IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 16843 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRAL R. MEHTA

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Approved for Reporting	Yes	No
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AGRAWAL EDUCATION FOUNDATION & ANR.
Versus
UNION OF INDIA & ORS.

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Appearance:
MR DC DAVE, SENIOR ADVOCATE with MS LIPEE D DAVE(12327) for the Petitioner(s) No. 1,2
MR ANKIT SHAH(6371) with MR PD BHATE for the Respondent(s) No. 1
MR HARSHEEL D SHUKLA(6158) for the Respondent(s) No. 2,3
MR. KM ANTANI(6547) for the Respondent(s) No. 4

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CORAM:**HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

Date : 27/11/2026

ORAL JUDGMENT

1. By way of the present petition under Articles 226 and 227 of the Constitution of India, the petitioners have called in question the legality and validity of the order dated 19.10.2026. By the said order, the petitioner – College has been permitted to continue imparting education in the discipline of Ayurveda at the undergraduate level for the academic year 2026-27, with a reduced intake capacity of 95 students as against the sanctioned intake of 100 students.

2. The brief facts necessary for deciding the present petition are set out hereunder:

2.1 The petitioner No.1 is a Trust registered under the Bombay Public Trusts Act. The Trust runs an Ayurveda Medical College with an attached hospital since the academic year 2022-23, imparting undergraduate education in the discipline of Ayurveda with an intake capacity of 100 students.

2.2 As per the prevailing procedure, the petitioner No.2 – College was required to seek renewal of permission for admitting a fresh batch of students for the academic year 2026-27. Accordingly, an application in the prescribed format was submitted, disclosing the infrastructure and other facilities available with the College. Pursuant thereto, the respondent Board carried out an inspection on 14th and 15th May, 2026. On the basis of the inspection, a notice dated 30.07.2026 came to be issued, calling upon the petitioner – College to explain the deficiencies noticed during the course of inspection. In response thereto, the petitioner – College, on 05.08.2026, submitted its written explanation along with supporting documents, contending that no deficiency warranting denial of permission for the academic year 2026-27 continued to exist.

2.3 Thereafter, by an order dated 20.08.2026, the respondent No.3 – Board granted permission to the petitioner – College to admit students to the BAMS course for the academic year 2026-27, but with a reduced intake capacity of

95 seats as against the sanctioned intake of 100 seats. It appears that the reduction was on account of a shortfall of one Associate Professor in the Department of Rog Nidan avum Vikriti Vigyan. Applying the policy of reduction of 5% for each deficiency in the teaching faculty, the intake capacity of the College came to be reduced by five seats.

2.4 It is the case of the petitioners that the aforesaid shortfall in the Department of Rog Nidan avum Vikriti Vigyan arose on account of the resignation of Dr. Joel Antony on 05.12.2025. Immediately thereafter, the College initiated the recruitment process and ultimately selected Dr. Ranjeet Nimbalkar. An offer letter dated 16.05.2026 was issued to him, which was duly accepted. However, owing to certain family commitments, Dr. Ranjeet Nimbalkar expressed his inability to join immediately and requested the College to permit him to join from September, 2026. Consequently, at the time of hearing, the College was unable to demonstrate compliance with the prescribed faculty requirement. However, subsequently, Dr. Ranjeet Nimbalkar joined the College on 01.09.2026.

2.5 Thereafter, the petitioner – College preferred a First Appeal before the respondent No.2 – Commission under Section 24(3) of the National Commission for Indian System of Medicine Act, 2020 (hereinafter referred to as 'the NCISM Act'). In the appeal, it was pointed out that the deficiency of one faculty member, which had arisen due to the resignation of the earlier faculty member, no longer existed in view of the appointment of Dr. Ranjeet Nimbalkar. During the course of

the virtual hearing, the College also explained the circumstances leading to the delay in his joining. However, by an order dated 23.09.2026, the respondent No.2 – Commission dismissed the First Appeal and confirmed the order passed by the Board. Pertinently, though the Commission recorded the appointment of Dr. Ranjeet Nimbalkar, it declined to accept the compliance only on the ground that the appointment had been made after a period of eight months. On this basis, the appeal came to be rejected.

2.6 Being aggrieved by the aforesaid decision, the petitioners approached the Union of India by way of a Second Appeal under Section 9(6) of the NCISM Act. However, by the impugned order dated 19.10.2026, the Second Appeal also came to be dismissed, thereby confirming the orders passed by the Commission and the Board, under which the intake capacity of the petitioner – College for the academic year 2026-27 stood reduced to 95 seats as against the sanctioned intake of 100 seats.

2.7 Being aggrieved by the aforesaid orders, the petitioners have approached this Court by way of the present petition seeking appropriate reliefs.

3. Heard learned Senior Advocate Mr. Dhaval Dave, assisted by learned advocate Ms. Lipee Dave for the petitioners, learned advocate Mr. Ankit Shah for the respondent No.1, learned advocate Mr. Harsheel Shukla for the respondents Nos.2 and 3 and learned advocate Mr. K.M. Antani for the respondent No.4.

4. Since the issue involved in the present petition lies in a narrow compass and requires urgent consideration, with the consent of the learned advocates appearing for the respective parties, the petition is taken up for final hearing at the admission stage.

5. Hence, Rule, returnable forthwith. Learned advocate Mr. Ankit Shah waives service of notice of Rule on behalf of the respondent No.1. Learned advocate Mr. Harsheel Shukla waives service of notice of Rule on behalf of the respondents Nos.2 and 3, whereas learned advocate Mr. K.M. Antani waives service of notice of Rule on behalf of the respondent No.4.

6. Learned Senior Advocate Mr. Dhaval Dave, appearing for the petitioners, has assailed the impugned order and advanced the following submissions:

6.1 It is submitted that the impugned order has been passed without proper application of mind, inasmuch as the authorities have failed to consider the documents placed on record by the petitioner – College, which demonstrated compliance with the observations and deficiencies recorded in the order dated 13.08.2026.

6.2 Placing reliance upon the decision of the Hon’ble Supreme Court in the case of Royal Medical Trust v. Union of India, reported in (2015) 10 SCC 19, learned Senior Advocate submitted that the process of verification and inspection for

renewal of permission ought to be undertaken sufficiently in advance so as to provide the existing institutions adequate and reasonable time to rectify the deficiencies, if any, or offer an appropriate explanation in that regard. It is further submitted that, in the case of renewal of permission, the purpose of inspection is essentially to ascertain whether the prescribed requirements, particularly with regard to the teaching faculty, are fulfilled. Even if certain deficiencies are noticed, the institution ought to be afforded an opportunity to rectify the same before commencement of the academic session, rather than straightaway denying renewal of permission or reducing the sanctioned intake capacity.

6.3 It is submitted that, if the aforesaid principle is applied to the facts of the present case, it would become evident that the only deficiency recorded in the order dated 20.08.2026 passed by the respondent No.3 – Board related to the post of Associate Professor in the Department of Rog Nidan avum Vikriti Vigyan. The said deficiency was capable of being rectified. Therefore, instead of reducing the intake capacity, the respondent No.3 – Board ought to have granted reasonable time to the petitioner No.2 – College to fill up the vacant post and comply with the prescribed requirement.

6.4 In any case, it is submitted that the petitioner No.2 – College had subsequently rectified the deficiency and placed the relevant documents demonstrating such compliance before the respondent No.2 – Commission and the respondent No.1 – Union of India in the respective First and Second Appeals. In view of such compliance, the petitioner No.2 –

College was entitled to renewal of permission for the remaining five seats, thereby restoring the total intake capacity to 100 students for the BAMS course for the academic year 2026-27. It is submitted that, once the deficiency stood rectified, there was no justification for the respondents to continue with the reduction in intake capacity.

6.5 It is further submitted that the factum of compliance by the petitioner No.2 – College is not in dispute. The College had appointed Dr. Ranjeet Nimbalkar against the vacant post of Associate Professor in the Department of Rog Nidan avum Vikriti Vigyan. In fact, both the respondent No.1 and the respondent No.2, in their respective orders dated 19.10.2026 and 23.09.2026, have acknowledged that the College had filled up the said vacancy by appointing a qualified faculty member. Therefore, once the appointment and filling up of the vacant post are duly acknowledged by the authorities themselves, the same could not have continued to be treated as a deficiency requiring compliance.

6.6 It is submitted that, in view of the aforesaid subsequent compliance, no deficiency continued to exist in the Department of Rog Nidan avum Vikriti Vigyan. Therefore, the action of the respondent Nos.1 and 2 in applying the policy of reduction of intake capacity by 5% for each deficient teaching faculty is wholly unjustified. It is contended that, even before the First Appeal was preferred before the respondent No.2 – Commission, the petitioner No.2 – College had appointed the requisite faculty member and, therefore, there was no subsisting deficiency warranting reduction in the intake

capacity.

6.7 Learned Senior Advocate has also invited the attention of this Court to Regulation 36 of the MESAR Regulations, 2024, which deals with a situation arising out of the resignation of a faculty member. It is submitted that, upon resignation of Dr. Joel Antony, the petitioner No.2 – College was required to relieve him and thereafter fill up the resultant vacancy within a period of three months from the date of his relieving. Thus, the Regulation itself provides a period of three months for filling up a vacancy arising on account of resignation of a faculty member. It is further submitted that, even if there is a further delay of three months in filling up such vacancy, the consequence contemplated under the Regulation is the imposition of a penalty equivalent to three times the minimum salary prescribed for such faculty member for each month of delay. Thus, according to learned Senior Advocate, the Regulation contemplates only the aforesaid monetary penalty for delay in filling up the vacancy and does not provide for reduction in the intake capacity while granting renewal of permission. It is further contended that the question of imposing such penalty would arise only where the College fails to make the appointment within the prescribed period. A delay occasioned despite genuine efforts made by the College to identify and appoint a suitable candidate, particularly on account of non-availability of an eligible candidate, would not attract such penal consequences. Applying the aforesaid interpretation of Regulation 36 to the facts of the present case, it is submitted that the respondents were not justified in reducing the intake capacity of the

petitioner No.2 – College. In any event, when the deficiency no longer existed, the respondents could not have imposed an additional consequence in the form of reduction of seats, particularly when such a consequence is not contemplated under the said Regulation.

6.8 It is further submitted that the decision of the respondents suffers from manifest arbitrariness. The authorities have permitted the petitioner No.2 – College to admit 95 students despite the alleged delay in appointment of the faculty member. However, the same delay could not have been treated as a ground to deny the remaining five seats. Once the College was found eligible to admit 95 students, there was no rational basis to reduce the intake capacity by five seats, particularly when the deficiency had already been rectified.

6.9 It is further submitted that, as per the prescribed curriculum of the BAMS course, the subject of Rog Nidan avum Vikriti Vigyan is taught in the second year. Therefore, the reduction of five seats for the academic year 2026-27 is wholly unreasonable and suffers from Wednesbury irrationality. The delay in appointment of a faculty member in the said Department could not have any adverse impact upon the batch admitted during the academic year 2026-27, as the students would be required to study the said subject only in the second year of the course.

6.10 It is submitted that the reduction of intake capacity by five seats for the academic year 2026-27 would have

consequences extending over the entire duration of the BAMS course, that is, approximately four and a half years, until completion of the course by the concerned batch. Thus, the petitioner No.2 – College is being made to suffer financial loss for the entire duration of the course on account of a deficiency which stood rectified even before commencement of the academic session. It is contended that such action of the respondent No.1 – Union of India is arbitrary and places the College in an unnecessarily difficult financial position, despite its having taken steps to rectify the deficiency.

6.11 It is further submitted that, despite the deficiency having been rectified before commencement of the academic session, the respondent Nos.1 and 2 failed to consider the subsequent compliance and proceeded to reject the appeals. It is contended that the authorities had already made up their minds not to accept the compliance, thereby rendering the statutory remedies of First Appeal and Second Appeal ineffective. The very purpose of providing such statutory remedies is to enable the appellate authorities to independently examine whether the deficiencies have been rectified and, on such consideration, pass appropriate orders.

6.12 Learned Senior Advocate has further submitted that, in the case of Government Colleges, where a shortfall in the prescribed teaching faculty is noticed, permission for the full intake capacity is granted upon obtaining an undertaking from the concerned Government College to appoint the requisite faculty. It is submitted that the MESAR Regulations do not make any distinction between Government Colleges

and private Colleges, nor do they provide for any relaxation in favour of Government Colleges. Despite this, the authorities adopt a different approach in the case of private institutions. In the present case, the petitioner No.2 – College had, in fact, appointed the requisite faculty member before commencement of the academic year. However, the respondents failed to give due consideration to such appointment and adopted an unduly technical approach by continuing to treat the deficiency as subsisting. Such differential treatment is wholly unjustified.

6.13 On the basis of the aforesaid submissions, learned Senior Advocate urged that the petition deserves to be allowed and the impugned order deserves to be quashed and set aside in the interest of justice.

7. Per contra, learned advocate Mr. Harsheel Shukla, appearing for the respondent Nos.2 and 3, while supporting the impugned order, has made the following submissions:

7.1 It is submitted that the impugned order has been passed in accordance with law and does not warrant any interference by this Court in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India. It is, therefore, submitted that the present petition deserves to be rejected.

7.2 It is submitted that, during the course of inspection, a deficiency in the prescribed teaching faculty to the extent of one faculty member was noticed. Accordingly, in view of the applicable punitive policy, the intake capacity of the petitioner

– College was reduced by 5%. It is contended that the decision of the authorities is based on the factual position prevailing at the time of inspection and the applicable policy. Therefore, in the absence of any perversity or illegality in the concurrent findings recorded by the authorities, no interference by this Court in exercise of its jurisdiction under Articles 226 and 227 of the Constitution of India is warranted.

7.3 It is further submitted that, admittedly, at the time of inspection, the requisite faculty member was not available in the Department of Rog Nidan avum Vikriti Vigyan. The subsequent appointment of a faculty member beyond the prescribed period cannot be taken into consideration for the purpose of determining compliance as on the date of inspection. Therefore, the decision of the authorities to reduce the intake capacity by five seats is fully justified. It is further submitted that, insofar as Government Colleges are concerned, appointments are required to be made by following an elaborate procedure, which naturally takes considerable time. Therefore, keeping in view the interests of the students pursuing their studies in Government Colleges, permission for the full intake capacity is granted on the basis of the undertaking . It is contended that Government Colleges and private Colleges cannot be placed on the same footing, as they function under different administrative set-ups and follow different procedures for recruitment and appointment of teaching faculty.

7.4 On the basis of the aforesaid submissions, learned advocate appearing for the respondent Nos.2 and 3 urged that

the present petition deserves to be dismissed.

8. Heard learned advocates appearing for the respective parties and have gone through the material produced on record. No other and further submissions have been canvassed by learned advocates appearing for the respective parties, except what are stated hereinabove.

9. Having heard the learned advocates appearing for the respective parties and having perused the material on record, the following question arises for consideration of this Court:
Whether, in the facts and circumstances of the present case, the decision of the respondent authorities to reduce the sanctioned intake capacity of the petitioner – College from 100 to 95 seats, despite the deficiency in the teaching faculty having been rectified before commencement of the academic session and duly brought to the notice of the appellate authorities, can be said to be rational, reasonable and non-arbitrary?

10. In order to decide the aforesaid question, certain relevant facts emerging from the record deserve to be noticed:

10.1 The reduction of five seats in the intake capacity of the petitioner – College was ordered on the ground that, at the time of inspection, one faculty member was not available in the Department of Rog Nidan avum Vikriti Vigyan.

10.2 It is not in dispute that the post in question was not vacant from the very beginning. The vacancy arose on account of the resignation of the earlier faculty member, Dr. Joel Antony. Consequently, at the time of inspection, the requisite faculty member was not available in the said Department. However, it is also an admitted position that, in place of Dr. Joel Antony, the petitioner – College subsequently appointed Dr. Ranjeet Nimbalkar on 01.09.2026.

10.3 It is pertinent to note that the subject of Rog Nidan avum Vikriti Vigyan forms part of the curriculum of the second year of the BAMS course. Therefore, during the first year, the students would not be required to study the said subject. Be that as it may, the fact remains that Dr. Ranjeet Nimbalkar was appointed before commencement of the academic session.

10.4 It is further required to be noted that, despite the appointment of Dr. Ranjeet Nimbalkar having been brought to the notice of the authorities in both the First Appeal and the Second Appeal, the said aspect was not duly considered. The appointment was not accepted as compliance only on the ground that it had been made after a delay of eight months.

10.5 Most importantly, the provisions of the Act and the Regulations apply uniformly to all colleges, whether Government or private. Neither the Act nor the Regulations provide for any distinction in their applicability between Government Colleges and private Colleges. Government Colleges are equally bound by the prescribed requirements

and are required to comply with the same for maintaining their sanctioned intake capacity from year to year. However, despite such uniform applicability, the respondent authorities appear to be adopting a different approach in the case of Government Colleges by permitting them to continue with their full intake capacity, even in the event of a shortfall in teaching faculty, upon furnishing an undertaking to fill up the vacancy within the stipulated time.

10.6 In the present case, the petitioner – College is not even seeking similar treatment by way of permission to continue with the full intake capacity merely on the basis of an undertaking to appoint the requisite faculty in future. On the contrary, the petitioner – College had already appointed the requisite faculty member before commencement of the academic session.

10.7 It is also required to be noted that, under the relevant Regulations, in the event of delay in making the appointment, the concerned College is liable to pay a penalty equivalent to three times the minimum salary prescribed for such faculty member for each month of the delayed period.

11. Keeping in mind the aforesaid facts, at this stage, it would be apposite to the observations made in paragraph 29 by the Hon'ble Apex Court in the case of **Royal Medical Trust (supra)** deserve consideration:

> "*29. As regards cases of renewal, it was laid down in Priyadarshini that the process of decision making for*

grant of fresh or initial permission for establishment of a new college is exhaustive and elaborate when compared to such decision making in regard to grant of renewal of permission for the four subsequent years. It was further stated that before grant of initial permission the aspects whether the institution would be in a position to offer the minimum standards of education in conformity with the Act and Regulations and whether the institution has adequate resources and whether the institution has provided or will be able to provide within the time limit specified in the Scheme all the required facilities and faculty are required to be considered and scrutinized very closely. On the other hand for the purposes of grant of renewal what is required to be considered is whether the prescribed faculty and infrastructure is available. Considering renewal cases on a parameter distinct and different from that relating to establishment of a new college for the first time, it was observed that the entire process of verification and inspection relating to renewal ought to be done well in time so that the existing colleges have adequate and reasonable time to set right the deficiencies or offer explanation to the deficiencies.

12. The aforesaid observations of the Hon'ble Apex Court make it abundantly clear that the exercise undertaken for granting initial permission to establish a medical college stands on a different footing from the exercise undertaken for renewal of permission in respect of existing institution. While the initial permission requires an exhaustive scrutiny of the institution’s resources, infrastructure, faculty and its capacity to provide the prescribed standard of education, the consideration at the stage of renewal is primarily directed towards ascertaining whether the prescribed faculty and infrastructure are available and whether the institution continues to maintain the minimum essential standard. The Hon’ble Apex Court has further emphasized that the process of inspection and verification in renewal cases ought to be undertaken sufficiently in advance, so that the existing institutions are afforded adequate and

reasonable opportunity to rectify the deficiency or furnish an appropriate explanation before the adverse decision is taken.

13. Keeping the aforesaid principles in mind, if the facts of the present case are examined, it appears that, on the date of inspection, there was a shortfall of one faculty member in the Department of Rog Nidan avum Vikriti Vigyan on account of the resignation of the earlier faculty member, Dr. Joel Antony, on 05.12.2025. The petitioner – College, thereafter, initiated the recruitment process and was able to select Dr. Ranjeet Nimbalkar on 16.05.2026. However, owing to certain family commitments, Dr. Ranjeet Nimbalkar could not immediately join the College. Consequently, at the time of inspection, the petitioner – College was unable to demonstrate the appointment of a faculty member against the said vacancy. Subsequently, after the order dated 20.08.2026 came to be passed, Dr.Ranjeet Nimbalkar joined the College on 01.09.2026. Thus, when the First Appeal came to be preferred before the Commission on 02.09.2026, the petitioner – College specifically brought to the notice of the Commission that the vacancy had already been filled up and that no shortfall in the prescribed faculty continued to exist. However, the Commission, while dismissing the appeal, acknowledged the appointment of Dr. Ranjeet Nimbalkar but declined to treat the same as compliance only on the ground that the appointment had been made belatedly. In my view, such an approach adopted by the Commission is unduly technical and cannot be sustained. Once the Commission itself recorded that the requisite faculty member had been appointed, it ought to have considered the subsequent compliance in its

proper perspective. Merely because the appointment was made after some delay, the same could not have been treated as a continuing deficiency or non-compliance, particularly when the Regulations themselves provide for a specific consequence in the form of a penalty for delayed appointment. At the highest, if the case attracted the relevant provision, the Commission could have considered imposition of the prescribed penalty. However, the delay in appointment, by itself, could not have been made a ground for reducing the sanctioned intake capacity, particularly when the deficiency had already been rectified before commencement of the academic session.

14. In my view, the question of reduction in the sanctioned intake capacity of an existing institution requires a rational and reasonable consideration of the facts of each case. Where a deficiency is curable in nature and the institution has subsequently rectified the same, the authorities are expected to adopt a pragmatic approach rather than proceed in a purely technical manner. The object of the regulatory framework is to ensure that the prescribed standards are maintained by the institution. Once the deficiency stands rectified, the authorities are required to consider such subsequent compliance before taking a decision which has long-term consequences for the institution as well as the students. There is also another important aspect which requires consideration. Although the provisions of the Act and the Regulations apply uniformly to Government Colleges as well as private Colleges, the authorities appear to be adopting different standards while considering the shortfall in teaching

faculty. In the case of Government Colleges, the authorities permit the full intake capacity to be maintained even where there is a shortfall in faculty, merely on the basis of an undertaking to fill up the vacancy. On the other hand, in the present case, the petitioner – College had actually appointed the requisite faculty before commencement of the academic session. Yet, such appointment was not given due consideration. It is pertinent to note that the petitioner – College is not seeking any relaxation on the basis of an undertaking or any assurance of future compliance. The College had, in fact, completed the appointment before commencement of the academic session. In such circumstances, the respondents ought to have considered the case of the petitioner – College in its proper perspective. More particularly, when the Regulations themselves provide for a separate consequence by way of a penalty for delayed appointment, the authorities could not have imposed an additional consequence by reducing the sanctioned intake capacity without properly considering the subsequent compliance. The approach adopted by the respondents, therefore, does not appear to be consistent with the requirement of fairness, reasonableness and equal treatment. The reduction of five seats, despite the deficiency having been rectified before commencement of the academic session, is not supported by any rational consideration of the facts of the present case. Such action cannot be sustained merely on the ground that the appointment was not in place on the date of inspection.

15. For the foregoing reasons and the discussion

hereinabove, this Court is of the view that the impugned orders cannot be sustained. The present petition, therefore, deserves to be allowed. Accordingly, the impugned orders are hereby quashed and set aside. Rule is made absolute to the aforesaid extent.

16. Consequently, the respondent No.4 – Admission Committee is directed to treat the petitioner – College as having an intake capacity of 100 seats for the BAMS course for the academic year 2026-27 and to undertake the admission process and allotment of seats accordingly, in accordance with law.

(NIRAL R. MEHTA,J)

V.J. SATWARA

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: VIPUL JASWANTBHAI SATWARA(HC00170), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 27/11/2026 15:05:07