

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.1127 of 2017.

Date of Decision: October 23, 2017

Desh Bhagat Ayurvedic College and Hospital

.....Petitioner

versus

Union of India and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.G.S.Attariwala, Advocate, for the petitioner.

Mr.Vikrant Pamboo, Advocate, for respondent No.1.

Mr.Sunil Kumar Sharma, Advocate, for respondent No.2.

Mr.Arun Singla, Advocate, for respondent No.3.

Ms.Anu Pal, Assistant Advocate General, Punjab.

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Surya Kant, J. (Oral)

The petitioner is a self-financed privately managed Ayurvedic College and Hospital. It was set-up in the year 1996 and was permitted to make admissions in BAMS (U.G.) Course for 60 seats and PG Courses for 10 seats. These admissions were permitted after annual inspections conducted by or under the directions of Ministry of Ayurveda, Yoga and Naturopathy etc, Government of India, from time to time. One of such inspection was carried out by the Central Council of Indian Medicine (CCIM) on 29/30.04.2016. Some deficiencies were noticed and a show-cause notice dated 20.08.2016 was served on the petitioner-institute. Another inspection was carried out by respondent No.3-University under the directions of Union of India, in which no deficiency was found. Thereafter, State of Punjab also made a surprise inspection on 05.09.2016 which was Teachers' Day and it was declared a holiday by the University. The petitioner-institute was thus closed on that day. In sum and substance, the conclusions drawn on the basis of these multiple inspections were that;

the requirement of 01; (ii) there was no Yoga Teacher or expert in staff for Panchakarma Therapy Section against the requirement of 01; (iii) the hospital was found non-functional as there was no OPD patient, and (iv) there was zero occupancy in the 60 bed hospital and no medical or para-medical staff was found, except 4 subordinate staff.

[2] Apprehending that the cut-off date was near to expire and the petitioner-institute would not be permitted to admit the students for the session 2016-17 due to those deficiencies, the petitioner-institute approached this Court by way of CWP No.24695 of 2016 in which a learned Single Judge passed a self-speaking order dated 30.11.2016, the relevant part whereof reads as under:-

“.....In the meantime, the petitioner will be allowed to admit 60 students for the present academic session, provisionally, subject to the final decision of the writ petition. However, the institute shall intimate the fact of pendency of the present writ petition to all the students who are admitted. It is, however, made clear that the said order is purely provisional and will not entitle the petitioner to claim any right of equity at any subsequent point of time. Respondent-University shall take effective steps to ensure that the petitioner is allowed to take students as per the prescribed procedure. In case, the statement made is found false, the petitioner-institute will be burdened with the exemplary cost.....”

[3] It is an admitted fact that armed with the interim directions issued by this Court, the petitioner-institute has admitted 60 students in BAMS Court for the session 2016-17. As regard to 10 PG Courses, the petitioner-institute is said to have applied for modification of the interim order of the learned Single Judge and its application is still pending.

[4] On the very day when this Court granted interim relief to the petitioner-institute, Union of India, Ministry of Ayurveda, Yoga & Naturopathy etc., passed the impugned order dated 30.11.2016 whereby on the basis of deficiencies noticed during the course of different inspections, the petitioner-institute was formally denied permission to admit the students for the academic session 2016-17.

[5] The said order is under challenge in the instant writ petition.

[6] We have heard learned counsel for the parties and gone through the records.

[7] There can indeed be no quarrel that an institute, be it a privately managed self-financed institute or otherwise, is obligated to create the requisite infrastructure as a condition precedent before it can be permitted to admit the students in the desired courses. In the case in hand, there were more than one deficiencies and assuming that teaching faculty was not available on 05.09.2016 as the College was closed on account of Teachers' day, yet the institution owes an explanation as to why there was 'zero' bed occupancy in the 60 beds' hospital and why the medical or para-medical staff was also not present in the hospital. The academic wing comprising the 'college' might be closed due to holiday but the hospital cannot possibly be closed down on such pretext. These deficiencies were thus sufficient enough to pre-empt the petitioner-institute from admitting the students or to compel it firstly to remove the deficiencies and acquire eligibility for the next academic session. However, the fact of the matter is that an interim order passed by this Court permitted the petitioner-institute to admit 60 students in BAMS course. These students are pursuing their academic career from the last over one year. Meanwhile, another significant

development has taken place which deserves to be noticed by this Court. It is admitted by counsel for the parties that a fresh inspection was carried out for the purpose of current academic session 2017-18 and having found no deficiency at all, the Government of India, Ministry of Ayurveda, Yoga & Naturopathy etc., on the basis of the said inspection carried out by CCIM on 17/18.04.2017, has granted permission to the petitioner-institute to admit 60 students in BAMS(UG) Course and 10 in PG Courses. A copy of the order dated 04.08.2017 passed by Union of India granting such permission has been handed-over in Court and the same is marked as 'Mark-A'.

[8] Since the deficiencies on the basis of which the petitioner-institute was denied admissions for the academic session 2016-17 now stand removed and the College has made available the requisite infrastructure, it appears fair, just and equitable to regularize the admissions made on provisional basis pursuant to the interim order dated 30.11.2016 of this Court.

[9] Ordered accordingly.

[10] In the light of the above discussion, the writ petition is allowed; the impugned order dated 30.11.2016 (P-13) is declared as infructuous and the admissions made by the petitioner-institute on the strength of the interim order dated 30.11.2016 passed in its earlier writ petition No.24695 of 2016 are ordered to be regularized.

Dasti.

[SURYA KANT]
JUDGE

October 23, 2017
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[SUDHIR MITTAL]
JUDGE