

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-578-CWP-2017 in/and
Civil Writ Petition No.24695 of 2016
Decided on : 25.01.2018**

Desh Bhagat Ayurvedic College and Hospital

... Applicant-Petitioner

Versus

Union of India and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

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

Mr. Akash Yadav, Advocate for
Mr. Abhinav Gupta, Advocate
for respondent No.1-UI

Mr. Sunil KUMar Sharma, Advocate
for respondent No.2-CCIM.

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

G.S. Sandhawalia, J. (Oral)

CM-578-CWP-2017 has been filed for modification/correction
of the order dated 30.11.2016.

Vide the said application, it is submitted that when the petitioner-college had approached this Court, provisional permission for admission to PG Course for 10 seats was not mentioned and only provisional permission for 60 seats in the BAMS Course had been granted for session 2016-2017. It is submitted that there was a specific relief as such which was sought for in the Post-Graduate Course also in the heading of the writ petition and in the prayer clause.

It is submitted that the benefit was given on the ground that a positive recommendation by respondent No.3 was granted on 27.08.2016 (Annexure P-4) on the directions of respondent No.1. The show cause notice dated 03.10.2016 (Annexure P-6) had been issued and reply had been submitted on 03.11.2016 (Annexure P-8). The hearing had been postponed and on account of no decision being taken, the admissions had been held up for the academic session 2016-2017 and last date of counselling, as per the extension granted on 31.10.2016, was 30.11.2016 itself.

In the additional affidavit filed in support of the **CM-578-CWP-2017**, it has further been mentioned that 10 seats of Post-Graduate Course were also filled up on account of the availability of the candidates and only when the copy of order dated 30.11.2016 was received, it came to the notice that permission for 10 seats had not been granted.

In the reply filed to **CM-578-CWP-2017** by the respondent-University, it has been admitted that 10 students were also selected for MD (Ayurveda) Course on 30.11.2016 and that all admissions made were provisional, subject to the final decision of the present writ petition.

Respondent No.1 and 2 have chosen not to file reply to the **CM-578-CWP-2017** and to the main writ petition.

Mr. Attariwala, has further pointed out that on the same date i.e. 30.11.2016, respondent No.1 passed the order, whereby the petitioner was formally denied permission to admit students for the academic

session 2016-2017. The said order was challenged before the Division Bench in **CWP No.1127 of 2017**. While noticing the fact that there was an interim order passed in the present writ petition and the factum that an application had been filed for modification, the writ petition was eventually allowed on the ground that a fresh inspection had also been carried out for the academic session 2017-2018 and, therefore, no deficiency was found out. The earlier inspection had been made on teachers day i.e. 05.09.2016 and when the college was closed. Resultantly, the impugned order dated 30.11.2016 was declared infructuous and the admissions made on the strength of the interim order dated 30.11.2016 were ordered to be regularized. The relevant portion of the order dated 23.10.2017 passed by the Division Bench reads as under:-

“[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 paramedical 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.”

It is, thus, apparent that the Division Bench has itself regularized the admissions which has been made by the interim order dated 30.11.2016 and upheld the same.

In such circumstances, in view of the sufficient cause which has been shown in the application that this Court had been approached for admission both in Graduate and Post-Graduate Courses, the order dated 30.11.2016 is modified, accordingly, and the post sanction approval

is granted to the 10 students admitted for the Post-Graduate Course.

Accordingly, since the Division Bench had also noticed the fact that the application for modification is pending and now the same has been allowed, the provisional admissions granted to the 10 students for Post-Graduate Course shall also be regularized in the peculiar facts and circumstances, since they have studied for more than one year by now.

Resultantly, **CM-578-CWP-2017** stands allowed and the main writ petition is disposed of, accordingly.

JANUARY 25, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No