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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 905/2018**

**SHREE VIJAY SHANTI SURI EDUCATION TRUST
& ANR**

..... Petitioners

Through: Mr. Saurabh Prakash, Ms. Devyani Asha,
Mr. Utsav Jain and Mr. Kunal Gosain,
Advocates

versus

KUNDAN MATHUR & ANR

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, CGSC, for R-
3/UOI

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR**

ORDER

% **06.12.2018**

CM APPL. 51167/2018

Exemption allowed, subject to all just exceptions.

The application is disposed of.

CONT.CAS(C) 905/2018

Learned counsel for the petitioner restricts his prayer, in these proceedings, to re-word, para 14 of the order dated 19th November, 2018, which read thus:

“14. The petitioner is permitted to proceed with admissions and counselling for 66 seats of the BAMS Course in its institution, within a period of one week from today. The said counselling would, needless to say, abide by the outcome of the present proceedings.”

Learned counsel states that the para should read thus: “The petitioner is permitted to proceed with admissions and to facilitate counselling for 60

seats of the BAMS course in the college within a period of seven working days from today. The said counselling would, needless to say, abide by the outcome of the present proceedings.”

There can be no possible objection to the said change in the order. Accordingly, para 14 of the order dated 19th November, 2018, would stand reworded as prayed hereinabove. The entire order, therefore, as so amended, would read thus:

“1. The Petitioner is an Ayurved College which applied, on 31st May, 2017, to the Central Council of Indian Medicine, being the competent authority in this regard, for recognition, under Section 13(A) of Indian Medicine Central Council Act, 1970, for 60 seats in the Under Graduate course in Bachelors of Medicine and Surgery (UG-BAMS).

2. The application was initially rejected, by Respondent No.2 on the ground of it's having been submitted after the prescribed cut-off date. However, *vide* order dated 28th August, 2018, in D.B. Spl Appl. Writ No.1335/2018, the High Court of Rajasthan, directed Respondent No.2 to consider the application of the Petitioner, hold an inspection and accord recognition within two weeks of receipt of the inspection report.

3. It is stated that inspection, by the representatives of Respondent No.2, of the petitioner College, took place on 13th October, 2018, resulting in the issuance, to the petitioner, of a show cause notice, dated 1st November, 2018, alleging certain deficiencies in the petitioner College, and calling upon the petitioner to represent before Respondent No.2 in that regard on 8th November, 2018.

4. The petitioner, apparently, appeared before Respondent No.2 on 8th November, 2018, but no decision has been taken thereafter.

5. It is in these circumstances, that the petitioner has approached this Court.

6. It may be noted that several similar matters are pending before this Court, with the only difference being that, in those cases, recognition was denied, on the ground that deficiencies is existing.

7. The first of such cases, was W.P.10959/2018 (***Beehive Ayurved Medical College and Hospital v. Union of India***), in which the following order was passed, on 14th November, 2018:

“W.P.(C) 10959/2018 & CM No.42690/2018 (for stay)

3. This petition, though not on the Roster of this Bench has been received at about 1215 hours in terms of General Direction dated 9th October, 2018 of Hon'ble the Chief Justice, owing to the Roster Bench Judge being on leave.

4. The senior counsel for the petitioners has been heard.

5. It is the contention of the senior counsel for the petitioners that vide the impugned communication dated 29th September, 2018, permission to the petitioners to make admissions to BAMS course for the academic year 2018-2019 has been denied on the ground of deficiencies allegedly found during the inspection carried out. It is argued, that pursuant to said inspection an opportunity was given and in which hearing the petitioners, as recorded in the minutes of hearing at page 143 of the paper book, had furnished proof of deficiencies pointed out not existing/having been made up. It is further argued, that permission has been denied without considering the same as well as the minutes of hearing. Attention is also drawn to the order of the Rajasthan High Court at page 156 of the paper book and to the public notice issued by the respondent No. 1 of 15th September, 2018, permitting the Colleges who had approached the High Court of Allahabad, to make admissions subject to final orders in the writ petitions.

6. On enquiry, it is informed that the last date for admission is 31st October, 2018, but prior thereto several steps have to be taken.

7. The counsel for the respondent no. 1 appearing

on advance notice states that he has no instructions and seeks time till Monday i.e. 15th October, 2018.

8. None appears for respondent No. 2 Central Council of Indian Medicine, in spite of advance copy stated to have been given.

9. The counsel for the respondent No. 1, on enquiry states that he will take instructions qua appearing for the respondent No.2 as well.

10. Issue notice.

11. Notice is accepted by the counsel for the respondent No.1.

12. The petitioners to serve the respondent No.2 electronically on the letter head of the counsel for the petitioners himself, along with the copy of the paper book.

13. List before the Roster Bench on 15th October, 2018.

14. Till further orders, the petitioners may proceed with the admissions in terms of the public notice dated 15th September, 2018 aforesaid.

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

8. The petitioner’s case, if anything, is on a better footing than the case of ***Beehive Ayurved Medical College and Hospital (supra)***, as, in the case of the petitioner, there has been no final rejection of its request.

9. Learned counsel for the respondent points out that the last date for admission of students was 15th November, 2018.

10. In my view, this can hardly be a ground to deny relief to the petitioner, especially as Respondent No.2 has been sitting on the petitioner’s application, without taking any decision thereon.

11. Mr. J. P. Cama, learned Senior counsel appearing for the Petitioner, has also drawn my attention to an order dated 15th November, 2018, passed by the High Court of Rajasthan in ***Mangilal Nirban Homoeopathic Medical College v. The State of Rajasthan***, which, Mr. Cama would submit, also dealt with a situation in which the last date had expired.

12. The said order permits the College to issue advertisement regarding counselling for grant of admission in the PG Course in Homeopathy and hold counselling within three days thereof, subject, needless to say, to the outcome of the writ petition.

13. In view of the above, issue notice on the writ petition, as well as on the prayer for interim relief to the respondents to show cause as to why rule *nisi* be not issued, returnable on 14th February, 2019.

14. The petitioner is permitted to proceed with admissions and to facilitate counselling for 60 seats of the BAMS course in the college within a period of seven working days from today. The said counselling would, needless to say, abide by the outcome of the present proceedings.

15. Respondent Nos.2 and 3 are also directed to upload the name of the Petitioner on its web portal.

Copy of order be given *dasti* under the signatures of the Court Master.”

The contempt petition stands disposed of accordingly.

Dasti.

C.HARI SHANKAR, J

DECEMBER 06, 2018

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