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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 19th February, 2019

+ W.P.(C) 1718/2019 & CM No. 7915/2019

SHREE LAXMI NARAYAN AYURVEDIC COLLEGE &
HOSPITAL Petitioner

Through: Mr. D. Hasija and Mr. Anirudh Tyagi,
Advs.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Jitesh Vikram Srivastava, Adv.
for R-1/UOI
Ms. Archana Pathak Dave, Adv. for
R-2/CCIM

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

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

1. The petitioner, in this writ petition, seeks extension of the cut off date fixed by the Department of AYUSH, Ministry of Health and Family Welfare, for effecting admissions to the BAMS (Bachelor of Ayurvedic Medical Sciences) Course, conducted by various institutions conferring the said degree.

2. The facts required to be noted, for adjudicating the dispute, may be stated in brief thus.

3. The petitioner was granted permission, on 23rd August, 1976, to establish a new Ayurvedic Medical College with an initial intake capacity of 50 seats. For the academic session 2018-2019, the Central Council for Indian Medicine (CCIM, impleaded as Respondent No.2 herein) conducted inspection of the petitioner college and pointed out certain deficiencies/shortcomings *vide* letter dated 6th September, 2018, and granted permission, conditional to the petitioner removing the said deficiencies by 31st December, 2018.

4. The petitioner claims that it received a letter dated 27th October, 2018, from Guru Ravidas Ayurved University (hereinafter referred to as the “University”, and impleaded as Respondent No.3), informing it that counselling for the BAMS Course was to be held on 30th and 31st October, 2018, in its office. Thereafter, it appears, the date of counselling was extended and that, *vide* a public notice dated 9th November, 2018, the University informed that the third round of counselling would be held on 13th and 14th November, 2018.

5. The last date for effecting admissions against AYUSH courses was fixed by Respondent No.1 as 15th November, 2018. However, owing to confusion regarding the requirement of passing the National Eligibility Entrance Test (NEET), in order to secure admission to the said Course, several seats, it appears, remain vacant. This resulted in a spate of litigations, across the country. *Vide* judgment dated 10th December, 2018, in ***Vihar Private Unani Medical Colleges v. UOI, 2018 SCC OnLine 1857***, the High Court of Patna set aside the Circular, dated 12th February, 2018, issued by the Department of

AYUSH, which required the passing of NEET as a condition for admission to the BAMS Course.

6. Owing to this confusion, seats for the BAMS Course in several colleges, across the country, remain unfilled, resulting in various High Courts being petitioned. One such case, I may note, stands adjudicated by me as well, being ***W.P.(C) 13456/2018 (Shiv Shakti Ayurvedic College & Hospital v. UOI)***. In the said case, noting the fact that the inability to effect admissions to the seats, for which permission had been granted by the Department of AYUSH, was owing to the prevalent confusion regarding the requirement of passing NEET, I had, following the decisions by other High Courts, extended the time for effecting admissions to the Course till 20th December, 2018.

7. As a consequence thereof, on 19th December, 2018, the University issued a circular, stating that counselling for admission to the BAMS Course for the 2018-2019 session would be held at 10 a.m. on 20th December, 2018.

8. It appears that, even thereafter, this Court, as well as other High Courts, have been granting further extensions for effecting admissions against the remaining vacant seats. The petitioner has relied on an order, dated 24th December, 2018 in ***W.P.(C) 29461/2018 (Harshita v. Union of India)*** of the High Court of Madhya Pradesh, extending the time for counselling to fill up the remaining vacant seats by 30 days, as well as an order dated 26th December, 2018, passed by a Coordinate

Bench of a learned Single Judge of this Court, also extending the time for effecting admissions till 31st December, 2018. On the basis thereof, public notice, dated 30th December, 2018, was issued by the University, fixing counselling on 31st December, 2018 and, further, public notice dated 3rd January, 2019, was also issued by the University, fixing counselling on 5th January, 2019.

9. The only case made out in this petition, is that, even after the expiry of the aforementioned cut off date of 5th January, 2019, six seats remained vacant in the petitioner-college. The petitioner seeks further extension of time to effect admissions against the said seats. Mr. Hasija, learned counsel for the petitioner, exhorts the Court to grant at least four days time, so that admissions could be so effected.

10. Mr. Hasija also places reliance, in this context on a judgment of the Supreme Court in *Association of Management of Homeopathic Medical Colleges of Maharashtra v. UOI, 2019 SCCOnLine SC 113*, in which extension of time was granted by the Supreme Court, till 15th February, 2019, for effecting admissions to the BHMS (Bachelor of Homeopathic Sciences) course.

11. No doubt, the right to education is a valuable right, and it is in the interests of the country as a whole that this right is not to be allowed to go abegging. Enhancing the reach and scope of education to as many of the citizenry of this country, as is possible, is a constitutional imperative, which cannot be gainsaid.

12. Having said that, this Court is also constrained to take stock of the fact that there is a deluge of petitions, seeking extension of cut off dates, fixed for effecting admissions to Homeopathic and Ayurvedic Courses, on the ground that seats are remaining vacant. No doubt, where the exigencies of the situation are such that it was impossible for the College to effect admissions against the course, courts have been lenient and have been extending the cut off date.

13. In the present case, the University had extended the cut off date for counselling for the BAMS Course thrice, first till 20th November, 2018, thereafter till 31st December, 2018 and thereafter, till 5th January, 2019. We are, today, on the 19th of February, 2019. The petitioner's case is that despite these extensions – which, Mr. Hasija's submission is, his client did not avail – six seats in the BAMS Course remain vacant.

14. This Court is, however, of the view that extensions of dates for admission to courses cannot continue to be granted *ad nauseam* on the premise that seats are remaining vacant; the exercise would, then, never end. The magnanimity of the law is not contained in any Mercurial urn, from which one can seek solace endlessly. It would set a dangerous precedent, if this Court were, on the sole ground that it was not possible to effect admissions within the time allowed, to grant extension of the cut off date for making admissions. Such an attitude is bound to lead to endless litigation. Any such order would be liable to be cited in all future cases, thereby completely negating the sanctity of a cut off date fixed for admission to the educational institutions.

15. It is significant to note, in this context, that the judgment of the Supreme Court in *Association of Management of Homeopathic Medical Colleges of Maharashtra v. UOI (supra)*, on which the petitioner relies, has also noticed this fact by clarifying, in para 7 thereof, that the said order was being passed in the peculiar facts of the case and would “*not be treated as a precedent*”. The argument of Mr. Hasija is, precisely, that this Court should treat the said case as a precedent and use it as a basis to grant his client further time to effect admissions against the remaining six seats in the college.

16. The contention that sufficient time was granted for the counselling process can also not hold water, as the University had granted three extensions to effect the said counselling, firstly till 30th November, 2018, secondly till 31st December, 2018 and thirdly till 5th January, 2019. Such extensions cannot continue *ad infinitum*. Moreover, these orders of extension, on which the petitioner relies, were passed in cases where colleges had approached this Court at an opportune time, and obtained relief. These orders would not permit every institution to piggyback on these decisions and, on the basis thereof, seek further extension of time. The court is also required to bear in mind the sanctity of a cut off date for admissions which is also essential to a healthy and wholesome educational system.

17. In view of the above, this Court regrets that it is not possible to accede to the prayer of the petitioner and grant further extension of

time so that it could affect admissions against the remaining six seats in its institution, which remained unfilled as on date.

18. The writ petition is therefore, dismissed in *limine* with no order as to costs.

C. HARI SHANKAR, J

FEBRUARY 19, 2019/kr