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

+ W.P.(C) 8317/2015 and CM No.17587/2015 (directions)

FATHER MULLER CHARITABLE INSTITUTION Petitioner
Through: Mr. Ashish Kumar, Advocate

versus

UNION OF INDIA & ANR Respondents
Through: Mr. P.C. Yadav, Advocate for R-1
Mr. Vikas Singh, Sr. Advocate with Mr. T.
Singhdev and Ms. Biakthansangi, Advocate for R-
2/MCI

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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18.09.2015

1. To be noted, on the previous date, I had asked the counsel for respondent no.2/Medical Council of India (MCI) to produce the original record pertaining to the petitioner as it was the contention of the petitioner before me that it had filed its representation with the respondent.

2. Mr. Singhdev, who appears for the respondent no.2/MCI confirms that representations dated 08.04.2015 and 27.04.2015, which are preferred by the petitioner, are available on record.

3. In the facts of this case, the petitioner seeks renewal permission with regard to the increase in intake from 100 to 150 seats for the 4th batch qua the academic year 2015-2016.

3.1 In pursuance of this request, respondent no.2/MCI had carried out an inspection on 27th & 28th November, 2014 (hereafter referred to as the 1st inspection).

3.2 By virtue of this inspection, a report dated 27.12.2014 got generated in which respondent no.2/MCI recorded that its assessors had noted the following deficiencies; the deficiencies were, as is the norm, put before the executive committee of respondent no.2/MCI, on 16.12.2014.

- “..1. Shortage of Residents is 8.6% as detailed in the report.
- 2. One lecture theatre of capacity 200 is level type.
- 3. MRD is manual.
- 4. RICU is not available.
- 5. Physiology department : There is no seminar room.
- 6. RHTC : There is no family programme.
- 7. Other deficiencies as pointed out in the assessment report...”

4. Evidently, the petitioner, filed a compliance report with respondent no.2/MCI, on 17.01.2015. This resulted in the respondent no.2/MCI conducting a 2nd inspection. The said inspection was conducted on 17.03.2015.

4.1 Pursuant to the 2nd inspection, a report was generated, which was, likely in the first instance, put before the Executive Committee of the respondent no.2/MCI, at its meeting, held on 13.05.2015. The communication with regard to the deficiencies noted by the assessors of respondent no.2/MCI at its 2nd inspection were communicated to the Central Government / Ministry of Health and Family Welfare, vide letter dated 14.05.2015. In this report, respondent no.2/MCI noted the following deficiencies :-

- “..1. Deficiency of faculty is 13.87% as detailed in the report.
- 2. Shortage of Residents is 20.56% as detailed in the report.
- 3. Other deficiencies as pointed out in the assessment report...”

5. Pursuant to the said communication/ report dated 14.05.2015, the

petitioner filed two representations with respondent no.2/MCI; to which I have made a reference hereinabove. These representations are dated 08.04.2015 and 27.04.2015.

5.1 I am informed by the counsel for respondent no.2/MCI that the 1st representation was received on 16.04.2015, while the 2nd representation was received on that very date i.e. 27.04.2015.

6. Evidently, based on the recommendation made by respondent no.2/MCI in its communication dated 14.05.2015, the Central Government communicated to the petitioner, on 15.06.2015, that it had taken a decision on its request for renewal permission for increased intake from 100 to 150 seats qua admission to the 4th batch of MBBS course for the academic year 2015-2016.

7. It is in the background of these facts that the petitioner has filed the instant petition under Article 226 of the Constitution.

8. After hearing the learned counsel for the parties and given the stand taken before me by the learned counsel for the petitioner, which is that, an entirely new deficiency was referred to in the 2nd inspection report dated 14.05.2015, which did not find mention in the first inspection report, I am inclined to direct respondent no.2/MCI to examine, in the very least, the material placed on record along with the aforementioned two representations filed by the petitioner.

9. The learned counsel for the petitioner has indicated to me that he will be satisfied, even if, the compliance verification, is limited to the examination of only the documents placed on record with aforementioned representations. According to the learned counsel, no physical inspection

is required, though the petitioner is not averse to such an exercise being carried out by respondent no.2/MCI, if deemed fit.

10. This direction is issued especially in the circumstance, as indicated above, as the deficiency qua faculty was not adverted to, admittedly, in the 1st inspection report. Respondent no.2/MCI thus, requires to examine the response of the petitioner made in this behalf via the two representations filed with it.

11. Having regard to the fact that the writ petition will become infructuous after 30.09.2015, respondent no.2/ MCI will do the needful within the next 5 days and communicate its findings and / or recommendations to the Central Government on or before 23.09.2015.

11.1 The Central Government will thereafter, take a final decision in the matter, in accordance with law. In case, respondent no.2/MCI deems it necessary to call upon the petitioner's representative to assist its officers, in the evaluation of the record, due intimation will be sent to the petitioner, in that behalf. The petitioner's representative will then carry, if necessary, original records to facilitate the completion of the exercise envisaged hereinabove.

11.2 It is made clear, that it is left entirely to the discretion of respondent n.2/ MCI as to whether or not it would like to carry out in addition to the documentary evaluation, a physical verification of the claims made by the petitioner in its representations.

12. With the aforesaid observations in place, the captioned petition and the pending application are disposed of.

13. Dasti under the signatures of the Court Master.

RAJIV SHAKDHER, J

SEPTEMBER 18, 2015

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W.P.(C) 8317/2015

page 5 of 5