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

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Judgment delivered on: 08.12.2016

+ W.P.(C) 7340/2015

SWAMI VIVEKANAND SUBHARTI UNIVERSITY ... Petitioner

versus

UNION OF INDIA & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sanjeev Bhatnagar with Ms. Rupī Sagar, Advocates.

For the Respondents : Mr. Bhagvan Swarup Shukla, CGSC with Mr. Mimansak Bhardwaj, Advocates for respondent No.1.

Mr. T. Singhdev with Ms. Puja Sarkar, Advocates for respondent No.2.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

08.12.2016

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner, by the present petition, seeks a direction to the respondent – Union of India to accept the nomination of an elected representative of the petitioner as a member in the Dental Council of India. It is contended that the representation is sought under Section 3(d) of the Dentists Act, 1948 (hereinafter referred to as 'the Act'). It is submitted that all other requirements of the said Act are satisfied.

2. Reliance is placed on the decision of a Coordinate Bench of this Court dated 26.11.2013 in WP(C) 7326/2013 titled **Shree Guru Gobind Singh Tricentenary University vs. Union of India & Anr.**, wherein, the petitioner therein was granted representation in the Medical Council of India under a similar provision i.e. Section 3(1)(b) of the Indian Medical Council Act, 1956.

3. The respondent – Union of India has opposed the petition, primarily, on the ground that the representation has not been granted in the Dental Council of India from any private University. It is contended that since the petitioner is a private University, hence, the representative of the petitioner was not notified as a member of the Dental Council of India.

4. Section 3(d) of the **Dental Council of India Act**, reads as under:-

“3. Constitution and composition of Council.—The Central Government shall, as soon as may be, constitute a Council consisting of the following members, namely:—

(d) one member from each University established by law in the States which grants a recognised dental qualification, to be elected by the members of the Senate of the University, or in case the University has no Senate, by the members of the court, from amongst the members of the Dental Faculty of the University or in case the University has no Dental Faculty, from amongst the members of the Medical Faculty thereof”

5. In terms of Section 3(d) of the Act , from each University, established by law in the States and which grant recognized dental qualification, one member, who is elected by the members of the Senate of the University and where there is no Senate of the University, by the

members of the Court, from amongst the members of the Dental Faculty of the University and, further, in case the University has no dental faculty from amongst members of the Medical Faculty thereof, is to be one of the members of the Dental Council of India.

6. The terminology used in section 3(d) is “University established by law in the States”. The requirement of the said section is that it should be a University established by law in the States. The contention of the petitioner is that the petitioner is a University setup under Swami Vivekanand Subharti Vishvavidyalaya Uttar Pradesh Adhiniyam 2008, (Uttar Pradesh Adhiniyam Sankhya 29 of 2008) as passed by the Uttar Pradesh Legislature and assented to by the Governor on September 04, 2008.

7. The said section does not make a distinction between the Universities. There is no distinction in the said Act between private or other Universities. The requirement is that it should be a University established by Law.

8. The stand taken by the respondent – Union of India that they have not notified any member from any private University is not substantiated by the provisions of law. Since the Act does not make a distinction between the Universities, the action of the Central Government in denying the representation of the petitioner University in the Dental Council of India cannot be sustained. Since, the Petitioner University is established by law in the State, it satisfies the requirement of section 3(d) of the Act and is thus entitled to a representation of one member on the Dental Council of India.

9. In similar circumstances, the Coordinate Bench of this Court in **Shree Guru Gobind Singh Tricentenary University** (supra) has permitted the representation of the petitioner therein in Medical Council of India. In that case, there was a distinction made by the statute in University and the Deemed University. However, such a distinction is not made by the Dentist Act, 1948 insofar as the representation to the Dental Council of India is concerned. In terms of Section 3(d), every University established by law in the State and, which grants a recognized dental qualification, is entitled to representation of one member in the Dental Council of India.

10. In view of above, the writ petition is allowed. The respondent – Union of India is directed to issue a notification including the name of Dr. Nikhil Srivastava, the nominee of the petitioner University, in the list of members of the Dental Council of India. The said Notification shall be issued within one week.

11. The writ petition is, accordingly, disposed of. No orders as to cost.

12. *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

DECEMBER 08, 2016
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