

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11265 OF 2016

Shree Chhatrapati Shivaji Education
Society and anr. .. Petitioners

Vs.
State of Maharashtra and ors. .. Respondents

Ms.Rita Yadav i/b Reeti Law Associates, for the Petitioners.
Mr.S.S.Patwardhan, for Respondent No.3.
Mr.R.V.Govilkar a/w Mr.M.Govilkar, for Respondent No.4.
Ms.Nisha Mehra, AGP for State.

**CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.
DATE : 30th SEPTEMBER, 2016**

P.C. :

. The petitioner No.2 – Institute of Medical Sciences & Research is a College established and run by the petitioner No.1 – Society. It is the petitioners's case that by the order dated 26/09/2016 passed by the Government of India, Ministry of Health and Family Welfare (for short 'MHFW'), the permission for admission of 5th Batch (100 seats) in MBBS Course for the academic year 2016-17 was granted subject to the terms and conditions mentioned in the said order.

2. The order dated 26/09/2016 stipulated the following conditions further stipulating that failure to comply with the conditions will automatically lead to holding conditional approval granted to the petitioners's College for 2016-17 in abeyance. The conditions/directions read thus:

i. An affidavit from the Dean/Principal and Chairman of the Trust concerned, affirming fulfillment of all deficiencies and statements made in the respective compliance report submitted to MHFW (by 27/09/2016).

ii. A bank guarantee in the amount of Rs.2 crore in favour of MCI, which will be valid for 1 year or until the first renewal assessment, whichever is later. Such bank guarantee will be in addition to the prescribed fee submitted along with the application (by 27/09/2016).

2. The OC has also stipulated as follows :

(a) OC may direct inspection to verify the compliance submitted by the college and considered by OC, any time after 30 September 2016.

(b) In default of the conditions (i) and (ii) in para 1 above and if the compliances are found incomplete in the inspection to be conducted after 30 September 2016, such college will be debarred from fresh intake of students for 2 years commencing 2017-18.

3. The College is further directed to:

(i) Upload on the its website the status of compliance with MSRs in respect of faculty, infrastructure, clinical material, bed occupancy and other requirement as on 10th September, 2016 in the first instance followed by another update on the website/s as on 20th September, 2016 and the status may be intimated to OC immediately by 27/09/2016.

(ii) Maintain and display the following details of its website for at least 3 months, in order to ensure transparency in admission to UG/PG (Super Specialty) courses for the academic year 2016-17 :

- i. Name of candidate
- ii. Roll Number

- iii. NEET Ranking
- iv. State Ranking and
- v. Amount of fee paid for admission to the course.

A copy of the details so uploaded in each case by the institute on its respective website may be furnished by the institute to the Ministry of Health and Family Welfare and Medical Council of India. The Notification/Approval is subject to complying with the above directives of OC.”

3. By filing the present Petition, the petitioners seek direction to the respondent No.1 – State of Maharashtra and respondent No.4 - Maharashtra University of Health Sciences to expedite issuance of G.R. and affiliation before 30/09/2016. It is also prayed that the respondents No.2 to 5 may provide the list of students from CAP round for admission on or before 30/09/2016 to the petitioners for filling 85 vacant seats pending process of issuance of G.R. and affiliation.

4. As per the condition of the order dated 26/09/2016, the bank guarantee in the amount of Rs.2 Crores in favour of MCI was to be furnished by 27/09/2016. Admittedly, the bank guarantee was not submitted by 27/09/2016. The petitioners

state that they have submitted the bank guarantee on 28/09/2016. However, no order extending the period for the submission of bank guarantee has been produced by the petitioners.

5. The other condition on which the permission was granted is as regards filing of affidavit of Dean/Principal and Chairman of the said trust confirming the fulfillment of all deficiencies and statements made in the respective compliance report submitted to the MHFW by 27/09/2016.

6. The inspection was carried out by respondent No.4 on 29/09/2016 where after scrutiny, the following remarks are made.

“5. Remarks of Scrutiny Committee :

a) For availability of Teaching Staff as per council norms:

1. 11 teachers are approved and 49 teachers are not approved.
2. The regularity of the teachers could not be ascertained due to lack of salary documents.
3. Non teaching staff is inadequate.

b) For availability of Infrastructure as per council norms:

1. Reading rooms in library are not adequately furnished.
2. Clinical teaching materials is inadequate in OPD & IPD.

c) Teaching programme of each department:
all Depts. are spacious and equipped.

d) Other remarks, if any:

6. Remarks of Scrutiny Committee :

1. Approved teaching staff is inadequate (8.53% only)
2. Bed strength as per 4th renewal is inadequate.
3. OPD patient (Doctor/student ratio) is inadequate.
4. Over all total teaching staff is also inadequate.”

7. Learned Counsel for the petitioner contends that the bank guarantee was submitted on 28/09/2016 and the petitioners have substantially complied with the requisite norms. The petitioners are willing to comply with the deficiencies within the time granted by this Court.

8. The learned Counsel for respondent No.4 opposes the petition on the ground that apart from the petitioners not producing bank guarantee within the time stipulated by MHFW, the scrutiny report clearly indicates the various deficiencies which are substantial in nature.

9. According to us, having regard to the scrutiny report dated 29/09/2016, it cannot be said that there is substantial compliance of the norms laid down by MCI and in any case, admittedly, the bank guarantee has not been furnished within

the time stipulated by order dated 26/09/2016.

10. In this view of the matter, we are not inclined to entertain the present Petition in exercise of our extraordinary writ jurisdiction.

11. The Petition stands dismissed with no order as to costs.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)