

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14704 of 2019

Patna Homeopathic Medical College and Hospital Ramkrishna Nagar,
Sorangpur, P.s.- Ramkrishna Nagar, Distt.- Patna-800027 through its Principal
namely, Dr. Awadhendra Nath, aged about 65 years, Male, son of Late Satya
Narayan Lal, resident of Sadhna Kutir, Chaudhary Tola, Distt.- Patna-800006

... .. Petitioner/s

Versus

1. The Union of India through Secretary, Ministry of AYUSH, AYUSH BHAWAN, B-Block, G.P.O., Complex, INA, New Delhi-23
2. The Secretary Ministry of Ayurveda, Yoga and Naturopathy, Unani Siddha and Homeopathy, Ayush Bhawan, B-Block, G.P.O. Complex, INA, New Delhi-110023
3. The Under Secretary Ministry of Ayurveda, Yoga and Naturopathy, Unani Siddha and Homeopathy, Ayush Bhawan, B-Block, G.P.O. Complex, INA, New Delhi-110023
4. The Secretary Central Council of Homeopathy, 61-65, Institutional Area, Opp. D-Block, Janakpuri, Delhi-10058

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Niranjana Kumar, Advocate Mr. Mithilesh Kumar, Advocate
For the Union of India	:	Mr. S. D. Sanjay, A.S.G. Ms. Punam Kumari Singh, C.G.C.
For the Respondent 4	:	Mr. Rajesh Kumar Verma, A.S.G.

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 30-09-2019 Heard learned counsel for the petitioner, learned
counsel for the Union of India and learned counsel appearing for
Central Council of Homeopathy.

Mr. S.D. Sanjay, learned Additional Solicitor General
appearing on behalf of the Department of Ayush, would submit
that the petitioner does not deserve any indulgence in this case
because the material on record surfaced during the course of
inspection indicates that the claim of the petitioner institution as



to admission is not supported by authentic material.

Mr. Niranjana Kumar, learned counsel for the petitioner would submit that the deficiency pointed out by the inspectors was explained by the petitioner and thereafter appropriate committee of Ministry of Ayush provided hearing. The deficiency was subsequently boiled down to only Item No. 1 that is O.P.D. and I.P.D. data. He would submit that the finding is not specific finding as to deficiency. It is only expression of doubt in the process of decision making. The other deficiency pointed out by the inspectors were noted during the course of hearing that those deficiencies stands explained by the petitioner.

Mr. Niranjana Kumar, while assailing the decision contained in Annexure 5, would submit that in a situation where the finding is not specific and not based on material, the conclusion drawn cannot be taken as decision. He submits that the scope of Judicial Review is error in the decision making process. Referring to the doubt raised by the Government of India in the Ayush Department, he submits that suspicion or doubt howsoever story cannot partake the character of proof. In a situation where there was any kind of doubt in the mind of the Department of Ayush, the appropriate course would have been



taken to provide opportunity of hearing to the petitioner and after hearing the petitioner on the issue of doubt the Department of Ayush would have taken final decision, but without asking the petitioner institution for further material or evidence only on the basis of doubt the decision contained in Annexure 5 was taken and communicated to the institution by the Department of Ayush.

Considering the fact that out of three deficiencies pointed out by the inspectors during the course of hearing by the committee, it was admitted that two deficiencies have been cured. The third deficiency with regard to the O.P.D. and I.P.D. data is not a conclusive and authoritative finding in such the matter is lacking.

Under the aforesaid circumstances the Court find that the decision is not the authoritative decision on the point of deficiency. The order contained in Annexure 5 cannot sustain and is, accordingly, quashed. The Department of Ayush is hereby directed to provide fresh opportunity of hearing to the petitioner on the issue of doubt as to information regarding O.P.D. and I.P.D. data within a fortnight from the date of receipt/production of a copy of this order. Thereafter petitioners have to provide material to dispell the doubt of the Ministry of



Ayush within 15 days from the date of receipt of notice from the Department of Ayush and thereafter within one month the Department of Ayush will take appropriate decision with regard to the claim of the petitioner.

With the aforesaid, the present writ application stands allowed and disposed of.

(Anil Kumar Upadhyay, J)

uma/-

U			
---	--	--	--

