

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 16723 of 2015
Decided on : 26.08.2015

Florence Institute of MPHWS (Male) and others
... Petitioners

Versus

State of Haryana and others
... Respondents

(2)

CWP No. 16734 of 2015

Jyoti Shiksha Samiti and others
... Petitioners

Versus

State of Haryana and another
... Respondents

(3)

CWP No. 17082 of 2015

Jai Mata School of M.P.H.W (Male)
... Petitioner

Versus

State of Haryana and others
... Respondents

(4)

CWP No. 17112 of 2015

Rama Education Trust (Regd.) and another
... Petitioners

Versus

State of Haryana and another
... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Amandeep Singh, Advocate
for the petitioners (in CWP No. 16723 of 2015).

Mr. Jasbir Mor, Advocate
for the petitioners (in CWP No. 16734 of 2015).

Mr. S.K. Garg Narwana, Senior Advocate with
Mr. Naveen Gupta, Advocate
for the petitioner (in CWP No. 17082 of 2015).

Mr. Manjeet Singh, Advocate
for the petitioners (in CWP No. 17112 of 2015).

Mr. B.R. Mahajan, Advocate General, Haryana with
Mr. Deepak Manchanda, Addl. AG, Haryana.

G.S. Sandhawalia , J. (Oral)

Present order shall dispose four civil writ petitions i.e.
CWP Nos. 16723, 16734, 17082 and 17112 of 2015. The facts are
being taken from CWP No. 16723 of 2015.

The claim in the present writ petition is for directing the
respondents to include the name of the petitioner (s)-institutes in
the list of eligible institutions for admission to the Multi Purpose
Health Worker (Male) [MPHW (M)] Training Course for the
Session 2015-16 on the strength of a Letter of Permission (LOP)
issued on 02.09.2014. Further direction has also been sought for
admitting the students in petitioner(s)-institutes since the
counselling process has been initiated by the respondents.

The contention of the petitioner (s) was noted in the
order dated 13.08.2015, which reads as under:-

“Contends that letters of promotion dated

02.09.2014 (Annexure P5 Colly.) has been issued for establishment of new Multi Purpose Health Worker (Male) Training Schools, in favour of the petitioners. As per Clause 2, the course is of 2 years and the session is to begin in the year 2015. As per Clause 17, the permission is valid for 5 years. In pursuance of the said permission, the petitioners had applied on 06.07.2015 and 17.07.2015 (Annexure P8 Colly.) for addition of the name of the Institute in the counselling list. However, as per the list (Annexure P7), which has been uploaded now, the name of the petitioners is not mentioned. It is submitted that on-line registration is to start on 13.08.2015, in the first round, as per Annexure P6.

Notice of motion.

Mr.Saurabh Girdhar, AAG, Haryana accepts notice on behalf of the respondents and prays for time to file reply.

Copy of the paperbook be supplied to the State Counsel, during the course of the day.

Adjourned to 19.08.2015.”

Counsel for the petitioner (s) has taken the Court through the notification dated 17.07.2014 (Annexure P-1), whereby the policy for establishment of new institutions offering [MPHW (M)] Training Course is laid down. It is submitted that in pursuance of the said policy, letters of intent were issued on 20.08.2014 (Annexure P-3) and as per Clause 4 (b) permission was granted on 02.09.2014 (Annexure P-5).

Thus, the case of the petitioner (s) is that after fulfilling the requirements once permission has been granted, the petitioners are entitled for admitting students to the course.

In response, a short affidavit has been filed by the State. It is submitted that though permissions were granted, but they were within a short period of time of one month. As per Clause 3 of the said policy, training schools affiliated with the State Government must inform when all the infrastructure, faculty and other facilities are complete as per norms before the time of admission. Thereafter, an inspection is to be done and on the recommendations of the Committee, the institution is to be given permission for admission. The said Clause reads as under:-

“3. AFFILIATION

The MPHWS (M) Training School will be affiliated to the State Government through the Directorate of Medical education & Research (DMER). The institutions must inform the DMER when all the infrastructure, Faculty and other facilities are complete as per norms, before the time of admission.

A committee of officers constituted by the State Government/DMER will visit the premises to ensure that the institution possesses all the necessary building and infrastructure for starting the course. It is only on recommendation of the committee that the institution will be given permission for

admission.

The admission will be done on merits basis only as per guidelines of the State Government. A nominee of DMER Haryana will be associated at the time of interview. The final selection will be approved by the DMER, Haryana.”

The State defence, thus, is that at the last moment applications have been coming as pleaded by the petitioner (s) between 16.07.2015 to 10.08.2015 giving little time for inspection for the infrastructure and faculty which is supposedly in place, even though LOP was issued one year back.

Thus, it is submitted that even the letters of permission are conditional to that extent. Reference is made to Clause 12 which reads as under:-

“12. The Applicant/Institution will provide all other Infrastructure i.e. Library, Laboratory, fixtures furniture etc. before starting the classes and inform the Directorate.”

The learned Advocate General has also shown photocopy of one of the Inspection Report dated 23.08.2014 in which the petitioner(s)-institutes does not have any Director/Principal. Though there were 4 lecturers with 2 lab technicians, 2 clerks and supporting staff etc. present.

It is, thus, the case of the State that in the absence of any proper faculty, it would not be appropriate to grant any permission to admit students.

Keeping in view the above dispute, it is thus clear that the petitioners were granted the letter of permissions way-back on 20.08.2014. It is at no stage earlier they had approached the authorities that they wanted to start the course and at the last moment they had come up with the request.

It is settled principle that affiliating body is to be given time to inspect infrastructure on record to see the faculty and other facilities are available.

Though the letter of permission has been granted, but admittedly the petitioner-institute has not been conducting the said course. It is for the authorities to go into whether faculty and infrastructure is available at the site.

The learned Advocate General, Haryana on instructions from Mr. S.K. Setia, Director, Medical Education and Research, Haryana, Panchkula has pointed out that the classes are to be started from 01.10.2015.

In such circumstances, there is sufficient time for the State to inspect the institutes.

Accordingly, these writ petitions are disposed of with a direction that the respondent shall set-up various committees which will inspect the institutes after issuing show cause notice of three days to the petitioner(s)-institutes. The inspection committees will give their report in detail as to facilities available on site. The committees will also give their recommendation whether

the shortcomings which are present can be removed within a fixed time frame, where the infrastructure or the faculty is deficient. Thereafter, the respondent No.2 will pass necessary order and detailed reasons will be given in case any adverse order is to be passed while also providing an opportunity of hearing before passing the rejection order, which the petitioner (s) will be free to challenge.

The said exercise be completed by 28.09.2015. To avoid controversy, it would be appropriate if the committee also takes steps to video-graph the proceedings of the visit to show that there is no dispute regarding the infrastructure which is in place.

AUGUST 26, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE