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

+ **W.P.(C) 6422/2017**

VAIDYA RAGHUNANDAN SHARMA Petitioner

Through: Mr Ashok Panigrahi and Mr
Suryadeep Singh, Advocates.

versus

UNION OF INDIA AND ANR Respondents

Through: Mr Brajesh Kumar, Advocate for R-1.
Ms Tasneem Ahmadi and Ms Shubhi
Kharl, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
31.07.2017

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VIBHU BAKHRU, J

CM No.26592/2017

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 6422/2017 & CM No. 26591/2017

3. The petitioner has filed the present petition under Article 226 of the Constitution of India, *inter alia*, impugning a notice dated 14.07.2017 issued by the Secretary of the Central Council of Indian Medicine (hereafter 'CCIM') convening a special meeting of CCIM on 31.07.2017. The petitioner has further prayed that the said meeting of CCIM was called in terms of the decision taken by the Executive Committee in its 248th meeting held on 14.07.2017. The petitioner has also prayed that the proceedings of

the said 248th meeting of the Executive Committee be declared as null and void.

4. The CCIM is constituted under Section 3 of The Indian Medicine Central Council, Act, 1970 (hereafter 'the Act') and the petitioner claims to be a member of the CCIM. It is also averred that in the past, the petitioner also held the post of the President, CCIM.

5. The learned counsel for the petitioner has assailed the notice convening the meeting and the decision of the Executive Committee on two fronts.

6. First, he submitted that a special meeting could be held only in case of urgent matters or on a requisition sent in writing by not less than 24 members. He submitted that in the present case none of the two conditions were met and therefore the decision of the Executive Committee to convene the special meeting was without jurisdiction.

7. Second, he submitted that in terms of Regulation 33 (3) of the Central Council of Indian Medicine (General) Regulations, 1976 (hereafter 'the Regulations'), the notice for a special meeting is required to be accompanied by a complete agenda paper at least 15 days prior to the meeting. He submitted that there were 16 items on the agenda of the special meeting convened on 31.07.2017. Agenda item no.15 concerned the recommendations of applications received from Government of India under Section 13A of the Act. He contended that the said item pertained to promotions for establishment of new medical colleges or opening a new course of study or training and/or increase in the admission capacity. The

said items also required consideration of visitation reports regarding the college/institution in question but the said reports were not forwarded with the notice. It was earnestly contended that since notice was contrary to regulation 33 (3) of the aforementioned regulations, the special meeting scheduled for today would be illegal.

8. During the course of the arguments Ms Ahmadi, learned counsel appearing for CCIM submitted that the visitation reports were required to be kept confidential and thus they were made available only at the time of the meeting and this was the consistent practice adopted in the past including the period when the petitioner was the President of CCIM. This was disputed by the petitioner and accordingly both the said parties were directed to file their affidavits in this regard.

9. In compliance with the directions of this Court, the Secretary of CCIM has affirmed an affidavit unequivocally stating that the inspection/visitation records and consequent reports of the Executive Committee were never circulated to the members in advance which is evident from the records of CCIM. This is disputed by the petitioner.

10. Before proceeding to address the controversy, it is relevant to set out Regulations 29 and 33 of the Regulations, which read as under:-

“29. The meeting of the Central Council shall ordinarily be held at Delhi or at such other place in India and on such dates as may be fixed by the Executive Committee;

Provided that the President may call a special meeting at any time on 15 days notice.

- (i) to deal with any urgent matter requiring the attention of the Central Council, or
- (ii) on a requisition in writing signed by not less than 24 members and stating the purpose other than that mentioned in the first proviso to clause (b) of regulation 34 and for a purpose within the scope of the Central Council's functions for which they desire the meeting to be called.

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33. Agenda Papers

(1) The Registrar shall, with the notice of the meeting, issue preliminary agenda paper showing the business to be brought before the meeting, the terms of all motions to be moved for which the notice in writing has previously reached him and the names of the movers.

(2) A member who wishes to move any motion not included in the preliminary agenda paper or an amendment to any motion so included shall give notice thereof to the Registrar not less than 15 clear days before the date fixed for the meeting.

(3) The Registrar shall, not less than 15 clear days before the date-fixed for the meeting or in the case of a special meeting, with the notice of the meeting, issue a complete agenda paper showing the business to be brought before the meeting.

(4) A member who wishes to move an amendment to any item included in the complete agenda paper shall give notice thereof to the Registrar not less than 3 clear days before the date fixed for the meeting.

(5) The Registrar shall, if time permits, cause a list of amendments of which notice has been given under clause (4) to be made available for the use of every member:

Provided that the President may if the Central Council agrees allow a motion to be discussed at a meeting notwithstanding the

fact that notice was received late:

Provided further that nothing in the regulation shall operate to prevent the reference the Executive Committee of any matter to the Central Council at a meeting following immediately or too soon after the meeting of the Executive Committee to permit of the notice required under this regulation.”

11. It is apparent from the above, that the President is empowered to call a special meeting at any time on a 15 days notice. The agenda of the special meeting in question includes considering recommendations of applications received from Government of India under section 13A of the Act; this pertains to recognition of colleges and/or expansion of intake and/or introduction of further courses.

12. In terms of schedule to "The Establishment of New Medical College, Opening of New or Higher Course of Study or Training and Increase of Admission Capacity by a Medical College Regulations, 2003", the recommendations of CCIM are required to be made by 31.08.2017. This would certainly be a matter of urgency as the requirement for adhering to the schedule has been highlighted by the Supreme Court in several decisions. Non-adherence to the schedule has serious consequences for the admission of students and any delay would inevitably result in the institutions losing a year. Thus, this Court is not persuaded to accept that the decision of the Executive Committee/President in calling for the special meeting is without jurisdiction as contended by the petitioner.

13. The next question to be examined is whether it is mandatory for the Registrar to have circulated the visitation reports along with the notice in terms of Regulation 33 (3) of the aforementioned Regulations. A plain

reading of Regulation 33(3) indicates that a complete agenda paper showing the business to be brought before the meeting should accompany the notice. While it may be necessary that the visitation reports be made available to any member who so desires to examine the same, this Court is not persuaded to accept that non-furnishing of such reports would vitiate the notice. The agenda paper must show the business to be brought before the meeting and it is difficult to accept that this would necessarily include reports of visitation as well. Admittedly, these documents are voluminous and it is not disputed that the said reports are required to be kept confidential. The possibility of loss in transmission or the reports falling in wrong hands cannot be overruled.

14. Having stated the above, this Court is also of the view that if any member of CCIM requires the said reports, the same ought to be supplied to the said member as soon as possible. Ms Ahmadi also stated that the records of CCIM are being digitalized and, therefore, in the future it would be possible to send these reports in a digital form with adequate safety measures. Since the petitioner, as a member of the CCIM has expressed the requirement of such papers, he is well within the rights to demand the same and insist on some time to examine the same. However, convening of the special meeting cannot be held to be illegal and void.

15. There is yet another aspect which dissuades this Court from interfering in the present matter. The petitioner had received the notice well within time and if he desired to obtain any visitation report(s), he was not precluded from requesting for the same. However, the petitioner took no immediate steps to request for any document and this does raise some

doubts whether the petitioner is in genuine requirement of the documents that he now claims to be a necessary part of the complete agenda paper.

16. In view of the above, it is directed that the respondents will adjourn the agenda item no.15 for tomorrow i.e. 01.08.2017. The respondents shall forthwith supply all papers regarding visitation to the petitioner as early as possible in any case not later than 4:00 PM today. In the event, the respondents have prepared a gist of the said report, the same shall be supplied to the petitioner along with copies of other papers (preferably in a digital form).

17. The petition and the application are disposed of with the aforesaid directions.

18. *Dasti* under signatures of the court master.

JULY 31, 2017
pkv

VIBHU BAKHRU, J