

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 19626 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 1979 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 1981 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 5364 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 5363 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 5216 of 2019
With
R/SPECIAL CIVIL APPLICATION NO. 17605 of 2018
With
R/SPECIAL CIVIL APPLICATION NO. 19628 of 2018

FOR APPROVAL AND SIGNATURE:**HONOURABLE MR. JUSTICE A.S. SUPEHIA****Sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

OZA NIKUN DASHRATHBHAI
 Versus
 STATE OF GUJARAT

Appearance:

MR HARDIK D MUCHHALA(5634) for the Petitioner(s) No. 1

MR SAHIL TRIVEDI, AGP for the Respondent(s) No. 1

MR DEVANG VYAS(2794) for the Respondent(s) No. 2

MR RASESH H PARIKH(3862) for the Respondent(s) No. 3

MR.HEMANG H PARIKH(2628) for the Respondent(s) No. 3

SAN ASSOCIATES LLP(8655) for the Respondent(s) No. 4

CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**Date : 03/08/2022****COMMON ORAL JUDGMENT**

1. Learned advocate Mr.Gaurav Chudasama has submitted that the petitioner no.21 of Special Civil Application No.17605 of 2018 has

already passed away on 27.08.2019. He has tendered the death certificate for the same. The same is ordered to be taken on record. Accordingly, the writ petition, apropos petitioner no.21, will not survive.

2. Since a common issue is involved in the present writ petitions, the same are heard and decided analogously today by this common judgment.

3. **Rule.** Learned advocates appearing for the respective respondents waive service of notice of rule.

4. It is the case of the petitioners that the respondent-The Gujarat State Pharmacy Council are not registering them as Pharmacist under the Pharmacy Act, 1948 (for short "the Act") despite having been undertaken the necessary training of 500 hours for three months from the respective medical stores. It is the case of the respondent authorities that the training from the medical stores, from which the petitioners have undertaken, are not approved and hence, the petitioners cannot be registered as Pharmacist.

5. Pursuant to the order dated 25.07.2022, learned advocate Mr.Kshitij Amin appearing for the respondent no.2 has filed affidavit-in-reply. A photocopy of the same is ordered to be taken on record. However, after receipt of the original copy, the same shall be submitted and the Registry shall accordingly accept the same.

6. Learned advocate Mr.Amin has very fairly pointed out that the affidavit takes care of the grievance of the present petitioners and accordingly, appropriate orders may be passed.

7. The entire case of the petitioners as well as the respondent authorities hinges only on sole issue with regard to their undertaking

practical training from the medical stores, which are not approved and hence, they are not registered as Pharmacist.

8. At this stage, it would be apposite to refer to the averments made in paragraph nos.2, 3 and 4 of the affidavit-in-reply filed by the respondent no.2. It is admitted by the respondent no.2 that the Pharmacy Council of India (PCI) no medical store under regulation 4.4 of the Pharmacy Practice Regulations, 2015 (for short “the Regulation of 2015”) for the purpose of imparting practical training to the students of Diploma in Pharmacy Course like the present petitioners has been approved.

9. Thus, the petitioners cannot be faulted for the action of the respondent authorities in not approving the medical stores under regulation 4.4 of the Regulation of 2015 and hence, the petitioner has no option to take their training from the respective medical stores. It is further stated in the affidavit-in-reply that the Council will be notifying the process of granting approval of Pharmacy/Chemist and Druggist through online mode and necessary technology support for the same is under development and validation. Such provision has been incorporated in the circular dated 17.09.2020, which has been annexed along with the reply. However, the circular clarifies that the same will have prospective effect only. Finally, in the affidavit-in-reply, it is stated that in order to avoid hardship to the students, who have already undergone or undergoing the D.Pharm course, the practical training undertaken by a student from a Pharmacy, Chemist and Druggist licenced under the Drugs & Cosmetics Act, 1940 and rules made thereunder shall be considered as approved for registration of students by the State Pharmacy Councils as per the precedence, provided the student has undergone the D.Pharm course in an institution approved by the PCI under Section 12 of the Act.

10. It is not the case of the respondents that the petitioners have not undertaken the aforesaid courses or the training from the Druggist, Chemist, Pharmacist *de hors* the provisions of the Drugs & Cosmetics Act, 1940 or such Chemist, Pharmacist or Druggist are not holding the licence. In the communication dated 17.12.2020 issued by the State Authority, it is admitted that all the documents of the present petitioners are found to be genuine, however, the registration has been denied for the sole reason as mentioned hereinabove, except the aforesaid reason nothing adverse is pointed out against the petitioners.

11. In view of the affidavit filed by the PCI, the present writ petitions are allowed. The impugned order(s) challenging in the respective petitions denying such registration of the petitioners as Pharmacist by the respondent no.3 are/is quashed and set aside. The respondent no.3 is directed to act as per the affidavit filed by the respondent no.2. It is directed that the petitioners shall be registered as Pharmacist under the State Pharmacy Council i.e. the respondent no.3 and accordingly, the respondent no.3 shall pass appropriate orders within a period of three months from the date of receipt of the writ of this judgment. Rule is made absolute. Direct service is permitted.

Sd/-
(A. S. SUPEHIA, J)

ABHISHEK/2