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

+ W.P.(C) 2020/2015 & CM 3622/2015

FACULTY ASSOCIATION, LADY HARDINGE MEDICAL

COLLEGE

..... Petitioner

Through Mr Varun K Chopra, Adv.

versus

POST GRADUATE INSTITUTE FOR MEDICAL

EDUCATION AND RESEARCH AND ORS. Respondents

Through Mr Arun Bhardwaj, CGSC with Mr
Mimansak Bhardwaj, Adv. For R1 &
R4.

Mr Mukul Talwar, Sr. Adv. With Ms
Anita Sahani & Mr Shekhar Kumar,
Advs. For R3.

Mr T. Singh Dev, Adv. With Ms
Biakthansangi, Adv. For R2/MCI.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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19.01.2017

The main grievance in this present writ petition is with regard to the non-implementation of the proviso to Regulation to 11.1(d) of the Post Graduate Medical Education Regulation, 2000 in RML hospital. We may point out that the entire Regulation 11.1(d) including the proviso was the subject matter of challenge in W.P.(C) No.7049/2005 **(Faculty Association, Maulana Azad Medical College And Associated Hospital vs. Union of**

India & Others). That petition has been decided by a Division Bench of this Court on 09.11.2016 whereby the said Regulation 11.1(d) including the proviso thereto has been upheld. What is relevant for the present case is the observations of the Division Bench in paragraph 23 of the said judgment which reads as hereunder:

“23. This brings us to the import of the proviso to Regulation 11.1 (d), which was introduced with effect from 17th November, 2009. The proviso serves two purposes. It states that conferment of nomenclature of designation/status of post-graduate medical teachers shall be only to that number of consultants so as to fulfil the minimum requirements of imparting post-graduate medical education to the sanctioned intake. Therefore, conferment of nomenclature under clause (d) to Regulation 11.1 would be restricted and limited to the number of Specialists and Consultants in the concerned hospital or institution as required to fulfil the minimum requirement of the PGME Regulations, 2000. Excessive designations would thus be impermissible under the proviso. Secondly, the proviso itself would indicate and establish that the designation under clause (d) to Regulation 11.1 was not a onetime exercise. The clear intent to this effect can be inferred contextually as well as from the language of the proviso. A post-graduate medical course in a hospital not affiliated with any medical college at the initial stage and subsequently affiliated with a medical college, could still face shortage of teaching sub-cadre at the post graduate level. It would take time to have requisite number of Professors, Associate Professors or even Assistant Professors in the specific specialities of the post-graduate courses. Promotions in the teaching sub-cadre depend upon years of experience in the posts lower in the hierarchy. Therefore, the contention of the petitioner that clause (d) to Regulation 11.1 mandates only one time exercise is not correct and has to be rejected as it would nullify the intent and purpose of incorporating the said clause and would also run counter to the proviso. As elucidated above, the expression “not attached to any medical college” is with reference to the Specialists and Consultants, and

not descriptive of and with reference to the post-graduate institutions. Subsequent affiliation or attachment to a Medical college would not, therefore, disqualify the existing post-graduate institutions that were not earlier attached to a medical college. However, the petitioners are correct when they urge and argue that in the garb of clause (d) to Regulation 11.1 excessive or more than necessary designations should not be awarded and made.”

In view of the said decision, it goes without saying that the concerned respondents would have to follow the provisions of Regulation 11.1(d) (which includes proviso thereto) in letter and spirit and that in the garb of the said proviso excessive or more than necessary designations should not be awarded or made.

In view of the clear direction given by the Division Bench in W.P.(C) No.7049/2005, it will not be necessary for us to give any further direction.

The writ petition stands disposed of.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

JANUARY 19, 2017/ab