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

Date of Decision: September 29, 2015

+ W.P.(C) 9297/2015

DR PURAN CHAND DHARMARTH

TRUST (REGD) & ANR

..... Petitioners

Through: Mr. Nidhesh Gupta, Sr. Adv. with

Mr. Amit Kumar & Mr. Ankit Rajgarhia, Advs.

Versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Arun Bhardwaj, CGSC for R-1.

Mr. T. Singhdev with Ms. Biakthansangi, Advs.
for R-2/MCI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

J U D G M E N T

Ms.G.ROHINI, CHIEF JUSTICE (Oral)

1. Petitioner No.1 - Dr.Puran Chand Dharmarth Trust (Regd.), proposed to establish a new medical college with admission capacity of 150 students for academic year 2014-2015. However, the scheme submitted for the said Academic Year was disapproved by the Central Government. It is pleaded that the respondent No.2/MCI conducted inspection on 22-23.01.2015 and 31.01.2015 for the Academic Year 2015-2016. Having received the report of the Assessors, the petitioners submitted the compliance report on 31.03.2015. Pursuant thereto, two compliance verification assessments were conducted by MCI on 18.04.2015 and 09.05.2015 and by proceedings dated 14.05.2015, the petitioners were informed by MCI that after considering the assessment reports, it has been decided to apply proviso (d) to Regulation

8(3)(1(d) of the Establishment of Medical College Regulations, 1999 (for short 'the Regulations') recommending disapproval of the scheme for the Academic Years 2015-2016 and 2016-17.

2. By letter dated 15.06.2015 the Central Government/Respondent No.1 approved the recommendation of MCI. However, the petitioner was granted liberty to apply afresh for the next academic session as per the provisions of the Medical Council Act, 1956 and the Regulations made thereunder. However, by subsequent letter dated 14.08.2015 the Central Government informed the petitioner that the recommendation of the MCI for application of proviso (d) to Regulation 8(3)(1) of the Regulations which entailed in debarment for two Academic Years has been withdrawn since the proposals is for establishment of a new medical college.

3. Claiming that the said letter dated 14.08.2015 was received by the petitioners only on 16.09.2015, the present writ petition has been filed on 26.09.2015 pleading that W.P.(C) No.7424/2015 filed by Rajiv Memorial Academic Welfare Society K.D.Medical College, Hospital and Research Center in identical circumstances was allowed by this Court by order dated 26.08.2015 and an SLP preferred by MCI against the said order was also dismissed.

4. Having heard the learned Senior Counsels for both the parties, we do not find any justifiable reason to entertain the writ petition for the following reasons

i) In spite of the fact that by letter dated 14.08.2015, the Central Government had already informed the petitioner that the recommendation of MCI for application of proviso (d) to Regulation

8(3)(1) has been withdrawn, the present petition has been filed with a prayer to declare Regulation 8(3)(1) of the Regulations as ultra vires the Indian Medical Council Act, 1956. Thus, the prayer itself is misconceived.

- ii) In W.P.(C) No.7424/2015 titled *Rajiv Memorial Academic Welfare Society K.D.Medical College, Hospital and Research Center & Anr. v. Union of India & Anr.*, the order of the Central Government withdrawing the application of Regulation 8(3)(1)(d) came to be passed during the pendency of the proceedings before this Court and the order of rejection was set aside by this Court in the peculiar facts and circumstances of the said case. Hence, the petitioners who approached this Court at the fag end of the Statutory schedule cannot seek any parity.
 - iii) At any rate, in the light of the judgment of the Supreme Court in **Special Leave Petition [C] No.15043 of 2015, Padmashree Dr. D.Y. Patil Medical College v. Medical Council & Anr.** reiterating the necessity to adhere to the statutory schedule, no petition seeking permission for Academic Year 2015-16 can be entertained at this stage.
5. Accordingly, the petition is dismissed leaving it open to the petitioner to apply for Academic Year 2016-17 in accordance with law.

CHIEF JUSTICE

SEPTEMBER 29, 2015/ 'as/anb'

JAYANT NATH, J