

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 13.07.2015

+ **W.P.(C) 7988/2014 & CM No.18713/2014**

**U.P. RURAL INSTITUTE OF MEDICAL
SCIENCE & RESEARCH & ANR.**

..... Petitioners

versus

UNION OF INDIA & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Aseem Mehrotra.

For the Respondents : Mr Jasmeet Singh, CGSC for UOI.
Mr Vikas Singh, Sr. Advocate with Mr T.
Singhdev, Mr Manan Khera and Mr Vishu
Agrawal, Advocates for MCI/R-2

CORAM:-

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner has filed the present petition, *inter alia*, impugning a letter of the Central Government dated 15.10.2014 (hereafter the 'impugned order'). By the impugned order, the application of petitioner no. 1 – U.P. Rural Institute of Medical Science & Research (hereafter 'petitioner institute'), for approving the scheme of increase in seats in respect of six post graduate courses and for starting three post graduate courses from the academic year 2015-16, was rejected, principally for the reasons that the application was made on 29.05.2014 i.e. after the cut-off date of 30.04.2014 and secondly, the Consent of Affiliation (hereafter 'CoA') filed along with

the application, was not valid for the academic year 2015-16 as the said CoA was for academic session 2014-15.

2. The brief facts that are relevant for examining the controversy in the present petition are as follows:

2.1 The petitioner institute is affiliated to Chhatrapati Shahu Ji Maharaj University (hereafter 'the University') and offers various graduate and post graduate courses.

2.2 By letter dated 29.05.2013, the petitioner institute applied to the Medical Council of India (hereafter 'MCI') for increase in admission capacity in eleven post graduate courses with effect from academic session 2014-15. By another letter dated 29.05.2013, the petitioner institute applied to MCI for starting seven new post graduate courses with effect from academic session 2014-15.

2.3 After receiving the recommendations of MCI, the Central Government, by its letters dated 11.04.2014 and 15.05.2014, granted approval to the petitioner institute to increase seats in respect of only five post graduate courses out of the eleven courses applied for and to start only four post graduate courses out of the seven courses applied for, from the academic session 2014-15.

2.4 The Central Government, keeping in view the recommendations of MCI and Committee of Ministry of Health and Family Welfare, by another letter dated 15.05.2014, received by U.P. Rural Institute on 26.05.2014, rejected petitioner institute's application for increase of seats in respect of

six post graduate courses and for starting three post graduate courses (hereafter collectively referred as 'said disapproved courses') for the academic year 2014-15. However, the petitioner institute was given liberty to apply afresh for the said disapproved courses for the subsequent academic year.

2.5 Thereafter, on 29.05.2014, the petitioner institute applied to the Central Government for the academic year 2015-16 in respect of the said disapproved courses, along with the CoA granted by the University for the academic year 2014-15.

2.6 The University, by its letters dated 30.06.2014 and 22.07.2014, also granted CoA in respect of the said disapproved courses for the academic year 2015-16 and the said CoA was submitted by the petitioner institute to the Central Government on 31.07.2014.

2.7 By the impugned order, the central government rejected the application of the petitioner institute on the ground that first of all, the application was made on 29.05.2014 i.e. after the cut-off date of 30.04.2014 and secondly, there was no valid CoA, as the CoA, issued by the University and filed along with the application, was valid for the academic year 2014-15 and not for the academic year 2015-16.

3. The learned counsel for the petitioners contended that the application of the petitioner institute for commencing new post graduate courses and for increasing the intake of students in the existing courses could not be rejected on the ground that the petitioner institute's application was beyond the cut-off date of 30.04.2014. It was stated that the petitioner institute had

earlier applied for an increase in the intake of students for new post graduate courses for the academic session 2014-15 and as per the schedule, the said application had to be considered and disposed of by the Central Government by 28.02.2014. This had been delayed and the petitioner institute's application had been apparently rejected on 15.05.2014. In the circumstances, the petitioner institute could not be expected to file afresh, prior to the knowledge of the outcome of its earlier application. The learned counsel further pointed out that by the letter dated 15.05.2014, the petitioner institute had been given the opportunity to apply afresh and in the circumstances, its application could not have been rejected on account of the same being filed after the cut-off date of 30.04.2014. The petitioners further relied upon various decisions including the decision of the Supreme Court in Civil Appeal No. 8054 of 2013 titled **Royal Medical Trust (Regd.) v. Union of India**: decided on 10.09.2013 and the order dated 18.09.2014 passed in **W.P. (C) 469/2014** captioned **Hind Charitable Trust Shekhar Hospital Pvt Ltd. Vs. Union of India**, to contend that in certain cases the Supreme Court has directed to consider applications beyond the cut-off date. Insofar as rejection on the ground of CoA is concerned, the learned counsel submitted that a CoA, as required under the regulations, had been filed and therefore, the petitioner institute's application could not be rejected on the ground that it was incomplete. He further submitted that the validity of CoA could always be extended subsequently.

4. The learned counsel appearing for MCI controverted the contentions urged by the petitioners and contended that the time schedule prescribed for submission of applications was mandatory. He read extensively from the

judgments of the Supreme Court in **Priya Gupta v. State of Chhattisgarh & Ors.** : (2012) 7 SCC 433 and **Mridul Dhar & Anr. v. Union of India & Ors.** : (2005) 2 SCC 65, in support of his contention that strict adherence to the time schedule was mandatory. Learned counsel for MCI further relied upon the decisions of the Supreme Court in **State of Kerala Vs. T.P. Roshna** : 1979 SCC 580, **MCI v. State of Karnataka & Ors.** : (1998) 6 SCC 131 and **Dr. Preeti Srivastava & Anr. v. State of M.P. & Ors.** : 1999 7 SCC 120 and submitted that the importance of maintaining the highest standards by MCI had been recognized by the Supreme Court and therefore it is essential that sufficient time be available to MCI to make its recommendations.

5. It is relevant to note at the outset that the petitioners had relied upon the decision of a coordinate bench of this Court in **Muzaffarnagar Medical College & Anr. v. Union of India**: W.P.(C) 7339/2014 decided on 29.10.2014, whereby the petitioner college therein, was permitted to re-file the scheme within two weeks from the said date. It was pleaded that the case of **Muzaffarnagar Medical College** (*supra*) was identical to the case of the petitioner institute. Undeniably, the facts of the present case are substantially similar to the facts in the case of **Muzaffarnagar Medical College** (*supra*). MCI had preferred an appeal against the said decision before a Division Bench of this Court, being LPA 788/2014. The Division Bench had accepted the contentions presented by MCI and by a decision rendered on 23.12.2014, set aside the decision of the coordinate Bench of this court. This court was informed that the SLP preferred by Muzaffarnagar Medical College before the Supreme Court had also been

dismissed by the Supreme Court.

6. The learned counsel for the petitioners contended that the present petition would not be entirely covered by the decision of the Division bench in *Muzaffarnagar Medical College (supra)*, as in that case the Division Bench found that Muzaffarnagar Medical College was aware of the decision of MCI, to not recommend/reject its application for the academic session 2014-15 on 11th April itself and thus concluded that Muzaffarnagar Medical College had not acted promptly. The learned counsel for the petitioners submitted that in the present case, the Central Government had partly accepted the application filed by the petitioner institute on 15.05.2014 and thus, the reasoning of the Division Bench that Muzaffarnagar Medical College could have reasonably been sure that the Central Government would accept the recommendation of MCI, did not hold good in the present case. I am unable to accept the aforesaid contention and in my view, the decision of the Division Bench would squarely apply in the present petition. It is apparent from the plain reading of the aforesaid decision that the Division bench had allowed the appeal preferred by MCI principally for the following reasons:-

- (a) The Division Bench held that even in absence of a decision on its application, the college should have acted and applied afresh for the next academic session. The Division Bench further held that the delay on the part of Central Government, in not deciding the application for the academic session 2014-15 by 28th February, did not provide the petitioner sufficient reason to not re-apply by the cut-off date of 30.04.2014. This reason is ascertainable from

para 26 of the decision which reads as under:-

“26. There is another aspect, which in fact arose from the arguments of the respondent No.1 MMC. It was the contention of the respondent no.1 MMC that the Central Government was bound to decide qua academic session 2014-15 by 28th February, 2014 but did not. Though of course the said date was extended but if the respondent No.1 MMC wants to take advantage thereof, the question also arises as to why the respondent No.1 MMC did not presume its application for the academic session 2014-15 to have been rejected owing to approval having not been accorded by 28th February, 2014 and re-apply for the academic session 2015-16 by the cut off date of 30th April, 2014. ”

- (b) That the liberty granted by the Central Government to apply for the academic session 2015-16 could not be read as to alter the time schedule as laid down in the regulations.
- (c) That the application of Muzaffarnagar Medical College could not be considered due to paucity of time.

7. In my view, the aforesaid reasoning would squarely apply to the facts of the present case. There is considerable force in the submissions made on behalf of MCI that time schedule, as prescribed, must be strictly adhered to.

8. In **Educare Charitable Trust v. Union of India: 2013 X AD (S.C.) 485**, the Supreme Court had denied the request of the petitioner therein for change in the schedule for considering the application in respect of BDS Course and had observed as under:-

“...It is not possible to accede to the request of the petitioner

to change the time-schedule when the last date for admitting the students, which was July 15, 2013, expired long ago. If the Central Government forwards the application to the DCI at this juncture, DCI shall hardly have any time to look into the feasibility of the scheme as per the requirements contained in Regulation 21. We have to keep in mind that in the schedule annexed to the Regulations 2006, six to eight months time is given to the DCI for this purpose. We are, thus, of the view that the High Court did not commit any error in holding that in the given circumstances mandamus could not be issued to the Central Government to exercise its discretionary powers in a particular manner to modify the time-schedule. Sanctity to the time-schedule has to be attached. It is too late in the day, in so far as present academic session is concerned, to give any direction. – This Court has highlighted the importance of cut-off date for starting the professional courses, particularly medical courses, and repeatedly impressed upon that such deadline should be tinkered with. (See: **Priya Gupta Vs. State of Chhattisgarh** (2012) 7 SCC 433 and **Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P.** (2013) 2 SCC 617).”

9. The decision of the Division Bench in **Medial Council of India v. Amma Chandravati Educational and Charitable Trust and Ors.**: LPA **224/2015** and other connected matters, decided on 05.05.2015, may also be mentioned. In the said case, the directions issued by this court to consider the application for establishment of medical colleges and intake of candidates were set aside, as the Division Bench was, *inter alia*, of the view that such directions could not be made at the fag end of the schedule fixed for consideration of the applications. The Division Bench had further held that directions for consideration of applications which were incomplete on the cut-off date would result in granting benefit to some institutes, while similarly situated other institutes would be denied such benefit.

10. In view of the aforesaid decisions, it is not necessary to examine all the rival contentions as, undeniably, the time schedule fixed for considering the applications was over prior to the petition being heard. As of now, the cut-off date for the next academic session i.e. 2016-17 is also over. Accordingly, the present petition and pending application are dismissed. No order as to costs.

JULY 13, 2015
RK/PKV

VIBHU BAKHRU, J

