

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.24399 of 2015
Date of Decision: September 19, 2017

Gaur Brahmin Ayurvedic College & Hospital, RohtakPetitioner
versus
Union of India and othersRespondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDHIR MITTAL.**

Present: Mr.Arjun Pratap Atma Ram, Advocate, for the petitioner.
Mr.Puneet Gupta, Senior Panel Counsel for UOI.
Mr.Sunil Kumar Sharma, Advocate, for respondent No.2.
Mr.Vishal Garg, Additional, AG, Haryana.

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Surya Kant, J. (Oral)

The petitioner is an Ayurvedic College and Hospital established by a registered Society. The College, however, is presently administered by the State Government through Additional Deputy Commissioner, Rohtak, who is the Administrator of the College.

[2] The controversy pertains to entitlement of the petitioner-Institute for admission to B.A.M.S. Under Graduate Course for the session 2015-16. Union of India, Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy vide the impugned order dated 16.11.2015 declined permission to the petitioner-Institute to fill up Under Graduate BAMS Course seats for the academic session 2015-16 primarily on the ground that only 38 eligible Members in faculty were appointed by the College as against the requirement of 40 Teachers. Some minor discrepancies were also noticed but the reason which essentially prevailed for non-grant of permission to the petitioner-Institute was the deficiency in teaching faculty.

required to cater the need of 100 seats for the Under Graduate (BAMS) Course sanctioned in the petitioner-Institute

[4] Aggrieved by the denial of permission, the petitioner-Institute approached this Court and on 19.11.2015, the following order was passed:-

“...Submits that the petitioner-Institute is being run through an Administrator, who is the Addl. Deputy Commissioner, Rohtak. The permission to increase the intake capacity from 70 to 100 seats, for Under-Graduate (BAMS) course, was granted on 22.09.2014 (Annexure P1). Vide the impugned order dated 16.11.2015 (Annexure P8), a finding has been recorded that there are 38 eligible teachers. Reference is made to Schedule-V of the Indian Medical Central Council Act, 1970, which has been duly amended, wherein the deficiency of 10% is permitted. It is, accordingly, submitted that even if there is a deficiency for 100 intake capacity, the permission for running the Institute for 60 seats, could not be denied. Reference is also made to the code number allotted to two teachers (Annexures P10 & P11) who were not considered amongst the eligible candidates, on account of the non-allotment of code at the time of inspection and also at the time of hearing.

Notice of motion for 18.12.2015.

Mr.Sahil Singh Chauhan, Advocate and Mr.Saurabh Girdhar, AAG, Haryana, accept notice on behalf of respondent No.2 and State, respectively.

Let respondent No.1 be served through Mr.Vivek Singla, Advocate.

Respondent No.3 be served by way of *dasti* process.

In the meantime, the petitioner-Institute will be permitted to admit students up to 60 seats, for the session 2015-16.....”

It is a matter of record that pursuant to the above-reproduced

order, the petitioner-Institute admitted 60 students for the session 2015-16. It is also not in dispute that vide order dated 17.10.2016, Union of India permitted the petitioner-Institute to fill-up 100 seats for the academic session 2016-17 for the reason that on fresh inspection carried out on 12.02.2016, the shortcomings which were earlier noticed, were found to have been removed. Similar permission is stated to have been accorded for the session 2017-18 also.

[6] Be that as it may, once the petitioner-Institute has removed the shortcomings and it has filled up only 60 seats for the session 2015-16, we see no reason for not regularizing those admissions for all intents and purposes. The students admitted by the petitioner-Institute for the session 2015-16 have now completed almost two years of course and at this stage, it does not appear necessary to go into the nature of deficiencies as the petitioner-Institute has admittedly removed the shortcomings which were noticed while denying permission for the session 2015-16.

[7] For the reasons afore-stated, the writ petition is allowed; the impugned order dated 16.11.2015 (P-8) is quashed and admission of 60 students granted by the petitioner-Institute for the session 2015-16 is ordered to be regularized.

[SURYA KANT]
JUDGE

September 19, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No