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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.09.2015

CORAM:

THE HONOURABLE Mr.JUSTICE T.RAJA

W.P. (MD)No.12420 of 2015,

Contempt Petition (MD)No.1092 of 2015

and M.P. (MD)Nos.1 and 2 of 2015

W.P. (MD)No.12420 of 2015:

The Principal,
Best Dental Science College,
Ultra Trust,
Madurai.

..Petitioner

Vs.

1.The Secretary / Under Secretary,
Government of India,
Ministry of Health and Family Welfare,
Nirman Bhavan,
Maulana Azad Road,
New Delhi 110 011.

2.The Dental Council of India,
Aiwar - E - Galib Marg,
Kotal Road,
Oppo.Mata Sundri College for Women,
New Delhi 110 002.

3.The Secretary,
Government of Tamil Nadu,
St.George Fort,
Chennai - 9.

4.The Secretary / Additional Director of Medical Education,
Selection Committee,
Director of Medical Education,
Kilpauk,
Chennai - 10.

(R3 and R4 are impleaded as party respondent vide
order dated 25.09.2015 in M.P. (MD)No.3 of 2015)

..Respondent

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in particular No.V. 12025/44/2015 DE, dated 15.07.2015 and to quash the same and directing the 2nd respondent to inspect the petitioner College and sent its report within one week or any other short time limit to be fixed by this Court and direct the 1st respondent to pass orders on the recommendations of the 2nd respondent independently forthwith or within a time limit to be fixed by this Court.



Cont.P. (MD)No.1092 of 2015:

The Principal,
Best Dental Science College,
Ultra Trust,
Madurai.

..Petitioner

Vs.

M.L.Meena,
Secretary in Charge,
Dental Council of India,
Aiwar E - Galib Marg,
Kotla Road,
Opp.Mata Sundri College for Woemn,
New Delhi 110 002.

..Respondent

PRAYER: Petition is filed under Section 11 of the Contempt of Courts Act, to punish the respondent for committing contempt in gross violation and willful disobedience of the order passed by this Court in M.P.(MD)No.2 of 2012 in W.P.(MD)No.12420 of 2015 dated 21.07.2015.

Prayer in MP(MD). 2/ 2015 in WP(MD).12420/2015 :

Petition praying in the circumstances sated therein and the affidavit filed therewith the High Court will be pleased to issue an AD-INTERIM DIRECTION directing the 2nd respondent to inspect the petitioner college based on the compliance report dated 24.6.15 within a period of one week and to convey its recommendations to the first respondent and the first respondent to pass order within a period of one week thereafter pending disposal of the WP.NO.12420/2015

For Petitioner : Mr.V.T.Gopalan, Senior Counsel for
M/s.B.Saraswati

For Respondents: Mr.G.R.Swaminathan, ASGI for R1 and R2
Mr.R.Anandharaj, G.A.for R3 and R4

COMMON ORDER

By an order dated 21.07.2015 in M.P.(MD)No.2 of 2015 in W.P.(MD) No.12420 of 2015 this Court has passed the following order:

"2.Heard Mr.V.T.Gopalan, learned Senior Counsel appearing for Ms.B.Saraswathi, learned counsel for the petitioner and Mr.G.R.Swaminathan, learned Assistant Solicitor General of India appearing for the respondents.

3.Without prejudice to the rights of both parties, the inspection as prayed for by the petitioner may be carried on in the presence of the officials and the petitioner and the report shall be submitted on or before 03.08.2015, in a sealed cover before this Court.

4.Post this matter for further hearing on 07.08.2015."

2.As the above order, directing the 2nd respondent / Dental Council of India to conduct inspection in the petitioner / Institute, was not complied with, the Contempt Petition (MD)No.1092 of 2015 was filed. After issuing statutory notice in the Contempt Petition, today (25.09.2015) the 2nd respondent / Dental Council of India, after conducting inspection in the petitioner / Institute, submitted a report



in a sealed cover, stating that the infrastructure facilities of the petitioner / Institute are in order.

3. In this background, when the matter was taken up today, Mr.V.T.Gopalan, learned Senior Counsel appearing for the petitioner submitted that the report of the inspection committee is in order. The learned Senior Counsel relied on a decision of the Hon'ble Apex Court in the case of *Medical Council of India Vs. Krishnadoss and others* in a Special Leave Petition (C) No.26218 of 2015 dated 22.09.2015. The Hon'ble Apex Court has observed that an interim order has to be passed permitting the petitioner / Institute to conduct counselling for admission of the students for the academic year 2015 - 2016, otherwise, not only the petitioner / Institute even the public and the country would be put to loss of Doctors. It is relevant to extract the relevant portion of the order passed by the Apex Court, which reads as under:-

"... the interim order only on the ground that without any approval by the Government, the High Court ought not to have granted provisional permission to the respondents to conduct the course for the academic year 2015 - 2016."

4. In support of his submission, the learned Senior Counsel has also placed reliance on a judgment of the Hon'ble Apex Court in *Royal Medical Trust (Regd.) and another Vs. Union of India and another* in W.P.(C)No.705 of 2014, wherein, the Hon'ble Apex Court held as follows:

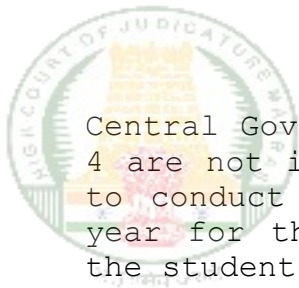
"We therefore, hold that the decisions in *Priya Gupta* must now be understood in the light of such statutory empowerment and we declare that it is open to the Central Government, in terms of the Note, to extend or modify the time limits in the schedule to the Regulations. However, the dead line namely 30th September for making admissions to the first MBBS course as laid down by this Court in *Madhu Singh* and *Mridul Dhar* must always be observed."

5. Finally, Mr.V.T.Gopalan, learned Senior Counsel appearing for the petitioner prayed that this Court may permit the petitioner / Institute to conduct the counselling for admission of the students for this year, without waiting for further recommendation from the Dental Council of India and the Central Government as they are running shortage of time, otherwise, the petitioner / Institute would not be able to admit the students for this year.

6. Resisting the above submissions, Mr.G.R.Swaminathan, learned Assistant Solicitor General appearing for the respondents 1 and 2 submitted that as per the Schedule issued under Regulation 4(2), now the inspection report has been filed stating that the infrastructure facilities of the petitioner / Institute are fully in order. In view of the recommendation of the Inspection Committee, which is in favour of the petitioner Institute, the Dental Council of India has to later make recommendation to the Central Government, as the schedule of time has already been lapsed on 15.06.2015 and thereafter, the Central Government has to issue letter of permission on or before 15.07.2015. This time limit also stood expired.

<https://hcservices.ecourts.gov.in/hcservices/>

7. Mr.R.Anandharaj, learned Government Advocate appearing for the respondents 3 and 4 would submit that without getting permission from the



Central Government and the Dental Council of India, the respondents 3 and 4 are not in a position to give permission to the petitioner / Institute to conduct counselling for admission of the students for this academic year for the reason that if the respondents 1 and 2 denies permission, the students would be put to irreparable loss.

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8. Heard the learned Senior Counsel for the petitioner, learned Assistant Solicitor General appearing for the respondents 1 and 2 and the learned Government Advocate appearing for the respondents 3 and 4.

9. The inspection report submitted by the 2nd respondent / Dental Council of India, which is produced in a sealed cover before me, is in favour of the petitioner / Institute and as per the inspection report, the Dental Council of India has to forward its recommendation to the Central Government as per the schedule.

10. In this regard, it is necessary to extract the schedule issued under Regulation 4(2) is extract hereunder:

"SCHEDULE
(see regulation 4(2))

Schedule for receipt of the applications for opening or to Increase the admission, capacity in respect of Undergraduate (BDS) and Postgraduate (MDs) Dental Courses and its processing by the Central Government and Dental Council of India.

S.N.	Stage of processing	Time Schedule for BDS	Time schedule for MDS
1.	Receipt of applications by the Central Government.	From 1 st Aug. to 30 th Sep. (both days inclusive) of any year.	From 1 st May to 30 th June (both days inclusive) of any year.
2.	Forwarding of application by the Central Government to the Dental Council of India for technical scrutiny.	Upto 31 st December	Upto 31 st July
3.	Recommendation of DCI to the Central Government	Upto 15 th June	Upto 28 th February
4.	Issue of Letter of Permission by Central Government	Upto 15 th July	Upto 31 st March

Note:

(1) If any clarification is sought by the Central Government on the recommendation of the Council, the same will be furnished by the Council forthwith, if necessary, after conducting inspection.

(2) The time schedule indicated above may be modified by the Central Government, for the reasons to be recorded in writing, in respect of any class or category of applications."



11. At the cost of repetition, it may be useful to extract the relevant portion of the judgment of the Hon'ble Apex Court in *Royal Medical Trust (Regd.) and another Vs. Union of India and another* in W.P. (C) No. 705 of 2014 as under:

"We therefore, hold that the decisions in Priya Gupta must now be understood in the light of such statutory empowerment and we declare that it is open to the Central Government, in terms of the Note, to extend or modify the time limits in the schedule to the Regulations. However, the dead line namely 30th September for making admissions to the first MBBS course as laid down by this Court in Madhu Singh and Mridul Dhar must always be observed."

12. In the light of the above schedule [regulation 4(2)] and the observation of the Hon'ble Apex Court in *Royal Medical Trust (Regd.) and another Vs. Union of India and another*, the 2nd respondent / Dental Council of India is directed to send its recommendation to the 1st respondent / Central Government of India at the earliest possible time. On receipt of such recommendation from the 2nd respondent / Dental Council of India, the 1st respondent / Central Government of India is directed to consider the case of the petitioner for issuance of Letter of Permission on merits. It is needless to mention that the respondents 1 and 2 are directed to complete the said exercise within a period of 5 days from today.

13. With the above direction, this Writ petition is disposed of. The Contempt petition and the connected M.Ps. are closed.

Sd/-

Assistant Registrar (Writs)

/True copy/

Sub Assistant Registrar

To

1. The Secretary / Under Secretary,
Government of India, Ministry of Health and Family Welfare,
Nirman Bhavan, Maulana Azad Road,
New Delhi 110 011.
2. The Secretary, Dental Council of India,
Aiwar - E - Galib Marg,
Kotal Road, Oppo. Mata Sundri College for Women,
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3. The Secretary,
Government of Tamil Nadu,
St. George Fort,
Chennai - 9.
4. The Secretary / Additional Director of Medical Education,
Selection Committee,
Director of Medical Education,
Kilpauk,
Chennai - 10.



5 M.L.Meena,
Secretary in Charge,
Dental Council of India,
Aiwar E - Galib Marg,
Kotla Road, Opp.Mata Sundri College for Woemn,
New Delhi 110 002.

+1cc to Mr.T.Antony Arulraj, advocate in Sr.56643

+1cc to Mr.G.R.Swaminathan, Advocate in SR.56646

W.P. (MD) No.12420 of 2015

25.09.2015

nbj

PBK/AAL-MPA/SAR-I 28/09/2015 ::6P-8C:(IT)