



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 397 OF 2025

M/s. Shubhangi Sunilkumar Dubey
Age 26 years, Occ. Education,
R/o. Rural Dental College Hostel,
Loni, Tq. Rahata,
District Ahilyanagar (Ahmednagar)

.. Petitioner

Versus

- 1] The Dental Council of India,
National Dental Commission
Building, Plot No. 14, Sector 9,
R.K. Puram,
New Delhi 110 002
- 2] The State of Maharashtra
Through the Principal Secretary
Public Health and Family
Welfare Department,
Mantralaya, Mumbai 400 001
- 3] The Director,
Directorate of Medical Education,
Government Dental College and Hospital
Building, 4th Floor,
Saint George Hospital Compound,
P.D. Mello Road,
Fort, Mumbai – 400 001
- 4] The Rural Dental College,
Loni, Tq. Rahata,
District – Ahilyanagar
Through its Principal / Dean
- 5] Director, General of Health
Services, Ministry of Health &
Family Welfare, Govt. of India
Room No. 446.A
Nirman Bhavan, Maulana Azad Road,
New Delhi – 110 108

.. Respondents

AND
WRIT PETITION NO. 4438 OF 2025

The Rural Dental College
 At Loni, Tq. Rahata,
 District Ahilyanagar
 Through its Principal / Dean

.. Petitioner

Versus

- 1] The Dental Council of India
 National Dental Commission
 Building, Plot No. 14, Sector 9,
 R.K. Puram,
 New Delhi 110 002
- 2] The Director General of Health
 Services, Ministry of Health and
 Family Welfare,
 Government of India,
 Room No. 446-A, Nirman Bhavan,
 Maulana Azad Road,
 New Delhi 110 108
- 3] The State of Maharashtra
 Through the Principal Secretary,
 Public Health and Family Welfare
 Department, Mantralaya,
 Mumbai 400 001
- 4] The Director,
 Directorate of Medical Education,
 Government Dental College and
 Hospital Building, 4th Floor,
 Saint George Hospital Compound
 P.D. Mello Road,
 Fort, Mumbai 400 001.

.. Respondents

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WP/397/2025

Mr. V.D. Hon, Senior Advocate i/by Mr. S.S. Kote, Advocate for petitioner
 Mr. Alok Sharma, Standing Counsel for respondent no. 1
 Ms. S.S. Joshi, AGP for the respondent nos. 2 and 3
 Mr. A.D. Sonkawade h/f. Mr. Ashwin V. Hon, Advocate for respondent no. 4
 Mr. R.B. Bagul, Advocate for respondent no. 5

WP/4438/2025

Mr. Ashwin V. Hon, Advocate for petitioner
 Mr. Alok Sharma, Standing Counsel for respondent no. 1
 Mr. V.M. Kagne, AGP for respondent – State

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**CORAM : MANISH PITALE &
Y.G. KHOBRAGADE, JJ.**

DATE : 24 JULY 2025

JUDGMENT (PER – MANISH PITALE, J.) :

Rule in both the writ petitions. Rule is made returnable forthwith. With the consent of learned counsel for the parties, the writ petitions are heard finally, at the stage of admission.

2. A student and a Dental College are before this Court as the admission granted to the student is now in peril as a consequence of the impugned communications dated 02.12.2024 and 18.12.2024 issued by the respondent no. 1 – Dental Council of India (National Dental Commission). The respondent no. 1, by the impugned communication, has threatened the management and the Dental College with action under section 10-B of the Dentists Act, 1948, on the ground that the admission of the student that was allegedly irregularly completed, ought not to continue.

3. The events leading to the filing of these two petitions are that the petitioner in writ petition no. 397 of 2025 (hereinafter referred to as '**the student**') completed her under-graduate course in Dentistry and appeared in entrance examination for admission to Post Graduate Course i.e. M.D.S. in Oral Medicine and Radiology. After various

rounds of admission, as per undisputed norms, when a stray vacancy arose in the Rural Dental College at Loni, District – Ahilyanagar (respondent no. 4 in the writ petition filed by the student and the petitioner itself in the companion petition), the student applied for admission in the said stray vacancy.

4. As per established procedure, the Medical Counselling Committee, the Director General of Health Services, Ministry of Health and Family Welfare, Government of India (NEET – MDS Counselling – 2024), considered the candidature of the student on merits; found her eligible for admission to the stray vacancy in the said Dental College under the special stray vacancy round and issued a provisional admission letter. This letter was generated on 24.10.2024 at 10.41 am. The student, armed with the said provisional admission letter, issued by the aforesaid Medical Counselling Committee, approached the Dental College for admission in the stray vacancy on 24.10.2024. The Dental College accepted the student for admission, upon verification of all her documents and demanded fees and other charges for confirming the admission.

5. The documents on record show that on 24.10.2024 itself, all the documents of the student were verified by the Dental College, necessary undertakings and affidavits of the student and guardian were submitted, entire fees including tuition fees, eligibility fees, blazer

charges, processing fees etc. were paid through online payment mode on 24.10.2024 itself.

6. As per the circular dated 16.10.2024 issued by the respondent no. 1 – Dental Council of India, it was incumbent upon a Dental College to have uploaded all these documents, confirming the admission of the student by midnight of 25.10.2024.

7. It is the case of the Dental College that due to the fact that there was lack of connectivity because of heavy rainfall in the rural area where the Dental College is located, the attempts to upload the documents within the stipulated period of time and date, could not succeed. In this situation, on 26.10.2024, the Dental College addressed a communication to the respondent no. 1 – Dental Council of India, confirming that the student was admitted in the said stray vacancy round as per the provisional admission letter issued by the Medical Counselling Committee (NEET – MDS Counselling – 2024), but all the documents pertaining to confirmation of the admission could not be uploaded due to connectivity issue in the rural area where the Dental College is located.

8. In this backdrop, the student joined the College on 24.10.2024 itself and started pursuing her M.D.S. studies. It is an

admitted position that she is continuing to pursue the said course even today.

9. Subsequently, on 21.11.2024, the Dental College again addressed a communication to respondent no. 1 – Dental Council of India with regard to the difficulty in uploading the documents pertaining to admission of the student within the stipulated period of time. It was further confirmed that the student was pursuing her M.D.S. Course. In this backdrop, on 02.12.2024, the respondent no. 1 – Dental Council of India issued the first impugned communication, stating that the request of the Dental College for uploading details of the student regarding M.D.S. admission could not be accepted as the portal closed on midnight of 25.10.2024. It was directed that the said student be discharged immediately, failing which action under sections 10-B and section 16-A of the Dentists Act, 1948, would be taken against the Dental College. The said direction was reiterated in the second impugned communication dated 18.12.2024.

10. In this situation, the student was constrained to file writ petition no. 397 of 2025, wherein this Court on 10.01.2025 issued notice for final disposal. Subsequently, the Dental College filed writ petition no. 4438 of 2025, which was directed to be heard along with the aforesaid writ petition no. 397 of 2025. The respondents including

the respondent no.1 – Dental Council of India filed their reply affidavits in the petitions.

11. Mr. V.D. Hon, learned senior counsel appearing for the petitioner – student submitted that the documents on record clearly demonstrate that the student was validly admitted and the entire process of admission was completed on 24.10.2024 itself. It was due to the lack of connectivity, as the Dental College is located in a rural area, that the documents could not be uploaded till midnight of 25.10.2024. It was submitted that for no fault of the student, her admission secured on merits ought not to be cancelled and she cannot be discharged from the M.D.S. course. It was submitted that it would be a travesty of justice if the student is discharged mid-stream in the M.D.S. course despite the fact that she secured admission on merits, on the basis of provisional admission letter issued by the Medical Counselling Committee of Government of India (NEET – MDS Counselling – 2024). Much emphasis was placed on the fact that the entire process of verification of documents, payment of fees and the confirmation of admission as also joining the course were completed on 24.10.2024 itself and, therefore, such validly obtained admission on merits ought not to be cancelled. Uploading of documents within the stipulated period of time was in the domain of the Dental College and, therefore, this Court may consider allowing the petition of the student.

Reliance was placed on the judgment of the Supreme Court in the matter of ***Asha V. Pt. B.D. Sharma University of Health Sciences and others; (2012) 7 SCC 489***, in support of the contentions raised on behalf of the student.

12. Mr. Ashwin Hon, learned counsel appearing for the Dental College i.e. respondent no. 4 and the petitioner in writ petition filed by the Dental College, supported the contentions raised on behalf of the student. It was further submitted that the Dental College had immediately, on 26.10.2024, sent a written communication to the respondent no. 1 – Dental Council of India, explaining the difficulty due to lack of connectivity in uploading the documents till midnight of 25.10.2024. It was submitted that in such circumstances, the direction to discharge the student, failing which action to be taken under section 10-B and 16-A of the Dentists Act, 1948, would not be justified and that this Court, in the interest of justice, may allow both the writ petitions.

13. On the other hand, Mr. Alok Sharma, learned counsel appearing for contesting respondent no. 1 – Dental Council of India relied upon the reply affidavit placed on record along with the documents filed therewith. He submitted that the circular dated 16.10.2024, issued by the respondent no.1, clearly specified that in no case could the documents regarding admission be accepted after midnight of 25.10.2024. This circular has been uniformly applied in the

case of all admissions and, therefore, no ground is made out for carving out an exception in the present case. It was submitted that the said circular in respect of stray vacancy round schedule – 2024 at clause 2.1 specifically asked the concerned Dental institutions to make all efforts to upload the details of the students granted admission immediately upon joining of the student and observed that the Courts need not be moved by sympathy for candidates, rather they should proceed on the legal position. On this basis, it was submitted that both the petitions deserve to be dismissed.

14. Ms. Joshi and Mr. Kagne, learned AGPs appeared on behalf of the respondent – State Government authorities.

15. This Court has considered the rival submissions on the basis of the documents on record and also with reference to relevant legal provisions, as also the circular issued by the respondent no. 1 – Dental Council of India.

16. The record shows that the student, in the present case, took admission in what is called the special stray vacancy round in the process of counselling conducted under NEET – MDS Counselling – 2024. It is significant to note that the Medical Counselling Committee, Director General of Health Services, Ministry of Health & Family Welfare, Govt. of India, under the NEET – MDS Counselling – 2024

found the student to be eligible on merits for admission in the stray vacancy that arose in the said Dental College. On this basis, on 24.10.2024, the said Medical Counselling Committee issued a provisional admission letter in favour of the student under the special stray vacancy round. The said document shows that the student was found eligible for admission to the said M.D.S. course on merits in the stray vacancy that arose in the said Dental College. Therefore, the said document was generated on 24.10.2024 at 10.41 am.

17. On the basis of said provisional admission offered to the student, she immediately went to the Dental College with all her documents. On 24.10.2024 itself, her documents were verified and they were found to be in order by the Dental College. Accordingly, on 24.10.2024, she was granted admission in the Dental College in the stray vacancy round. She submitted the necessary undertakings, affidavits, as also affidavit of her parent / guardian and she also deposited the entire tuition fees, caution money, eligibility fees, student registration fees, ERP fees, blazer charges and other miscellaneous charges on 24.10.2024 itself. The receipts placed on record show that such payments were made in two tranches of Rs.4,47,000/- and Rs.22,000/-, by online payment mode and such payments were completed on 24.10.2024 itself. On the basis of having secured

admission in the Dental College, the student also joined the said College on 24.10.2024.

18. The documents on record also show that the Dental College made efforts to upload the documents pertaining to the admission of the student. It is the case of the Dental College that due to heavy rainfall where the Dental College is located, there was no connectivity and the attempts of uploading the documents before the midnight of 25.10.2024, met with failure. A screenshot has been placed on record by the Dental College showing that such an attempt to upload the documents pertaining to the admission of the student on 25.10.2024 at 06.30 pm also met with failure. The said screenshot amply demonstrates the difficulty faced by the Dental College in uploading the documents pertaining to the admission of the student. Immediately thereafter, on 26.10.2024, the Dental College sent a written communication to the respondent no. 1 – Dental Council of India, informing that the student had been granted admission on 24.10.2024, on the stray vacancy as per the provisional admission letter dated 24.10.2024 issued in the NEET – MDS Counselling – 2024 by the Medical Counselling Committee. It was confirmed that the student had taken admission and the respondent no. 1 was appraised about the lack of connectivity due to which the documents could not be uploaded before the midnight of 25.10.2024. The Dental College

sought permission to upload the said document. Along with the letter, the Dental College annexed the provisional admission letter issued by the Medical Counselling Committee portal, allotment letter from the said portal and screenshot showing the technical issue faced by the Dental College while uploading the documents.

19. There was no response from the respondent no. 1 – Dental Council of India to the said communication sent by the Dental College. Therefore, the Dental College was constrained to sent another communication on 21.11.2024 to the respondent no. 1, reiterating the statements made in the earlier communication dated 26.10.2024 along with the very same documents, again requesting for resolving the issue with regard to the admission of the student. It is in response to the said communication that on 02.12.2024, the respondent no. 1 - Dental Council of India sent the impugned communication directing the Dental College to discharge the admission of the student in the M.D.S. course, failing which action was threatened under section 10-B and 16-A of the Dentists Act, 1948. This was reiterated in the subsequent impugned communication dated 18.12.2024.

20. Having perused the aforesaid documents and the chronology of events, we find that the student in the present case is not at fault at all, for the reason that she secured admission on merit in the

stray vacancy that arose in the Dental College. She immediately approached the Dental College for admission on the basis of provisional admission letter issued by the Dental Counselling Committee (NEET – MDS – Counselling – 2024). After having found her eligible for the admission to the Dental College, verification of documents, filing of undertaking, usual declarations and affidavits as also payment of the entire fees and the miscellaneous charges was completed on 24.10.2024. The student joined the College on 24.10.2024 and only the uploading of documents was to be completed before midnight of 25.10.2024. Such action was to be taken by the Dental College, upon which the student did not have any control.

21. The Dental College also has been able to explain the genuine difficulty in uploading of documents before midnight of 25.10.2024, due to lack of connectivity as a result of heavy rainfall in the rural area where the Dental College is located. The screenshot placed on record amply supports the stand of the Dental College that due to continued lack of connectivity, the document pertaining to admission of the student could not be uploaded before the midnight of 25.10.2024. The fact that the Dental College immediately on 26.10.2024 reached out to the respondent no.1 – Dental Council of India explaining the difficulty and seeking permission to upload the documents, sufficiently demonstrates *bona fides* of the Dental College

also. This was followed up with the subsequent communication dated 21.11.2024. We are satisfied that in such circumstances, neither the student nor the Dental College can be said to be at fault in adhering to the circular dated 16.10.2024, issued by the Dental Council of India.

22. A perusal of the said circular dated 16.10.2024 shows that all Dental Institutions were required to upload the documents pertaining to admission, including under the special stray vacancy schedule – 2024, not later than midnight of 25.10.2024. The circular warned Dental Institutions and Colleges that if it is found that students have been admitted and documents are not uploaded within the stipulated time, appropriate action would be taken and that only the uploaded details of the students on the portal of respondent no. 1 – Dental Council of India, would be forwarded to the said Dental Council / Tribunals for M.D.S. qualification.

23. We find that although the respondent no. 1 – Dental Council of India would be well within its power to issue such a circular to ensure that the admissions are completed in a proper manner on merits within the stipulated period of time, in the peculiar facts of the present case, it cannot be said that either the admission of the student was not on merit or that the student and / or Dental College committed default in adhering to the said circular dated 16.10.2024. The crucial document in the present case is the provisional admission letter dated

24.10.2024 generated at 10.41 am, issued by the Medical Counselling Committee (NEET – MDS Counselling – 2024). This document shows that the committee itself offered stray vacancy in the Dental College to the student on merit and, therefore, there can be no suspicion about any irregularity or illegality in the matter. Merely because the documents pertaining to the admission of the student could not be uploaded on the portal of the respondent no. 1 – Dental Council of India due to genuine difficulty of connectivity, it ought not to jeopardize the academic career of the student.

24. In this context, reliance placed on judgment of the Supreme Court in the case of ***Asha Vs. Pt. B.D. Sharma University of Health Sciences and others*** (supra) is justified, for the reason that in the said case, it was observed as follows :-

“30. There is no doubt that 30th September is the cut-off date. The authorities cannot grant admission beyond the cut-off date which is specifically postulated. But where no fault is attributable to a candidate and she is denied admission for arbitrary reasons, should the cut-off date be permitted to operate as a bar to admission to such students particularly when it would result in complete ruining of the professional career of a meritorious candidate, is the question we have to answer.

31. Having recorded that the appellant is not at fault and she pursued her rights and remedies as expeditiously as possible, we are of the considered view that the cut-off date cannot be used as a technical instrument or tool to deny admission to meritorious students. The rule of merit stands completely defeated in the facts of the present case. The appellant was a candidate placed higher in the merit list. It cannot be disputed that candidates having merit much lower to her have already been given admission in the MBBS course. The appellant had attained 832 marks while the students who had attained 821, 792, 752, 740 and 731 marks have already been given admission in the ESM

category in the MBBS course. It is not only unfortunate but apparently unfair that the appellant be denied admission."

25. In the present case also, we find that the student secured admission on merits and she is pursuing the MDS course even today. If the student is discharged at this stage from the MDS course it will certainly ruin her professional career and her desire to pursue Post Graduate qualification, which she has secured undeniably on merits.

26. In the present case, it cannot be said that if this Court exercises writ jurisdiction holding in favour of the student, it would amount to showing misplaced sympathy. In fact, allowing the petition would be in the interest of justice. In the peculiar facts of the present case, therefore, reliance placed on behalf of the respondent no. 1 on the judgment of the Supreme Court in the case of ***Guru Nanak Dev University V. Saumil Garg; (2005) 13 SCC 749*** is misplaced.

27. We find that since the Dental College, in the facts and circumstances of the present case cannot be held to be at fault and it cannot be said that it deliberately violated the circular dated 16.10.2024 or the direction of the respondent no. 1 – Dental Council of India, the proposed action against the Dental College under section 10-B and 16A of the Dentists Act, 1948, would not be justified. Section 10-B pertains to non-recognition of dental qualifications and section 16-A of the Act pertains to withdrawal of recognition of recognized dental

qualification. We are of the opinion that invoking the said provisions on the part of the respondent no. 1 – Dental Council of India would not be justified in the facts and circumstances of the present case and hence both the petitions deserve to be allowed.

28. Accordingly, writ petition no. 397 of 2025 is partly allowed in terms of prayer clause (C) and (D), thereby quashing and setting aside the impugned communications dated 02.12.2024 and 18.12.2024 issued by the respondent no. 1 – Dental Council of India. The said respondent is directed to approve admission of the student in the MDS course with effect from 24.10.2024 in the academic year 2024-25.

29. Writ petition no. 4438 of 2025 is also likewise partly allowed in terms of prayer clause (D) and (E) pertaining to the very same reliefs.

30. Rule is made absolute accordingly in the above terms.

31. Pending applications, if any, also stand disposed of.

[Y.G. KHOBRADE]
JUDGE

[MANISH PITALE]
JUDGE

arp/