

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 133 of 2019**

- Shri Jug Mahadev Education Society (Society Registered Under The Chhattisgarh Societies Registrakaram Adhiniyam, 1973) Through Its Authorized Person Ghanshyam Sahu, S/o Shri M.R. Sahu Aged About 39 Years Pulgaon Chowk Police Station Pulgaon District Durg Chhattisgarh.

---- Petitioner**Versus**

1. Union Of India Through The Secretary, Ministry Of Ayurved, Yoga And Naturopathy Unani, Siddha, and Homeopathy (Ayush) Ayush Bhawan, B Block, GPO Complex, INA , New Delhi 110023,
2. Central Council Of Indian Medicines Through The Secretary 61-65, Institutional Area ,opposite D, Block Janakpuri New Delhi , 110058
3. State Of Chhattisgarh Through The Secretary Department Of Health Family Welfare And Medical Education Mahanadi Bhawan Mantralaya Post And Police Station Mandir Hasuod, Atal Nagar Raipur Chhattisgarh.
4. Ayush And Health Science University Through The Registrar, GE Road, Raipur District Raipur Chhattisgarh.
5. Directorate ,Ayurveda Yoga and Naturopathy, Unani Siddha And Homeopathy (Ayush) Chhattisgarh Through The Director Raipur, Chhattisgarh.

---- Respondent

For Petitioner : Shri VR Tiwari with Shri Apurv Goyal, Advocates.
 For Respondent No.1 : Shri B. Gopakumar, ASG.
 For Respondent/State : Shri HS Ahluwalia, Deputy AG.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****21/01/2019 :**

1. By this Writ Petition, the petitioner would pray for extending the benefit of cut off date for counseling and admission of students in UG (BAMS) Course for academic session 2018-19.
2. Brief background necessitating filing of this writ petition is that by order dated 12.10.2018 passed by the Government of India, Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH), the intake capacity of the petitioner college was reduced from 100 to 60 seats for the subject course. The said order was assailed in WPC NO.3045/2018. The writ petition was allowed by this Court on 14.11.2018 with the following operative part in para-8:-

“8. Since lack of teachers was the only substantial reason for denial of full intake capacity of 100 students, for the above stated reasons, the impugned order deserves to be and is hereby quashed. The petitioner college is permitted to join counseling for admitting 100 students in the BAMS (UG) course for the academic session 2018-19. The concerned State authorities shall allow the petitioner college/society to participate in the counseling which is scheduled to be held tomorrow i.e. 15.11.2018.”

3. Although the last date for holding counseling was till 15.11.2018, the petitioner was not allowed to hold counseling for the reason that counsel was scheduled for 12th and 13th September, 2018 during which the petitioner was allowed to participate for 60 seats. The petitioner's application dated 15.11.2018 for allowing it to participate in the counseling, pursuant to this Court's order, was turned down on the ground that no counseling is scheduled for 15.11.2018 and further that for the increased intake capacity of 40 seats (original 60+40) the petitioner's college is not affiliated.
4. Since this Court's order in the petitioner's earlier writ petition was not

challenged by way of filing Writ Appeal or otherwise, Pandit Deendayal Upadhyay Smriti Swasth Vigyan Evam Aayush Vishwavidyalaya, Chhattisgarh (formerly known as Ayush University) accorded recognition/affiliation for full 100 seats by issuing an order on 30.11.2018 (Annexure-P/12). Thus, the State Government's objection in its previous order dated 15.11.2018 that the petitioner college is not affiliated for 100 seats but is affiliated only for 60 seats is no longer an impediment.

5. On the strength of the orders passed by the High Courts of MP, Delhi, Punjab & Haryana and Allahabad, it is submitted that all the High Courts have extended time for admitting students for BAMS Course, therefore, the same benefit should be extended to the petitioner college.
6. Shri HS Ahluwalia, learned Deputy AG would submit that if the increased vacant seats are available, the State of Chhattisgarh has no objection and is ready to arrange further counseling for admission for the subject BAMS Course if this Court extends time for counseling.
7. Learned ASG would submit that ordinarily date of counseling should not be extended. He would submit that the Ministry has not extended the last date of counseling i.e. 15.11.2018.
8. The Division Bench of MP High Court in WP No.29461/2018 extended 30 days time for counseling to fill up vacant seats in the Ayush BAMS undergraduate course vide order dated 24.12.2018. In several cases, Single Bench of the Allahabad High Court has passed a detailed order extending the date of counseling. The Delhi High Court has passed an order on 18.12.2018 in WPC No.13456/2018 extending time for

counseling. Similar order has already been passed by the Punjab and Haryana High Court on 4.1.2019 in CWP No.26/2019. Based on the order passed by the MP High Court, the Directorate of Ayush, M.P. has issued a formal order vide Ex.-P/20 fixing the date of counseling.

9. Considering the fact that the petitioner's earlier writ petition was allowed on 14.11.2018 and on that date, one day was already available for holding counseling but the State authorities refused to allow counseling for the reason that the petitioner college was affiliated only for 60 seats and not for 100 seats, however, since now the University has passed an order on 30.11.2018 affiliating the petitioner's college for full 100 seats and learned Deputy AG has made a statement that the State Government would have no objection if the date of counseling is extended, as also for the reason that different High Courts have also passed orders extending time for holding counseling, the Writ Petition is disposed of with a direction that the State Government shall arrange counseling for admitting 40 more students (total 100 students) for undergraduate BAMS Course for academic session 2018-19 from the NEET qualified students in accordance with merit.
10. Let the counseling process be completed within a period of 15 days from tomorrow.

Sd/-
Judge
 (Prashant Kumar Mishra)