

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18923 of 2016

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The Principal, Mangla Kamla Homeopathy College & Hospital, Sri Nagar, Siwan.

.... Petitioner/s

Versus

1. The Union of India through the Secretary AYUSH, Government of India.
2. The Secretary, Department of AYUSH, Government of India.
3. The Deputy Secretary, Government of India, Ministry of 'AYUSH BHAWAN' "B" block, G.P.O. Complex, INA, New Delhi.
4. The Secretary, Central Council of Homeopathy, Jawahar Lal Nehru Bharatiya Chikitsa Avam Homeopathic Anussandhan Bhavan No. 61 - 65, 5th & 6th Floors Institutional Area, Opposite D - Block, Janakpuri, New Delhi.
5. The Additional Commissioner-Cum-Special Secretary, Government of Bihar, Department of Health & Family Welfare, Secretariat, Patna.
6. The Director (AYUSH), Government of Bihar (Homeo.), Department of Health, Bihar, Patna.
7. The Deputy Director Homeo., Government of Bihar, Department of Indian System of Medicine and Homeopathy, Secretariat, Patna.
8. The Vice Chancellor, B.R.A. Bihar University, Muzaffarpur.
9. The Registrar, B.R.A. Bihar University Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chittranjan Sinha, Sr. Adv.

Mr. Rajani Kant Pathak, Adv.

For the B.R.A. Bihar University : Mr. Santosh Kr. Ojha, Adv.

For Respondent No. 4 : Mr. Ashok Kr. Sinha, Sr. Adv.

Mr. Atul Kr. Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT & ORDER

Date: 28-08-2017



An order, dated 26.10.2016, passed by the Government of India, under the signature of Under Secretary to the Government of India, Ministry of Ayurveda, Yoga and Naturopathy, Unani Siddha and Homeopathy (AYUSH), whereby, the Government of India has refused permission for undertaking admission to students by Mangla Kamla Homeopathy College & Hospital, Siwan, in Under Graduate (BHMS) Course, is under challenge in the present writ application.

2. The said order, dated 26.10.2016, pertains to grant of permission for the Academic Session 2016-17, which is admittedly over.

3. A very short, but convincing submission has been made by Mr. Chittranjan Sinha, learned Senior Counsel, appearing on behalf of the petitioner, that certain deficiencies were pointed out in the inspection report of the Central Council of Homeopathy (CCH) in not fulfilling the basic eligibility conditions, namely :

(i) No Objection Certificate of the State Government is not available.

(ii) Availability of dead body for dissection has not been reported.

(iii) Sitting capacity and



total no. of books in central library are not available as required under HCC (MSR) Regulations, 2013.

4. In course of hearing before the Central Government, the petitioner had dealt with the objections, so raised in the inspection report of the CCH, which is evident from the proceedings before the Central Government, dated 05.10.2016 (Annexure-3 to the writ application). From the said proceeding it appears that the competent authority of the Central Government had taken note of the submissions so made on behalf of the petitioner, in relation to shortcomings mentioned in the inspection report of the CCH.

5. In paragraph 5 of the impugned order, a vague observation has been made by the competent authority of the Central Government that the college could not substantiate its claim of having fulfilled the requirements of HCC (MSR) Regulations, 2013, without considering the submissions, though recorded the findings in the proceeding, dated 05.10.2016.

6. Mr. Chittranjan Sinha, learned Senior Counsel, appearing on behalf of the petitioner, in that background, appears to be right in his submission that the impugned order being



unreasoned requires interference by this Court. The competent authority of the Central Government while passing the order, under the Notification, bearing No. 12-10/2000-CCH (Pt. III), of HCC (MSR) Regulations, 2013, was exercising quasi-judicial power. The unreasoned order passed by a body, exercising quasi-judicial function, is violative of principles of natural justice.

7. The impugned order, dated 26.10.2016, is, accordingly, quashed.

8. The matter is remanded back to the Central Government to pass an order afresh after considering the submissions of the petitioner, as recorded in the proceeding, dated 05.10.2016, with reference to the documents which have been mentioned at the bottom of the minutes of the said proceeding. The Central Government before passing any order, on remand, shall be at liberty to seek fresh inspection report from the CCH for taking a final decision. The Court is conscious of the fact that the Academic Session 2016-17 is already over and it may be difficult for the Central Government to pass any order, permitting the college to give admission for the Academic Session 2016-17, but the Court indicates that the Central Government, while exercising quasi-judicial power in future, must not fail to take into account the case of such institutions as developed by them before the



competent authority, else it may have serious consequences.

9. This application stands disposed of, with the observation as above.

(Chakradhari Sharan Singh, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.08.2017
Transmission Date	N/A

