



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 28043 OF 2024 (EDN-RES)



BETWEEN

1. MS. DANIYA JOY,
AGED ABOUT 24 YEARS,
D/O. MR. JOY JOSEPH,
R/A. ALUNKAL HOUSE, CHITTARIKKAL,
KASARGOD, KERALA-670682.
2. MS. NEETHU BABY,
AGED ABOUT 23,
D/O. OF BABY ABRAHAM,
R/A. CHATHANKIRIYIL(H),
KANNIVAYAL P.O., KASARGOD,
KERALA-670511.
3. NEW R.K. COLLEGE OF NURSING,
MANGALORE, REPRESENTED BY ITS PRINCIPAL,
O/A, 40 BEACH ROAD, SUMMERSAND,
MANGALORE-575020.
4. KARNATAKA STATE PRIVATE MANAGEMENT
ASSOCIATION OF HEALTH INSTITUTIONS ®,
REPRESENTED BY ITS PRESIDENT,
MR. K. VENKATAGIRI, O/A, NO.07,
OPP. UNITY LIFE LINE HOSPITAL,
1ST BLOCK, 2ND STAGE, NAGARBHAVI,
BENGALURU-560072. (REGISTERED UNDER
THE SOCIETIES REGISTRATION ACT, 1860).
5. KARNATAKA NURSING STUDENTS ASSOCIATION,
REPRESENTED BY ITS PRESIDENT,
MR. NIKIL, O/A, NO.14, DENA BANK COLONY,
GANGANAGAR, BENGALURU-560032
(REGISTERED UNDER THE TRUST ACT, 1882)

...PETITIONERS

(By SRI. NITIN A.M., ADVOCATE)





AND:

1. THE INDIAN NURSING COUNCIL,
8TH FLOOR, NBCC CENTER, PLOT NO.2,
COMMUNITY CENTER, OKHLA PHASE-1,
NEW DELHI-110002,
nodalofficer.inc@gov.in
REPRESENTED BY ITS PRESIDENT.
UNDER INDIAN NURSING COUNCIL ACT, 1947.
2. KERALA NURSES AND MIDWIVES COUNCIL,
REPRESENTED BY ITS REGISTRAR,
HAVING OFFICE AT, FWXR+RJ4, RED CROSS RD,
JAI VIHAR, KUNNUKUZHY,
THIRUVANANTHAPURAM, KERALA-695035.
UNDER NURSES AND MIDWIVES ACT, 1953.
3. KARNATAKA STATE NURSING COUNCIL,
REPRESENTED BY ITS REGISTRAR, 71,
NIGHTINGALE TOWERS, A STREET,
6TH CROSS RD, NEAR MOVIELAND THEATER,
A.R. EXTENSION, GANDHI NAGAR,
BENGALURU-560009.
CONSTITUTED UNDER KARNATAKA NURSES,
MIDWIVES AND HELATH VISITORS ACT, 1961.

...RESPONDENTS

(BY SRI. SHIVARUDRA, ADVOCATE FOR R1;
SRI. SIJI MALAYIL, ADVOCATE FOR R2;
SMT. JYOTI M. MARADI, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING DIRECTION TO THE RESPONDENT NO.2, TO GRANT RECIPROCAL REGISTRATION TO THE STUDENTS OF THE PETITIONER ASSOCIATIONS IN TERMS OF THE ORDER DATED 22.01.2019 IN CIVIL APPEAL NO.958/2019; DIRECT THE RESPONDENT NO.2, NOT TO INSIST ON THE GRANT OF RECOGNITION OR OTHERWISE OF THE INSTITUTIONS UNDER THE PETITIONER ASSOCIATION FROM THE INDIAN NURSING COUNCIL FOR GRANT OF RECIPROCAL REGISTRATION TO THE STUDENTS OF THE PETITIONER ASSOCIATIONS; DIRECT THE RESPONDENT NO.1 TO INTIMATE ALL THE STATE NURSING COUNCILS NOT TO MANDATE INC AFFILIATION/RECOGNITION IN LIGHT OF THE ORDER PASSED BY THE HON'BLE SUPREME COURT IN CIVIL APPEAL ARISING OUT OF



SPECIAL LEAVE PETITION (C) NO.9/2014, FURTHER IN THE ORDER PASSED BY THE HON'BLE HIGH COURT OF KARNATAKA IN WP NOS.25355-25357/2017 DATED 24.07.2017; DIRECT THE RESPONDENT NO.2 TO PERMIT THE PETITIONER NO.1 AND 2 TO REGISTER THEMSELVES IN THE REGISTER OF NURSES AND TO ENABLE THEM TO PRACTICE NURSING IN THE STATE OF KERALA; DIRECT THE RESPONDENT NO.2 TO CONSIDER THE APPLICATION, ANNEXURE-A1 AND A2, DATED 11.04.2024 RESPECTIVELY AND REQUISITIONS FILED BY THE PETITIONER NO.1 AND 2 AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 25.01.2025, COMING ON FOR PRONOUNCEMENT OF ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

CAV ORDER

1. The Petitioners are before this Court seeking for the following reliefs:

1. *Direction to the Respondent No.2, to grant reciprocal registration to the students of the Petitioner Associations in terms of the order dated 22.01.2019 in civil appeal no.958/2019;*
2. *Direct the Respondent No.2, not to insist on the grant of recognition or otherwise of the institutions under the Petitioner Association from the Indian Nursing Council for grant of reciprocal registration to the students of the petitioner associations;*
3. *Direct the Respondent No.1 to intimate all the State Nursing Councils not to mandate INC affiliation/recognition in light of the Order passed by the Hon'ble Supreme Court in Civil Appeal arising out of Special Leave Petition (C) No.9/2014, further in the order passed by the Hon'ble High Court of Karnataka in WP Nos.25355-25357/2017 dated 24.07.2017;*
4. *Direct the Respondent No.2 to permit the Petitioner No.1 and 2 to register themselves in*



the Register of Nurses and to enable them to practice nursing in the state of Kerala;

5. *Direct the Respondent No.2 to consider the Application, Annexure-A1 and A2, dated 11.04.2024 respectively and requisitions filed by the Petitioner No.1 and 2.*
6. *Pass such other orders and directions that this Hon'ble court deems fit in the interest of justice and equity.*

2. The brief facts of the case are;

- 2.1. Petitioner No.3 is a College of Nursing, Petitioner No.4 is an Association of Nursing Colleges, Petitioner No.5 is an Association of Nursing Students and Nursing Graduates and Petitioner Nos. 1 and 2 are nurses.
- 2.2. Petitioners No.1 and 2 claim to have completed their education in BSc. Nursing from Petitioner No.3 College in the year 2023 and have been registered with Respondent No.3. The petitioners, intending to practice their profession in Kerala, submitted an application to Respondent No.2, Kerala Nurses and Midwives Council, for registering themselves.



- 2.3. On 11.04.2024, in response thereto, Respondent No. 2, via e-mail, called upon the petitioner to submit their INC (Indian Nursing Council) registration/affiliation of the Nursing Institution from where they had completed their education in B.Sc. Nursing. The petitioners informed Respondent No.2, that there is no recognition required from INC and, as such, called upon Respondent No.2 to process their applications.
- 2.4. Petitioners No.1 and 2 had also approached Petitioner No.3 College, Petitioner No.4 Association, and Petitioner No.5 Association of Students, to intervene and resolve the issue so as to enable the petitioners to practice in Kerala. However, the intervention of Petitioners No.3 to 5 also did not yield any results.



2.5. It is in those circumstances that the petitioners are before this court seeking for the aforesaid reliefs.

3. The submission of Sri. Nitin A.M., learned counsel for the petitioners is that;

3.1. Petitioner No.1 and 2, having completed their BSc. Nursing and Petitioner No.3 College, which is recognized by Respondent No.3, Karnataka State Nursing Council, Respondent No. 2, Kerala Nurses and Midwives Council, could not reject the claim of the petitioner to practice their trade and profession in the State of Kerala.

3.2. Insistence by Respondent No.2, on recognition or registration from the Indian Nursing Council, is completely bereft of merits and without any basis, no such insistence could be made by Respondent No.2. Petitioner No.3 College, being registered and recognized by



the Respondent No.3 Karnataka State Nursing Council, Respondent No.3, conducting the courses as per the syllabus of Respondent No.1, the degree secured by Petitioners No.1 and 2 ought to have been recognized by Respondent No.2, and they be taken on the roll of Respondent No.2 so as to enable them to practice their trade and profession in the State of Kerala.

- 3.3. Any degree of Nursing granted by any college in the country affiliated to respective State Nursing Councils ought to be recognized by any other Nursing Council of any other State and the successful graduate ought to be enrolled to that State Nursing Council's rolls so as to give effect to the fundamental right of Trade and Profession guaranteed under Article 19 of the Constitution of India.



- 3.4. Lastly, it is argued that there is no affiliation granted by the Indian Nursing Council or recognition which can be granted by the Indian Nursing Council.
- 3.5. The Hon'ble Apex Court, in its judgment in the case of ***Private Nursing Schools and Colleges Management Association Vs. The Indian Nursing Council and Ors.***¹ has categorically held that, it is the State Government that has the power to grant recognition and that the Indian Nursing Council has no authority to grant such recognition. The Hon'ble Apex Court having held that it is only the State Government which can grant recognition, there could not have been insistence made by the 2nd respondent that recognition has to be obtained from the INC.

¹ Civil Appeal No.958/2019



4. Sri. Shivarudra, learned counsel appearing for respondent No.1 – Indian Nursing Council (INC), submits that;

4.1. The INC has nothing to do with the dispute between the petitioners and Respondent No.2. The Indian Nursing Council Act, 1947, being a central enactment, and the **Karnataka Nurses, Midwives and Health Visitors Act, 1961**, being a state enactment, operate in their respective spheres. There is no overlap between them. Any reciprocity would have to be as per the decision of the state authorities.

4.2. The INC has neither mandated the rejection of registration nor recommended the registration on the basis of a reciprocal arrangement or otherwise. Each State Nursing Council is governed by its own State Act. The INC does not exercise any supervisory power over the State Council and therefore INC has been



unnecessarily made a party to these proceedings.

- 4.3. However, where colleges have been inspected by the INC, the INC issues a suitability certificate, and sometimes this suitability certificate is considered by the State Councils for the grant of reciprocal registration.
- 4.4. The grant of a suitability certificate, he submits, ensures that the concerned Nursing Institution has the requisite teaching, clinical, and infrastructural facilities.
- 4.5. In the present case, Petitioner No.3 has neither applied for nor has been granted any suitability certificate by the INC. The recognition of Petitioner No.3 has been obtained from the State Nursing Council. His submission is that there is a difference between recognition of a nursing institution and the grant of suitability to such nursing



institution. The recognition being granted by the State Nursing Council, the suitability certificate is issued by the Indian Nursing Council, there is no requirement of a suitability certificate for imparting education in nursing, so long as recognition has been granted to such a college.

4.6. Irrespective of the above, it is for the respective States to look into this issue and grant reciprocity on the basis of such conditions that each of the State Councils may choose to prescribe.

4.7. He again reiterates that the Indian Nursing Council has neither restrained nor recommended the restraining of reciprocity.

4.8. In this regard, he relies upon the decision of the Hon'ble Apex Court in the case of ***Private Nursing Schools and Colleges Management Association Vs. The Indian***



Nursing Council and Ors.², more particularly, Para 6 thereof, which is reproduced hereunder for easy reference:

6) We may indicate that Section 14 deals with withdrawal of recognition which is a stage which has not yet been reached on the facts of this case. We, therefore, declare that consistent with their fundamental right under Article 19(1)(g) of the Constitution of India, to practice their occupation throughout the territory of India, legislation in the form of the Nursing Council Act of 1947 has not restricted nor does it purport to restrict their practice of nursing once a Degree or Diploma is granted by the State Authority to that State only.

4.9. By relying on the above extracted Para, he submits that the Indian Nursing Council Act of 1947 has not restricted nor does it purport to restrict the practice of nursing once a degree or diploma is granted by a State Authority to that State only.

4.10. He also relies upon the judgment of the Hon'ble Rajasthan High Court in the case of **Indian Nursing Council Through Its**

² Civil Appeal No.958/2019



Secretary Vs. Kamaksha Institute of Nursing and Others³, The relevant paragraphs are reproduced hereunder for easy reference:

"By Section 2(A), the 'Council' means the Council constituted under the Act. Section 3(b) deals with the constitution and composition of the "Council". The Council is an incorporated body under Section 4, having perpetual succession. The Council is controlled by its Executive Committee (formed under Section 19).

Section 10 lays down a scheme whereby apart from the institutions initially recognised and listed under the First Schedule, other institutions such as colleges etc. can be granted recognition by the State Council in accordance with State Legislation. This is having regard to the federal nature of the power involved in the present case. The effect of such recognition by the State Council is elaborated in Section 11. Sections 13 and 14 which are important for these purposes.

It is the Executive Committee of the Central Council which has overarching powers to inspect recognized institutions. The Executive Committee under Section 13(3) has to forward a copy of its inspection report to the concerned institution or authority and also forward another copy to the State Council. If the Executive Committee is of the opinion that the standards of proficiency in regard to any matter enumerated under Section 14(1) are not in compliance with its regulations, (i.e., standards of teaching or imparting

³ D.B. Spl. Appeal Writ No.508/2018



education), it can take further action which includes withdrawal of recognition of qualification under Section 14(3)(a) (9 of 10) [SAW-508/2018] or withdrawal of recognition for the entire institution itself [Section 13(3)(d)]. The mode of such withdrawal of recognition is through a declaration under Section 15. This has to be notified in the official gazette by the Central Government.

It is, therefore, clear from the above provisions that the Central Council acting through the Executive Committee has ample powers to inspect recognized institutions, colleges etc. which are recognized by the State Council. This is in furtherance to the Union's powers of coordination and determination of standards under Entry No. 66 of the List-1 of the VII Schedule to the Constitution of India. Being primarily, a standard setting and coordinating body, the Council is empowered with consequential power to ensure compliance, by way of constant oversight. At the same time, this Court is of the opinion that such a power of inspection cannot be invoked arbitrarily and must be for some reason expressly recorded in its files. The mode of taking action pursuant to any deficiency found would also entail active involvement of the State Council, which is primarily seized of matters regarding recognition, enforcement etc. Natural justice and a degree of fairness is involved and has to necessarily be followed if recognition, once granted, is sought to be withdrawn."

- 4.11. By relying on the judgment in ***Kamaksha Institute's*** case, he submits that recognition can be granted only by a State Council in accordance with the State Legislation having



regard to the federal nature of the powers involved and seeks to contend that the power of the Central Committee is to carry out inspections to ascertain if all the compliances have been met by the college. If there are any deficiencies, the same can be brought to the notice of the State Council to take necessary action.

4.12. He relies upon the judgment of the Full Bench of the Hon'ble Kerala High Court in the case of ***K. Velayudhan Memorial Trust Vs. State of Kerala and Ors.***⁴ , more particularly Para nos. 10 and 20 thereof.

"20. In our view, the question was earlier considered by a learned Judge of this Court in ***National Medical Educational Charitable Trust v. Kerala Nursing and Midwifery Council*** [2006(2)KLT 612]. At paragraph 10 of the said judgment the learned Judge categorically held that the 1947 Act does not empower the National Council to deal with the aspects of recognition or approval to

⁴ W.A. No.796/2010



institutions imparting education and Nursing. Paragraph 10 reads as follows:

"10. Going by the above mentioned provisions of the Act, I feel that the Act does not empower the Central Council to deal with recognition or approval of institutions, imparting education in Nursing. The function of the Central Council, is mainly concerned with the recognition of qualifications, for the purpose of enrollment in the State Register. It also enables the Central Council, to de-recognise any recognised qualification awarded by any authority in view of the provisions contained in clause (a) of S.14 read with clause (a) of sub-section (3) thereof. In the case of institutions, like the institution of the petitioner, the power of the Central Council in the light of clause (b) of sub-s.(1) of S.14 read with clause (b) of sub-s.(3) thereof, is limited to de-recognising the qualification obtained from such institutions in other States. Even after the disapproval of the Central Council, the said qualification remains valid for the parent State.

Recognition or de-recognition of institutions, like that of the petitioner, imparting training in nursing, does not come under the purview of the Indian Nursing Council Act, 1947. But, the power to recognise the qualifications, may confer incidental or ancillary power to prescribe the minimum facilities to be provided for, in the Nursing institutions. So, by virtue of the regulation making power contained in S.16(1) of the above said Act,



the Central Council may prescribe the physical and clinical facilities that may be provided in an institution. The same is only for the purpose of deciding whether the training imparted in that institution, is up to the mark to enjoy the recognition for the qualification awarded pursuant to the training. Recognition or approval of institutions is essentially the function of the State Nursing Council. S.14(1) (b) of the Act also recognises the said position"

4.13. By relying on the above, he submits that the function of the Central Council is to only grant recognition of qualification. The recognition and enrolment is done by the State. The Central Council can only de-recognize any recognized qualification. It cannot de-recognize a particular college and in furtherance thereof, the Central Council prescribes the minimum facilities to be provided for in nursing institutions.

4.14. Thus, he again reiterates that the dispute is between the Petitioners and Respondent No.2



and Respondent No. 1 has nothing to do with it.

5. Sri. Siji Malayil, learned counsel appearing for Respondent No.2, submits that;

5.1. The writ petition is not maintainable. The petitioners are residing in Kerala. The relief is being sought for against the Kerala Nursing Council, and therefore this Court would not have jurisdiction.

5.2. He relies upon Section 21 of the Kerala Nurses and Midwives Act, 1953 (**'the Act of 1953', in short**), which is reproduced hereunder for easy reference:

21. Application for Registration:-

(1) An application for registration under section 20 shall be in the prescribed form and shall be accompanied by a fee of rupees ten.

(2) All applications under sub-section (1) shall be sent direct to the Registrar who shall place them before the Council for its decision.

(3) If the Council directs the registration of the applicant, the Registrar shall enter the



name of the applicant in the appropriate register and issue to him a certificate in such form and containing such particulars as may be prescribed by rules.

- 5.3. By referring to the said provision, he submits that registration with the 2nd respondent is mandatory to practice/engage in the profession of nursing in the State of Kerala. Without such registration, no such permission can be granted, nor would any person be entitled to practice the profession of nursing in the State of Kerala.
- 5.4. He also relies on Section 22 of the Act of 1953, which is reproduced hereunder for easy reference;

22. Admission to register of persons registered in any State in India –

Subject to such conditions and on payment of such fees as may be prescribed by rules, any person who proves to the satisfaction of the Council that he has been registered as nurse, midwife, auxiliary nurse-midwife or health visitor in any other State in India may be registered as a nurse, midwife, auxiliary nurse – midwife or health visitor under this Act.



and submits that, only if a person satisfies the council that he or she has been registered as a nurse, midwife, auxiliary nurse-midwife or health visitor in any other State in India, that such person may be registered as a nurse, midwife, auxiliary nurse – midwife or health visitor in the State of Kerala.

5.5. The writ petition is also bad for misjoinder of parties inasmuch as petitioners No.3 to 5 have no cause of action to file the petition. The petition has been filed arraigning petitioners No.3 to 5 only to try and make out jurisdiction for this Court. The entire cause of action having occurred within the jurisdiction of the State of Kerala, this Court would not have the jurisdiction.

5.6. On a careful perusal of Section 13 of the Indian Nursing Council Act 1947, a suitability certificate has to be issued by the INC, and



that is the reason why Respondent No.2 has sought for production of such a certificate. The said certificate not having been furnished, the petitioners have not been permitted to enroll/register with the second respondent.

5.7. On these grounds, he submits that the above petition does not make out any valid ground and is hence required to be dismissed.

6. Heard Sri. Nitin A.M., learned counsel for the petitioner, Sri. Shivarudra, learned counsel for respondent No.1, Sri. Siji Malayil, learned counsel for respondent No.2 and Smt. Jyoti M. Maradi, learned counsel for respondent No.3. Perused the records.

7. The points that would arise for consideration are:

1. ***Whether a State Nursing Council could insist on production of certificate of recognition/registration from the Indian Nursing Council for the purpose of registration or enrolment as a nurse in the particular State?***



2. **Whether the Indian Nursing Council, does in fact grant any recognition to a college or a student?**
3. **Can a State Nursing Council restrict the registration of a nurse, midwife, auxiliary nurse-midwife or health visitor in any other State in India, if not educated within that State?**
4. **What Order?**

8. I answer the above points as under:

9. In so far as jurisdiction is concerned I am of the considered opinion that the petitioners having studied in the state of Karnataka and the degree being that issued by a university situate within the state of Karnataka, this court would have jurisdiction.

10. **Answer to Point No.1:Whether a State Nursing Council could insist on production of certificate of recognition/registration from the Indian Nursing Council for the purpose of registration or enrolment as a nurse in the particular State?**

10.1. Sections 13 and 14 of the Indian Nursing Council Act, 1947 are reproduced hereunder for easy reference:



13. Inspections.-- (1) The Executive Committee may appoint such number of inspectors whether from among members of the Council or otherwise as it deems necessary to inspect any institution recognised as a training institution, and to attend examinations held for the purpose of granting any recognised qualification or recognised higher qualification.

(2) Inspectors appointed under this section shall report to the Executive Committee on the suitability of the institution for the purposes of training and on the adequacy of the training therein, or as the case may be on the sufficiency of the examinations.

(3) The Executive Committee shall forward a copy of such report to the authority or institution concerned, and shall also forward copies, with the remarks, if any, of the authority or institution concerned thereon, to the Central Government and to the State Government and State Council of the State in which the authority of institution is situated.

14. Withdrawal of recognition.--

(1) When upon report by the Executive Committee, it appears to the Council--

(a) that the courses of study and training and the examinations to be gone through in order to obtain a recognised qualification from any authority in any State, or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examinations are not in conformity with the regulations made under the Act or fall short of the standards required thereby, or

(b) that an institution recognised by a State Council for the training of nurses, midwives auxiliary nurse-midwives or health visitors does not satisfy the requirements of the Council,--

the Council may send to the Government of the State in which the authority or institution, as the case may be, is situated a statement to such effect and the State Government shall forward it, along with such



remarks as it may think fit to the authority or institution concerned and, in a case referred to in clause (b) to the State Council also, with an intimation of the period within which the authority or institution may submit its explanation to the State Government.

(2) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of the period, the State Government shall make its recommendations to the Council.

(3) The Council, after such further inquiry, if any, as it may think fit to make, and in a case referred to in clause (b) of sub-section (1), after considering any remarks which the State Council may have addressed to it, may declare,

(a) in a case referred to in clause (a) of that sub-section, that the qualifications granted by the authority concerned shall be recognised qualifications only when granted before a specified date, or

(b) in a case referred to in the said clause (b), that with effect from a date specified in the declaration any person holding a recognised qualification whose period of training and study preparatory to the grant to him of the qualification was passed at the institution concerned shall be entitled to be registered only in the State in which the institution is situated.

(4) The Council may declare that any recognised qualification granted outside the States shall be a recognised qualification only if granted before a specified date.

10.2. A perusal of both the above provisions does not indicate any recognition which can be



granted by the Indian Nursing Council, though there is a provision for the grant of a suitability certificate. There is no mandate under the Indian Nursing Council for a college involved in field of education in nursing to seek and obtain registration from INC for the purpose of carrying out its activities.

10.3. There being no requirement for registration with the INC, nor any procedure being provided for under the Indian Nursing Council Act for registration, the question of the second respondent insisting upon Petitioner No.1 and 2 to produce such registration certificate from the INC in respect of Petitioner No.3 does not arise. Since none can be granted, no certificate could ever be produced, even if insisted upon.

10.4. Thus, it is clear that there is no recognition which is required to be obtained from the INC,



nor is there any registration contemplated under the Nursing Council of India Act, for any college rendering education in nursing.

10.5. What is referred to is the suitability certificate.

The aspect of suitability certificate would arise only if any complaints are filed requiring inspection by the Central Council, and the suitability report would be forwarded to the State Council for action on deficiencies, if any.

10.6. The inspection for suitability also does not confer any recognition or registration to any college. The registration, as contemplated in the present scheme of law, is for a college to register with the State Council.

10.7. Thus, I answer point No.1 by holding that a State Nursing Council cannot insist on the need to furnish a certificate of registration /recognition from the Indian Nursing Council



for the purposes of enrolment/registration to practice the profession of nursing in that state.

11. **Answer to Point No.2: Whether the Indian Nursing Council, does in fact grant any recognition to a college or a student?**

11.1. This point is related to point No.1, having held that the Indian Nursing Council does not grant any recognition or registration for a college, the same would imply that there is no such registration or recognition for a student also by the Indian Nursing Council. The Indian Nursing Council only fixes the qualifications that are recognized by it. These qualifications could be added or deleted by the Indian Nursing Council, and the State Council would be bound to follow the said requirements of the Indian Nursing Council.

11.2. The fixing of qualifications does not, in any manner, amount to registration or recognition by the Indian Nursing Council. The fixing of



such qualifications only enables the concerned States and Colleges to initiate education courses as per the qualification prescribed by the Indian Nursing Council.

11.3. Thus, I am of the considered opinion that the Indian Nursing Council does not grant any recognition or registration for either the college or the student.

12. **Answer to point No.3: Can a State Nursing Council restrict the registration of a nurse, midwife, auxiliary nurse-midwife or health visitor in any other State in India, if not educated within that State?**

12.1. The Hon'ble Apex Court in ***Private Nursing Schools and Colleges'*** case at para No.6 which has been extracted hereinabove, has held that, consistent with the fundamental right under Article 19(1)(g) of the Constitution of India, the Nursing Council Act of 1947 has not restricted nor does it purport to restrict the practice of nursing, once a degree or



diploma is granted by a State Authority, to that respective State only.

12.2. The Hon'ble Apex Court, in a similar matter, was dealing with the power of the Indian Nursing Council. In the present matter, I am dealing with the powers of the State Nursing Council. The Hon'ble Apex Court having held that the Indian Nursing Council has no such power, what is to be seen is whether the State can restrict registration to students educated within its own territorial limits insofar as registration of nurses are concerned.

12.3. India is one single country with one single citizenship. Though a person may be domiciled anywhere, the citizenship remains one and the same. There is no restriction of the movement of any citizen of India from one State to another. A citizen may be born in one State, may get educated in another State, work in a



third State, spend his/her retirement years in a fourth State, and finish his/her life cycle in a fifth State, or in multiple States thereof. There is no legal restriction in this regard by any law in force in the country.

12.4. No law can bind a person to a particular State, or mandate that a person can only work in the State where he or she has obtained his or her education. Narrow parochial views like these must be avoided and it is required to be held that a citizen of the country having a fundamental right to practice any trade or profession, such a person would be so permitted to practice their trade or profession anywhere in the country.

12.5. In the present case, what is even more of interesting is that the petitioners are residents of Kerala. They came to a college in the State of Karnataka for education, obtained their



degrees in Karnataka and when they wanted to go back to work in the State in which they were born, the authorities in the State have refused to register them as nurses on the ground that the college from which they obtained their education and their degrees is not registered with the INC.

12.6. This, in my considered opinion, is a dis-service done by the 2nd respondent for persons born within its own State, to say the least. As aforesaid, the Indian Nursing Council not providing for any recognition or registration, the question of the 2nd respondent insisting on such a recognition or registration is clearly contrary to law.

12.7. The suitability referred to by both Sri. Shivarudra and Sri. Siji Malayil is as regards any deficiencies in the Indian Nursing Council can point-out in a report to be sent to the



State Council for action to be taken. Even if there is no suitability or if there are any deficiencies, the Indian Nursing Council (INC) by itself cannot take any action against the college.

12.8. Thus, whether the INC considers the college suitable or not is immaterial, since the authority to take action for any violation or deficiencies is vested only with the State Government and the State Nursing Council.

12.9. Thus, the report as regards suitability submitted by the INC is not a certificate of suitability, but a report on the infrastructure and other aspects of the college, submitted to the State Council for necessary action. In that view of the matter, the INC does not either grant recognition or registration, nor is a suitability certificate issued by the Indian Nursing Council.



12.10. That being the case, it being established that a State Nursing Council and the State Government, which recognises a college, issues a certificate through that University to which the said college is affiliated to, such a degree conferred on such a student is valid across the country. A degree issued by a University having jurisdiction in a particular taluka, district, or State cannot be said to be confined to that particular taluka, district, or State. But the degree would be recognized not only in all States of the country, but even abroad. Since it is a University, which is recognized and conferred with the power to confer degrees and diplomas, which, when conferred on the students like Petitioners No.1 and 2, such degrees would have to be accepted and acted upon by all concerned authorities in this country and outside.



12.11. Thus, without prejudice to the earlier observation that such a degree would be recognized even abroad, the degree being recognized across the whole of the country, a citizen of the country cannot be restricted in terms of practicing that trade or profession, when such a degree entitles that person to practice in the trade or profession in the entire country.

12.12. By contending that the degree is not conferred by the State, or by the State Council, or by the University within that particular State, a citizen of the country cannot be stopped from practicing such trade or profession in that State.

12.13. This demand on the part of Respondent No.2, in my considered opinion, is completely fallacious, bereft of any merit, and is contrary to the law, more particularly, the Constitution,



which guarantees the freedom to practicing any trade or profession under Article 19(1)(g).

12.14. The only restriction that could be imposed under Article 19(2) is a reasonable restriction. That reasonable restriction could extend to the requirement of registration of such a professional within that State. This could be for various reasons, including disciplinary, which need not be adverted to here.

12.15. Thus, even if respondent No.2 having insisted that the petitioners No.1 and 2 have to register within the State of Kerala with respondent No.2, no infirmity or fault can be found with such a request, or demand made by Respondent No.2. Though Sri. Nitin A. M., learned counsel for the petitioners, contends that Respondent No.2 ought to grant reciprocity, I am of the considered opinion that there is no question of reciprocity. Once a



citizen of India is qualified and has been conferred a degree, that degree would be valid across the country, which has to be recognized by every institution. There would be no requirement for any separate arrangement between the Nursing Councils of one State and another State to arrive at reciprocity. The concept of reciprocity is unnecessary because the recognition of the degree being nationwide, any Nursing Council across the country would have to consider and act upon a degree conferred in another State, on account of the education being completed in a college recognized by the Nursing Council of that State.

12.16. In fact Section 22 of the Act of 1953, which has been reproduced herein above also speaks of admission to register of a person registered in any state in India, on payment of such



prescribed fees and satisfaction that such person has registered in any other state. The registration in any other state is redundant in as much as without registering in any other state where such person has undergone education, such person can seek for registration in any other state, where the person resides or intends to carry on his/her profession. Thus, no insistence can be made for registration in any other state in order to be registered in that state.

12.17. It is however, required to be stated that if a person were interested in practicing a trade or profession, like nursing, within the State of Kerala, such person would have to register with Respondent No.2 to do so. Having said that Respondent No.2 cannot deny registration to a person who is otherwise qualified and who has been conferred a degree, which entitles



such a person to practice the profession of nursing.

12.18. Thus, in the present case, Petitioners No.1 and 2, having successfully completed their education in BSc Nursing, and having been conferred with such a degree as BSc Nursing, an application made by them to Respondent No.2, ought to have been considered by Respondent No.2 and their registration should have been processed favourably.

12.19. Thus, I answer Point No.3 by holding that a State or State Nursing Council cannot seek to deny registration of a graduate in BSC nursing on the ground that the said student has not graduated from a college within the state.



13. **Answer to Point No.4:** In view of my answers to Point Nos.(1), (2) and (3) above, I pass the following:

ORDER

- i. Writ Petition is ***allowed***.
- ii. Respondent No.2 is directed to register Petitioners No.1 and 2, and any other graduate holding a degree in Nursing, so as to enable them to practice the profession of nursing in the state of Kerala.
- iii. It is declared that Respondent No.2 cannot insist on the grant of any recognition from the 'Indian Nursing Council', suitability or otherwise, in respect of the college nor is there any requirement for a graduate of nursing to have registered under any other state council, before seeking for registration in the state of Kerala.



- iv. Respondent No.1 is directed to forward a copy of this order to all State Nursing Councils, for necessary action.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

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Ct-mkc
List No.: 19 Sl No.: 1