

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 26th August, 2015

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W.P.(C) No.2498/2011

PANINIYA SANSKRIT COLLEGE TRUST Appellant

Through: Mr. Nidhesh Gupta, Sr. Adv. with Mr.
Krishna Kumar Singh, Adv.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Dev P. Bhardwaj, Adv. for R-1.
Mr. T. Singhdev with Ms.
Biakthansangi & Ms. Puja Sarkar,
Advs. for R-2.
Mr. Meet Malhotra, Sr. Adv. with Mr.
Ravi S.S. Chauhan & Mr. Prateek
Dahiya, Advs. for R-5 to 9.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J

1. The petition i) seeks a mandamus to the respondent No.1 Union of India (UOI) to revoke / withdraw the permission granted to the respondent No.9 Paniniya Mahavidyalaya Institute of Dental Sciences & Research Centre, Andhra Pradesh (Dental College) vide letter dated 31st March, 2009 for the Master of Dental Surgery (MDS) Course for the academic year 2009-10 and renewal thereof for the academic year 2010-11; ii) seeks to prohibit the UOI and the respondent No.2 Dental Council of India (DCI) from

renewing the permission granted to the Dental College for the academic year 2011-12; iii) seeks setting aside of the Letter / Certificate of Consent dated 25th July, 2008 issued by the respondent No.4 Dr. NTR University of Health Sciences, Andhra Pradesh (University) to the Dental College; iv) seeks setting aside of the Essentiality Certificate dated 30th June, 2008 issued by the respondent No.3 State of Andhra Pradesh to the Dental College for commencing MDS course; and, v) seeks a direction to the DCI to commence proceedings for withdrawal of recognition accorded to the Dental College.

2. The petition came up first before this Court on 20th April, 2011 when notice thereof limited to the aspect of legality and validity of the permissions granted to the respondent No.5 Paniniya Medical Education Trust (Trust) to run MDS course on the land of which the petitioner claims ownership was issued. Counter affidavit has been filed by the respondent No.5 Trust, by its Trustee respondent No.6 Sh. T.S. Kohli, by the Dental College and also by UOI and DCI and to which rejoinders have been filed by the petitioner. No counter affidavits have been filed by the other respondents despite service.

3. On enquiry, it is informed that since there was no interim order during the pendency of the petition, the Dental College continues to run the MDS course with respect to which the petition is filed.

4. The senior counsel for the petitioner, the senior counsel for the respondent No.5 Trust, its Trustee, Dental College and its Principal and the counsel for DCI have been heard.

5. The position which emerges is that the Dental College was set up in the year 2003 and has been imparting education in BDS Course / Programme. It is the case of the petitioner that the Dental College was established by it on land belonging to it and after obtaining the requisite permissions from various authorities. It is the further case of the petitioner that it was approached by respondent No.6 Sh. T.S. Kohli with a proposal to set up a medical college and the respondent No.5 Trust was set up with the intent to set up a medical college; however the respondent No.6 Sh. T.S. Kohli by practicing deceit and in collusion with the respondent No.7 Dr. P. Karunkar, Principal of the Dental College, usurped the management and control of Dental College and by misrepresentation and fabricating documents has obtained the permissions impugned in this petition for commencing MDS Course / Programme in the Dental College.

6. I have enquired from the senior counsel for the petitioner, whether the petitioner has taken any proceedings to take back the control and management of the Dental College.

7. The answer is in the negative.
8. I have further enquired from the senior counsel for the petitioner, why the petitioner impugns only the permissions granted for commencement of the MDS Course / Programme and not the permissions with respect to the BDS Course / Programme.
9. The senior counsel for the petitioner states that since the permissions for the BDS Course / Programme were obtained by the petitioner itself, no challenge thereto is made, though revocation is sought.
10. I have yet further enquired from the senior counsel for the petitioner, whether a Dental College running BDS Course / Programme requires any additional land for commencing imparting education in MDS Course / Programme.
11. The answer is again in the negative.
12. On enquiry as to whether the petitioner has filed any documents showing ownership of the land on which Dental College is situated, the answer is in the negative, though it is stated that on adjournment being granted, such documents can be filed.
13. Needless to state that the respondent No.5 Trust, its Trustee, Dental College and its Principal controvert the aforesaid stand of the petitioner.

14. What emerges is that there are disputes, claims and counter claims as to the management of the Dental College and the reliefs claimed, of impugning the permissions granted for commencing education in MDS Programme / Course and renewal of the permission therefor, is an outcome thereof.

15. I have enquired from the senior counsel for the petitioner, why the jurisdiction of this Court under Article 226 of the Constitution of India should be allowed to be abused to enable the petitioner to settle its private scores with the persons who, qua the management of the Dental College, are claiming adversely to the petitioner.

16. The senior counsel for the petitioner of course contends that since the permissions have been granted on the application of persons who were not entitled to apply therefor, the petitioner is entitled to maintain this challenge.

17. The senior counsel for the respondent No.5 Trust, its Trustee, the Dental College and its Principal draws attention to the counter affidavit filed setting out its version of the facts.

18. It is sufficient to state that the pleadings raise disputed questions of fact between the petitioner on the one hand and the respondent No.5 Trust and the Dental College on the other hand, as also noticed in the order dated

30th April, 2015 in this proceeding, when faced therewith the counsel for the petitioner had sought adjournment.

19. The counsel for DCI also states that DCI deals with and grants permission only to the college and not to the Trust or Society which has set up or established the College.

20. I am of the view that the *inter se* disputes as to the control and management of the Dental College, between the petitioner on the one hand and the respondent No.5 Trust on the other hand should not be allowed to interfere with imparting of education in the MDS Programme / Course by the Dental College; any such interference would be against the public interest and the interest of the student community who are not concerned with who is in control and management of the college as long as the college is run and managed as per the requirements of DCI and the university to which it is affiliated. It needs to be mentioned that there is a dearth of educational institutions in the country and shutting down of the MDS Programme / Course in the subject Dental College cannot be justified.

21. I am even otherwise of the view that the jurisdiction under Article 226 of the Constitution of India cannot be permitted to be invoked for such oblique motives.

22. No merit is thus found in the petition.

23. The petition is dismissed with liberty however to the petitioner to, if entitled to and in accordance with law, take appropriate proceedings.

No costs.

RAJIV SAHAI ENDLAW, J.

AUGST 26, 2015

‘gsr’

(corrected & released on 21st October, 2015)