

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 4556 of 2019

Pushpendra College Of Nursing (Run By Bahudeshiya Swasthya Shikshan Samiti Kedarpur, District Ambikapur) Through The President T.P. Shukla, S/o Late Shri Baldev Prasad Shukla, Ward No. 19, Baba Kedarnath Mandir, Infront Of Guru Ghasidas Bal Udyan Mission Chowk, Kedarpur, Ambikapur, District Surguja Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Health, Family Welfare And Medical Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur, District Raipur Chhattisgarh
2. Indian Nursing Council Through The Registrar, 8th Floor N.B.C.C. Center, Plot No. 2, Community Centre, Okhla, Phase, I, New Delhi - 110020
3. The Director Medical Education Raipur
4. Chhattisgarh Nurses Registration Council Through The Registrar, Old Nurses Hostel, Directorate Of Health Raipur.
5. Vandana Chandra Surya Registrar Chhattisgarh Nurses Registration Council, Old Nurses Hostel, Raipur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Prafull N. Bharat Adv.
For State	: Shri Ayaz Naved, G. A.
For Respondent No. 2	: Shri Shiv Sahu on behalf of Shri N.K. Vyas, Advocates

Hon'ble Shri Justice P. Sam Koshy

Order on Board

12.12.2019

1. The Challenge in the present writ petition is to the order dated 05.12.2019 (Annexure P-1) passed by the respondent No. 4.
2. Vide the said order, the respondent No.4 has in compliance to the order passed by this Court on 04.12.2019 in WPC No. 4444/2019 has passed the order affirming the decision dated 27.11.2019 whereby the permission and recognition granted to the petitioner for undertaking B.Sc. (Nursing) course with 25 students intake capacity for the academic year 2019-20 has been cancelled.

3. The brief relevant facts for the disposal of the present writ petition are that the petitioner-establishment had intended to establish a Nursing College and had applied for the same initially with their address shown as Wadruf Nagar, District Balrampur. The authorities concerned had granted permission to the petitioner establishment on 30.11.2016 which was further accepted by the respondent No.4 on the same date and the concerned university i.e. Deendayal Upadhyay Smriti Swasthya Vigyan Avam Ayush Vishwavidyalay Chhattisgarh also had issued NOC in this regard vide order dated 15.12.2016.
4. It would be relevant, at this juncture, to mention that though the petitioner had sought permission for establishing the college at Wadruf Nagar, District Balrampur, however, the college could not be started at the said address. Subsequently, the petitioner-establishment could get land only in District Ambikapur, that is at village Lalmati, Lundra, District Surguja.
5. Thereafter, the petitioner-establishment had moved an application for change of address, which was duly considered by the respondent No.4 and the order dated 24.12.2018 (Annexure P-9) was passed granting permission as regards change of address. So far as the change of address is concerned the same was also intimated to the the Indian Nursing Council, i.e., respondent No. 2, vide correspondence made by the respondent No. 4 on the same date, i.e., on 24.12.2018 itself.
6. The document enclosed along with the writ petition shows that the respondent No.2 vide Annexure P-11, dated 22.11.2019, had accepted the change of address while publishing the list of Nursing

Colleges in the State of Chhattisgarh recognized by the Indian Nursing Council and the list reflected the name of the petitioner-establishment at Sr. No. 172 and the address of the petitioner was also that of the changed location at Kedarpur, District Ambikapur.

7. Subsequently, the respondent No.4 council vide their order dated 25.11.2019 (Annexure P-12) also published a list of Colleges recognized for undertaking B.Sc. (Nursing) course. But, in the said order, the address of the petitioner was shown as Wadruf Nagar, District Balrampur. However, subsequently, the Director, Medical Education, vide its notice dated 25.11.2019 (Annexure P-13) had published another list of recognized Colleges wherein again the name of the petitioner-establishment was shown of Kedarpur, District Ambikapur. A similar list was also published by the University again on 25.11.2019 (Annexure P-14) showing the address of the petitioner at Kedarpur, District Ambikapur.
8. Meanwhile, it is also contended by the petitioner-establishment that there were three inspections held at the petitioner-establishment; the first one was on 05.08.2019 and second was on 11.10.2019 and thereafter a joint inspection was made on 22.11.2019 consisting of the members of the Indian Nursing Council, representatives from the Directorate, Medical Education and the Chhattisgarh Nurses Registration Council. All the inspection including the joint inspection was also conducted at the premises of the petitioner-establishment at Kedarpur, District Ambikapur.
9. Thus, from the aforesaid facts, there does not seem to be any dispute so far as the petitioner-establishment being operative from

the location at the changed address at Kedarpur, District Ambikapur is concerned.

10. What is reflected from the documents enclosed along with the writ petition is that, the respondent no.4, i.e., the Registrar, Chhattisgarh Nurses Registration Council, on an application made by the petitioner-establishment, had granted the permission for changing of their address as early as on 24.12.2018 vide Annexure P-9. The said order till date has not been withdrawn/cancelled. The change of address was also duly intimated to the respondent No.2 -council by the respondent no.4 on the same date. Till date, there is neither any objection nor an enquiry put fourth by the respondent No.2 so far as the change of address is concerned.

11. The respondent No.4 council while passing the impugned order dated 5.12.2019 (Annexure P-1) refers to a resolution No.14 passed by the Governing Body of the Indian Nursing Council. However, there does not seem be to any correspondence made by the respondent No.2 either with the respondent No.4 or with the petitioner in this regard at any point of time after 24.12.2018

12. Coming to the provisions of law, Section 24 of the Chhattisgarh Upcharika, Prasavika, Sahai Upcharika Prasavika Tatha Swasthya Paridarshak Registrikaran Adhiniyam, 1972 deals with the "Training Institutions". Sub-section 2 of Section 24 deals with the provision for withdrawal of the recognition of an institution.

For ready reference, the said provision is reproduced herein under:-

"2. The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be in writing and shall be served in the prescribed manner:

Provided that no recognition shall be withdrawn without giving an opportunity to the authorities in-charge of the institution from being heard.”

The plain reading of the aforesaid provision clearly reflects that the proviso to the said sub-section clearly mandates that before any recognition is withdrawn it is mandatory for giving an opportunity of hearing to the concerned institution.

13. In the instant case, the withdrawal of the recognition is Annexure P-3, dated 27.11.2019. Perusal of the said document clearly indicates that the said decision was without affording any opportunity of hearing to the petitioner. The said order dated 27.11.2019 was on an earlier occasion challenged by the petitioner in WPC No. 4444 of 2019 and this Court on 04.12.2019 disposed of the said writ petition directing the parties to appear before the respondent No.4 with a further direction to the respondent No.4 to take a decision afresh, considering the application which the petitioner had moved in the past and the permission which was granted by the earlier Registrar and the intimation of which was also sent to the Indian Nursing Council.

14. The respondent No.4, pursuant to the order passed by this Court on 04.12.2019, has now passed the impugned order, Annexure P-1. In the impugned order, the authorities are totally silent so far as the compliance of sub-Section 2 of Section 24 of the Act of 1972 is concerned. The respondent No.4 council refers to a resolution No.14 of the respondent No.2 council. The impugned order is silent as to whether the respondent no.2 council, at any point of time, objected to granting permission of the change of address to the petitioner vide order dated 24.12.2018. The impugned order is

also silent on the aspect as to whether the earlier order 24.12.2018 has been withdrawn or not. The impugned order only refers to some disciplinary action initiated against the earlier Registrar.

15. The counsel for the petitioner has produced a document, Annexure P-25, which is the order of suspension of the earlier Registrar, dated 31.08.2019. Reading of the said order would reflect that there was no such allegation in the said order of suspension so far as the said Registrar being placed under suspension for the alleged wrongful permission granted by him to the petitioner-establishment so far as change of address is concerned.

16. Given the aforesaid facts and circumstances of the case, prima facie this Court is of the opinion that the mandatory requirement as is required under the proviso of sub-Section 2 of Section 24 of the Act of 1972 has not been complied with before the recognition of the petitioner-establishment was withdrawn or cancelled. Secondly, the order dated 24.12.2018 granting permission to the petitioner so far as change of address and an intimation of which also sent to the respondent No.2 council has not been recalled/cancelled till date.

17. Under the circumstances, the impugned order dated 5.12.2019 (Annexure P-1) is not sustainable and the same deserves to be and is accordingly set aside/quashed. However, the quashment of the order would not preclude the authorities concerned to initiate appropriate proceedings in accordance with law.

18. As a consequence, the orders, Annexure P-1, dated 5.12.2019, Annexure P-2, dated 25.11.2019 and Annexure P-3,

dated 27.11.2019, would stand quashed and the position would stand as it stood prior to the issuance of these impugned orders.

19. The writ petition stands allowed.

Certified Copy Today

**Sd/-
(P. Sam Koshy)
Judge**

Jyotijha