

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.09.2019

CORAM

THE HON'BLE DR. JUSTICE G. JAYACHANDRAN

W.P.No.21992 of 2019

The Principal

RVS Siddha Medical College

242-B, Trichy Road, Sulur,

Coimbatore - 641 402,

Coimbatore District.

...Petitioner

Vs.

1.The Union of India,

Represented by its Secretary,

Department of Health & Family Welfare,

(Department of Ayurveda, Yoga & Naturopathy,

Unani, Siddha and Homeopathy (AYUSH)

IRCS Building, 1st Red Cross Road, New Delhi.

2.The Central Council of Indian Medicine,

Represented by its Secretary,

Institutional Area, Janakpuri,

New Delhi - 110 058.

3.The Commissioner of Indian Medicine

and Homeopathy, Chennai - 600 106.

4.The TN Dr.M.G.R.Medical University,

Represented by its Registrar,

No.69/40, Anna Salai

Guindy, Chennai - 600 032.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue the Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent Ref.F.No.P.14014/07/2019-EP (1) dated 04.07.2019 denying permission to admit students to the BSMS course in the petitioner's RVS Siddha Medical College at Sulur, Coimbatore in the academic year 2019-2020, quash the same.

For Petitioner : Isaac Mohanlal

Senior counsel

for Isaac Chambers

For R1 : G.Karthikeyan
Assistant Solicitor General

For R2 to R4 : No appearance

O R D E R

Heard the learned senior counsel appearing on behalf of the petitioner and the learned Assistant Solicitor General appearing on behalf of the first respondent.

2. The petitioner/college is conducting course in Siddha Medicine since 2007. In the year 2016, a inspection was conducted and the permission to run the college was extended for a further period of five years i.e., valid up to 2020-2021 with sanctioned intake of 30 students per year in UG (BSMS) course under Section 13C/13A of the IMCC Act, 1970, vide Ministry's letter No.R.12013/01/2006-EP(IM-1) dated 26.10.2016.

3. The Central Council of Indian Medicine is the authority to conduct inspection of the Institute, to satisfy the infrastructure facility including faculty available in the Institute as per the Regulation framed under Section 36 of the Indian Medicine Central Council Act, 1970. Accordingly, the Inspection Committee of the second respondent conducted surprise inspection in the petitioner college on 07.03.2019 and 08.03.2019. The Inspection Committee found certain serious deficiencies in the infrastructure, faculty, staff availability etc. Hence, the deficiencies were uploaded by the second respondent. Subsequently, the first respondent directed the petitioner/Institute to appear before the Hearing Committee and submit its explanation. Accordingly, the petitioner/Institute submitted its explanation before Hearing Committee on 30.05.2019. The Hearing Committee placed its report to the Central Government, which on perusing the 'Hearing Committee's report' has passed the impugned order on 04.07.2019, stating that in view of the non-rectification of the deficiency pointed out by the Inspection Committee, the permission to the petitioner/Institute denied. The said order is impugned in this writ petition on the ground that the Central Government has no authority to withdraw the permission granted without following the procedure contemplated under Section 21 of the Indian Medicine Central Council Act, 1970. Further, a copy of the Hearing Committee Report was not served to the petitioner/Institute before the first respondent passing impugned order.

4. In the counter, the first respondent has stated that the Government of India has power to withdraw the permission, in case of serious lapse in the infrastructure facility, availability in the Institute. The shortcomings in the petitioner/Institute was exposed during the inspection conducted by the Visitation Committee and the reasons given by the petitioner/Institute, explaining the deficiency were not convincing. Hence, based on the Visitation Committee report and on recommendation of the Hearing Committee, the Central Government has passed order of withholding the permission for the current academic year and instructed the Institute to rectify the defects pointed out on or before 31.12.2019, so as to consider the request for permission for the ensuing academic year.

5. The learned senior counsel appearing for the petitioner would submit that the deficiency pointed out is very minimal, while admittedly, the availability of total teaching staff is 96.67% and mean of general and essential equipment/instrument availability is 92.44%. Therefore, total withdrawal of permission to admit students for the academic year 2019-2020 is improper, more so, when the Institute granted continuous permission by the Central Government up to the year 2021.

6. In response to the said submission, the learned Additional Solicitor General appearing for the first respondent would submit that the Central Government has power to withdraw the recognition in toto invoking Section 21 of the said Act, whereas, the order impugned is only a temporary suspension of permission for the current academic year. In view of the deficiency found during the inspection, the petitioner/Institute was given an opportunity to rectify defect and report. The explanation given the petitioner was not satisfactory. Hence, order passed with holding permission for 2019-20 and revive the permission by 31.12.2019 for next academic year. Therefore, the contention of the petitioner that once permission granted, cannot be revoked is not sustainable, more so, when grave deficiency in infrastructure is pointed out during the inspection. The learned Assistant Solicitor General would submit that the hospital staff deficiency is alarmingly high. The Institute has no conventional labour room, the college website has not been properly updated and the required non teaching staff was also short of more than 50%. In such circumstances, the permission for running Medical College will be very fatal to the students.

7. The inspection report indicates the following shortcomings:

A) Shortcomings in teaching staff:

1) One lecture is available against the requirement of two in UdalThathuvam (Physiology) department.

2) One lecture is available against the requirement of two in Siddha MaruthuvaMoolathathuvam department.

Availability of total teaching staff is 96.67%.

B) Shortcomings in non-teaching staff:

1) Library has one less library attendant of peon

2) College office has one less personal Assistant to principal

3) Siddha MaruthuvaMoolathathuvam has one less Attendant

4) Gunapaadam-Marunthiyal has one less Laboratory technician

5) Gunapaadam-Marunthiyal has one less Attendant cum Museum Keeper

6) UdalThathuvam has one less laboratory Technician

7) UdalThathuvam has one less Attendant

8) UdalKoorugal has one less attendant

9) UdalKoorugal has one less laboratory Assistant

10) UdalKoorugal has one less Attendant cum Museum Keeper

11) Gunapaadam-Marunthakaviyal has one less laboratory technician

12) Noianugavidhi has one less attendant cum Museum Keeper

13) NoiNaadal and NoiMudhal Nadal has one less attendant

14) Sattamsarntha Maruthuvam and Nanju Maruthuvam has one less attendant cum Museum Keeper

15) Herbal garden has one less Multipurpose worker

16) Maruthuvam, Varamam, SirappuMaruthuvam, SoolMaglirMaruthuvam, KaznthaiMaruthuvam, AuvaiMaruthuvam has two less attendant cum Museum Keeper.

Availability of non-teaching staff is 39.29%33

C) Short coming in hospital staff:

1) Matron or Nursing superintendent is short by one.

2) Deputy medial superintendent is short by one.

3) Physiotherapist is short by one.

4) Ophthalmologist is short by one.

5) Pediatrician is short by one.

6) Midwife is short by one.

7) Nurse is short by one.

8) Anesthesiologist is short by one.

9) Surgical specialist is short by one.

- 10) Radiologist is short by one.
 - 11) Dresser is short by two.
 - 12) Analytical chemist (part time) is short by one.
 - 13) Operation Theater Attendant is short by one.
 - 14) Peon or attendant is short by one.
 - 15) Emergency medical officers are short by two.
 - 16) Workers are short by two.
 - 17) Operation theater attendant is short by one.
 - 18) Store Keeper is short by one.
 - 19) Dresser is short by one.
 - 20) House officer or clinical registrar or senior resident (Siddha) is short by one.
 - 21) Yoga teacher/Varmam expert/Bone setter is short by one.
 - 22) Dentist is short by one.
 - 23) Laboratory Technicians is short by two.
 - 24) Obstetrician and gynecologist is short by one.
 - 25) X-ray technician or radiographer is short by one.
 - 26) Pharmacists are short by two.
 - 27) Pathologist is short by one.
 - 28) Peon or attendant is short by one.
 - 29) Varman, Puramaruthuvam Assistant is short by four.
 - 30) Staff Nurses for in patient department is short by six.
 - 31) Medical specialist is short by one.
 - 32) Pharmacognosist (part time) is short by one.
 - 33) Ward boy or Ayah is short by two.
 - 34) Office staff (for registration, record maintenance, data entry etc.) is short by two.
 - 35) Dark - room attendant is short by one.
 - 36) Nurses for Varmam, Puramaruthuvam and Sirappumaruthuvam are short by two.
- Availability of hospital staff is 8.77%

D) Computerized central registration is the hospital is not available for OPD and IPD.

- 1) Physiology (UdalThathuvam) Laboratory
- 2) GunapadamMarunthakavial (pharmaceuticals) laboratory (teaching pharmacy lab)
- 3) Dissection hall
- 4) Noinaadal (pathology) laboratory
- 5) Gunapadammarunthiyal (pharmacology and medical botany) Laboratory
- 6) Labour room
- 7) Minor operation theatre
- 8) OPD section

Mean of general and essential equipments/Instruments availability is 92.44%.

8. The specific reasons given by the petitioner/Institute is that on the day of inspection, the College organised a Free Medical Camp to the public in the event of Bhagavathi Amman Temple festival in the nearby village and therefore, most of the staff were engaged in the camp. As far as the labour room is concerned, the learned senior counsel appearing for the petitioner would submit that Sidda Hospitals are not supposed to conduct delivery, therefore, the reasons stated may not be proper. Further, the learned senior counsel appearing for the petitioner would submit that if an opportunity is given to the Institute, they can establish that they have adequate staff and infrastructure facilities, which will satisfy all the requirements as per the Regulation.

9. As far as the contention raised by the learned senior counsel regarding the power of the Central Government suspending permission already granted, this Court agree with the submissions made by the learned Additional Solicitor General that only for a permanent withdrawal of the permission, procedure under Section 21 has to be followed and in case of grave deficiency found in the college, the Central Government always have inherent Power of suspending the permission and withholding the admission of candidates till the deficiencies are rectified. In this case, now the petitioner/Institute has come forward to subject themselves for another inspection to satisfy the authorities about the compliance of the requirements.

10. Since the admission for the current academic year has not yet started, this Court is of the view that an opportunity can be given to the petitioner/Institute to satisfy the authorities regarding the compliance of deficiency, so that the Institute can admit students for the current academic year, if they are able to fullfill all the statutory requirements. To that effect, the petitioner has already made a request to the first respondent by letter dated 15.07.2019 in this regard.

11. In view of the above facts, this writ petition stands disposed of, directing the first respondent to re-inspect the petitioner/Institute within a period of 15 days from today and in the event the inspection report indicating satisfaction of the required infrastructure/faculty/staff facilities etc., the request of the petitioner by way of representation dated

15.07.2019, may be considered. Accordingly, this writ petition stands disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary,
Department of Health & Family Welfare,
(Department of Ayurveda, Yoga & Naturopathy,
Unani, Siddha and Homeopathy (AYUSH)
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- 3.The Commissioner of Indian Medicine
and Homeopathy, Chennai - 600 106.
- 4.The Registrar,
TN Dr.M.G.R.Medical University,
No.69/40, Anna Salai
Guindy, Chennai - 600 032.

+1cc to Mr.G.Karthikeyan , Advocate SR.No. 81962
W.P.No.21992 of 2019
A.SK(21/10/2019)

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