

CWP No.26491 of 2015 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
 CHANDIGARH

CWP No.26491 of 2015 (O&M)**Date of decision:22.04.2016**

Doon Valley Institute of Pharmacy and Medicine

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. A.K.Bansal, Advocate,
 for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

Mr. Rajesh Hooda, Advocate,
 for respondent No.2.

Rakesh Kumar Jain, J.

This petition is filed by the Doon Valley Institute of Pharmacy and Medicine, seeking a direction to Pt. B.D. Sharma University of Health Sciences, Rohtak (hereinafter referred to as the "University"), to conduct counseling of the students, admitted by the petitioner-institute in the educational course of B. Pharmacy for the session 2015-2016 as the University had granted affiliation on 07.10.2015 but the counseling is not being conducted, without which admission process of the students would not be completed.

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The case set up by the petitioner is that it was granted provisional affiliation by the Kurukshetra University, Kurukshetra to conduct B. Pharmacy course for the first time in the year 2004, which continued till the year 2008 and, thereafter, the petitioner was affiliated with the Pharmacy Council of India (PCI) as well as AICTE and the University since 2008 till date. The counseling of the students admitted by the petitioner-institute is to be conducted by the University. After the counseling, the process of admission is completed and examination forms of the students were sent to the University and the students were issued roll numbers to appear in the final examinations. It is alleged that the petitioner-institute sent a letter to the University on 24.06.2015 for conducting counseling of the students admitted for the session 2015-16 but instead of granting provisional affiliation, surprise raid was conducted by the University on 25.06.2015, found certain irregularities and thereafter issued a show cause notice dated 30.06.2015 for withdrawal of affiliation. The petitioner-institute sent a clarification to the show cause notice vide its letter dated 15.07.2015 keeping in view the future of the students and thereafter there were various communications between the petitioner-institute and the University and the petitioner was granted provisional affiliation by the University for B. Pharmacy course for the session 2015-2016 on 07.10.2015. It is alleged that the University had issued a communication/circular dated 07.07.2015 addressed to all the Principals of the Pharmacy Colleges affiliated with it thereby fixing the last date for admission of students to Pharmacy course upto

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15.08.2015. In pursuance to the said circular, the petitioner-institute admitted 34 students to its B. Pharmacy course for the session 2015-16 whose counseling was not conducted by the University on the issue of extension of affiliation. It is alleged that some students have left the institute due to delay on the part of the University in granting affiliation and only 13 students are presently studying with the petitioner-institute. It is further averred in para no.9 of the petition that pursuant to the provisional affiliation, the petitioner-institute again requested the University through its letter/representation dated 20.10.2015 to conduct counseling so that the procedure of admission of 13 students enrolled for the aforesaid session should be completed and their examinations forms would be submitted in time for the issuance of roll number for the approaching examinations but the University failed to respond to the letter dated 20.10.2015. On the aforesaid premise, the petitioner-institute has filed this petition.

The University has filed its detailed reply and the counsel for the University has submitted that the petitioner-institute has not come to this Court with clean hands. It is alleged that on 10.05.2013, instructions were issued by the University to all the Principals/Directors of the Colleges/Institutes affiliated with it on the subject of extension in provisional affiliation for the session 2013-14 and admission of students that no admission should be made in future without getting extension in provisional affiliation from the University administration and representative of the University should be associated in the admissions. They were asked to follow these instructions strictly. It is

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further alleged that the petitioner-institute had applied for affiliation for the B. Pharmacy course on 18.03.2015, regarding which the University had asked for clarification on 10.04.2015. The petitioner-institute sent its reply on 30.04.2015 and the University had asked for further clarification on 18.05.2015 and affiliation was given for M. Pharmacy course on 09.06.2015 but on 15/16.06.2015, the University received a complaint by their own Principal and Vice-Principal of the petitioner-institute, which was taken very seriously by the University and on 23.06.2015, the Inspection Committee was constituted which gave its report on 23.06.2015 itself on the basis of which show cause notice was issued to the petitioner-institute on 30.06.2015. The petitioner-institute sent the reply/clarification on 15.07.2015 and on 07.07.2015, all the colleges were informed about the last date of admission to be 15.07.2015. It is rather submitted that the petitioner-institute has concealed the material facts from the Court. It is further submitted that the admission has been given by the petitioner-institute in the absence of the nominee of the University.

Counsel for the petitioner-institute has argued that the admissions has been given to the students with a legitimate expectation that the respondents would give provisional affiliation but the date of admission of the students has not been disclosed anywhere in the petition and they have been given admissions without associating the representative of the University, though specifically instructed in this regard as far back as on 10.05.2013. Moreover, the prayer made by the petitioner-institute was specifically rejected by the University vide

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letters/orders dated 20.10.2015 and 05.11.2015 which have not been challenged by the petitioner-institute deliberately in the writ petition and has tried to make out a case that their application much-less the representation dated 20.10.2015 has not been considered/responded.

Prima facie, the petitioner-institute is guilty of *supressio very and suggestio falsi* and the writ petition is not maintainable in the present form because the petitioner-institute has only asked for a writ in the nature of *mandamus* seeking a direction despite knowing fully well that vide orders/letters dated 20.10.2015 and 05.11.2015, the request made by the petitioner-institute for regularization of the admission by holding counseling after the admission had already been rejected by the University.

In view of the aforesaid discussion, I do not find any merit in the present petition and hence, the same is hereby dismissed.

April 22, 2016
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(Rakesh Kumar Jain)
Judge