

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.36383 of 2016

ORDER:

In this writ petition, the petitioner seeks a writ of mandamus declaring the order of the 1st respondent dated 08.10.2016 as illegal and arbitrary and consequently, to direct the 1st respondent to grant permission for establishment of the college.

The petitioner-society is registered under the provisions of the Societies Registration Act, 2001 and is formed for the purpose of running educational institutions. The petitioner-society made an application with the 1st respondent on 25.4.2015 to start a new Homeopathic Medical College in BHMS course for 100 seats under Section 12A of the Homeopathic Central Council Act, 1963. By the impugned order dated 08.10.2016 the petitioner-society was not permitted to start functioning of college. The reasons for not granting permission to the petitioner-society to run the college are mentioned at para 10 of the impugned order, which reads thus:

“10. Now, therefore, in view of not having Hospital staffs, Non-teaching staffs, Bed Occupancy and Minimum per day average number of patients in OPD during last one calendar year per provisions sub-Regulation (2) Regulation 7 of the HCC (MSR) Regulations, 2013, are of such serious and fundamental nature that these adversely affect the ability of the college to provide quality medical education in terms of the provisions of the said Act and the relevant regulations. It has therefore, been decided that the application dated 29.04.2015 seeking permission of the Central Govt. to start **Sri Adi Shiva Satguru Educational Society, Distt.- Anantapur, Guntakal, Andhra Pradesh to start a new Homoeopathic Medical college in the name and style Sri Adi Shiva Satguru Ali Saheb Shivaaryula Homoeopathic Medical College with 100 seats in BHMS course under Section 12A of the HCC Act, 1973 for the academic year 2016-17 is disapproved.**”

Heard and perused the material available on record.

The main grievance of the petitioner-society is that after compliance of all the requirements and also after due inspection by the authorities concerned, the 1st respondent refused to permit the petitioner-society to start the collect on the basis of the following alleged deficiencies/shortcomings:

“(1) College does not have the required Hospital staffs as per HCC (MSR), 2013;

(2) The College does not have the bed occupancy as per HCC (MSR), 2013;

(3) The College does not have Minimum per day average number of patients in OPD during last one calendar year;

(4) The College does not have the Non-teaching staffs as per HCC (MSR), 2013.”

Now, the learned counsel for the petitioner-society submitted that the Hon'ble Supreme Court mandated oversight committee on MCI on all matters and the committee has submitted a report in respect of certain colleges and granted certain time for complying with the deficiencies and therefore, the learned counsel for the petitioner prays that since the petitioner-society is similarly situated with that of the colleges those were granted time for complying with the deficiencies, the 1st respondent may be directed to grant time to the petitioner-society to rectify the defects pointed out in the impugned order. It is further submitted that the said shortcomings/deficiencies pointed out by the 1st respondent would be fulfilled by the petitioner-society if it is provisionally permitted to start the college and informed that it will comply with the said shortcomings within a period of three months.

Considering the facts and circumstances of the case, this Court is of the view that the 1st respondent can allow the petitioner provisionally to start the college giving six months time to comply with the

deficiencies/shortcomings that were pointed out in the impugned order and if the petitioner-society complies with the said defects, it can be permitted to continue to run the college.

Hence, the impugned order is set aside and the 1st respondent is directed to permit the petitioner-society to start the college provisionally by giving six months time to comply with the defects as pointed out in the impugned order. In view of the present order, on passing the necessary orders by the 1st respondent, the 3rd respondent is directed to allot the students to the college of the petitioner-society.

Accordingly, the writ petition is disposed of. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

18.11.2016
Tsr



RAJA ELANGO,J

