

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.9.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.A.Nos.1473 of 2015

Dental Council of India
Rep. by its Secretary Aiwan-E-Galib Marg
Kotla Road New Delhi-110002. ... Appellant

versus

- 1 K S R Institute of
Dental Science & Research Represented by
its Principal K S R Kalvi Nagar
Kuchipalayam (P.O) Tiruchengode-637215
Namakkal District.
- 2 Government of India
Rep. by its Secretary Ministry of Health &
Family Welfare Dept. Nirman Bhawan New
Delhi-110011.
- 3 The Tamil Nadu Dr. M.G.R.
Medical University Rep. by its Registrar
69 Anna Salai Guindy Chennai-32.
- 4 Director of Medical
Examination 162 E.V.R. Periyar Salai
Kilpauk Chennai-10.
- 5 Selection Committee
Rep. by its Secretary Directorate of
Medical Examination 162 E.V.R. Periyar
Salai Kilpauk Chennai-10. ... Respondents

Appeal filed against the order passed by this Court dated 4
September 2015 passed in W.P.No.21840 of 2015.

WP.No.21840 of 2015:

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorarified Mandamus calling for the
records of the Respondents relating to the Order of the 1st
Respondent in No. V.12025/44/2015-DE dated 15.07.2015 and the orders

of the 2nd Respondent in No.DE-3(191)-2015/1459 dated 15.06.2015 and No.DE-22-2015/4889 dated 09.07.2015 and quash the same and direct the Respondents to restore the intake in BDS Course to 100 seats for the academic year 2015-16 onwards.

For appellant : Mr.P.Wilson, Senior Counsel,
for Ms.S.Seethalakshmi

For Respondents : Mr.K.Doraisami, Senior Counsel,
for Ms.Muthumani Doraisami, for R-1

J U D G M E N T
(made by K.K.SASIDHARAN, J.)

This intra court appeal at the instance of the Dental Council of India, New Delhi, challenges the order dated 4 September 2015 in W.P.No.21840 of 2015 whereby and whereunder the learned Single Judge directed the Dental Council to make an inspection either surprise or otherwise of the 1st respondent institution and pass appropriate orders on or before 25 September 2015.

2. Heard the learned Senior Counsel for the appellant and the learned Senior Counsel for the 1st respondent.

3. The 1st respondent was granted permission by the Central Government to conduct the course in Bachelor of Dental Surgery with an intake of 60 students originally. The intake was enhanced to 100 with effect from the academic year 2012-13.

4. The Inspection Team constituted by the Dental Council of India conducted a surprise inspection on 20 April 2015. The Dental Council of India vide letter dated 5 May 2015 directed the 1st respondent to rectify the deficiencies pointed out by the Inspection Team within a period of seven days. The first respondent appears to have submitted a compliance report on 7 May 2015. Thereafter, second inspection was conducted by the experts deputed by the Dental Council of India. The committee of experts submitted its report to the Dental Council of India.

5. The Dental Council of India took a decision not to renew permission to the 1st respondent for the 4th year BDS Course and not to permit admission for the academic year 2015-16. The decision was communicated to the Ministry of Health and Family Welfare, Government of India, vide proceedings dated 15 June 2015. The Government passed an order dated 26 June 2015, directing Dental Council of India to conduct a review. Thereafter, Central Government passed an order on 15 July 2015 not to renew its permission for 4th year BDS Course and not to allow admission for the academic session 2015-16. The proceedings dated 15 June 2015 and 9 July 2015 on the file of the Dental Council of India and the order dated 15 July 2015 on the file of Ministry of Health and Family welfare Department, Government of

India, were challenged by the 1st respondent before the writ court in W.P.No.21840 of 2015.

6. The Writ Petition was opposed by the Dental Council of India by filing counter affidavit. The Dental Council of India justified the action taken against the 1st respondent on the basis of two rounds of inspection. According to the Dental Council of India, the Inspection Committee found that the college was not having sufficient faculty members and as such, a conscious decision was taken in the interest of students not to renew the permission for 4th year BDS Course as well as to deny permission to admit students for the academic year 2015-16.

7. The learned Single Judge was of the view that neither the appellant nor the Central Government have considered the merits of the matter and as such, fresh orders should be passed after making one more inspection.

8. Though the appellant was directed to pass appropriate orders on or before 25 September 2015, the fact remains that the intra court appeal itself was filed only after the expiry of the deadline. The endorsement made by the Registry shows that the Writ Appeal was filed on 28 September 2015.

9. The learned Senior counsel for the 1st respondent contended that only after filing contempt petition, the Dental Council of India has filed this intra court appeal. The learned senior counsel for the appellant on the other hand contended that in case inspection is made after the cut off date, the application could be considered only for the next academic year.

10. There was no direction given by the learned Single Judge either for renewal of permission or to permit the 1st respondent to admit students for the academic year 2015-16. It was a simple direction without specifying the academic year to conduct inspection once again and make a recommendation to the Central Government within a period of one week. The appellant was directed to pass orders on or before 25 September 2015.

11. Since the appellant has come up with this intra court appeal after the expiry of the time limit prescribed for passing orders, we are not inclined to consider the merits of the matter. It is more so on account of the fact that no adverse order has been passed against the appellant except directing them to cause inspection. In fact, the learned Single Judge has not even directed the appellant to consider the application for a particular academic year. The appellant is therefore not correct in saying that the order passed by the learned Single Judge would violate the period prescribed by the Supreme Court in *Priya Gupta vs. State of Chhatisgarh and others*, 2012(7) SCC 433.

12. We direct the appellant to forward its report/recommendation to the Central Government pursuant to the direction issued by the learned Single Judge by 5 p.m. today. The Central Government is directed to take a decision in the matter thereafter, in accordance with law and taking into account the direction in Priya Gupta, cited supra. We make it clear that this direction would not amount to a positive direction either to grant renewal of permission for the 4th year BDS Course or permission to make admission for the academic year 2015-16.

13. The order passed by the learned Single Judge is modified to the extent indicated above.

14. The intra court appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

- 1 The Principal,
K S R Institute of Dental Science & Research
K S R Kalvi Nagar Kuchipalayam (P.O)
Tiruchengode-637215 Namakkal District.
 - 2 The Secretary,
Government of India
Ministry of Health & Family Welfare Dept.
Nirman Bhawan New Delhi-110011.
 - 3 The Registrar,
The Tamil Nadu Dr. M.G.R. Medical University
69 Anna Salai Guindy Chennai-32.
 - 4 Director of Medical Examination
162 E.V.R. Periyar Salai
Kilpauk Chennai-10.
 - 5 The Secretary,
Selection Committee
Directorate of Medical Examination
162 E.V.R. Periyar Salai
Kilpauk Chennai-10.
- + 1 cc to M/s.Muthumani Doraisami, Advocate SR 52737
+1 cc to M/s.S.Seethalakshmi, Advocate, sr.53039 (30/09/2015)
pa(co)
prk29/9

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