

CWP no. 27613 of 2018 (O&M) 1

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

CWP no. 27613 of 2018 (O&M)

Date of Decision : 28.03.2019

Desh Bhagat Ayurvedic College and Hospital

....Petitioner(s)

Versus

Union of India and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE LALIT BATRA**

Present : Mr.G.S.Attariwala, Advocate for the petitioner(s)

Mr. Arun Gosain, Advocate for UOI

Mr. R.Kartikaye, Advocate for respondent no.2

Mr. Arun Singla, Advocate for respondent no.3

Mr. Suveer Sheokand, Addl. AG, Punjab

MAHESH GROVER, J.(ORAL)

Short reply by way of affidavit of Dr. Avnish Kumar, Director, Medical Education & Research, Punjab on behalf of respondent no.4 has been filed in the Court today and the same is taken on record. A copy thereof has been supplied to the counsel opposite.

This is writ petition praying for quashing of order dated 17.10.2018 vide which the petitioner has been denied permission to undertake admission for the academic session 2018-19 in the Post Graduate courses namely Kayachikitsa and Rasa Shastra.

The controversy that eventually emerged after the pleadings

were complete narrowed down to some deficiencies that were noticed by the respondents in the petitioner-college, particularly, with regard to an animal house. On 17.12.2018 we had noticed the contention of the learned counsel for the petitioner when he stated that he has now his own animal house. We also noticed that one of the considerations weighing with the Union of India for denying admission to the Post Graduate courses to the petitioner was not having satisfactory arrangement in this regard although he was in collaboration with an animal house in Jaipur. This was not accepted by the Union of India as Memorandum of Understanding was not on stamp paper.

Learned counsel for the petitioner then contends that this was never the requirement of the regulation, a perusal of which indeed suggests so.

We had then recorded our observation that even if it is so then it does not debar the respondents from a proper verification of the requirement of a collaborative agreement of an animal house as indicated to the petitioner.

Subsequent thereto we permitted the regulatory authority to undertake a fresh inspection as the petitioner-institute continue to assess whether it is compliant. This assertion was also made before us once again on 4.2.2019 and it was brought to our notice by the learned counsel for the petitioner that the only reason the Hearing Committee did not accept the plea of the petitioner was on account of original not being produced. He then bound himself to producing the original before the authorities. Persuaded by this we granted an opportunity to the petitioner. On 28.2.2019 the petitioner produced the original document before us but we recorded our opinion that it

genuineness of the document and left it to the committee to examine it, by further giving a direction that needful be done on 5.3.2019.

An order dated 11.3.2019 has now been produced before us wherein it has been stated as below:-

“3. WHEREAS, in compliance to court order, the hearing committee has examined the documents provided by the college representatives on 5.3.2019. The college was represented by Dr. Kulbhushan, Professor and Director and Mr. S.K.Batra H.R. Manager of the college. Based on provided documents and hearing, the overall observation of the Hearing Committee is as follows:-

A. The complete address of the collaborative institute is not mentioned in the submitted copy of the MoU.

B. The original copy of MoU is not attested by the notary. However, in the submitted Xerox copy of the MoU was attested by the notary dated 28.2.2019 without mentioning the dairy number.

C. In order to ensure the functionality and profile of the collaborative institute in reference to animal house, the hearing committee asked college representatives to produce the information regarding existence, address, projects conducted previously, functionality and eligibility of the collaborative institute for catering the requirements of the P.G studenets. In this

regard, no documents could be produced by the college representatives for above said matter. Therefore, the availability/ existence of Animal House in the collaborative institute cannot be ascertained.

D. In view of the above, substantiality of the collaborative institute for animal house could not be verified for valid MoU.

4. WHEREAS, in view of the observation of the Hearing Committee based on submission made by the college representatives during hearing, it is found that no animal house is existing in the college through collaborative MoU with institute of Bio Medical & Industrial Research Jaipur. Therefore, the Central Government has arrived at conclusion that the **Asara Foundation's Desh Bhagat Ayurvedic College and Hospital, Amloh Road, Mandi, Gobindgarh, Distt. Fatehgarh Sahib, Punjab**, cannot be granted permission for effecting admission to 10 seats in 02 PG courses namely (i) Kayachikitsa and (ii) Rasa Shastra and Bhaishajya Kalpana with 05 seats in each subject for the academic session 2018-19.

5. This issue with the approval of the competent authority.”

A perusal of the above indicates that the petitioner has failed to satisfy the respondents regarding curing this deficiency and being compliant

On due consideration we are of the opinion that if the issue hinges on a fact of the petitioner being deficient in having an animal house or arrangement in this regard, it is entirely for it to satisfy the regulatory authority. We, therefore, decline interference at this stage but leave it to the petitioner to produce the relevant material to satisfy the regulatory authority of it being compliant in all respects so as to undertake Post Graduate admissions.

Learned counsel for the petitioner still asserts that petitioner-institute had been compliant in all respects and the regulatory authority has adopted an arbitrary attitude which has resulted in severe loss to it. We would not comment on this aspect but leave it to the petitioner to have recourse to its remedies in law in case it feels that the denial has been unjust and arbitrary to result in financial loss to it.

Disposed of.

(Mahesh Grover)
Judge

28.03.2019
rekha

(Lalit Batra)
Judge

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