

CWP No.26472 of 2014 (O&M)

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

**CWP No.26472 of 2014 (O&M)
Date of decision:29.07.2015**

The Rural Nursing Training Institute

...Petitioner

Versus

Pt. B.D. Sharma University of Health Sciences & ors.

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Rajiv Atma Ram, Sr. Advocate, with
Mr. Arjun Partap Atma Ram, Advocate, for the petitioner.

Mr. Anurag Goyal, Advocate, with
Mr. Amit Rao, Advocate, for respondent no.1.

Mr. RKS Brar, Advocate,
for respondent no.3.

Mr. Munish Jolly, Advocate,
for respondent no.4.

Rakesh Kumar Jain, J.

The petitioner is a Nursing Institute imparting education in B.Sc. (Nursing) and Post Basic B.Sc. (Nursing) with 30 seats and 20 seats respectively. It was set up in the year 2013 and received approval of the Indian Nursing Council (hereinafter referred to as the “INC”) and provisional affiliation by the Pt. B.D. Sharma University of Health Sciences, Rohtak (hereinafter referred to as the “University”) for the session 2013-2014. The Haryana Nursing Registration Council (hereinafter referred to as

the “HNRC”) and the INC accorded recognition for the session 2014-2015 to the petitioner-institute but the University has not granted affiliation for the said session and informed the petitioner on 28.11.2014 regarding non-extension of provisional affiliation on the ground that the deficiencies pointed out in the earlier inspections have not been removed. The petitioner has, thus, challenged the said order dated 28.11.2014 (Annexure P-22) in this writ petition and has prayed for a direction to the University to grant affiliation and register its students. The petitioner has also sought a *mandamus*, directing the INC to cross check the basis of denial of affiliation by the University, in terms of the decision of the Division Bench of this Court rendered in the case of **Shiv Shakti Educational Society (Regd.) vs. State of Punjab**, 2008(1) S.C.T. 691.

It is averred in the petition that the INC, being a central body, is competent to grant recognition, inspect for deficiencies and seek clarification and opinion of the State Government. The INC has already granted its approval, followed by the approval from the HNRC, but the University is adamant not to grant affiliation because of which the students of the petitioner-institute are not being registered. The petitioner has alleged about the show cause notice dated 09.07.2014 issued by the University and its compliance by it on 31.07.2014, show cause notice dated 14.08.2014 and its compliance on 08.09.2014 and show cause notice dated 18.09.2014 and its compliance on 30.09.2014. It is further alleged that the counselling took place on 13.10.2014 for admission for the session in question in the presence of the University observer and 30 seats of B.Sc.

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(Nursing) and 17 seats of Post Basic B.Sc. (Nursing) were filled. Thereafter, there was surprise inspection by the University on 13.10.2014 and some more deficiencies were highlighted by the University by its show cause notice dated 28.10.2014, which was replied on 29.10.2014 but again there was a show cause notice dated 17.11.2014, which was replied on 21.11.2014 and ultimately, the impugned order dated 28.11.2014 was passed.

In the reply filed by respondent no.1, who is in fact contesting the petition, it is averred that the order dated 28.11.2014 is not an order withdrawing the affiliation rather it is a request to remove the deficiencies pointed out in the previous sessions 2013-14 and 2014-2015. It is further alleged that the University had never withdrawn the affiliation, as alleged in the writ petition, and since the petitioner-institute, even after granting ample opportunities, did not remove the deficiencies till date, therefore, the University had not granted extension in provisional affiliation for the session 2014-15, but in the order dated 28.11.2014, liberty was granted to the petitioner to apply for re-inspection in case the last date of admission is extended by the INC. It is also averred that the prayer of the petitioner to provisionally register its students and accept their registration return cannot be accepted because the admission to these students were given by the petitioner at its own level, without counselling, without University observer and that too without having any approval from the INC. The University had appointed Smt. Om Devi, Lecturer, College of Nursing of the University as the University observer to observe the counselling, who came back without

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admitting the students as the petitioner did not have provisional affiliation from the University. It is also averred that the University had also made a surprise inspection on the same day i.e. 13.10.2014, during which it was revealed that the petitioner-institute had already admitted 41 students in B.Sc. 1st year course for the session 2014-15 and the students are attending classes since the past two months.

During the course of hearing on 28.05.2015, the following order was passed by this Court:-

“The parties are *ad-idem* that the Institute may be inspected by the Indian Nursing Council, associating the nominee of the University, to find out as to whether the deficiencies pointed out by the University have been removed or not.

Let the inspection be carried out on any day between 02.06.2015 to 10.06.2015. The petitioner shall deposit the necessary expenses for inspection with the INC by 2nd June, 2015.

In the meantime, the petitioner-institute may submit the examination forms of the students to the University with late fee which shall be accepted by the University provisionally, under the order of this Court and shall process them after an order is passed on 03.07.2015.”

Lateron, an order was passed on 14.07.2010, which reads as under:-

“The petitioner-institute has been inspected by the University and the Indian Nursing Council. At present, counsel for the University has got the proforma only

filled by the Inspection Committee, in respect of the facilities provided by the petitioner-institute, but he is unable to apprise the Court with regard to the conclusion drawn by the Inspection Committee. It is submitted that if a short adjournment is granted, the conclusion drawn by the Inspection Committee would also be placed before this Court.

On his request, adjourned to 23.07.2015.

In the meantime, the University is directed to place on record the expert opinion, on the inspection report, on or before the next date of hearing and shall also apprise the Court about the parameters required to be maintained by the petitioner-institute for seeking affiliation, over and above the parameters laid down by the Indian Nursing Council.”

Apropos, counsel for the University has produced the conclusion drawn by the University dated 20.07.2015, in which it was averred that the petitioner-institute was inspected on 09.06.2015 by the INC in the presence of Smt. Santosh Gulia, Lecturer, College of Nursing of the University, as representative of the University. It was averred therein that the deficiencies were not removed by the petitioner-institute after so many inspections, therefore, the affiliation to the petitioner-institute may not be granted before removal of all the deficiencies mentioned therein.

Counsel for the petitioner has vehemently argued that the reasons given in the report dated 20.07.2015 that i) HNRC permission was not available for the year 2014-15, ii) faculty members were not registered with HNRC; iii) 1:10 teacher's student ratio is not maintained; and iv) hostel facilities are inadequate i.e. not as per INC norms, are not made out and it

was just a ploy at the behest of the University to decline extension of provisional affiliation to the petitioner-institute.

On the other hand, counsel for the University has referred to the inspection proforma to substantiate the objection in regard to deficiencies and has submitted that according to the guidelines and minimum requirements to establish B.Sc. (N) college of nursing issued by the INC, the institute can admit the students only after taking approval of State Nursing Council and the University, whereas the petitioner-institute has not taken the approval/affiliation of the University. It is further submitted that the minimum requirements for the faculty, as provided by the INC, are as under:-

S.No.	Designation	B.Sc. (N) 40-60 (students intake)	P.B.B.Sc.(N) 20-60 (students intake)
1	Professor-cum-PRINCIPAL	1	
2	Professor-cum-VICE-PRINCIPAL	1	
3	Professor	0	
4	Associate Professor	2	
5	Assistant Professor	3	2
6	Tutor	10-18*	2-10*

It is further submitted that the hostel facilities also should be as under:-

“Hostel Room

It should be ideal for 2 students with the minimum 100 sq. ft. carpet area. The furniture provided should include a cot,a table, a chair and book rack, a cupboard and a cloth rack for each student.”

It is argued that in the inspection dated 09/10.06.2015, it was

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found that Principal Mrs. Aisha Qureshi was not registered with the HNRC and had only applied for registration with the HNRC. Professor-cum-Vice Principal Mrs. Renuka was also not registered with the HNRC and was not physically present being on leave from 07.04.2015. Smt. R.K. Ranjita Devi, the alleged Assistant Professor, was also not registered with the HNRC and most of the Clinical Instructors were appointed in the end of 2014 or during the year 2015, i.e. Mamta on 01.04.2014, Anamika on 01.04.2015, Himanshi, Chanchal, Mohini, Jyoti Kumari, Reena and Amit Kumar on 17.12.2014, Reena on 02.03.2015, Gurminder Kaur on 11.02.2015 and Sujata on 18.12.2014, whereas the extension of provisional affiliation was applied earlier to that.

I have heard learned counsel for the parties in detail and perused the available record.

In this case, the petitioner has got recognition of INC and HNRC and provisional affiliation by the University for the session 2013-14. At the time of granting provisional affiliation for the session 2013-14 also, the University had pointed out certain discrepancies/deficiencies, which are as under:-

- “1. Principal was absent on the day of inspection.
2. Faculty who were M.Sc. (Nursing) need to be registered under HNRC.
3. Sweta Yadav, Nursing Tutor, was absent on the day of inspection.
4. Hostel for student capacity needs to be increased.
5. Payment of staff needs to be by bank transaction.”

The dispute started when the petitioner asked the University for

extension of provisional affiliation for the session 2014-15 because the recognition was granted by both the INC and the HNRC and the University, time and again, served notices upon the petitioner, highlighting the deficiencies/discrepancies, which were allegedly removed/complied with by the petitioner-institute, but ultimately on 28.11.2014, the petitioner was informed by the University that the last date for admission for Nursing courses for the session 2014-15 has already been over, therefore, the admissions cannot be allowed until and unless the last date is extended by the INC and hence, the re-inspection cannot be allowed. The demand drafts of the re-inspection fee was returned and the petitioner was again requested to remove the deficiencies pointed out in the previous inspections for the session 2013-14 & 2014-15 and in case the date of admission is extended by the INC, the petitioner may apply for re-inspection with the requisite inspection fee of ₹50,000/-.

The controversy boiled down to the re-inspection, which was agreed to by both the parties and recorded by this Court in its order dated 28.05.2015. The re-inspection was to be carried out by the INC with the association of the nominee of the University in order to find out as to whether the deficiencies pointed out by the University have been removed or not by the petitioner-institute. At that time, the petitioner was allowed to submit examination forms of the students, which were ordered to be accepted by the University provisionally, but processing thereof was deferred. The inspection team submitted their report to the University about the deficiencies still being there with the petitioner-institute, which were

required to be removed before the affiliation is extended.

Although the case of the petitioner is that the objections mentioned in the report dated 20.07.2015 are not made out and has given a list to the Court of the teaching faculty, but it is found from the same that Aisha Qureshi, Dean-cum-Principal, joined the petitioner-institute on 27.02.2015 and has not been registered with the HNRC, Renu Kumari joined as Nursing Tutor as a fresher on 04.06.2015, Seema Rani joined as Nursing Tutor on 04.06.2015, Shweta joined as Nursing Tutor in February 2015, Anamika and Mamta joined Nursing Tutor on 01.04.2015, Reena joined as Clinical Instructor as a fresher on 02.03.2015, Pooja and Neelu joined as Clinical Instructors on 01.05.2015, whereas Bhawna, Renu, Sunil, Anita and Mamta joined as Clinical Instructor on 01.05.2015 as a fresher.

In the inspection proforma, the University has specifically highlighted that neither the Principal nor the Vice-Principal are registered with the HNRC. Besides that, various other Assistant Professors/Nursing Tutors/Clinical Instructors are not found to have been registered with the HNRC and were appointed either in the end of 2014 or even upto May, 2015, much after the application for extension of provisional affiliation was filed by the petitioner-institute, which is contrary to the guidelines and minimum requirements laid down by the INC.

Similarly, it has been found that there are 3-5 students in 10' x 12' room of the hostel, whereas the minimum requirement of the INC provides that it would be ideal for 2 students with the minimum 100 sq. ft. carpet area.

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Thus, keeping in view the totality of the aforesaid facts and circumstances, it is apparent that the petitioner-institute has not removed the deficiencies pointed out by the University so far because of which the provisional affiliation has rightly not been extended by the University for the session 2014-15 and hence, there is no scope for issuance of a *mandamus*, as prayed for by the petitioner.

Consequently, the present writ petition is hereby dismissed being denuded of any merit.

July 29, 2015
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(Rakesh Kumar Jain)
Judge