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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3270/2013**

% **Judgment dated 20.05.2013**

**SHREE BANKEY BIHARI EDUCATIONAL
SOCIETY THROUGH ITS PRINCIPAL**

..... Petitioner

Through : Mr.Karunesh Tandon, Adv.

versus

DENTAL COUNCIL OF INDIA & ORS

..... Respondents

Through : Mr.Gaurav Sharma, Adv. for

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a direction to respondent no.1 to reconsider the issue of renewing the permission of admission for the second year MDS courses i.e. Paedodontics, Periodontics, micro biology and conservative dentist in terms of the directions issued by respondent no.2 vide letter dated 3.4.2013 and modify the order dated 30.4.2013 to the extent to add the approval of renewal in the aforesaid three courses along with the four category of courses mentioned in the letter dated 30.4.2013.
2. As per the petition, the petitioner is an educational society, which is running a Dental College under the name and style of Shree Banke Bihari Dental College and Research Centre. With an intention to start new higher courses of studies in their college, the petitioner submitted a scheme for approval of seven courses in the year 2011. On 30.4.2012 respondent no.1 after considering the qualifying criteria evaluated the scheme under

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Regulation 14 and finally after evaluation of the scheme sent a report of recommendation to the Central Government i.e. respondent no.2 for granting approval to run the said seven courses. Respondent no.2 by its order dated 30.4.2012 granted permission to the petitioner for starting MDS courses in the said seven specialties. The petitioner sought renewal of permission with respect to the said seven courses for the next academic year 2013-2014. Respondent no.1 visited the college of the petitioner and an inspection was carried out. On 31.12.2012 the petitioner received a letter dated 26.12.2012 from respondent no.1 pointing out certain deficiencies. According to the said communication the courses mentioned at Sl.No.i to iii and vii were without the University affiliation whereas courses pointed out against Sl.No.iv was only without the University affiliation whereas courses pointed out at Sl.No.5 and 6, besides absence of University affiliation, certain other deficiencies in the equipments were also pointed out. The petitioner was directed to remove the aforesaid directions and furnish a compliance report.

3. As per the petitioner, a compliance report dated 8.2.2013 was submitted, however, the petitioner received a letter dated 5.3.2013 by which respondent no.2 informed the petitioner that pursuant to the recommendation dated 28.2.2013 of respondent no.1, respondent no.2 had decided not to renew the permission for the second year MDS course and not to allow admission in the specialties.
4. Learned counsel for the petitioner submits that the petitioner and similarly situated institutions had approached the Government and by a notification dated 3.4.2013 the under Secretary to the Government of India informed the Secretary, Dental Council of India, that it had been desired by the competent authority in the Ministry that cases of ten colleges and similarly situated institutes be reconsidered where affiliations have not

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been granted by the State University and, thus, the Dental Council of India granted renewal where affiliations have not been granted till the last date fixed. The Dental Council of India in that case granted the approval which was granted by the Union by a letter dated 30.4.2013. Counsel further submits that the petitioner was sure that since the deficiencies were minor in nature the explanation of the petitioner would be accepted particularly when the deficiencies stood cured, which were in view of the respondents letter dated 8.2.2013, however, the respondents did not consider the explanation and the Central Government rejected the scheme of the petitioner by a letter dated 5.3.2013, which was sent to the petitioner on 5.4.2013 and which was received by the petitioner on 10.4.2013. It is further submitted that in case this letter was received on time the petitioner would have immediately approached the respondents and re-agitated its plea with regard to curing of deficiencies. It is next submitted that the Dental Council of India had not even considered the explanation rendered by the petitioner in the letter dated 8.2.2013. Counsel, in these circumstances, prays that the matter may be remanded back to the respondents to enable them to reconsider the case of the petitioner as the petitioner has made large investments, employed teachers, infrastructures and staff – all of which will be a waste in case the renewal is not granted especially when all the deficiencies have been cured.

5. Learned counsel for the petitioner also submits that when the communication dated 8.2.2013 was addressed to the respondents, copy of invoices were enclosed, however, as of today all the equipments have been received and the petitioner is willing to produce the same to the respondents to enable them to satisfy themselves with regard to the availability of such equipments.

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6. Learned counsel for respondent no.1 submits that the explanation rendered by the petitioner vide letter dated 8.2.2013 was duly considered, which is evident from the communication dated 28.2.2013 but since the deficiencies were found at the time of inspection the Dental Council of India did not consider appropriate to grant renewal to the petitioner as they were not satisfied with the explanation. Counsel further submits that the last date fixed for grant of permission was 30.3.2013 and the same cannot be extended.
 7. Learned counsel for respondent no.2 submits that since the case of the petitioner was not recommended by the Dental Council of India respondent no.2 was left with little or no option but to accept the decision taken by respondent no.1.
 8. I have heard learned counsel for the parties and considered their rival submissions. The request of the petitioner for grant of renewal was rejected by the communication dated 26.12.2012 and the petitioner was informed about the following deficiencies:

(iv) **Conservative Dentistry and Endodontics with 3 seats**

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. **University Affiliation:-** There is no University Affiliation for the year 2012-13.
2. The total no. of related journals are inadequate.

(v) **Periodontology with 3 seats**

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

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1. **University Affiliation:-** There is no University Affiliation for the year 2012-13.
 2. **Equipments:-** There is deficiency of equipments in the department viz. newman's probe-1, bone regenerative material etc.

(vi) **Paedonotics and Preventive Dentistry with 3 seats**

The college authorities be asked to fulfill the following deficiencies and furnish the Compliance Report to this Council for furtherance in the matter:

1. **University Affiliation:-** There is no University Affiliation for the year 2012-13.
2. **Equipments:-** There is deficiency of equipments in the department viz. SS crown kit-2, poly carbonate-1, endodontic pressure syringe-1, chemo mechanical caries removal sytem-1, automatic developer-1, plastic dispenser-1, etc.

9. In reply to the deficiencies, the following explanation was rendered by the petitioner:

"With reference to your letter No.DE-15(169)-2012/A-6665 dated 26th December 2012 with the subject cited above.

Regarding the deficiencies mentioned in this letter. We are fulfilling the requirement as under:

- (1) Department of Conservative Dentistry and Endodontic with 3 seats
 - (I) Department has 12 Specialty and related International Journals plus 02 National Journals (List of Journals and Receipt of Payment – Attached)
(Annexure -A)
- (2) Department of Periodontics with 3 seats

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- (I) Newman's Probe-Not available in the market
 - (II) Bone regenerative materials Purchased-Bill and Payment receipt attached (Annexure-B)
- (3) Department of Pedodontics and Preventive Dentistry with 3 seats

- (I) S-S crown kit (II) Poly Carbonate Kit (Bill & Payment receipt is attached) (Annexure-C)
- (II) Endodontic pressure syringe (Bill & Payment receipt is attached) Annexure -C1)
- (III) Chemo mechanical removal system (Bill & Payment receipt is attached) (Annexure-C2)
- (IV) Automatic X-ray developer (Bill & Payment receipt is attached) (Annexure-C3)
- (V) Plaster dispenser (Bill & Payment receipt is attached. (Annexure-C4)

All the above items have been purchased. Photographs attached (Annexure-C5)

- (4) Recommendation Letter of Chaudhary Charan Singh University, Meerut (Affiliating University) for Affiliation to academic session 2012-2013 is attached for all specialties. (Annexure-D)

This is for your kind consideration and necessary favourable action.

Please acknowledge the same.

Thanking You

Yours truly,

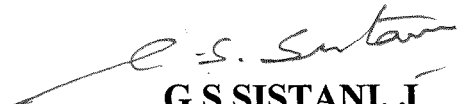
For Shree Bankey Bihari Dental College & Research Centre."

- 10. The explanation rendered by the petitioner was not found to be satisfactory which led to the passing of the final order of rejection.
- 11. To meet the ends of justice; having regard to the expenditure incurred on

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the infrastructure and in the interest of students, the fact that the deficiencies which have been pointed out by the respondents are not serious in nature and as per the petitioner the same stand cured; and taking into consideration that the course is yet to begin as the admissions have not yet been carried out, in my view in case these deficiencies have been made up, the respondents should reconsider their decision in case they are satisfied. Let the petitioner approach the Joint Secretary, Dental Educational Section, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi, on 22.5.2013 at 10.00 A.M. The Joint Secretary will consider the request of the petitioner in accordance with law and a final decision will be rendered before 31.5.2013 or on such other date, which the respondents may deem appropriate in case the last date is extended.

12. Accordingly, writ petition stands disposed of in above terms.
13. Let a copy of this order be given DASTI to counsel for the parties under the signature of Court Master.


G.S.SISTANI, J

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