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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 22nd January, 2019

+ W.P.(C) 709/2019 & CM APPLs. 3127/2019, 3128/2019
(for exemptions)

HARMONY AYURVEDIC COLLEGE

AND HOSPITAL

..... Petitioner

Through: Mr. Vivek Singh, Mr. Swastik
Dalai and Mr. Anupam Mishra, Advs.

versus

UNION OF INDIA AND ORS. Respondents

Through: Ms. Monika Arora, CGSC for
R-1 with Mr. Abhishek Kumar Choudhary
and Mr. Harsh Ahuja, Advs.

Ms. Archana Pathak Dave and Ms. Ankita
Chaudhary, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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J U D G M E N T (O R A L)

1. This writ petition seeks a very limited relief, which appears to be covered in favour of the petitioner, by decisions of the High Court of Punjab and Haryana as well as this Court.

2. In view of the nature of the relief involved, issuance of notice and fixing the matter for further hearing would not serve any purpose. Accordingly, after hearing learned counsel for both the parties, I am proceeding to decide the writ petition, with consent of parties.

3. *Vide* communication dated 26th December, 2016, the Harmony Educational Medical Charitable Society was granted permission,

under Section 13(a) of the Indian Medicine Central Council Act, 1970, to establish a college for running the Bachelor in Ayurvedic Medical Science (BAMS) Course with an initial intake of sixty seats, commencing the academic session 2016-2017.

4. For the academic year 2018-19, a *suo motu* inspection was conducted, of the petitioner-College by Respondent No. 2 (The Central Council of Indian Medicine, hereinafter referred to as “CCIM”), which pointed out certain deficiencies/shortcomings and sent a negative report regarding the petitioner-College, to the Ministry of AYUSH (hereinafter referred to as “the Ministry”). The said communication, therefore, did not recommend grant of permission to the College for commencing its BAMS Course with sixty seats for the academic year 2018-19.

5. An opportunity was granted, to the petitioner, to submit its response explaining the status regarding the perceived shortcomings/deficiencies in its establishment. The petitioner complied. Nevertheless, the writ petition complains that, *vide* letter dated 12th October, 2018, the Ministry arbitrarily denied permission, to the petitioner-College for admitting students in its BAMS Course for the academic session 2018-19.

6. Another college, similarly situated, moved the High Court of Punjab and Haryana, challenging the decision of the respondents not to permit admission of the students for the academic session 2018-19, by way of ***CWP 26723/2018 (National College of Ayurveda v. Union***

of India).

7. The said writ petition was disposed of *vide* judgment dated 29th October, 2018. The High Court noted the fact that though the petitioner, in that case (referred to, hereinafter, as “the NAI”), had been denied permission to admit students on the ground that it was deficient, this allegation was denied by NAI. The High Court was informed that, in the case of Government Colleges in respect of which similar deficiencies were perceived to exist, had been permitted to go ahead with admissions subject to furnishing of an undertaking, to the effect that they would comply and would remove the said deficiencies within three months. In these circumstances, the High Court opined that there was no justification to treat private colleges and government colleges differently and that, if a window period of three months had been granted to government colleges to rectify the perceived deficiencies, no differential treatment could be meted out to private colleges. Accordingly, the High Court granted an opportunity, to the NAI to clear the deficiencies by 31st December, 2018, and become compliant in all respects. The University was directed to include the NAI in the list of institutes, who were permitted to make admissions in that session, subject to furnishing of the aforementioned undertaking by it.

8. The present petitioner also moved the High Court of Punjab and Haryana by way of ***CWP 27198/2018 (Harmony Ayurvedic Medical College and Hospital v. Union of India)***, challenging the aforementioned order dated 12th October, 2018, passed by the

Ministry, denying permission to it to admit students to the BAMS Course for the academic session 2018-19. Submissions, similar to those advanced by the petitioner in *National College of Ayurveda (supra)*, were urged by the present petitioner before the High Court, which concluded that the reasoning, contained in its judgment in *National College of Ayurveda (supra)*, would apply to the case of the petitioner as well. The petitioner's writ petition was also, therefore, disposed of with the same directions as were contained in the judgment in *National College of Ayurveda (supra)*, to which I have already alluded hereinabove.

9. The obvious sequitur is that the petitioner would be entitled to admit students for the academic session 2018-19, subject to furnishing of the undertaking, as stipulated in the judgment of the High Court of Punjab and Haryana in *National College of Ayurveda (supra)*.

10. Learned counsel submits that the requisite undertaking already stands submitted by it to Respondent No. 2 (CCIM), and that it has also become compliant, having removed the deficiencies perceived in its establishment prior to the cut-off date of 31st December, 2018, fixed by the High Court of Punjab and Haryana.

11. Learned counsel for the petitioner has drawn my attention next, to an order dated 24th December, 2018, passed by the High Court of Madhya Pradesh in *WP 29461/2018 (Harshita & Anr v. UOI)*. The said order read thus:

“ Mr. R.K. Pandagre, learned counsel for the petitioners.

Mr. Abhinav Malhotra, learned Government Advocate for the respondent / State of Madhya Pradesh, on advance notice.

Heard on the question of grant of interim relief.

Learned Government Advocate for the respondent/State of Madhya Pradesh has submitted that vacant seats for admission of AYUSH BAMS, BHMS; BMS, BUMS and BNYS Under Graduate Course for Academic Session 2018-19 are available. He further submits that the respondent /State of Madhya Pradesh is ready to arrange further counselling for admission in the aforesaid Under Graduate Course, if this Court extend time for counselling.

Looking to the aforesaid contentions of the learned Government Advocate for the respondent/ State of Madhya Pradesh, we extend further thirty days time for counselling to fill up vacant seats in the aforesaid under Graduate Course.

C.c. as per rules.”

12. In the case of the petitioner, too, learned counsel submits that out of sixty seats, which it had been permitted to effect admissions by the Ministry, admissions could be effected only against thirty five seats, and that twenty five seats remain vacant.

13. The limited prayer in this writ petition is, therefore, for extension of last date of counselling, against the said twenty five seats, till 24th January, 2019, which is the *terminus ad quem*, fixed by the High Court of Madhya Pradesh.

14. Given the fact that, by virtue of order passed by High Court of

Punjab and Haryana, in its own case, the petitioner is entitled to admit students for its BAMS Course, and following the view expressed by High Court of Madhya Pradesh in **WP 29461/2018** (*supra*) – which needless to say, is an eminently reasonable view and in the interests of fostering and furthering education which, it is settled, is a fundamental right – I deem it appropriate to allow the prayer contained in the writ petition.

15. Accordingly, the cut-off date for conducting admissions of the sixty seats in the BAMS Course, by the petitioner-College is extended till 24th January, 2019. The respondents are also directed to hold counselling for the concerned candidates, in order that this direction is effectively implemented till 24th January, 2019.

16. The writ petition stands allowed in the aforementioned terms.

17. Learned counsel for the respondents pray for permission to inspect the petitioner-college and ensure that it is actually compliant and has removed the deficiencies perceived to exist in its establishment. The respondents are permitted to do so.

18. However, this would not alter the effect of the above directions which are required to be complied with by 24th January, 2019.

19. There shall be no orders as to costs.

20. A copy of this judgment be given *dasti* under the signature of the Court Master. However, as the judgment has been dictated and pronounced in open court, learned counsel for the parties are directed to act upon the same as dictated.

C. HARI SHANKAR, J

JANUARY 22, 2019

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