitted that in this regard, copies of communications issued by the answering Respondent, dated 29.10.2018 and 01.11.2018, were duly addressed to all State Authorities and to the Registrars of all Universities having affiliated AYUSH colleges, for their information and necessary compliance. A True Copy of dated 29.10.2018 and 01.11.2018 is annexed herewith and marked as **ANNEXURE R-03 (COLLY).**

(emphasis supplied)

19. Mr. Amit Prasad, learned counsel for the petitioners submits that the



score cards of the petitioners, as well as, the eligibility criteria, have now come on record and the same reveals that all the petitioners fulfil the eligibility criteria except petitioner no.27. He submits that the percentile of petitioner no.27 was 23.79 as against required percentile of 25, for the OBC category, to which the petitioner no. 27 belongs.

20. Mr. Prasad contends that all the petitioners including petitioner no.27 have completed their course of four and a half year. In fact, 13 petitioners have cleared all their exams and have been given provisional degrees by the respondent no.3/University. The said 13 petitioners have also completed their internships. The remaining 15 students are in the process of clearing backlog exams or undergoing internships. He submits that the petitioners will suffer great hardship, if recognition is not granted to the respondent no.2 college *qua* the petitioners, and they are not granted degrees.

21. In support of his contention, Mr. Prasad places reliance on the decision of the Hon'ble Supreme Court in *Ebtesham Khatoon vs. Union of India & Ors.* 2025 SCC OnLine SC 380 as well as *Apollo College of Veterinary Medicine vs. Rajasthan State Veterinary Council, (2015) 2 SCC 291.*

22. Mr. Jivesh Tiwari, learned counsel for the respondent no.3/University referring to the affidavit filed by respondent no.3/university, which is quoted in Para 16 above, submits that there has not been any laxity on part of the University in verifying the eligibility of the petitioners.

23. I have heard Mr. Amit Prasad for the petitioners, Mr. Jivesh Tiwari for the respondent no.3/University, Mr. M.A. Niyazi for respondent no.8/CBSE as well as Mr. Farman Ali, SPC for respondent no.6/UOI and have perused the record.



24. The petitioners were admitted by the college on the basis of an interim order dated 19.11.2018 passed in the writ petition<sup>1</sup> filed by the respondent no.2/college. Notably, the petitioners were not parties to the said writ petition, nor the respondent no.2 college was recognised at the time when the petitioners were admitted in the college. In fact, the college was never recognised either prior to, or any time subsequent to, the admission of the petitioners.

25. However, the petitioners have continued in the respondent no.2 college and they were also permitted to take their exams with an intervention of this Court. It is not in dispute that the petitioners have now completed their full course of four and a half years. As stated, 13 petitioners have cleared all their exams and have been given provisional degrees by the respondent no.3 university whereas remaining 15 students are in the process of clearing their backlog exams or undergoing internships.

26. This Court *vide* order dated 24.05.2023 passed in W.P.(C) 10840/2019 filed by the Trust/college had directed that the petitioners/students be allowed to complete their course subject to fulfilling the basic eligibility criteria, with further observations that if the respondent/University finds that any of the students do not fulfil the basic eligibility criteria for admission, an appropriate orders in that behalf be passed so that the concerned students would be at liberty to take appropriate proceedings in accordance with law. The said directions were reiterated *vide* order dated 12.12.2024 passed in the present writ petition and all the respondents were directed to comply with the same.

27. At this stage it is not necessary to ascertain as to why the respondents

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<sup>1</sup> W.P.(C) 12398/2018



could not timely comply with the said directions. The fact, however, remains that despite directions having been given as early as on 24.05.2023, the eligibility of the petitioners could not be verified. In the process, all the petitioners completed their full course of four and a half years.

28. During the pendency of the present petition, pursuant to the directions given by this Court, the learned Standing Counsel for the respondent/CBSE has appeared and made a statement to the effect that the score cards of all the petitioners, which have been placed on record with regard to their NEET exam, stands verified.

29. Even the respondent no.6/Union of India through Ministry of AYUSH has also filed a short affidavit dated 23.04.2025 stating that as per the policy decision qualifying percentile was reduced to 35<sup>th</sup> percentile for candidates belonging to the General (unreserved) category and to the 25<sup>th</sup> percentile for candidates belonging to the SC/ST/OBC categories whereas qualifying percentile for PwD candidates under the General category was also fixed at 30<sup>th</sup> percentile. It is further stated in the affidavit that the cut off date for admission was extended from time to time and finally it was extended to 15.11.20218.

30. Though the last cut off date for admission was 15.11.2018, but since the petitioners were admitted pursuant to an interim order passed by this Court on 19.11.2018 in W.P (C) 12398/2018, for which the petitioners are not responsible in any manner, this Court is of the view that the petitioners' admission beyond cut-off date is ought to be regularized, bearing in mind that the petitioners have now completed their full course of four and half years. Incidentally, the petitioners were allowed to complete their course pursuant to the order dated 24.05.2023 passed by this Court in W.P. (C)



10840/2019.

31. While assessing the eligibility of the petitioners on the touchstone of qualifying percentile as disclosed by the respondent no.6/UOI through Ministry of AYUSH in its affidavit dated 23.04.2025, this Court finds that all the petitioners, except petitioner no.27, fulfils the eligibility criteria. The percentile of petitioner no.27 as noted above is 23.79 as against required 25<sup>th</sup> percentile for OBC category, to which the petitioner no.27 belongs.

32. No doubt the petitioners were admitted and allowed to complete their course subject to fulfilling their basic eligibility criteria, but this Court cannot be unmindful of the fact that the petitioner no.27 has now completed her course of four and a half years, therefore, rejecting her candidature at this belated stage will cause immense hardship to her.

33. In taking this view, the Court is supported by the decision of the Hon'ble Supreme Court in *Ebtesham Khatoon* (supra). In said case the Under Graduate students of AYUSH Course had obtained admission to the course without having appeared for NEET (UG), 2019 Examination which at the relevant time was essential. However, on a writ petition being filed by the appellants therein, the learned Single Judge of High Court allowed admission to the said petitioners on the ground that there was no proper publication of the applicability of NEET (UG) 2019 for admission to such AYUSH Courses. However, the Hon'ble Division Bench of the High Court of Calcutta reversed the judgment of the learned Single Judge observing that since other candidates had appeared in NEET and ultimately took admission in AYUSH under the UG courses, there is no justification as to why the appellants could not have appeared for the same.

34. During the pendency of the SLP, the Hon'ble Supreme Court vide



interim order dated 19.04.2021 had permitted the appellants therein to appear in the First Semester Examination, however, when the appeal was taken up for final consideration appellants had already completed their course. In this factual backdrop, the Hon'ble Apex Court, considering the fact that the students have completed their entire course, held that withholding of their results and degrees will cause immense hardships to them. The relevant part of the said decision reads thus:

***“1 The petitioners are students of under-graduate AYUSH courses. Admittedly, they obtained admission to said courses without having appeared for the NEET UG-2019 examination. The petitioners contended that they did not have notice of the fact that for seeking admission to the said courses, they were required to appear for the NEET UG-2019 examination.***

***2 Their admission was questioned and the petitioners filed Writ Petitions before the High Court where the learned Single Judge allowed admission of non-NEET students in AYUSH courses on the ground that there has not been proper publication of the applicability of NEET UG-2019 for admission to such AYUSH courses.***

***3 The Union of India challenged the said order before the Division Bench of the High Court. The Division Bench of the High Court at Calcutta vide common impugned order set aside the orders passed by the Single Judge allowing admission of non-NEET students. The Division Bench, relying upon the details supplied by the Government via an affidavit, it was observed that pursuant to notice published in newspapers on 07.11.2018 requiring candidates to qualify NEET in order to gain admission in AYUSH UG-courses. Other candidates had in fact appeared in NEET, and ultimately took admission in AYUSH UG-courses. The Division Bench thus rejected the contention of petitioners that due to inadequate notice they were prevented from participating in NEET UG-2019.***

***4 Consequently, the petitioners-students are before this Court. The only question before this Court is whether the petitioners were***



*eligible for admission on the basis of selection made by the concerned college on the basis of merit since the petitioners did not appear in the NEET UG-2019 examination, as stated above.*

***5 By now, the petitioners have completed their AYUSH course for which they were granted admission. It would therefore, be futile to withhold their results.***

6 This Court vide order dated 19th April, 2021 in SLP (C) No. 6396 of 2021 passed the following order:

*“The petitioners shall be permitted to take 1st semester examination. The results shall not be announced till further orders. Issue notice returnable in two weeks. Learned counsel for the petitioner is permitted to serve the respondents by e-mail. Additional documents, if any, be filed in the meanwhile.”*

7 The order dated 19th April, 2021 passed by this Court in SLP (C) No. 6396 of 2021 hereby stands vacated.

***8 It is true that admission to candidates who had not appeared in NEET examination could not have been given by the College, yet as of now these students have completed their course and to withhold the exam results or their Degree will cause immense hardship to them.”***

*(emphasis supplied)*

35. Reference may also be had to the decision in *Apollo College of Veterinary Medicine* (supra) wherein the students were admitted in the college pursuant to the open entrance test of Rajasthan Pre-Medical/Rajasthan Pre-Veterinary but the colleges were not recognised. The students had completed their entire course successfully but the said colleges were still not recognised, however, the University which had conducted the exams of the appellants therein was a recognised university. In light of the said facts, the Hon’ble Supreme Court observed that degrees possessed by the students ought to have been treated as valid degrees and accordingly,



directed the Central Government to grant recognition to the colleges. The relevant part of the decision reads thus:

***“44. It is not in dispute that the students were admitted in the Apollo College pursuant to open entrance test of Rajasthan pre-medical/Rajasthan pre-Veterinary (RPM/RPV). They completed their course and have successfully cleared BVSc & AH examination. The students who have already passed out from the Apollo College are the holders of the basic degree of BVSc & AH granted by the Rajasthan Agricultural University, which is recognised qualification entered in the First Schedule of the Indian Veterinary Council Act, 1984. It is also not in dispute that many of such students who have already passed out are in government service or in private service. The sole ground on which the students of the Apollo College who have passed out BVSc & AH degree examination are treated differently is that the Central Government has not notified the Apollo College and, thereby the College is not included in the First Schedule to the Indian Veterinary Council Act, 1984. Swami Keshwanand Rajasthan Agricultural University, Bikaner is duly established university by statute and it is fully competent to conduct examinations and award BVSc & AH degree. The degree of BVSc & AH granted by the University is included in the First Schedule to the Indian Veterinary Council Act, 1984 as a degree fully recognised by the Veterinary Council of India which is the paramount professional body set up by statute with authority to recognise the medical veterinary qualifications granted by any university.***

***45. The Division Bench of the High Court, in our opinion, was manifestly in error in holding that since BVSc & AH degree possessed by the students was not one obtained from a recognised college it could not be treated as a valid qualification for the purpose of registration under the Veterinary Council of India (Registration) Regulations, 1992 and for other purpose.***

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***47. In the facts and circumstances of the case, we are of the view that the Division Bench of the High Court should have given a***



*possible legal solution in respect to the students who have already passed out from the Apollo College and the Mahatma Gandhi College affiliated to Swami Keshwanand Rajasthan Agricultural University, Bikaner by directing the Central Government to make appropriate amendment in the First Schedule of the Indian Veterinary Council Act, 1984 so as to include the Apollo College and the Mahatma Gandhi College in the First Schedule for the purpose of recognition of BVSc & AH degree on or before 11.07.2011 insofar as it relates to Apollo College and 08.12.2011 in respect of Mahatma Gandhi College. We direct accordingly. So far as the other students who have been admitted in the Apollo College and the Mahatma Gandhi College and are pursuing their studies are concerned the Central Government is directed to call for a fresh report from the Veterinary Council of India and to pass appropriate order under Section 15(2) read with Section 21(4) of the Indian Veterinary Council Act, 1984. In case it is not possible to recognise the Apollo College and the Mahatma Gandhi College beyond such date as ordered above, the Veterinary Council of India is directed to take steps to transfer the students to some other recognised colleges against their corresponding year to complete the BVSc & AH course.”*

*(emphasis supplied)*

36. In the present case as well, though the respondent no.2/college was, and is still, not recognized, but the respondent no.3/university which has conducted or is conducting, the exams of the petitioners, is indisputably, a recognized university.

37. In view of the above discussion, the present petition is allowed, and following directions are passed:

- (i) Respondent no.6/UOI is directed to grant recognition to the Respondent no.2/College insofar as the batch of petitioners is concerned;
- (ii) Respondent no.3/University is directed to issue permanent degrees to petitioners subject to their passing all requisite



2025:DHC:4909



exams and completing their internships;

- (iii) Respondent nos. 1 and 4 are directed to recognise qualifications of the petitioners and grant them permanent registrations as medical practitioners.

38. It may be clarified that the present judgment has been passed in the peculiar facts of the present case and shall not be treated as precedent.

39. The petition, alongwith pending applications, is disposed of.

**APRIL 30, 2025/dss**

**VIKAS MAHAJAN, J**