

Court No. - 7

Case :- WRIT - C No. - 8489 of 2023

Petitioner :- Maa Kusum Charitable Shikshan Sansthan, Fatehpur Thru. Its Authorized Signatory Sri Rohit Chaudhari

Respondent :- State Of U.P. Thru. Prin. Secy. Deptt. Of Technical Education, Lko. And 3 Others

Counsel for Petitioner :- Paavan Awasthi

Counsel for Respondent :- C.S.C., Atul Kumar Dwivedi, Ravi Singh

Hon'ble Abdul Moin, J.

1. Heard.

2. The facts of the instant case have already been set forth in the order dated 09.10.2023 passed by this Court, which for the sake of convenience the same is reproduced below:

"1. Heard learned counsel for the petitioner, learned Additional Chief Standing counsel appearing on behalf of the State-respondents, Sri Atul Dwivedi, learned counsel appearing on behalf of the respondent no. 2 and Sri Raghvendra Singh, Advocate holding brief of Sri Ravi Singh, learned counsel for the respondent no. 4.

2. Instant writ petition has been filed praying for a Mandamus commanding the respondent no. 2- University to grant the requisite affiliation to the petitioner for conducting B. Pharma course for 60 seats for the academic year 2023-2024 (wrongly typed as 2022-2023 as stated by the learned counsel for the petitioner).

3. The contention is that despite the petitioner-Institution having applied for affiliation in which approval has been granted by the Pharmacy Council of India (hereinafter referred to as "PCI") on 09.05.2023 yet a formal order for affiliation has still not been issued by the respondent-University.

4. Sri Atul Dwivedi, learned counsel appearing on behalf of the respondent no. 2-University states that in terms of Section 23 (2) of the Uttar Pradesh Technical University, 2000 it is the State Government which is to grant a prior approval. It is submitted that after receipt of the documents from the petitioner-Institution with due approval of the PCI, the

documents after processing have sent to the State Government in August, 2023 which is still pending for consideration at the end of the State Government.

5. Learned Additional Chief Standing counsel prays for and is granted three days time to seek instructions as to why the documents pertaining to the approval for affiliation are pending at the end of the State Government and as to within how much time, the same would be forwarded to the University for requisite action at its end.

6. Learned counsel for the petitioner has expressed urgency in the matter on the ground that the counseling has started from 05.09.2023 and is to end shortly.

7. Considering the aforesaid, list this case in the next week as fresh.

8. It is also provided that in case there is no impediment with the State Government the documents shall be forwarded to the University within the aforesaid time for action at the end of the respondent-University. "

2. Today, Dr. Uday Veer Singh, learned Additional Chief Standing Counsel appearing for the State informs that a feasibility report has been required from the University and as soon as the said report is received, orders would be passed pertaining to request for affiliation of the petitioner institution.

3. It is not understood as to why the feasibility report is required by the State Government. Once the petitioner institution has applied for an affiliation and prior approval of the State Government is required prior to the University granting or refuting the said affiliation, as such there does not appear to be any reasonable basis for the State Government to require a feasibility report from the University. At the same time there cannot be a case of the State Government and the University to keep the petitioner institution in limbo i.e neither accepting the application nor rejecting it leaving the petitioner almost

remedyless.

4. Considering the aforesaid, the writ petition is **disposed of** with a direction to the State Government to process prior approval of the petitioner as required under provisions of Section 23(2) of the U.P. Technical University Act, 2000 within a period of one week from today and to forward the matter to the respondent University for appropriate orders to be passed in this regard. Let an order be passed by the University within a period of one week from the respondent University receiving appropriate orders in this regard from the State Government.

5. As regards the prayer for conduct of fresh counselling for B.Pharm course, suffice to state that when the petitioner institution is not having affiliation there is no occasion for a mandamus being issued for fresh counselling process to be conducted for petitioner institution.

Order Date :- 17.10.2023
J.K. Dinkar