



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF MAY, 2025

BEFORE

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THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 32106 OF 2024 (EDN-RES)

C/W

WRIT PETITION NO. 32185 OF 2024 (EDN-RES)

IN W.P.NO.32106/2024

BETWEEN

KARNATAKA STATE PRIVATE MANAGEMENT ASSOCIATION
OF HEALTH INSTITUTIONS
NO.7, OPP UNITY LIFE LINE HOSPITAL,
1ST BLOCK, 2ND STAGE, NAGARABHAVI,
BANGALORE 560072
REPRESENTED BY ITS GENERAL SECRETARY
VASUDEVA R

...PETITIONER

(BY SRI. PRADEEP KUMAR P.K., ADVOCATE)

AND

STATE OF KARNATAKA
DEPARTMENT OF MEDICAL EDUCATION,
MS BUILDING, AMBEDKARVEEDI,
BANGALORE 560001
REPRESENTED BY ITS PRINCIPAL SECRETARY
TO THE GOVERNMENT HEALTH AND
FAMILY WELFARE DEPARTMENT MEDICAL EDUCATION,

...RESPONDENT

(BY SMT. MAMATHA SHETTY., AGA)





THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE AN ORDER OR DIRECTION OR WRIT IN THE NATURE OF MANDAMUS RESTRAINING THE RESPONDENT NO.1 FROM CONDUCTING INSPECTION IN THE INSTITUTION OF THE MEMBERS PETITIONERS AND ETC.

IN W.P.NO.32185/2024
BETWEEN

THE KARNATAKA STATE ASSOCIATION
OF THE MANAGEMENT OF NURSING AND ALLIED
HEALTH SCIENCE INSTITUTIONS
HAVING ITS REGISTERED OFFICE AT
NO.7380, DADAPEER LAYOUT, NH-4,
NELAMANGALA, BANGALORE - 562123

REPRESENTED BY ITS PRESIDENT
SRI.S.SHIVAKUMAR.

...PETITIONER

(BY SRI. M.S. SHYAM SUNDAR., SR. ADVOCATE FOR
SRI. KRISHNA T. ADVOCATE)

AND

1. THE STATE OF KARNATAKA
DEPARTMENT OF HEALTH AND FAMILY WELFARE
MEDICAL EDUCATION M.S.BUILDING,
BANGALORE -560001
REPRESENTED BY ITS PRINCIPAL SECRETARY
2. THE INDIAN NURSING COUNCIL
8TH FLOOR, NBCC CENTER,
PLOT NO.2, COMMUNITY CENTER, OKHLA PHASE-I,
NEW DELHI-110002
REPRESENTED BY ITS PRESIDENT
3. THE RAJIV GANDHI UNIVERSITY OF HEALTH SCIENCES
4TH T BLOCK, JAYANAGAR,
BANGALORE - 560001
REPRESENTED BY ITS REGISTRAR
4. THE KARNATAKA STATE NURSING COUNCIL
ANAND RAO CIRCLE,
BANGALORE 560009
REPRESENTED BY ITS REGISTRAR.



RESPONDENTS

(BY SMT. MAMATHA SHETTY., AGA FOR R1;
SRI. SHIVA RUDRA., ADVOCATE FOR R2;
SMT. MAMATHA G. KULKARNI., ADVOCATE FOR R3;
SMT. JYOTHI M. MARADI., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE APPROPRIATE WRIT, ORDER OR DIRECTION IN THE NATURE OF WRIT OF CERTIORARI QUASHING THE IMPUGNED COMMUNICATION DATED 5.11.2024 BEARING REF NO.AA.SA.PA.SUM: MD 555 MSF 2024, ISSUED BY RESPONDENT NO.1 PRODUCED HERewith AS ANNEXURE-B AND ETC.

THESE WRIT PETITIONS COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 27.03.2025, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioners in W.P. No.32106/2024 is before this court seeking for the following reliefs:

- a) *Issue an order or direction or writ in the nature of mandamus restraining the Respondent No.1 from conducting inspection in the institution of the members Petitioners.*
- b) *Issue an order or direction or writ in the nature of mandamus quashing Annexure-A order issued by Respondent No.1.*
- c) *Grant such other relief that this Hon'ble court may deem fit in the facts and circumstances of the case.*

2. The Petitioners in W.P. No.32185/2024 is before this court seeking for the following reliefs:



- a) *Issue appropriate writ, order or direction in the nature of writ of certiorari quashing the impugned communication dated 5.11.2024 bearing Ref No.AA.Sa.Pa.Sum: MD 555 MSF 2024, issued by Respondent No.1 produced herewith as ANNEXURE-B.*
- b) *Declare that the Deputy Commissioner and the committees constituted under his guidance and supervision is not competent to inspect the Nursing Institutions as the same is in violation of the statutory enactments namely the RGUHS Act and the Indian Nursing Council Act.*
- c) *Grant such other relief's as this Hon'ble Court would be pleased to grant in the circumstances of the case, in the interest of justice and equity.*

Facts in WP 32185/2024:

3. The above petition has been filed by the Karnataka State Association of the Management of Nursing and Allied Health Science Institutions, which is a registered body comprising of the Management of Nursing and Allied Health Science Institutions. The above petition has been filed espousing the cause of Nursing Institutions in the State of Karnataka. The Petitioners claim to be aggrieved by a communication dated 5-11-2024, addressed by the Principal Secretary, Family and Welfare Department, to



Respondent No.1-Deputy Commissioner, Bangalore Urban District, [not made a party] directing inspection of through the Deputy Commissioner of the respective districts where the Nursing Institutions are situated, enclosing the list of Nursing subject experts and list of Nursing Institutions to be inspected. Such communication is also stated to have been issued to the Deputy Commissioners of all the districts in the State of Karnataka.

4. Sri.T.Krishna, learned Counsel for the Petitioners, would submit that,

4.1. In a meeting held on 2-9-2024 by the Hon'ble Minister of Medical Education to verify the standards of Nursing education and the infrastructure of Nursing Institutions, the Hon'ble Minister was of the opinion that inspection of Nursing Institutions would have to be carried out through the Deputy Commissioners to ascertain if all the



requirements and the relevant laws have been complied with or not.

4.2. The Deputy Commissioner does not have any wherewithal; he does not know the intricacies and nuances of the functioning of Nursing Institutions, and as such, he would not be a competent person to carry out such inspections even with the assistance of Nursing experts as indicated in the said letter. He submits that there are specialised agencies which have been established for such purposes. All Nursing colleges and allied Health Sciences Institutions and schools are started after obtaining requisite permission from the concerned State government. Affiliation is granted by the state Nursing council and thereafter the University within whose jurisdiction the Institution is located in the State of Karnataka by the Rajiv Gandhi University of Health Sciences [**'RGUHS'** for brevity].



4.3. He submits that there are periodic inspections conducted by the specialised institutions like the RGUHS, the Karnataka State Nursing Council [**'KNC'** for brevity], Indian Nursing Council [**'INC'** for brevity] etc.,. Any defects and or deficiencies, if pointed out by the said specialised Institutions, will be rectified by the Nursing college and or Allied Health Sciences Institutions. His submission is that RGUHS, INC and KNC play a pivotal role in the sanction, administration and supervision of Nursing Institutions.

4.4. In the State of Karnataka, such Nursing Institutions are established under the Karnataka Nurses, Midwives and Health Visitors Act 1961 (hereinafter for brevity referred to as "**KNM Act**"), under which the KNC has been established. Insofar as the Indian Nursing Council is concerned, the same is established under the Indian Nursing Council Act 1947



(hereinafter for brevity referred to as "**INC Act**") and RGUHS is established under the Rajiv Gandhi University of Health Sciences Act, 1994 (hereinafter for brevity referred to as "**RGUHS Act**") and it is thereafter that State government grants recognition to the Institution.

4.5. If any Nursing Institution is not functioning in accordance with the Rules and regulations specified by RGUHS, KNC and INC and or if they do not have the requisite infrastructure or teaching faculty and or do not comply with the requirements of the affiliation, the affiliation so granted can be withdrawn.

4.6. It is these three Institutions, who have the wherewithal to assess the requirements of a Nursing College, Nursing Institution or Nursing School, and they have been discharging their duties. There being no allegation against RGUHS, INC or KNC as regards the discharge of their respective duties, the Hon'ble Minister of



Medical Education could not have sought for verification of the standards by conducting an inspection through the Deputy Commissioner.

4.7. The requirements for the Nursing College, Nursing Institution or Nursing School having been specified by the RGUHS, INC and KNC, there is no particular requirement specified by the Deputy Commissioner or the State Government requiring any adherence to any requirement of the State Government.

4.8. There are more than 650 Nursing Institutions in the state of Karnataka which cannot be inspected by the Deputy Commissioners. He reiterates that the Deputy Commissioner is not qualified to do so. He submits that a similar exercise was sought to be carried out in the year 2021 by the members of the Legislative Council. The Petitioners-Association had approached this court challenging the same in



W.P. No.9456/2022 when such an exercise was stayed by this court.

4.9. Ultimately the same came to be dismissed vide order dated 11.08.2022 by rejecting the challenge made to the said committee. This court held that the committee would have the power to take evidence and call for papers, records and documents for the purpose of its study. This court further held that the committee had the power to visit the Nursing colleges to study whether they are functioning in accordance with law or not, but, however, caveated the same by holding that in the process of studying the functioning of Nursing colleges, the committee members cannot be permitted to harass the Institutions, and their visit should be strictly limited to study, collect evidence as to whether the institutions are subscribing to the prescribed standards and the said committee cannot threaten any legal



action or issue any type of directions to the Nursing council. It further directed that the visit should be done during office hours with due prior intimation to the colleges only for the study of the functioning of the colleges and not to supervise or perform the function of authorities, like the INC, KNC or RGUHS. If any action were proposed to be taken by the committee, it ought to be taken up with those Institutions, who could take up the matter further.

4.10. The Petitioners Association took up the same in an appeal in W.A. No.839/2022 when the Division Bench of this court vide order dated 6.01.2023 dismissed the appeal, confirming the order passed by the single Judge. The Petitioners Association preferred a Special Leave Petition in SLP No. 23948 of 2023, the Hon'ble Apex Court had stayed the operation of



the orders. He submits that the said Special Leave to Appeal is still pending consideration.

4.11.His submission is that when the inspection proposed to be conducted by members of the Karnataka State Legislative Council has been stayed by the Hon'ble Apex Court and the matter is pending adjudication by the Hon'ble Apex Court, the present exercise undertaken by the Hon'ble Minister through the Deputy Commissioners is more or less similar, and as such, this court ought to set aside the said inspections also.

4.12.His submission is also that the process of affiliation and disaffiliation of a Nursing Institution is covered by the RGUHS Act and it is for the University to regulate, monitor and standardize the curricula as well as the evaluation system, which cannot be done by the deputy commissioner. Inspections being conducted by the Authorities concerned on an



annual basis, the inspection by the Deputy Commissioner would be a duplicate unwarranted inspection, putting at jeopardy the interest of the Institution and the students.

4.13.He submits that Section 13 of the Indian Nursing Council Act, 1947 deals with inspection and provides the manner and methodology of inspections, there being specialized inspectors who are appointed in that regard. As regards affiliation, he submits that Section 45 of the RGUHS Act, 1994 deals with the same.

4.14.Lastly, he submits that the Nursing Institutions within the State of Karnataka have a high reputation across the country. There are students from across the country who come to study in Karnataka due to the standards maintained by the Institutions in the State of Karnataka and therefore, the action on part of the Hon'ble Minister is completely unwarranted



and on that basis, he submits that the writ petition is required to be allowed.

5. Sri.Shamsundar.M.S, the Senior Council, appearing for the Petitioners in W.P. No.32106 of 2024, submits that,

5.1. The Petitioners in the above petition is the Karnataka State Private Management Association of Health Institution and has amongst its members, colleges who are recognised and affiliated for B.Sc. Nursing, as also General Nursing and Midwifery Institutions.

5.2. He also reiterated the submission made by Sri T. Krishna, learned counsel for the Petitioners in W.P. No.32185/2024.

5.3. His further submission is that the respective Institutions obtained affiliation or permission, as the case may be, from the concerned Institutions and admit eligible students and conduct academic activities for the benefit of society. He submits that the action on part of



Respondent No. 1 to direct inspection is arbitrary, jeopardizes the education, career and future growth of the students, as also the functioning of the members of the Petitioners.

5.4. In that background, he submits that the reliefs sought for are required to be granted.

6. Ms.Mamata Shetty, learned AGA, appearing for the state, would submit that,

6.1. The Institutions submit applications online to RGUHS for starting new Nursing colleges. The said applications would be processed by RGUHS, local inspection conducted by teams appointed by RGUHS as per the INC guidelines and the inspection will be presented to the syndicate meeting of RGUHS. Thereafter, the RGUHS sends the proposals to the Government, which will be presented before the High Power Committee, which reviews the proposal and approves the same.



6.2. She submits that Institutions and deemed Universities submit applications to the Government or to the Directorate of Medical Education, like a DME directly. These applications will be processed by the DME and the Institutions inspected by the DME or a team appointed by DME as per INC guidelines. These inspection reports will thereafter be submitted to the syndicate of the RGUHS. The recommendation of RGUHS would be submitted to the Government which will be presented before the High Power Committee, which will review the proposals and approve the same and pass orders thereon.

6.3. She submits that insofar as Nursing schools are concerned, applications are made online through the Karnataka State Diploma in Nursing and Examination Board, which schools will be inspected by the Special Officer Nursing And Medical Education [Regulatory] Authority



or expert team appointed by the special officer as per the INC guidelines and the recommendation will be submitted to the government which will be placed before the Higher Power Committee which will pass orders accordingly.

6.4. Thus, she submits that whether it is for establishment of Nursing colleges or Nursing schools, it is finally the High Power Committee which will consider the proposal and sanction the same and pass orders on the same. Thus, the claim of the Petitioners that, it is RGUHS, INC and KNC alone who are in-charge of the administration of Nursing colleges and schools is misconceived. It is the State Government which decides on the approval of the establishment of Nursing colleges and schools.

6.5. She submits that colleges not functioning properly, complaints have been received from the general public and students about the lack



of basic facilities and it is these complaints which were considered in the review meeting held under the chairmanship of the Hon'ble Minister of Medical Education, the Special Officer K.S.D. N.E.B. had suggested that inspection of Nursing schools and colleges could be conducted every five years in the interest of students and action would be taken if lapses were found.

6.6. The Hon'ble Minister, she submits, observed that it is necessary to provide quality education to students and directed a circular to be issued to the District Commissioners to inspect the Nursing schools and colleges to obtain information from all such Nursing schools and colleges regarding facilities being provided and as such, a letter on 5-11-2024 came to be issued requesting the Deputy Commissioners to conduct the inspection.



6.7. She relies on Section 20 and 22 of the KNM Act which are reproduced hereunder for easy reference:

"20. Licensing authority to exercise general supervision.- (1) Subject to the provisions of this Act and the rules and by-laws made in this behalf, every **licensing authority shall exercise general supervision and control over the nurses, midwives, auxiliary nurse-midwives, and health visitors practising within the area under its jurisdiction.**

(2) The licensing authority may authorise any of its officers to perform any of the duties and to exercise any of the powers conferred on it by this section and section 21.

22. Regulation of nurses establishments.- (1) No person shall carry on **any nurses establishment, except under a licence granted by the licensing authority** and in accordance with the terms and conditions approved by the Council and specified in such licence.

(2) Any person who desires to carry on any nurses establishment **shall apply to the licensing authority for a licence before such date, in such manner and in such form as may be prescribed.** He shall along with the application pay to the licensing authority the prescribed fee, half of which shall be refunded to him if the licence is not granted.

(3) The licensing authority may before granting such licence **impose such additional conditions as it may think fit for securing the proper conduct of the establishment.**

(4) The licensing authority may, after giving an opportunity to the person concerned of being



heard, refuse to grant any licence **or revoke any licence already granted, if,-**

- (i) the applicant or the holder of the licence is below twenty-one years or is in its opinion not a suitable person to hold such licence; or
- (ii) the premises of the establishment are not suitable; or**
- (iii) any offence under this section has been committed in respect of the establishment.

(5) Any person aggrieved by any of the conditions imposed by the licensing authority or by the refusal or revocation of any licence may appeal within ninety days of such imposition, refusal or revocation to the State Government. The memorandum of appeal shall be accompanied by such fee as may be prescribed. The decision of the State Government on such appeal shall be final.

(6) The licensing authority may authorise any of its officers to perform any of the duties conferred on it by this section.

(7) **Any officer duly authorised by the licensing authority in this behalf may at all reasonable times enter the premises specified in any licence or application for licence** or any premises which are used, or which the officer has reasonable cause to believe are used, for the purpose of, or in connection with, the nurses establishment and inspect the premises and any records relating to such establishment as may be kept thereon.

(8) The Council may also exercise the powers of entry and inspection conferred by sub-section (7) through any of its officers authorised by it in this behalf. **If the Council is of opinion that in any case the licence should be refused or revoked it shall report the matter to the State Government.** On receipt of such report, the State Government may after **consultation with the licensing authority or after making such inquiry as it deems fit, and after giving an opportunity to the person concerned of being heard**



pass orders refusing or revoking the licence. Such orders shall be final.

(9) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees for the first offence and for any subsequent offence with fine which may extend to five hundred rupees or with simple imprisonment for a term which may extend to six months or with both.

(10) **Any person who refuses any duly authorised officer of the licensing authority or any such officer of the Council to enter or inspect any premises** or to inspect any records under sub-section (7) or (8), as the case may be, or obstructs such officer in the exercise of his aforesaid powers shall, on conviction, be punished with fine which may extend to fifty rupees for the first offence and for any subsequent offence with fine which may extend to one hundred rupees or with simple imprisonment for a term which may extend to three months or with both.

(11) Any person who makes or causes to be made or knowingly allows to be made any entry in a record to be kept under this section, which he knows to be false in any material particular for any of the purposes of this Act or who makes, produces, furnishes or knowingly allows to be made, produced or furnished any statement, record or information which he knows to be false in any material particular for the purpose of obtaining a licence under this section or for any other purposes of this Act shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees for the first offence and for any subsequent offence with fine which may extend to one thousand rupees or with imprisonment for a term which may extend to six months or with both.

(12) (i) If the person committing an offence under this section is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.



(ii) Notwithstanding anything contained in clause (i), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purposes of this sub-section,-

(a) "company" means any body corporate and includes a firm or other association of individuals, and

(b) "director" in relation to a firm means a partner in the firm."

6.8. By relying on Section 20, she submits that Section 20 of KNM Act provides for licensing authority to exercise general supervision. The licensing authority, in the case of Municipal areas is the Municipal Corporation or the Municipal Council or the Municipal Authority. The State Government may by a notification also provide for any other Authority to be licensing authority, as such, she submits that it is not only the RGUHS, INC or KNC, but the licensing authority who can exercise general



supervision and control over nurses, midwives, etc., within supervisory control.

6.9. Relying on Section 22 she contends that Nursing establishments would also be governed and regulated by licensing authority. For any Nursing college or school to be established, apart from affiliation with the RGUHS, INC or KNC, a license is required to be obtained from the licensing authority. The licensing authority is entitled to impose such additional conditions as it may deem fit for securing proper conduct of the establishment. In terms of Subsection (7) of Section 22, she submits that any officer authorized by licensing authority may at all reasonable times enter the premises specified in any license or application for license or any premises which are used or which the officer has reasonable cause to believe are used for the purposes of or in connection with the Nurses' establishment. Thus, she submits that



the licensing authority can cause such inspections.

6.10. She relies on Section 8 of the Karnataka Land Revenue Act, 1964 to contend that it is the Deputy Commissioner in the District who can exercise all the power and discharge all the duties conferred upon him under the Act and thus, she submits that the Deputy Commissioner would be akin to a licensing authority who can exercise powers under Section 8, Section 20 and Section 22 to conduct inspection of Nursing colleges and Nursing schools. Therefore, the direction issued by the Hon'ble Minister in a review meeting while considering the complaints is proper and correct and does not require any interference. Section 8 of the Karnataka Land Revenue Act, 1964 is reproduced hereunder for easy reference:



8. Deputy Commissioner.—(1) The State Government shall by notification, appoint for each district a Deputy Commissioner, 1 [who shall be subordinate to the Regional Commissioner] 1 1. Inserted by Act 17 of 2007 w.e.f. 5.1.2007. (2) The Deputy Commissioner shall in his district exercise all the powers and discharge all the duties conferred and imposed on him under this Act or under any law for the time being in force. He may also exercise such powers and discharge such duties as are conferred and imposed on an Assistant Commissioner under this Act or under any other law for the time being in force, and in all matters not specially provided for by law, he shall act according to the instructions of the State Government.

6.11. By relying on Section 8, her submission is that the Deputy Commissioner shall in his district exercise all powers and discharge all duties conferred and imposed on him under the Act.

6.12. Her further submission is that the Deputy Commissioner alone would not be visiting and carrying out the inspection. The Deputy Commissioner would be accompanied by a subject expert, who could make their



observation and apprise the Deputy Commissioner, who would submit the report. The State Government vide order dated 5-11-2024 has taken a policy decision to formulate special task force of RGHHS, KNC and the Nursing and Paramedical Board. This policy decision cannot be subject to judicial review and as such, she submits that the writ petition is required to be dismissed.

7. Sri Shivarudra, learned counsel appearing for the INC would submit that,

7.1. The INC had been established under the INC Act, to establish a uniform standard of training for nurses, midwives and health visitors. He submits that Section 13 of the said Act provides for inspection in pursuance thereof, the executive committee of INC can appoint such number of inspectors as deemed necessary to inspect any Institution recognized as a training Institution, and such inspectors can report to



the Executive Committee on the suitability of the Institution for the purpose of training.

7.2. The Executive Committee, upon receipt of the inspection report, shall forward the same to the Central Government and to the State Government, and the State Council in which the Institution is situated. He therefore submits that inspections are conducted by the INC and the reports are sent to the KNC, as also to the RGUHS and sometimes to the State Government.

8. Ms. Jyoti Maradi, learned counsel appearing for the KNC would submit that,

8.1. The KNC provides for registration of nurses, auxiliary midwives nurses and health visitors. She also reiterates that under Section 20, the Licensing Authority can exercise general supervision over nurses, midwives, auxiliary nurses, midwives and health visitors and under



Section 22, regulation of Nursing establishment has been provided.

8.2. She submits that insofar as KNC is concerned, KNC is discharging its duties in a proper manner.

9. Ms.Mamatha G.Kulkarni, learned counsel appearing for the RGUHS submits that RGUHS is monitoring the requirements under the RGUHS Act insofar as Nursing colleges and the schools concerned and necessary action is being taken in case of default on part of the Nursing Institutions/colleges.
10. Heard Sri.Krishna.T, learned counsel for the Petitioners in W.P. No.32185/2024, Sri M.S.Shyamsundar, learned Senior Counsel for the Petitioners in W.P. No.32106/2023, Ms.Mamatha Shetty, learned AGA for the State, Sri. Shivarudra, learned counsel for INC, Ms.Jyothi Maradi, learned counsel for KNC and Ms.Mamatha G. Kulkarni, learned counsel for RGUHS. Perused papers.



11. The points that would arise for determination in the present matters are;

1. Whether the State Government can direct the inspection of Nursing colleges or Institutions by the Deputy Commissioner or are such inspections to be conducted only by RGUHS, INC or KNC?

2. What order?

12. **ANSWER TO POINT NO.1: Whether the State Government can direct the inspection of Nursing colleges or Institutions by the Deputy Commissioner or are such inspections to be conducted only by RGUHS, INC or KNC?**

12.1. Many submissions have been made by the Petitioners stating that there are expert bodies like RGUHS, INC and KNC who regulate Nursing colleges and Nursing schools and as such, these specialized bodies discharging their functions effectively, there being no complaint against them, the question of the Honorable Minister



directing the Deputy Commissioner to conduct inspection would not arise.

12.2. Per contra, the submission made by the State is that in terms of Section 20 and 22 of Act of 1961, a licensing authority can carry out any inspection of any Nursing Institution and also monitor the nurses registered under the said Act. It is on that basis it is contended that there being complaints as regards the working of Nursing colleges/schools, the Deputy Commissioner was called upon to carry out inspection.

12.3. None can dispute the requirement that educational Institutions perform their obligations and provide the necessary infrastructure for the students. None can dispute that Karnataka is regarded as an education hub where students from other States come to avail education. It is also trite that there are several complaints which are



received from the students and or the parents as regards the functioning of colleges in general, Nursing colleges and Nursing schools, in particular. These complaints are made in a manner so as to depict as if the Government has not performed its obligation, requiring action to be taken. When such complaints are made, the legal niceties of specialized agencies like RGUHS, INC or KNC being available is not taken into consideration by such complainants since they probably are not aware of the same. It is probably on account of this that the Hon'ble Minister felt the need to direct the Deputy Commissioner to conduct the inspection of the Nursing colleges/schools so as to ascertain if the infrastructure provided is proper and correct and if the colleges are performing their actions in a proper manner.

12.4. The intent of the Hon'ble Minister may be noble and proper and in order to protect the interest



of the students and parents, but, however, taking into consideration the legal aspects, these inspections can only be carried out by the concerned specialised agencies, in case of Nursing colleges and schools, by the RGUHS, INC and KNC. Under these Acts, there are specialized persons with special qualifications who are appointed as inspectors, who could carry out such inspections to ascertain whether all the infrastructure and facilities are provided. The Deputy Commissioner, even with the assistance of the specialized agencies, in my considered opinion, cannot substitute the specialized agencies like RGUHS, INC and KNC.

12.5. Though a submission has been made by learned AGA that a policy decision has been taken in this regard and joint task force of the representatives of R.G.U.H.S., I.N.C. and K.N.C. would carry out the inspection, the same is not clear from the impugned order. The



impugned order only states that the Deputy Commissioner shall carry out the inspection with the assistance of Nursing subject experts. There is no reference which has been made to the impugned order dated 5-11-2024 to experts under R.G.U.H.S., I.N.C. or K.N.C. Thus, firstly, there is no policy decision which could be said to have been taken by issuance of a letter by the Principal Secretary to Government, Health and Family Welfare Department for Medical Education on the instructions of the Hon'ble Minister, nor does the said letter bear out a joint task force as contended. Thus, the said letter would have to be looked upon as an instruction by the Principal Secretary and not as a policy decision of the State, the same not qualifying as a policy decision.

12.6. If the said letter is looked at as an instruction, then as indicated above, the Deputy



Commissioner not having any expertise in educational facilities, the nature of the subject experts, the qualification thereof, not having been indicated in the instruction dated 5-11-2024, I am of the considered opinion that the said letter is completely arbitrary, the exercise of powers by the Deputy Commissioner is unbridled and such inspection is not under any particular enactment.

12.7. Though reference has been made by Ms.Mamata Shetty, learned AGA to Section 20 and 22, the impugned order does not reflect the said provisions nor is the power exercised under the said provisions. Thus, the arguments advanced before this court, in my considered opinion, can only be said to be an afterthought. In that view of the matter, the impugned order not being a policy decision, not having been passed under Section 20 or 22 of KNM Act, as indicated above, is only a direction issued by



the Principal Secretary to the Deputy Commissioner.

12.8. Of course, if the order had been issued under Section 20 and 22 of the KNM Act, which is reproduced hereinabove, the licensing authority can exercise general supervision and control over the Nurses, Midwives, auxillary nurse and midwives under Section 20, as also regulate Nurses establishment under Section 22. The licensing authority under Section 22 of KNM Act would have the right to impose additional conditions than that imposed by KNC, INC and RGUHS and the licensing authority could monitor the compliance with the said additional conditions and for that purpose could enter upon the premises specified in licence. Of course, this power under Section 22 would only extend to the additional conditions imposed by the licensing authority over and above the conditions imposed by KNC, INC and RGUHS.



The licensing authority would not have any authority to seek for compliance of the conditions imposed by KNC, INC and RGUHS, which will be the sole prerogative of those Institutions and not of the licensing authority.

12.9. The object sought to be achieved by the Hon'ble Minister and the Principal Secretary are indeed what is required to be done to protect the interest of students, on enquiry with Sri.Shivarudra, as indicated above, he has submitted that the INC is carrying out necessary inspection from time to time. On enquiry with Ms. Jyoti Maradi, learned counsel, appearing for KNC, she submitted that KNC also carries out inspections from time to time. Similar is the submission made by Smt.Mamtha G.Kulkarni, learned Counsel appearing for RGUHS. If that were being so done, then the question of another set of inspections to be carried out by the Deputy Commissioner would



not only be a duplicitous effort but, in the present case, could be the fourth such inspection.

12.10. On enquiry as to whether these inspection reports are uploaded on any website and made available to all the concerned, as also for viewing by the students and parents before seeking admission, the Counsels for INC, KNC and RGUHS submit that there is no such system which has been put in place.

General Directions

12.11. In that view of the matter, I am of the considered opinion that general directions would have to be issued to these authorities. As such, the following general directions are issued:

1. **Indian Nursing Council:** The INC is directed to set up a web portal where all the inspection reports are uploaded by the INC,



State wise, district wise and college-wise, as regards all aspects which come under the administrative supervision of the INC. INC is also directed to provide necessary Application Programming Interface (APIs) to RGUHS, KNC and the Health and Family Welfare Department to automatically access the data uploaded by INC on its website with reference to the particular college/school/Institution.

2. **Karnataka Nursing Council:** The KNC is directed to set up a web portal where all the inspection reports are uploaded by the KNC college-wise, as regards all aspects which come under the administrative supervision of the KNC. KNC is also directed to provide necessary Application Programming Interface (APIs) to RGUHS, INC and the Health and Family Welfare Department to automatically access the data uploaded by KNC on its



website with reference to the particular college/school/Institution.

3. **RGUHS:** The RGUHS is directed to set up a web portal where all the inspection reports are uploaded by the RGUHS college-wise, as regards all aspects which come under the administrative supervision of the RGUHS. RGUHS is also directed to provide necessary Application Programming Interface (APIs) to INC, KNC and the Health and Family Welfare Department to automatically access the data uploaded by RGUHS on its website with reference to the particular college/school/Institution.

4. The above information, data and inspection reports, as regards the infrastructure facility at each of the colleges, schools, Institutions, as also all licenses, sanctions, etc., issued by the concerned authority would have to be



uploaded onto the websites of the respective Universities.

5. The details of any litigations that the particular education Institution is involved are to be uploaded.
6. A detailed project report by each of the above organizations to be submitted within a period of six weeks from today from date of receipt of a certified copy of this order.
7. The details of any complaints received by the INC, KNC and RGUHS to be uploaded on their respective web portal with an option to submit an online grievance by any student, parent or teacher/lecturer to be also made available, on the said portal.
8. A grievance redressal mechanism to be also established in this regard by the authority concerned.



13. **ANSWER TO POINT NO. 2: What Order?**

13.1. In view of my answer to Point No.1 above, I
pass the following:

ORDER

- i. The writ petition in W.P. No.32185/2024 is allowed. A certiorari is issued and communication bearing reference No.Aa.Sa.Pa.Sum:MED 555 MSF 2024 dated 5.11.2024 at Annexure-B issued by Respondent No.1 is quashed.
- ii. The writ petition in W.P. No.32106/2024 is allowed in view of the quashing of the said communication in W.P. No.32185/2024, no orders are required to be passed in W.P. No.32106/2024.
- iii. Liberty is reserved to forward the complaint received by the State Government or any authority under the State Government to RGUHS/INC/KNC who shall take action thereon as expeditiously as possible, keeping such authority informed of such action.
- iv. Liberty is also reserved to the Licencing authority to take such action as is permissible for violation of the licence.
- v. Though both the above petitions are disposed of, **relist on 15.07.2025 at**



2.30 p.m. for reporting compliance with the general directions by the INC, KNC and RGUHS.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

LN
List No.: 1 Sl No.: 37