

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7546 of 2015

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1. Dr. S.M. Naqui Imam Dental Collage & Hospital, Bahera, District Darbhanga through its Secretary S.M. Ali Imam S/o Late S.M. Zareef Resident of Village Bahera, Police Station Bahera, District Darbhanga (Bihar).

.... Petitioner/s

Versus

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

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar
For the Union of India : Dr. Punam Kumari Singh
Advocate of the D.C.J. Shri S.D. Sabjay , Sr. Advocate.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 25-08-2015

The institution Dr. S. M. Naqui Imam Dental College and Hospital, situated in District of Darbhanga, has filed the writ application for quashing of the decision of Government of India, Department of Health, which has directed for closing down the Dental College as well as stopping admission against 60 seats of BDS course for the Academic Session 2013-2014. The order in question is Annexure-1.

Yet another decision under challenge is Annexure-2 dated 13th July, 2012 as well as decision dated 5th of March, 2012 contained in Annexure-3.

A writ application was earlier filed by the petitioner seeking a

direction to DCI and Union of India to permit the institution to take admission. Learned Single Judge of this Court after giving due consideration to the various submissions opined that a fresh beginning was required to be made by removing the short fall and anomalies. Petitioner was free to file an application to the DCI to take a fresh decision.

The present petitioner not being satisfied with such an order went in appeal by filing a LPA wherein also he did not get any relief, except, an observation that the decision of the Union of India to close the institution may be assailed. It is in this back ground that the present writ application has been filed seeking quashing of Annexure-1 to 3.

Submissions have been made on both sides. A lot of heat was also generated during course of arguments. Too much of heat can only melt the system instead of helping a solution to the problem. There are materials to show that some bitterness has also been generated between the parties, which may have also clouded the opinion of both sides. The petitioners may have a genuine apprehension that the decision taken by DCI may not be dispassioned. This could have led to passing of the order of closure of the institution itself as is the apprehension of hot perception of the petitioner's counsel.

. Setting up of a Medical college or a Dental college surely demands a lot of effort and resources. The Court surely appreciates the effort of the petitioner and his perseverance in trying to keep the

institution alive. They have been many rounds of litigations earlier as well, in relation to the present institution but those disputes can not be attributed to the respondents alone. There is a conflict of interest within the management itself.

The Court would only advise both the petitioner and the Dental council of India to make a fresh beginning and not to carry any kind of pre-conceived notion. The office bearers of D.C.I. are directed to entertain a fresh application of the petitioner for inspection and recognition which should be done with due dispassion and objectivity. The petitioner also has certain responsibility on his shoulders specially in view of the undertaking given by them to the DCI to remove the inadequacies.

If the petitioner initiates such a process, the authority of the DCI will constitute an inspection of team who can objectively carry out a fair assessment. The Inspecting Team is also advised not to be hyper technical or indulge in hit picking and make a fair report within a time frame so that a fresh decision can be taken for re-opening of the institution as well to earn permission for fresh admission for fresh Session in accordance with the schedule fixed by Hon'ble Supreme Court.

The ball is in the hands of the petitioner now. It is up to him as to how quickly he moves in the direction of removing the inadequacies and approach, the DCI will reciprocate and take an early decision on the dispute not clouded by the past.

The writ application is disposed of with the above observation and direction.

(Ajay Kumar Tripathi, J)

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