

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

120

CWP No.8962 of 2019

Date of Decision : 11.04.2019

UNIVERSAL EDUCATION SOCIETY

...PETITIONER

V/S

UNION OF INDIA AND OTHERS

...RESPONDENTS

CORAM : HON'BLE MR. JUSTICE B.S. WALIA

Present: Mr. Vinod S. Bhardwaj, Advocate for the petitioner.

Mr. Anil Chawla, Advocate for respondent No.1- UOI.

Mr. K.S. Khaira, Advocate for Mr. R. Kartikeya, Advocate
for respondent No.2.

Mr. Arun Kaundal, DAG, Punjab.

Mr. Ranjit Singh Kalra, Advocate for respondent No.4.

B.S. WALIA, J. (ORAL)

[1] Counter affidavit/reply of Dr. Rajesh Sannd, Assistant Director Incharge, Central Ayurveda Research Institute for Respiratory Disorders, Moti Bagh Road, Patiala, on behalf of respondent No.1/UOI, has been filed in Court today. The same is taken on record. Copy handed over to learned counsel for the petitioner.

[2] Although challenge in the writ petition is to policy/instructions issued by respondent No. 1 contained in letter (Annexure P-22) dated 15.06.2018 imposing restrictions on starting of ASU & H College as also to order Annexure P-23 dated 06.03.2019, passed by respondent No.1, rejecting the claim of the petitioner for starting a new Ayurvedic Medical College, yet at

directions to the respondents to process the case of the petitioner for necessary permission to start the Ayurvedic Medical College for the academic session 2019-2020 in the light of orders dated 01.04.2019, passed in CWP No.301 of 2019 in case titled as '**Sunrise Education Society** versus **Union of India and others**'.

[3] Learned counsel for the petitioner contended that the petitioner had submitted application Annexure P-12 dated 28.04.2016 to the Ministry of AYUSH along with no objection certificate issued by the Government of Punjab for permission to start a new Ayurvedic Medical College whereupon the site was inspected by the Ministry of AYUSH in September, 2016. However, application Annexure P-12 was rejected vide order Annexure A-4 dated 03.08.2017 on account of the petitioner not possessing the consent of the affiliating University besides certain other deficiencies.

[4] Learned counsel further contended that pursuant to the rejection of the application Annexure P-12, respondent No.4 i.e. the affiliating University reconsidered the petitioners request for grant of consent for the starting of a Ayurvedic Medical College and gave consent in respect thereto vide Annexure P-21. In the meantime, no objection certificate Annexure P-1 dated 05.02.2016 was renewed by the Government of Punjab vide Annexure P-19 on 19.03.2018 for a period of two years where after the petitioner submitted fresh application i.e. Annexure P-20 dated 28.08.2018 for permission to start a new Ayurvedic Medical College from the academic session 2018-2019.

[5] Application Annexure P-20 dated 28.08.2018 was rejected by the Ministry of AYUSH vide order Annexure P-23 dated 06.03.2019 on account of the same having been submitted beyond the time schedule stipulated for

the academic year 2018-19 i.e. between 01.04.2017 to 30.04.2017, both days inclusive in terms of Regulation 5 of the Establishment of New Medical College, Opening of New or Higher Course of Study or Training and Increase of Admission Capacity by a Medical College and Regulations, 2003. Besides, as per notification Annexure P-22 dated 15.06.2018 of the Ministry of AYUSH, it had been decided not to receive fresh applications for starting new ASU & H Colleges for AY-2019-20 and AY 2020-21.

[6] Learned counsel for the petitioner contended that the application for the starting of a Ayurvedic Medical College had not been considered for the academic year 2019-20 and had been rejected solely qua academic session 2018-2019, therefore, in the circumstances, directions were liable to be issued to the respondents to consider and decide the same for the academic year 2019-20 in the light of orders dated 01.04.2019, passed in CWP No.301 of 2019 in case titled as '**Sunrise Education Society** versus **Union of India and others**' as the petitioner fulfilled the eligibility conditions.

[7] Learned counsel for respondent No.1 / UOI vehemently opposed the claim of the petitioner of its fulfilling eligibility conditions for being granted permission for starting a Ayurveda Medical College for the academic session 2019-20. Learned counsel contended that in dealing with an application under Section 12A of the HCC Act, 1973/13A of the IMCC Act, 1970, as well as the existing Ayurveda, Siddha, Unani and Homeopathy ASU & H Colleges, the Central Government vide Annexure-18 dated 01.09.2017 had stipulated a time schedule for the receipt of applications by the government for the starting of a new college as 1st July to 31st August, both days inclusive in any year whereas application Annexure P-20 had been submitted by the petitioner for

10.09.2018. Consequentially, the application was time barred, therefore, the question of considering the same for granting permission to start an Ayurvedic Medical College for the academic year 2019-20 did not arise. Besides, the application Annexure P-20 was not accompanied with the consent of the affiliating University for permission to set up the Ayurvedic Medical College since admittedly the consent was granted by the affiliating University, i.e. respondent No.4, only vide Annexure P-21 on 24.01.2019.

[8] I have considered the submissions of learned counsel for the parties.

[9] Admittedly, the petitioner did not have consent of the affiliating University i.e. respondent No.4 for starting of an Ayurvedic Medical College as on the date of submission of application Annexure P-20 on 10.09.2018 and the consent was granted only vide Annexure P-21, on 24.01.2019. As per the guidelines issued by the Government of India Annexure P-18, dated 01.09.2017, time schedule for receipt of application by the Central Government was from 1st July to 31st August both days inclusive. Thus for the academic year 2019-20, not only was the application Annexure P-20 dated 28.08.2018 submitted by the petitioner beyond the cutoff date i.e. 31st August since the application Annexure P-20 was received in the Ministry of AYUSH on 10.09.2018 but the petitioner also did not fulfill eligibility conditions for applying for permission as it did not possess the consent of the affiliating University i.e. respondent No.4 as on the date of submission of the application and got the same only vide Annexure P-21 on 24.01.2019.

[10] Reliance on the decision in Sunrise Education Societies case (Supra) is of no avail to the petitioner since in said case permission had been

view of the petitioner therein possessing all requisite approvals viz., NOC / Essentiality Certificate issued by the State Government besides Consent of Affiliation from the University granted before the issuance of policy Annexure P-22 dated 15.06.2018 whereas in the instant case the consent of the affiliating University was granted to the petitioner later on vide Annexure P-21 dated 24.01.2019 i.e. beyond the cutoff date for submission of application i.e. 31.08.2018. Besides, application Annexure P-20 dated 28.08.2018 was submitted by the petitioner in the Ministry of AYUSH, on 10.09.2018. Thus, even the plea for the issuance of directions for consideration of the claim of the petitioner for the academic year 2019-20 is not tenable. No doubt, the Hon'ble Division Bench directed consideration of the claim of the petitioner in Sunrise Education Society case (supra) for the starting of an Ayurvedic Medical College for the academic year 2019-20, but the directions in the aforesaid case were issued in the peculiar facts of the case, namely of the applicant therein possessing the eligibility conditions i.e. NOC / Essentiality Certificate and consent of affiliation from the University, prior to the issuance of Circular Annexure P-22 dated 15.06.2018 by the Ministry of AYUSH. However, in the instant case, application Annexure P-20 was submitted by the petitioner in the Ministry of AYUSH on 10.09.2018 i.e. beyond the cutoff date, besides, the consent of affiliation by respondent No.4/University was issued much later vide Annexure P-21 dated 24.01.2019. Therefore, the claim of the petitioner for the issuance of directions to the respondents for consideration of its claim for the year 2019-20 in the absence of possessing the requisite eligibility conditions before the cutoff date for submitting application / before the issuance of circular Annexure P-22 dated 15.06.2018 is devoid of merit.

[11] Thus the petitioner has failed to demonstrate fulfilling eligibility conditions prior to date of notification Annexure P-22 dated 15.06.2018, consequentially, of being entitled to the issuance of directions as in the Sunrise Education Society case (supra). In the light of position as noted above, issuance of directions to the respondents for consideration of the claim of the petitioner for the setting up of a new Ayurvedic Medical College for the AY 2019-20 would be an exercise in futility. No direction is liable to be issued for the consideration of a claim which would be an exercise in futility in view of the decision of a Division Bench of this Court in **Kela Devi vs State of Haryana 2001(2) PLR 518**. Accordingly, finding no merit in the writ petition, the same is *dismissed*.

(B.S. WALIA)
JUDGE

April 11, 2019
'Rajneesh'

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No