यह वस्तु प्रतिलिपि के आवेदन पत्र
संख्या 32069 में अंकित करवा।
दिनांक 27/11/25
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# HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 22928/2025

1. Gandhi Udhyog Shikshak Prashikshan Sansthan Samiti, Kishangarh-Renwal, District Jaipur, Through Its Authorized Signatory Kamlesh Kumar Sharma S/o Shri Ram Gopal Sharma, Aged About 46 Years.
2. Shri Shirdi Sai Baba Ayurvedic College And Hospital, Renwal To Chomu Road, Mundiyagarh, Kishangarh-Renwal, District Jaipur (Raj.), Through Its Authorized Signatory Kamlesh Kumar Sharma S/o Shri Ram Gopal Sharma, Aged About 46 Years.

----Petitioners

Versus

1. The Union Of India, Through The Secretary, Ministry Of Ayurveda, Yoga And Naturopathy, Unani, Siddha And Homeopathy (Ayush), B-Block, Gpo Complex, Ina, New Delhi - 110023.
2. National Commission For Indian System Of Medicine, Ministry Of Ayush, Government Of India, Plot No . T-19, 1St And 2Nd Floor, Block-Iv, Dhanwantari Bhawan, Road No. 66, Punjabi Bagh (West) New Delhi - 110026
3. The President, Medical Assessment And Rating Board For Indian System Of Medicine (Marbism), Plot No . T-19, 1St And 2Nd Floor, Block-Iv, Dhanwantari Bhawan, Road No. 66, Punjabi Bagh (West) New Delhi - 110026
4. The State Of Rajasthan, Through The Principal Secretary, Department Of Ayurveda And Indian Medicine, Government Of Rajasthan, Secretariat, Jaipur.
5. Dr. Sarvapalli Radha Krishan Rajasthan Ayurved University, Nagaur Road, Karwar, Jodhpur Through Its Registrar.
6. The Rajasthan Neet Ayush Ug/pg Counseling Board - 2025, 212-214, Ayush Bhawan, Sector-26, Pratap Nagar, Jaipur Through Its Chairman.

----Respondents

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सही-प्रतिलिपि
प्रशासनिक अधिकारी न्यायिक
राजस्थान उच्च न्यायालय
जोधपुर
28 NOV 2025

| | | |
|---|---|---|
| For Petitioner(s) | : | Mr. Akhilesh Rajpurohit<br>Mr. Nishant Bapna |
| For Respondent(s) | : | Mr. Sunil Joshi<br>Mr. Abhijeet Singh |

**HON'BLE MR. JUSTICE SANDEEP SHAH**

**Order**

**27/11/2025**

1. This Court vide order dated 24.11.2025 had issued notice to the respondents and looking to the urgency, permitted the petitioners to supply the additional copy to learned counsel regularly appearing for the respondents. The matter was fixed for today, as it was stated that the allocation of seats in the stray vacancy round of counselling was scheduled uptill 28.11.2025.

2. Mr. Sunil Joshi, learned counsel puts in appearance for respondent no.2, who is the main contesting party in the case in hand and prays for some time to file reply.

3. Learned counsel for the petitioners pleads urgency considering the fact that the petition would be rendered infructuous in case the students, as prayed for are not allowed to pursue the course as the counselling for the stray vacancy round is to be scheduled uptill 28.11.2025.

4. Heard the matter on merit.

5. Learned counsel for the petitioners asserts that the petitioner-institution was issued the NOC by the State Government vide order dated 15.06.2009 for intake of 50 students for BAMS course. He further refers to the affiliation issued by the Rajasthan Ayurvedic University on 30.05.2009, which was initially for 40 seats, however, subsequently, the same was extended to 50 seats. He further asserts that they had submitted an application for enhancement of seats way back in the year 2016 by way of correspondence dated 06.07.2016, however, nothing was done and therefore S.B. Civil Writ No.14369/2016 (Gandhi Udhyog Shikshak Prashikhan Sansthan Samiti v. State & Ors.) was filed,

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which came to be disposed of vide order dated 13.12.2016, while directing the respondents to take a decision upon the application of present petitioners for enhancement of seats for BAMS course from 50 seats to 60 seats. He further submits that post inspection, as per the then existing regulations of year 2016, and as per the National Commission for Indian System of Medicine Act, 2020, the conditional permission was granted to the petitioner-institution by the respondent-National Commission for Indian System of Medicine on 21.12.2022 for undertaking the course in question with an annual intake of 50 seats as per Section 28 of the Act of 2020.

6. He further asserts that since the issue with regard to NOC was not being decided, the institution was again constraint to file S.B. Writ Petition No.14234/2024 **(Shri Shirdi Sai Baba Ayurvedic College and Hospital v. Union of India & Ors.)**, which came to be disposed of vide order dated 10.02.2025, while directing the respondent-State Government to decide the case of grant of NOC preferably within a period of six weeks from the date of receipt of certified copy of the order. Further, respondent nos.1 to 3 were also directed to consider the case of the petitioner as per the National Commission for Indian System of Medicine (Criminal Essential Standards, Assessment and Rating for Undergraduate Ayruveda College and attached Teaching Hospitals) Regulations of 2024. He further submits that post direction issued by this Court, finally the NOC was granted by the State Government vide order dated 16.09.2025 (Annexure-15) increasing intake capacity from 50 students to 60 students for the BAMS course. He further asserts that thereafter, an application

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was submitted before the respondent-University and the respondent-University has also granted the affiliation for the enhanced seats vide order dated 17.10.2025.

7. It has been averred that after getting the NOC as well as the affiliation, an application was submitted before the respondent-Commission for issuance of sanction for taking part in the ongoing counselling, however, the same was rejected vide order dated 13.11.2025, while asserting that the application was submitted on 01.11.2025 and at that time the process of admission for academic session 2025-26 had been concluded, the application was thus returned to the petitoner-institution in original.

8. He further refers to an inspection report dated 10.07.2025 issued by the National Commission for Indian System of Medicine, while emphasizing that post inspection being undertaken as per the Regulation of 2024, the petitioner-institution has been permitted to undertake the course in question for the session 2025/26 with 50 seats. He further refers to the correspondence dated 13.11.2025 issued by the Commission, wherein an advertisement has been issued emphasizing that the counselling for the stray vacancy round shall be undertaken for UG course from 06.11.2025 till 28.11.2025. He thus asserts that the process has not been completed and the councelling process is going on.

9. Learned counsel further asserts that there is no fault on the part of the petitioners in the delay undertaken by the State Government in issuance of the NOC, as in spite of repeated directions issued, the NOC was not issued. He further submits that as far as the regulations of 2024 is concerned, the minimum seats

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required for any institution is 60 and not 50 and the enhanced number of seats are 60, 100, 150 etc. He thus asserts that for grant of permission as per Section 29 of the Act of 2020, the minimum criteria is 60 seats and there is no separate criteria for determining the requirement of 50 seats. He thus asserts that if an institution is granted permission for undertaking 50 seats, then the necessary criteria has to be treated as equivalent to 60 seats. He further asserts that the only reason communicated was that the admission process has come to an end whereas, as per the correspondence dated 13.11.2025, the admission process is still in vogue and since the institution is having all the requisite infrastructure, NOC, the permission etc., the institution should not be deprived of taking 10 additional students for the session 2025/26 for the BAMS course.

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10. *Per contra*, learned counsel for the respondents emphasizes that the admission process has started long back and the last date for submitting of the application was 18.08.2025 and thereafter there was no extension granted for filing of the application. He further submits that against the order impugned, the petitioners are having an alternative remedy of filing an appeal under Sections 9(vi) and 29 of the Act of 2020. He further submits that there is no permission under Section 29 for enhancement of seats as of now and, therefore, the petitioner-institution cannot be permitted to take part in the counselling. He also relies upon the judgment passed by the Hon'ble Apex Court in the case of **National Commission for Indian System of Medicine & Anr. v. Veena Vadini Ayurved College and Hospital & Ors.** in Civil Appeal No(s). @SLP(c) No.22691/2024 to emphasize that interim

orders provisionally permiting any institution in ongoing counselling should not be passed. He also relies on the judgment of Hon'ble Supreme Court passed in **P.C. Kesavan Kuttynayar v. Harish Bhalla & Ors. : (2003) 8 SCC 490** to emphasize that interim orders cannot be passed on compassionate grounds.

11. I have considered the judgments passed by the Hon'ble Apex Court. So far as the judgment in National Commission (supra) is concerned, the same pertains to allotting of students to an institution not having the requisite NOC and by way of interim order, NOC for students was provisionally issued by the High Court concerned and, therefore, the facts of the case are entirely different and the same are not applicable in the case in hand as in the present case NOC as well as affiliation have already been issued in the favour of the petitioner-institution. So far as the judgment in the case of P.C. Kesavan (supra) is concerned, the same pertains to passing of interim orders of enhancement of seats on compassionate grounds, which too, is not applicable in the case in hand as the requisite NOC and the affiliation are already available to the petitioner institution and the rejection is simply on the ground of counselling process coming to an end.

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12. As far as the ground of alternative remedy is concerned, the counsel for the respondent has not been able to show that the same is an efficacious remedy, as also he has been unable to point out any provision wherein the appellate authority can grant interim orders as prayed for by the petitioner. Even otherwise, this Court is of the opinion that in the present case, the availability of an alternative remedy cannot be an embargo on entertaining the writ petition in question, when the only issue to be adjudicated is

as to whether, in spite of holding of stray vacancy round, the petitioner can be denied participation in the same only on the ground of delay on the part of the State Government in issuing the NOC.

13. Having considered the arguments raised by both the sides as well as the record of the case, this Court is of the view that since the petitioner-institution is having the entire requisite for undertaking the course in question with an intake of 60 seats (the minimum intake as provided under the Regulations of 2024) as also considering the fact that there was no fault on the part of the petitioner-institution in non-grant of the NOC by the State Government, and since the requisite NOC has now been granted by the State Government and the affiliation for the enhancement of seats also has been issued by the University in question, the petitioner-institution cannot be denied the grant of additional 10 students as the counselling process is still going on. Though the last date for submission of the application was 18.08.2025 as pointed out by learned counsel for the respondents, however, since it is a case of enhancement of seats and not a case of application being filed by a new institution and, more particularly, when the counselling process is still going on, there is no justification to deny the petitioner the benefit of getting the additional seats in the stray counselling round as the counselling is being held for stray vacancy round on 28.11.2025, this Court deems it appropriate to direct the respondent-Commission as well as Counselling Board to permit the petitioner to participate in the counselling for the stray vacancy rounds and allot the students

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while treating the intake capacity of the petitioner-institution as 60 seats.

14. List the matter after four weeks. Reply be filed till then.

**(SANDEEP SHAH),J**

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28/11/25

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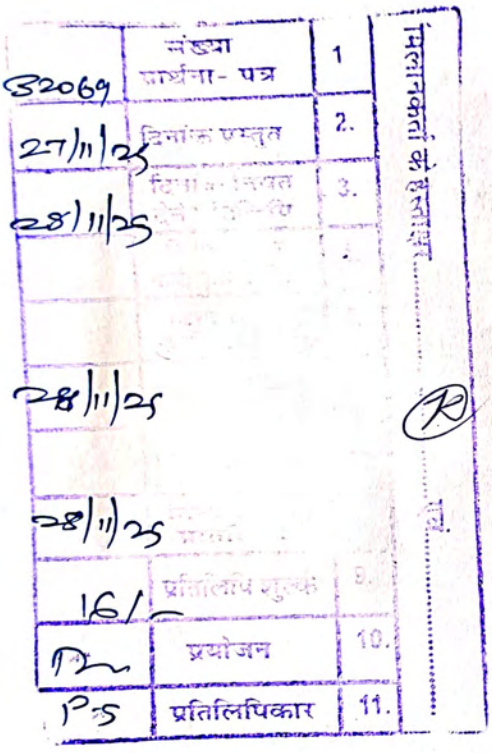
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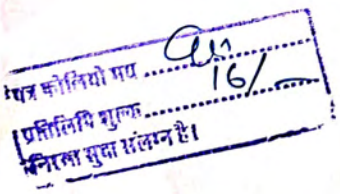
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कार्यालय: टी–19, पहली और दूसरी मंजिल, ब्लॉक–IV, धनवंतरि भवन,
मार्ग नंबर– 66, पंजाबी बाग (पश्चिम), नई दिल्ली–110026
National Commission for Indian System of Medicine
Ministry of AYUSH, Govt. of India
Office: T-19, 1st & 2nd Floor, Block-IV, Dhanwantari Bhawan,
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॥ आयुषे सर्वलोकानाम् ॥

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क्रमांक/Ref. No- 1/1/2025-AACCC

दिनांक /Dated:25.08.2025

To,

1. **All States/UTs-Ayush counseling Authorities**
2. **All Ayush Directorate**
3. **All Universities (to which the ASU colleges are affiliated)**
4. **Vice Chancellor, NIA, Jaipur**
5. **Principal/Dean/Director (All ASU Colleges)**

**Subject: Advisory on the matter of counseling and admission of UG and PG in ASU stream for the A.Y 2025-26-reg**

Madam/Sir,

I am directed to convey that as per the directives issued by the this office regarding the Central/State/UT counseling 2025, the colleges/Institutes who have received permission from the Medical Assessment and Rating Board/National Commission for Indian System of Medicine (NCISM) for UG&PG courses under Ayurveda, Siddha and Unani streams for the academic session 2025-26 shall only be eligible to participate in the counseling process.

In this regard, it has come to our notice that few colleges are participating in the on-going State/UT counseling process based on interim orders issued by various High Courts across the country. Needless to say that the affiliating/examining University shall not allow these students to appear in the examinations, as it might be the case that the final verdict of the Court litigation is awaited during the examination schedule. Also the students' future is at stake until the final decision of the Court in such similar issues. Further, in case the final outcome of the Court is against the candidate/college, candidates shall lose their precious time to grab other career opportunities also.

Therefore, in view of the above facts, the State/UT counseling Authorities are directed to ensure the following instructions:

i. All Private ASU institutions have to display the permission status of the college for the A.Y 2025-26 issued by NCISM on the college's website; they should also display the number of seats obtained through the interim order on the official website along with case detail and latest update of case from time to time.

ii. At the time of allotment, all counseling authorities are instructed to mention the permission status of the college against the available seat matrix of the college and display the same on the counseling authorities' website.

iii. Before initiating the allotment process, thoroughly verify the consent of affiliation of the University to which the colleges are affiliated.

iv. Ensure that the candidates are well aware of the permission status of the allotted college, in case it is through interim orders. Further, during the reporting time, the college shall convey to the candidate that his/her admission through interim orders is only provisional and subject to the final outcome of the court order.

v. Further, the Principal of the college shall submit Affidavit-cum-Undertaking to the State/UT Counseling Authority in the case where admission is based on seat/permission obtained by an interim order of the Court. **(Annexure-I is enclosed)**

vi. In the case where admission is based on seat/permission obtained by interim order, the State/UT Counseling Authority shall ensure that the college has taken Affidavit-cum-Undertaking from the candidate during the admission process. **(Annexure-II is enclosed)**

Considering the candidates' future, All State/UT counseling authorities are instructed to strictly enforce these advisories for the smooth conduction of counseling for admission to UG&PG courses under ASU streams for the A.Y 2025-26.

This is issued with the approval of the Competent Authority.

**(Sachidanand Prasad)**
**Secretary**
**NCISM**

सच्चिदानन्द प्रसाद
SACHIDANAND PRASAD
सचिव/Secretary
भारतीय चिकित्सा पद्धति राष्ट्रीय आयोग
National Commission for Indian System of Medicine
पंजाबी बाग (पश्चिम), नई दिल्ली-110026
Punjabi Bagh (West), New Delhi-110026

**Copy for kind information to:**

1. The Secretary, Ministry of Ayush, Ayush Bhawan, 'B' Block, GPO Complex, INA, New Delhi - 110023
2. The Chairperson, NCISM
3. Shri Satyajit Paul, DDG, Ministry of Ayush, Ayush Bhawan, 'B' Block, GPO Complex, INA, New Delhi - 110023 (satyajit.paul@gov.in)
4. All Presidents, NCISM
5. All Members, NCISM
6. COE, NCISM
7. Guard file

**(Sachidanand Prasad)**
**Secretary**
**NCISM**

*Annexure-I*

# Notarized Affidavit-cum Undertaking by the Principal of the College

I, ..... S/D/o Sh. ..... age ..... R/O ....., and Principal of the College ..... since ..... do hereby solemnly of the affirm and declare as under that:

1. That copy of my Principal ID bearing No.....is attached alongwith the affidavit-cum-understanding.
2. That I am very well aware of the contents mentioned in the affidavit of the Parent of the Student and shall abide by the terms mentioned in the Affidavit.
3. That the college has informed students and parents about the pending Court litigation/interim order and the advisory issued by the Central Government.
4. That the college has uploaded at their official website all the details of the Court litigation and undertake to update the status of the Court case time to time.
5. That the college management is aware about the fact that if NCISM files any appeal against the Order in WP No ....., the college shall abide by the decision of the Hon'ble Court.
6. That the college has assured that the parent and the ward have understood the Court litigation and the implication of the final verdict.
7. That the averment made in the affidavit of the Parent of the student is correct to the best of the knowledge of the Student and his/her parent and has been informed verbally and made to understand the consequences of the final outcome of the court order and its implication.

Signature of the Principal : (  )

It is hereby verified that the facts mentioned above are accurate to the best of my knowledge, and nothing has been concealed therefrom.

Signature of the Principal with seal: (  )

*Annexure-II*

# Notarized Affidavit-cum-Undertaking by the candidate and parents for admission to Undergraduate/postgraduate courses under Ayurveda/Siddha/Unani streams for the A.Y 2025-26

I, ..... S/D/o Sh. ....., age ..... Category ....., R/O ....., do hereby solemnly affirm and declare as under:

1. That I am the resident of the address mentioned above since .....
2. That my Aadhar Card no. is ..... and my ward's Aadhar Card No. is ..... (copies attached). That my ward, namely ..... appeared in NEET-2025 with NEET Roll No. .....] and is taking admission in UG (.....) / PG (.....) course under Ayurveda/Siddha/Unani streams for the A.Y 2025-26 in the college .....
3. That the college has informed me and my ward that the admission ..... in the College is based on interim order dated ..... passed by the Hon'ble Court ..... in the WP No ..... titled as which is subject to final outcome of the Litigation.
4. That I and my ward have thoroughly seen and read the Court order dated ..... passed by the Hon'ble Court ..... in the WP No..... titled as ..... and have completely understood the repercussions of the litigation in both scenario.
5. I am also aware that my ward shall have no equity with other non-litigant students if the final decision in the W.P. goes against the Petitioner/institution.
6. That if NCISM files any appeal against the order in WP No ....., we shall abide by the final decision of the Hon'ble Court.
7. That I and my ward shall not claim any compensation/relief if my son/daughter is affected by the outcome of the Court's verdict in any manner.

Signature of: ( ) ( )

Student Parents

## Verification

I am giving this undertaking for the best of my knowledge and sound mind and nothing has been concealed therefrom.

Signature of: ( ) ( )

Student Parents