

Court No. - 19

Case :- WRIT - C No. - 11161 of 2024

Petitioner :- J.S. Educational Institute Kuwan Piper Ravti, Baliya Thru. Manager Mithlesh Kumar Singh And Another

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

Counsel for Petitioner :- Gopal Pandey

Counsel for Respondent :- C.S.C.,D.K. Singh Chauhan,Ravi Singh

Hon'ble Manish Mathur,J.

1. Heard learned counsel for petitioners, learned State Counsel for opposite party no. 1 and 2 and, Mr. Ravi Singh, learned counsel for opposite party no. 3 and Mr. D.K. Singh Chauhan, learned counsel for opposite party no. 4.

2. On 16.12.2024 in Writ-C No. 10928 of 2024, this Court has passed the following order:-

"Heard learned counsel for the petitioners, learned State counsel for opposite parties No. 2, 4 & 5, Mr. Ravi Singh, learned counsel for opposite party No.3 i.e. the Pharmacy Council of India, and Mr. D.K. Singh Chauhan, learned counsel for opposite party No. 6.

Petition has been filed challenging decision of the executive council of Pharmacy Council of India dated 07th November, 2024.

Learned counsel for the petitioners submits that earlier petitioner institute has given application for grant of approval for D.Pharm course for the academic session 2024-25, whereafter an inspection was held on 15th October, 2024 and deficiencies in the institute were communicated by letter dated 30th November, 2024 and were removed as indicated in letter dated 03rd November, 2024 by the institute.

It is submitted that however impugned order has been passed rejecting petitioners' application on completely new grounds. It is submitted that the impugned order indicates that decision was taken on 07th November, 2024, but was actually communicated on 10th December, 2024, which infact was the last date as per schedule issued by Hon'ble Supreme Court

for decision on appeal against rejection of approval.

It is however submitted that it is the Pharmacy Council of India itself which is not adhering to the time schedule issued by the Supreme Court.

With regard to aforesaid submissions, learned counsel for Pharmacy Council of India is granted a day's time to seek instructions as to why the decision taken by the executive council of the Pharmacy Council of India on 07th November, 2024 was communicated after more than one month, actually on last date for decision of appeal. He shall also take instructions with regard to a remedial acts which can be undertaken by the council.

List this case on 17th December, 2024 as fresh at 2.15 pm. alongwith Writ-C No. 10918 of 2024; Lucknow College of Pharmacy vs. State of U.P. and others"

3. In pursuance of directions issued earlier, Mr. Ravi Singh, learned counsel for PCI has been provided written instructions, a copy of which is taken on record.

4. A perusal of aforesaid instructions indicate admission by PCI that the order rejecting petitioner's approval was communicated on 10.12.2024 although the order rejecting such approval was passed on 07.11.2024. Various reasons and difficulties have been indicated in the written instructions as to why the rejection order could not be communicated within a reasonable time period in order to enable petitioner to avail itself of the alternative remedy of filing appeal which could be decided before the last date fixed by Hon'ble supreme Court as 10.12.2024.

5. It has also been submitted by learned counsel for PCI that various dates were fixed for inspection of premises of petitioner's institute, which could not take place since one of the instructors nominated by the Board of Technical Education refused to participate in inspection. It is submitted that subsequently upon passing of directions by this Court, an

inspection was sought to be carried out but was refused by institute itself; a fact which is denied by learned counsel for petitioner.

6. Nonetheless the fact still remains that petitioner's application for approval was rejected by PCI on 07.11.2024 and communication of the said rejection order was made only on 10.12.2024, which was last date fixed for decision on appeal. It is admitted between the parties that after approval is granted by PCI, an institute is required to seek affiliation by the Board of Technical Education whereafter only the institute can participate in the counselling process.

7. It is also admitted that last date fixed for grant of affiliation was also 14.12.2024, which has also in the meantime expired.

8. Learned counsel have adverted to order dated 13.12.2024 passed by Hon'ble Supreme Court in the case of Parshavanath Charitable Trust and another versus All India Council for Technical Education and others, Misc. Application bearing Diary No. 55173 of 2024 in Civil Appeal No. 9048 of 2012 to submit that even after expiry of the last date fixed for purposes of approval by PCI, a letter dated 13.12.2024 issued by PCI praying for permission to convey right decision and rectify and erroneous decision was filed whereafter appropriate directions were also issued by Hon'ble Supreme Court. Such a direction issued by Hon'ble Supreme Court is as follows:-

"1. Learned counsel for the Pharmacy Council of India has placed a letter dated 13.12.2024 praying for permission of this court to convey the right decision and rectify an erroneous decision, which was taken earlier.

2. Permission is granted.

3. Needless to state that the permission granted by the Pharmacy Council of India shall relate back to the date on which the earlier incorrect order

was passed.

4. *Insofar as the direction to the State Government to permit the applicant(s) to admit the students concerned after the cut off date is concerned, we direct the applicant(s) to make a representation to the State Government, which would be considered on its own merits, in accordance with law.*

5. *These applications are accordingly disposed of.*

6. *Pending applications(s), including application for intervention/implementation, shall stand disposed of."*

9. From the aforesaid order, it appears that PCI admitted before Hon'ble Supreme Court that certain erroneous decisions had been taken and a right to rectify such decisions have been sought, which was granted by Hon'ble Supreme Court. It was also indicated in the order that in case such a rectified order is passed, it would relate back to the date on which earlier incorrect order was passed.

10. From the order, however, it is not discernible as to whether the letter dated 13.12.2024 was pertaining to only a single institute or was generally applicable. Learned counsel for PCI also does not have any instructions on that aspect.

11. However, in view of written instructions provided to learned counsel for PCI, as well as the order passed by Hon'ble Supreme Court dated 13.12.2024, liberty is granted to PCI to re-visit the case of petitioner's institution with regard to grant of approval or otherwise for the Academic Session 2024-25 for conduct of D-Pharma Course in case petitioner's institution would be covered by order dated 13.12.20254 passed by Hon'ble Supreme Court.

12. Consequential action may be taken by PCI, accordingly.

13. In consequence thereto, petitioner's institute would also be at liberty to seek consequential relief as granted by Hon'ble Supreme Court in the order dated 13.12.2024.

14. With the aforesaid directions, petition stands **disposed of**.

Order Date :- 19.12.2024

Satish