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

Date of Decision: 25.05.2018

+ W.P.(C) 5722/2018 & C.M. Nos.22216-17/2018

SARASWATI EDUCATION SOCIETY Petitioner

Through: Mr.Ashish Kumar, Adv.

versus

UNION OF INDIA AND ANR Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Kushal Kumar, Adv. for
R-1/UOI.

Mr.Vikas Singh, Sr. Adv. with Mr.T.
Singhdev & Ms.Puja Sarkar, Adv.
for R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the petitioner has impugned the recommendations dated 06.01.2018 made by respondent No.1 whereby it has recommended respondent no.1 to reject the petitioner's scheme for opening a new medical college with 150 MBBS students with effect from session of 2018-19. The petitioner has further sought a direction to respondent no.1 to issue a Letter of Permission to the petitioner for admission of the aforesaid batch.

2. Learned counsel for respondent No.1, who appears on advance notice, submits that though the impugned recommendations were stated to be pending with respondent No.1 when the present petition was filed, a

final decision has already been taken by respondent No.1. He submits that the respondent no.1 has vide its order dated 24.05.2018, accepted the recommendations of respondent No.2 and accordingly, rejected the petitioner's scheme for the establishment and opening a new Medical College with 150 MBBS students from the session 2018-2019. The said order is taken on record.

3. In view of the aforesaid order having been passed, learned counsel for the respondents submit that the petitioner should be directed to file a fresh writ petition challenging the order dated 24.05.2018 passed by respondent no.1, copy whereof has been handed over in Court. On the other hand, learned counsel for the petitioner submits that keeping in view the very short time available for the petitioner to approach the statutory authority, in order to comply with the time schedule, the said order may be examined by this Court.

4. Having perused the said order, I find it very disturbing that despite various decisions of the Supreme Court emphasising the requirement to pass a reasoned order, the respondent no.1 is passing such orders without due application of mind by merely reproducing recommendations of respondent no.2. The aforesaid order passed by respondent no.1 is another example where the respondent No.1 has merely reproduced the recommendations of the respondent No.2 without even examining the contentions raised by the petitioner.

5. Learned counsel for the petitioner submits that a perusal of the order dated 24.05.2018 in itself shows that the same is an unreasoned order and a mere reproduction of the recommendations made by respondent No.2. He further submits that under the statutory scheme, the respondent No.1 is

expected to apply its independent mind by considering the contentions of the petitioner-Institute as also the recommendations of respondent No.2 and then pass a reasoned order. He submits that the order dated 24.05.2018 is in the teeth of various decisions of Supreme Court including ***IQ City Foundation & Anr. Vs. Union of India & Ors.*** Learned counsel for the respondents are unable to dispute the aforesaid factual position. They however, contend that non-giving of any specific reasons in the said order merely shows that the respondent No.1 has fully agreed with the recommendations of respondent No.2. They further submit that as per the scheme of the Act, once the respondent No.1 agreed with recommendations made by respondent No.2, there was no requirement of providing any reasons in the impugned order.

6. On the other hand, learned counsel for the petitioner while referring the aforesaid, places reliance on a decision of this Court dated 22.08.2017 in ***Shri Durga Maa Shukla & Anr. Vs. Union of India & Ors.*** (W.P.(C) No.6955/2017) and contends that in similar circumstances, this Court had, while remitting the matter back to respondent No.1, directed the respondent No.1 to grant a personal hearing to the petitioner-Institute therein.

7. Learned counsel for respondent No.1 does not dispute that the decision of this Court in W.P.(C) No.6955/2017 has been implemented. I have considered the submissions of learned counsel for the parties and in my view, the petitioner is entitled to similar relief and, therefore, I see no reason not to give similar directions to respondent No.1 to grant a personal hearing to the petitioner while reconsidering its application.

8. Accordingly, the order dated 24.05.2018 is quashed and the matter is

remitted back to the respondent No.1 for reconsideration of petitioner's application. In view of the time schedule provided under the Regulations, the respondent No.1 is directed to decide the petitioner's application within a period of 5 days, after giving an opportunity of personal hearing to the petitioner. The date, time and place for personal hearing will be forthwith communicated to the petitioner and its counsel.

9. Needless to say, in case, the petitioner is still aggrieved, it will be open for the petitioner to take legal recourse as permissible under law. It is made clear that since this Court has not examined the merits of the impugned decision of respondent no.1 or of recommendation and assessment report of respondent no.2, it will be open for the petitioner to challenge the same in an appropriate proceedings, if the need, so arises.

10. The petition is disposed of in the aforesaid terms. The pending applications also stand disposed of.

11. A copy of this order be given *dasti* under the signatures of the Court Master.

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REKHA PALLI
(JUDGE)

MAY 25, 2018
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