

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.866 of 2014

IN

Civil Writ Jurisdiction Case No. 5601 of 2012

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Dr. S.M. Naqui Imam Dental College & Hospital, Bahera, District- Darbhanga through its Secretary S.M. Naiyer Imam son of Late S.M. Zareef at present Secretary Dr. S.M. Ali Imam Son of Late S.M. Zareef, Resident of Village Bahera, Police Station- Bahera, District- Darbhanga (Bihar)

.... Appellant

Versus

1. The Union of India through the Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi.
2. The Under Secretary to the Government of India, Ministry of Health and Family Welfare (Dental Education Section), Nirman Bhawan, New Delhi.
3. The Dental Council of India through its Secretary, Kotla Road, New Delhi.
4. The President, Dental Council of India, Kotla Road, New Delhi.

.... Respondents

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Appearance :

For the Appellant : Mr. P.N. Shahi, Sr. Advocate
Mr. Sanjay Kumar, Advocate
For the D.C.I. : Mr. S.D. Sanjay, Sr. Advocate
For the Intervenor : Mr. Suresh Chandra Giri, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-03-2015

The appellant is a Dental College. The renewal of approval by the Dental Council of India (for short, 'the Council) is required from time to time. For academic session 2012-13, the Council made inspection of the petitioner, College & Hospital, and on finding that the facilities are not upto mark, submitted a report dated 28th February, 2012 to the Government of India with a recommendation to cancel the permission.

2. Challenging the said recommendation, the appellant



filed CWJC No.8051 of 2011. The learned Single Judge dismissed the writ petition through the order dated 17.10.2011. The same is challenged in this appeal. Apart from challenging the order passed in the writ petition, the appellant filed interlocutory applications proposing to challenge several other proceedings including the order dated 13.07.2012 through which Government of India cancelled the permission.

3. Heard Mr. P.N. Shahi, learned senior counsel for the appellant, Mr. S.D. Sanjay, learned senior counsel for the Dental Council of India and also Mr. Suresh Chandra Giri, learned counsel for the intervenor.

4. There is a serious objection as to the very competence of the present proceedings on behalf of the intervenor. It is urged that the signatures of the competent person who can institute the proceedings, were forged on the vakalatnama and on the affidavit of the appeal. We do not intend to go into that controversy at this stage.

5. The proceedings are in relation to the academic sessions 2012-13. Three years have elapsed. Another aspect is that challenge in the writ petition was only to the recommendation made by the Dental Council of India and not to the resultant order of the Dental Council of India. Once the College has been closed, there is

hardly any scope of this Court, to give direction to the Dental Council of India for renewal of the approval. It is only when the order of closure of the College, passed by the Government of India which is challenged successfully, that there may exist scope for the appellant to seek further remedies. Though an attempt is made to challenge the orders passed by the Government of India in this appeal, we do not permit the College to challenge the same in the present set of the proceedings.

6. Therefore, this Letters Patent Appeal is dismissed leaving it open to the appellant to pursue the remedy in accordance with law. There shall be no order as to costs.

7. The interlocutory application, if any, shall stand disposed of.

(L. Narasimha Reddy, CJ)

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(Vikash Jain, J)