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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WP-ASDB-LD-VC- NO. 186 OF 2020

Akash Udaysing Rajput & Ors. ..Petitioners

Vs.

The Maharashtra University of
Health Science, Nashik & Ors. ..Respondents

Mr. Kuldeep Nikam for petitioners.

Ms. Anamika Malhotra a/w Mainak Adhikary for
respondent No.2.

Mr. R.V.Govilkar for respondent No.5.

Mr. Anil C. Singh, Addl. Solicitor General a/w Mr. Rui
Rodrigues for respondent No.7.

Mr.Ganesh Gole for Respondent No.8

Mr. A. A. Kumbhakoni, Advocate Genearla a/w Mr. P.
P. Kakade, Govt. Pleader a/w Ms. Nisha Mehra, AGP
for respondent No.9 - State.

Mr. Anil C. Singh, Addl. Solicitor General a/w Mr.
Aditya Thakkar a/w Mr. D. P. Singh for respondent
Nos.6 & 10-UOI

CORAM: DIPANKAR DATTA, CJ. &
S. P. TAVADE, J.

AUGUST 14, 2020.

P.C.

1. In view of circulation of a praecipe by Mr. Nikam, learned advocate for the petitioners, this writ petition has been placed on board today.

2. The grievance that is voiced on behalf of the petitioners by Mr. Nikam is that the University proposes to hold examinations on 17th and 25th August, 2020 for post-graduate students as well as final year students admitted to MDS and BDS courses of study, respectively. Having regard to the prevailing pandemic caused by COVID-19 and the grim situation in Maharashtra, it is argued by Mr. Nikam that it would be practically impossible for the examinees to write the examinations physically; however, if on-line examination is conducted, all the petitioners are willing to participate in such examination. He, accordingly, prays for stay of the examinations scheduled on 17th and 25th August, 2020.

3. The prayer of the petitioners is strongly opposed by Mr. R.V.Govilkar, learned advocate for

the University. Reference is first made to matters being heard by the Supreme Court even today, wherein the guidelines issued by the University Grants Commission are under challenge, and that there is no stay operating in the field in regard to conduct of examinations. Next, he contends that the pandemic notwithstanding, earnest endeavours have been made by the University to conduct the examinations for the post-graduate students and the under-graduate students of the final year maintaining the norms of social distancing. According to him, no examination for under-graduate students of other years is likely to be conducted presently. He has also submitted that staying the examinations altogether would work out prejudice to the University, which has made all arrangements for smooth conduct of the examinations, as well as other students who are willing to write the examinations, physically.

4. Having heard learned advocates for the parties, we do not consider it proper to grant interim relief at this stage by staying the examinations

scheduled on 17th and 25th August, 2020. There could be examinees, other than the petitioners, who might be willing and prepared to write the examinations, even physically. Stay of the examinations behind the back of such examinees would be detrimental to their interests. On the other hand, allowing the examinations to be conducted without prejudice to the rights and contentions of the petitioners and subject to the result of this writ petition would sufficiently protect their interests.

5. In that view of the matter, we decline the prayer for stay. Without prejudice to the rights and contentions of the petitioners, the University shall be at liberty to conduct the examinations scheduled on 17th and 25th August, 2020 by strictly adhering to social distancing norms and other protocol to prevent the contagion. Any examinee willing to write the examination physically shall be at liberty to do so. This would also include any of the petitioners. However, if any petitioner does not seek to write the examination physically and sets up a strong case at the final hearing of the writ petition

for a direction on the University to hold separate examination for him, it shall be open to the Court to make such directions as would be necessary for the ends of justice.

6. Hearing of the Writ Petition stands adjourned for the time being with liberty to the parties to circulate the same along with other batch of petitions.

7. This order will be digitally signed by the Sr. Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

S. P. TAVADE, J.

CHIEF JUSTICE