

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **WP (C) No.7934/2019 & CM APPL. 32943/2019**

Judgment reserved on : 07.08.2019

Date of decision : 19.08.2019

**SHIVALIK INSTITUTE OF AYURVED AND RESEARCH &
ANR. Petitioners**

Through: Mr.S.S.Lingwal, Advocate

versus

UNION OF INDIA & ANR Respondents

**Through: Mr.K.V.Sreemithun, Adv for R-
1
Ms.Archana Pathak Dave, Adv
for R-2**

**CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA**

JUDGMENT

ANU MALHOTRA, J.

1. The petitioner no.1 the Shivalik Institute of Ayurved and Research, Jhajra, Chakrata Road, Dehradun established by the petitioner no.2/ the Indian Society to Serve Mankind situated at Dehradun was granted affiliation by the Uttarakhand Ayurveda Institute, Dehradun for starting the BAMS course with an admission capacity of 60 seats subject to grant of permission by the Govt. of India, Ministry of AYUSH under Section 13A of the Indian Medicine Central Council Act, 1970 vide consent of affiliation dated 18.04.2019.

2. Vide letter of intent dated 16.05.2017 issued by the respondent no.1 i.e. the Union of India, Ministry of AYUSH, the petitioners were accorded conditional permission to establish the new Ayurveda College in the name of the petitioner no.1 with 60 seats for the BAMS Course under Section 13A of the IMCC Act, 1970 from the academic session 2017-18 subject to conditions as mentioned in the said letter dated 16.05.2017 being fulfilled before the inspection by the CCIM i.e. the respondent no.2 regarding the matter for consideration for issuance of the letter of permission for the academic session 2017-18, failing which, the letter of permission would not be issued and the Letter of Intent issued would be deemed to have been withdrawn.

3. The conditions stipulated vide the said letter of the respondent no.1 read to the effect:

“1. The applicant shall fulfil all the requirements of infrastructure for teaching and training facilities as specified in the Regulations 3 and 10 of the “Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016”

2. the applicant shall fulfil all the requirement of the “Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2016” (for Ayurveda);

3.the applicant shall fulfil all the relevant provisions of Regulations namely 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 Regulations, 2003” read with amendment Regulations of 2013; and

4. the applicant shall fulfil all the relevant provisions under the IMCC Act, 1970.”

4. Apart from the same, the petitioners were also called upon to submit the requisite performance guarantee valid for a period of five years and vide para 4 of the said letter, it was categorically stipulated to the effect:

“4. The college administration is to ensure that no student is admitted in the above mentioned UG course till the formal permission by issue of Letter of Permission (LoP) of the Central Government is granted.”

5. Vide para 5 of the said letter, it was also stipulated that in the event, the applicant college fails to comply with or satisfy the conditions of the Letter of Intent, the Letter of Intent shall be deemed to have been withdrawn without further intimation to the applicant/petitioners herein.

6. The petitioners submit that the respondent no.2 i.e. the CCIM carried out the inspection of the petitioner no.1 college on 07.02.2018 and revisited on 28/29.05.2018 to re-assess the available facilities of teaching and practical training as well as to verify the compliance submitted by the college and forwarded its recommendation/report to the respondent no.1 and after the inspection and due compliance, the petitioner college was granted conditional permission for the UG BAMS Course with 60 seats under Section 13A of the IMCC Act, 1970 for the academic session 2018-19 by the respondent no.1 vide its conditional permission vide letter dated 07.09.2018 i.e. Annexure P-5. The said letter dated 07.09.2018 of the respondent no.1 stipulated to the effect:

“2. The CCIM had carried out an inspection of the institution on 07.02.2018 and re-visited on 28-29.05.2018

to reassess the available facilities of teaching and practical training as well as to verify the compliance submitted by the college and forwarded its recommendations and report to the Ministry. On examining the same, it was observed that the Aadhaar based Geo location enabled attendance system for teaching staff, non-teaching staff, hospital staff Web based computerized central registration system. Functional USG unit as per RMS. 2016 were not available. Therefore, under provisions of the first proviso to sub-section (5) of Section 13A of the IMCC Act, 1970, an opportunity of hearing was granted to the college on 18.08.2018 to present the case.

3. The observation of hearing Committee based on submission made by the college representatives during hearing and recommendations & visitation report of the CCIM have been carefully examined in terms of the "Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016, provisions under the IMCC Act, 1970, relevant regulations made thereunder, and as per approved Standard Operative Procedures (SOPs) it is found that College is fulfilling notified and approved criterion for granting conditional permission for UG (BAMS).

4. It has been decided by the Central Government for grant of conditional permission to the Shivalik Institute of Ayurved and Research, Jhajra, Chakrata Road, Dehradun- 248007, Uttarakhand with 60 seats in UG (BAMS) course for the academic session 2018-19 under section 13C/13A of the IMCC Act, 1970 subject to the condition that college shall fulfill the deficiencies as mentioned below by 31st December, 2018:

(i) Aadhaar based Geo location enabled attendance system for teaching staff, non-teaching staff, hospital staff as per R.MS, 2016.

(ii) Functional Web based computerized central registration system in the Hospital.

(iii) Functional USG section in the Hospital.

5. In addition, following requirements should be fulfilled by the college by 31st December, 2018 to get conditional permission for the session 2019-20:

(i) all the Requirements of Minimum Standard of infrastructure and teaching & training facilities as specified in Regulation 3 of the "Indian Medicine Central Council (Requirements of Minimum Standard for undergraduate Ayurveda Colleges and attached Hospitals) Regulations, 2016;

(ii) all the requirements of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2016 (for Ayurveda);

(iii) all the requirements under the provisions of the IMCC Act, 1970 and relevant Regulations made thereunder should be fulfilled in toto, and

6. The fulfillment of the conditions attached to the permission given above may be made within the time period specified and compliance report should be submitted to the Ministry of AYUSH endorsing a copy to the CCIM also, The CCIM. will verify that the conditions have been fulfilled by means of an inspection and submit a report in this matter to the Ministry of AYUSH for considering the permission matter from the academic session 2019-20."

7. Vide notification no.28-15/2016-Ay.(MSR) dated 07.11.2016, the Central Council of India Medicine i.e. the respondent no.2 with the previous sanction of the Central Government in supersession of the Indian Medicine Central Council (Minimum Standard Requirements of Ayurveda College and attached Hospitals) Regulations, 2012 superseded the same and made the Indian Medicine Central Council (Requirement of Minimum Standards) Regulation, 2016 for the

regulation of the colleges for education in the Ayurveda system of medicine.

8. The requirements of minimum standards for grant of such permission stipulated in Regulation 3 of the said regulations, read to the effect:-

“3. Requirements of Minimum Standard to grant of permission-

(1)(a) The Ayurveda colleges established under section 13A and existing under section 13C of the Act and their attached hospitals shall fulfill the requirements of minimum standard for infrastructure and teaching and training facilities referred to in the regulations 4 to 11 upto the 31st December of every year for consideration of grant of permissions for undertaking admissions in the coming academic session.”

9. The requirements of minimum standard to grant permission for a period of five years is stipulated vide Regulation 3 (2) to the effect:-

“3(2) Requirements of Minimum Standard to grant of permission for a period of five years-

(a) After fulfilment of the requirement as per these regulations by the college, the permission shall be granted to undertake admissions for a period of five years, The college shall be randomly inspected within the said period on receipt of any complaint; or if from online Bio-metric attendance it is found that teaching, non-teaching staff, hospital staff not present regularly, or hospital is not properly functional, or otherwise as required by the Central Government or by the Central Council;
(b) any deficiencies arising within the said period shall be fulfilled by the college within hundred-fifty days under intimation to the Central Council otherwise the permission for a period of five years deemed to be withdrawn;
(c) colleges which were permitted for a period not exceeding five years from the academic session 2014-15 to 2018-19 and 2015-16 to 2019-20 shall be maintain the requirements- as

specified under the regulations 4 to 11 otherwise the permission for a period of five years deemed to be withdrawn.”

10. The requirements of minimum standard for grant of conditional permission for one year is stipulated vide Regulation 3(3) to the effect:

(3) Requirements of Minimum Standard to grant of conditional permission of one year-

(a) The conditional permission of one year for particular academic session shall be granted only to those colleges which are fulfilling following requirements on the basis of the inspection by the Central Council between the 31st December to the 31st March for the succeeding academic session:

- (i) the requirement of teachers as specified in the Schedule-V;*
- (ii) the requirement of teaching hospital as specified under sub-regulation (2) of regulation 7;*
- (iii) availability of minimum seventy-five percent of required equipment as specified in the Schedule-VII;*
- (iv) availability of herbal garden as specified in the Schedule-III;*
- (v) availability of hospital staff as specified in the Schedule-IV,*
- (vi) availability of technical and other staff as specified in the Schedule-VI;*
- (vii) availability of college council as specified in sub-regulation (1) of regulation 9;*
- (viii) availability of college website as specified in sub-regulation (2) of regulation 9;*
- (xi) availability of biometric attendance as specified in sub-regulation (3) of regulation 9; and*
- (x) availability of minimum constructed area of college and hospital as specified in regulation 5.*

(b) the colleges, which have been granted conditional permission or which have been denied permission for the academic session 2015-16 shall be required to fulfill the requirements as specified above in clause (a) to obtain the conditional permission of one year for particular academic session or for a period of five years as specified in the regulations 4 to 11.”

11. The respondent no.2 is stated to have visited the petitioner college on 15/16.03.2019 to re-assess the available facilities and practical training and to verify the compliance reports submitted by the petitioner college for grant of affiliation for the academic session 2019-2020. According to the petitioner, there were no deficiencies pointed out by the respondent no.2 at the time of inspection and that on 03.05.2019, the respondent no.1 issued a hearing notice to the petitioner i.e. Annexure P-7 vide which it was stipulated vide para 2 thereof to the effect:

“2.On examining the same in terms of the Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016, provisions under the IMCC Act, 1970, relevant regulations made there under and as per approved Standard Operative Procedures (SOPs), it appears that, the college is not fulfilling following requirements:

I. There is no higher faculty available in the department of Dravyaguna, Swasthavritta & yoga and Prasuti & Stri Roga against minimum requirement of 01 in each as per RMS, 2016.

II. Specialist doctor is not available in the Shalakya department against the requirement of 01 as per RMS, 2016.

III. There is one Laboratory Technician available in the department of Roga Nidan evem Vikriti Vigyan against the minimum requirement of 02 as per RMS, 2016.

IV. There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna as per RMS, 2016.

V. Printer not available in all the teaching departments.

- VI. College website (www.siarayurved.com) is non functional, as specified in regulation 9(2) of RMS.*
- VII. Bio-Metric attendance system is not available as per RMS, 2016.*
- VIII. Availability of higher faculty is 70% against the minimum requirement of 90% as per RMS, 2016.*
- IX. Functionality of Hospital: - No deliveries have been conducted from 1st Jan 2018 to 31st Dec 2018 as per RMS, 2016.*
- X. There is 01 Emergency Medical Officer available against the minimum requirement of 02 as per RMS, 2016.*
- XI. There are 03 Panchkarma Assistant available against the minimum requirement of 04 as per RMS, 2016.*
- XII. There is shortage of some instruments/equipments in following departments-Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD Section as per RMS, 2016.*
- XIII. Cadaver is not available in Sharir Rachna dept for dissection.*
- XIV. Functional clinical laboratory is not available as per RMS, 2016.”*

12. The petitioners thus were called upon for a hearing on 12.06.2019 to present their case and clarify the aspect detailed in their Show Cause Notice to explain as to why permission to take admission in the UG (BAMS) Course under Sections 13A & 13C of the IMCC Act, 1970 for the year 2019-20 ought not to be denied to their college.

13. The CCIM is indicated as stated hereinabove to have visited the petitioners college on 15/16.03.2019 to assess the available facility of teaching and practical training for conducting UG (BAMS) Course as well as to verify the compliance submitted by the college as observed vide para 1 of the Show Cause Notice dated 03.05.2019 issued by the

respondent no.1 to the petitioners. Vide paras 4, 5 & 6 of the said letter, it was stipulated to the effect:

“4. Please note that as per the extant Central Govt. policy, the submission will be only with reference to the position that prevailed as on the date of inspection/visitation as detailed in Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda College and attached Hospitals) Regulations, 2016 and other relevant regulation under IMCC Act 1970.

5. It is further directed that you may make oral as well as written submissions before the designated hearing committee and produce all relevant valid documents/records/proof in original to substantiate your claims against all the deficiencies/shortcomings as indicated above and submit an authenticated copy for evidence/verifications by the Central Government as under:

i. The supporting documents may be the original/attested legible copies of the PG degree of the teachers/consented teachers, appointment order, joining letter, the attested copies of the experience certificates, the appropriate office order of the college for any reallocation, the attendance register up to the visitation day, Biometric attendance statement, the time table/duty roster indicating the engagement of the teachers, form 16/26AS, bank payment details for salary, PF/ESIC details, the details of the other duties as carried out by the teachers, leave record (if required) or any other documents related to availability of the teachers.

ii. The supporting documents may be in original/attested legible copies of the degree of the hospital part time teachers, non-teaching or other staff related to deficiencies mentioned above etc. appointment order, Joining letter, the attested copies of the experience certificates, the appropriate office orders of the college for any reallocation, the attendance register up to

visitation day, Biometric attendance statement, form 16/26AS, bank payment details for salary, PF/ESIC details, the time table/duty roster indicating the engagement of hospital staff, leave record (if required) or any other documents related to availability of the hospital staff/part time teachers/nonteaching staff, etc.

iii. The supporting/ relevant documents with respect to land, construction of college as well as hospital like architectural map/ proposed building Plan/ Zoning Plan/ Elevation Plan/ Department wise construction area as per RMS, 2016 and any other documents relevant to the deficiencies as indicated above.

iv. Similarly, the supporting documents may be with respect to other deficiencies like Instruments/Equipment, Quality testing laboratory. Teaching pharmacy, functionality of College website. College Council, relevant undertaking, Central library. Herbal garden, Central Research laboratory, Animal House, etc., (which ever applicable pertaining to the deficiencies).

6. It may please be also noted that no further hearing opportunity will be given in case you do not attend the hearing at the stipulated time and date. Further, it will be presumed that you have nothing to say and required necessary action in terms of the IMCC Act and the relevant regulations will be taken based on available records.”

14. The petitioners submit that the petitioner no.1 vide letter dated 10.06.2019 before the designated Hearing Committee on 12.06.2019 submitted in detail in relation to all the 14 deficiencies pointed out with documents in support to bring forth that every deficiency had been cured and that there was no deficiency left. The explanation put forth by the petitioner no.1 for the 14 deficiencies pointed out by the respondent no.1 vide the Show Cause Notice dated 03.05.2019 is to the effect:

“(i) There is no higher faculty available in the Department of Dravyaguna, Swasthavritta & Yoga and Prasuti & Stri Roga against minimum requirement of 01 each as per RMS, 2016.

It is submitted that during the hearing before the designated Hearing Committee it was explained with supporting documents that Dr. Sunita Gupta was appointed as Associate Professor on 03.01.2018 in the department of Dravyaguna and she was considered as senior faculty by the respondents in letter of permission granted for the academic session 2018-19. Dr. Sunita Gupta has been working since her appointment. She was also present during the inspection conducted by respondent No.2 on dated 15th and 16th March 2019. Her attendance records, Form-16, photograph, with inspection team and other required documents were submitted before the hearing committee on 12.06.2019.

Dr. Kusum Lata was appointed on 31 December 2018 in the department of Prasuti & Stri Rog after duly following the protocol of previous Institute (Dhanwantri Ayurved Medical College, Bareilly) to leave after one month notice and it was duly informed by Dr. Kusum Lata to respondent No.2. Dr. Kusum Lata has been working in the college since her appointment as senior faculty in the department of Prasuti & Stri Rog.

It was further explained to the hearing committee that because of relieving not given by the previous college of both these faculty, the petitioner college is unable to register them with the respondent No.2. The supporting documents viz copy of resignation from previous college, appointment letter, joining letter, attendance register (Manual & Biometric) of these two staff was submitted before the Hearing Committee. Further the e-mails were also submitted with regard to non-uploading the names of Dr. Sunita and Dr. Kusum in the web portal of respondent No.2, but despite several e-mails, the names were not uploaded by the respondent No.2 because of the reason that the previous Institutes of both the above said senior

faculty was not giving the relieving-cum experience letter and for want of this relieving letter, the respondent No.2 has initiated the proceeding in the case of Dr. Sunita Gupta and a notice was issued to the Principal, Babe Ke Ayurvedic Medical College & Hospital, Moga (Punjab) for hearing in respect of non-issuance of experience/relieving certificates and was called upon to furnish the documents as mentioned in the letter dated 02.02.2018.

Here it is relevant to mention that Dr. Sunita Gupta was teaching in the college since her appointment dated 03.01.2018 and the permission was also granted by the respondents for the academic year 2018-19, then under what circumstances, the respondents has not considered the said faculty for the academic session 2019-20, which is beyond the control of petitioners. However, the hearing committee was satisfied with the explanation and documents submitted by the petitioners. It was also explained to the hearing committee that Dr. Sunita Gupta had left the previous college for almost more than one and half years whereas Dr. Kusum Lata had left the previous college for more than six months. Therefore both the faculty should have been linked with the petitioner college by the respondent No.2 with their web portal, but the same has not been carried out by the respondent No.2 and the mistake of the respondent No.2 cannot be fastened on the petitioners.

It was further submitted before the Hearing Committee that one higher faculty in Swasthavritta was vacant and for that an undertaking to fill the said faculty within 2 months was submitted.

Even otherwise as per MSR; this deficiency of one higher faculty fall under 10 % relaxation of Teaching Faculty to get Conditional permission.

In view of the aforesaid, the petitioner college fulfil the 90% requirement of senior faculty as per RMS, 2016.

(ii) Specialist Doctor is not available in the Shalakya department against the requirement of 01 as per RMS, 2016.

For the said deficiency it was submitted that Dr. Sarvesh has been working in the petitioner college with effect from 01.08.2018, but due to some technical error, the petitioner college was unable to register him on the web portal of respondent No.2. In support of the same copy of the rejection mail along with copy of appointment letter, joining letter, attendance register was submitted during the hearing.

This deficiency has been removed by the respondents in the denial letter i.e. impugned order dated 06.07.2019.

(iii) There is one laboratory technician available in the Department of Roga Nidan evam Vikriti Vigyan against the minimum requirement of 02 as per RMS, 2016.

For this, it was clarified that the petitioner college has two laboratory technician namely Mr. Santosh Kumar & Mr. Manish who are already working since 10.02.2019 and 21.02.2019 respectively and in support of the same the petitioner college had submitted their appointment letter, joining letter, attendance register (Manual and biometric) and photos of those two laboratory technician with the visitors.

(iv) There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna as per RMS, 2016.

It was submitted and clarified before the hearing committee that the specimens in the department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna are available. In support of this the petitioner submitted the photographs of the specimen of these departments along with copies of central and departmental stock registers.

(v) Printer not available in all the teaching departments.

It was submitted and clarified before the hearing committee that printers are available in the departments and in support of this photographs of printers of these departments were submitted along with copy of purchase bill of 10 printers and stock register.

(vi) College website (www.siaravurved.com) is non-functional, as specified in Regulation 9(2) of RMS.

It was clarified and explained before the hearing committee that the website of the petitioner college is functional and timely updated, it was submitted that the website is www.siarayurveda.com and not www.siarayurved.com i.e. one alphabet "a" was missing in the record of respondent no.2. During the hearing when the correct website of the petitioner college was opened, it was duly opened and timely updated to which the hearing committee was fully satisfied.

(vii) Bio-Metric attendance system is not available as per RMS, 2016.

It was submitted before the hearing committee that biometric attendance is available in the petitioner college since 14 March 2019 and in support of this photocopies of purchase bill of biometric was submitted. Biometric attendance of three months was also submitted. It was also informed that attendance system is not AGBAS enabled since in spite of best efforts, the petitioner college could not get the link with respondent No.2 due to technical network issues, the same was informed to respondent No.2 from time to time for which supporting documents were submitted.

(viii) Availability of higher quality is 70% against the minimum requirement of 90% as per RMS, 2016.

It was submitted before the hearing committee that Petitioner College have nine (9) higher faculty including Dr. Sunita Gupta and Dr. Kusum Lata which fulfills the 90% condition as. Per RMS, 2016. Dr. Sunita Gupta in the department of Dravyaguna & Dr. Kusum Lata in department of Prasuti & Stri Roga, who have been working in the petitioner college w.e.f. 03.01.2018 &

31.12.2018 respectively, but because of relieving not given by the previous college of both these staff, the petitioner college was unable to register them on the portal of respondent No.2. Copy of resignation letter given to previous college, their appointment letter, joining letter and attendance register (manual and biometric) and photographs of visitors along with the aforesaid faculties was submitted during the hearing, which fulfills the 90% requirement as per RMS, 2016.

It was further submitted that higher faculty in Swasthavritta is still vacant and for that it was undertaken that the same shall be filled within a time frame of two months. The undertaking in this regard was submitted.

Even otherwise as per MSR; this deficiency of one higher faculty fall under 10 % relaxation of Teaching Faculty to get Conditional permission.

In view of the aforesaid, the petitioner college fulfil the 90% requirement of senior faculty as per RMS, 2016.

However, it is mentioned that the aforesaid deficiency of 90% has been removed and the same is not part of impugned order. Meaning thereby that the petitioner college fulfils the 90% requirement of the faculties as per RMS, 2016.

In view of the aforesaid, it clearly shows that the petitioner college is also not having any alleged deficiency as mentioned in para (i) which is with regard to deficiency of higher faculty. The deficiency as pointed out in para (i) and (viii) hereinabove are directly or indirectly related to each other.

(ix) Functionality of hospital:-deliveries have been conducted from 01.01.2018 to 31.12.2018 as per RMS, 2016

It was submitted to the Hearing Committee that deliveries in the petitioner college in last calendar year were nil, but from the month of March 2019, six deliveries have been conducted in the petitioner college successfully and in support of the same one case sheet of Prasuti &

Stri Rog department was submitted before the hearing committee.

(x) There is one (1) emergency medical officer available against the minimum requirement of two (2) as per RMS, 2016.

It was submitted before the hearing committee that 02 Emergency Medical Officer (Dr. Pramod Sahu and Dr. Kanwalprit Kaur) are working in the hospital with effect from 05.09.2017 and 01.03.2019 respectively and in support of this the petitioner college submitted copy of appointment letter, joining letter, attendance register and photographs of both the Emergency Medical Officer with the visitors.

(xi) There are 03 Panchkarma Assistant available against the minimum requirement of 04 as per RMS, 2016

The petitioner college had submitted before the hearing committee that four Panchkarma Assistant namely Mr. Sajji, Mr. Balbir, Ms. Anjali and Ms. Seema Rana are working in the petitioner college w.e.f. 01.10.2016, 01.01.2018, 13.04.2018 and 21.02.2019 respectively and in support of the same the petitioner college had submitted the photographs of all the aforesaid four Panchkarma Assistant. Copy of appointment letter, joining letter, attendance register of Ms. Seema Rana who joined the petitioner college in place of Ms. Sunita was submitted.

(xii) There is a shortage of some Instrument s/equipment in following departments- Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD Section as per RMS, 2016.

It was submitted that although there was least shortage of instrument/equipment's and had given the undertaking to fulfill within one month.

(xiii) Cadaver is not available in sharir Rachna dept. for dissection.

It was submitted before the Hearing committee that the petitioner college wrote to Sub Divisional Magistrate, Dehradun on dated 12.11.2018 for giving the permission to preserve, store and dissect a dead body. Copy of the letter was submitted. However the petitioner college has purchased a Manikine for the practical study of the subject and copy of the purchase bill was submitted.

(xiv) Functional clinical laboratory is not available as per RMS,2016.

It was submitted and clarified to the Hearing Committee that the clinical laboratory is functional and in support of the same the photographs of functional clinical laboratory, photocopies of register of Pathology laboratory were submitted.

Presently the petitioner college is conducting all Hematological, Bio-chemical, Serological and Microscopic tests in the clinical laboratory for which the supporting documents were submitted before the hearing committee.”

15. The petitioners submit that the Hearing Committee in its Minutes dated 12.06.2019 made no adverse remarks towards any of alleged deficiencies pointed out by the respondent. The minutes of the meeting dated 12.06.2019 of the respondent no.1 in relation to the oral submissions made by the petitioner no.1 in relation to 60 seats in the UG (BAMS) Course under Sections 13A & 13C of the IMCC Act for the academic session 2019-20 read to the effect:

“i. There is no higher faculty available in the Department of Dravyaguna, Swasthavritta & Yoga and Prasuti & Stri Roga against minimum requirement of 01 each as per RMS, 2016.

Submission: *We are submitting that Dr Sunita Gupta in the department of Dravyaguna & Dr. Kusum Lata in department of Prasut & Stri Rog have been working in our college since dated 03.01.2018 & 31.12.2018 respectively, but because of reliving not given by the previous college of*

both these staff, we are unable to register them on CCIM. Copy of resignation from previous college, appointment letter, joining letter, attendance register (Manual & Biometric) and Form-16 of these staff is submitted. We accept that HF is Swasthavritta is still vacant but we are committing that within a time frame of 2 months we will fulfil the post. An undertaking in this regard is submitted.

ii. Specialist Doctor is not available in the Shalakya department against the requirement of 01 as per RMS, 2016.

Submission: We are submitting that Dr. Sarvesh has been working in our college wef 01/08/2018, but due to some technical error we are unable to register him on CCIM, Copy of the rejection mail along with copy of appointment letter, joining letter, attendance register is submitted.

iii. There is one Laboratory Technician available in the department of Roga Nidan evem Vikriti Vigyan against the minimum requirement of 02 as per RMS, 2016.

Submission: We are submitting that in our college 02 laboratory technician (Mr Santosh Kumar & Mr Manish) are already working and in support of this we are submitting appointinent letter, joining letter, attendance register (Manual and Biometric) and photos of those 2 laboratory technician with the Visitors.

IV. There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna as per RMS, 2016.

Submission: We are submitting that specimens in the department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Rog and Dravyaguna are available. In support of this we are submitting photo graphs of specimen of these departments, However we forgot to bring the original Central stock register and departmental stock register. Purchase order and Bills. But photocopies of central & departmental stock registers are submitted.

v. Printer not available in all the teaching departments.

Submission: We are submitting that printers are available in the departments. In support of this we are submitting photo graphs of printers of these departments, However we forgot to bring the original Central stock register and departmental stock register, Purchase order and Bills. However copy of purchase bill of 10 printer is submitted.

vi. College website (www.siarayurved.com) is non-functional, as specified in Regulation 9(2) of RMS.

Submission: we are submitting that our college website is functional but we accept that our website is not updated as per the MSR, However we are committing that we will update our website every week or as per the need.

vii. Bio-Metric attendance system is not available as per RMS, 2016.

Submission: Biometric attendance is available in our college since 14/03/2019 and in support of this photocopies of purchase bill of biometric is submitted. Biometric attendance of three months is also submitted.

viii. Availability of higher faculty is 70% against the minimum requirement of 90% as per RMS, 2016.

Submission: We are submitting that in our college 9 HF are available. Dr Sunita Gupta in the department of Dravyaguna & Dr. Kusum Lata in department of Prasuti & Stri Rog have been working in our college dated 03/01/2018 & 31/12/2018 respectively, but because of reliving not given by the previous college of both these Staff we are unable to registered them on CCIM. Copy of resignation from previous college, their appointment letter, joining letter and attendance register (Manual & Biometric) and Photograph with visitors of these staff are submitted. We accept that HF in Swasthavritta is still vacant but we are committing that within a time frame of 2

months we will fulfil the post. An undertaking in this regard is submitted.

ix. Functionality of Hospital: - No deliveries have been conducted from 1st Jan 2018 to 31st Dec 2018 as per RMS, 2016.

Submission: we are submitting that deliveries in our college in last calendar year were nil. But from the month of March 2019, 06 deliveries have been conducted in our college successfully, In support of this we are submitting one case sheet of Prasuti & Stri Rog department.

x. There is 01 Emergency Medical Officer available against the minimum requirement of 02 as per RMS, 2016.

Submission: we are submitting that 02 Emergency Medical Officer (Dr Pramod Sahu & Dr Kanwalprit kour) are working in our hospital wef 05/09/2017 & 01/03/2019 respectively and in support of this we are submitting copy of appointment letter, joining letter and attendance register.

xi. There are 03 Panchkarma Assistant available against the minimum requirement of 04 as per RMS, 2016.

Submission; We are submitting that 04 Panchkarma Assistant (Mr. Sajji, Mr. Balbir, Ms. Anjali and Ms. Seema Rana) are working in our hospital wef 01/10/2016, 01/01/2018, 13/04/2018 & 21/02/2019 respectively. In support of this we are submitting copy of appointment letter, joining letter and attendance register of Ms Seema Rana who joined our college in place of Ms Sunita.

xii. There is shortage of some instruments/equipments in following departments- Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD Section as per RMS, 2016.

Submission: We are submitting an undertaking in this regard with the commitment that we will fulfill the above shortage this shortcoming within a month.

xiii. Cadaver is not available in Sharir Rachna dept for dissection.

Submission: we already wrote to Sub Divisional Magistrate on dated 12/11/18, for giving permission to preserve, store and dissect a dead body. Copy of the letter is submitted. However we have purchased a Manikine for the students. Copy of the purchased bill submitted.

XIV. Functional clinical laboratory is not available as per RMS, 2016.

Submission: We are submitting that our clinical laboratory is functional and in support of this we are submitting photocopies of register of Pathology laboratory.”

16. The petitioners have further submitted that the clarification and response submitted by the petitioners was not at all taken into account by the respondent no.1, which passed the impugned order dated 06.07.2019 mechanically and arbitrarily denying permission to the petitioner college to effect admissions in the BAMS course with 60 seats for the academic session 2019-20. The petitioners submit that the said order is arbitrary and illegal and does not take into account the explanation put forth by the respondent no.2 to the college.

17. The petitioners have further submitted that the impugned order dated 06.07.2019 is not a reasoned order and gives no explanation and does not advert to the explanation of the petitioner no.1 nor was any specific deficiency pointed out to indicate as to how the petitioner college was deficient on various parameters. The petitioners submit that they have complied with all the statutory requirements which entitled them to be accorded permission for intake of 60 seats for the BAMS Course for the academic session 2018-19 and that the

petitioners are aggrieved by the order of the respondent no.1 denying the permission to the petitioner no.1 college for taking admission to the BAMS (UG) Course for 60 seats for the academic session 2019-20 as the same suffers from illegality, arbitrariness and non-application of mind. The petitioners submit that all deficiencies had been explained by the petitioner by photographs, bills of purchase, registers to the complete satisfaction of the Hearing Committee.

18. The petitioner has further submitted that the petitioner college has spent a huge amount for enhancement of infrastructure and other clinical material and would suffer a huge financial as well as academic loss due to denial of permission for effecting admissions to the BAMS (UG) Course with 60 seats for the academic session 2019-20 on non-existing grounds.

19. The respondent no.1 through the affidavit of the Under Secretary to the Govt. of India, Ministry of AYUSH, AYUSH Bhawan, New Delhi has submitted to the effect:

*“01. That the **Shivalik Institute of Ayurved and Research, Jhakra, Chakrata Road, Dehradun-248007, Uttarakhand** was granted conditional permission under section 13C/13A of the IMCC Act, 1970 to take admission with 60 seats in UG (BAMS) course for the academic session 2018-19 vide Ministry's letter **dated 07.09.2018** for 2018-19.*

*2. That vide letter dated **07.09.2018**, the Ministry has granted conditional permission to the Petitioner college for Academic Session 2018-19 subject to the condition that the petitioner college shall fulfill the deficiencies before 31st December, 2018:*

A. Aadhar based Geo Location enabled attendance system for teaching staff, Non teaching staff, hospital staff as per RMS 2016.

B. Functional web based computerized central registration system in the Hospital

C. Functional USG section in the hospital.

*03. That it is submitted that vide letter dated 07.09.2018 the petitioner college was further instructed that the fulfilment of the conditions attached to the permission given above may be made within the time period and should be submitted to the ministry of AYUSH. The CCIM will verify that the conditions have been fulfilled **by means of an inspection** for considering the permission from the academic session 2019-20.*

04. That on 15-16.03.2019 the CCIM has conducted silo moto inspection of the college to reassess the available facilities of teaching and practical training as well as to verify the compliance report submitted by the college. The CCIM had forwarded the visitation report to the Ministry of AYUSH vide letter dated 28.05.2019 and recommended for "Not Granting Permission" for UG (BAMS) course for the session 2019-20 under section 13A/13C of the IMCC Act, 1970 with following shortcomings:-

1. Teaching Departments:-

*(i) There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna. **(THUS THERE IS TOTAL DEFICIENCY OF 4 HIGHER FACULTIES)**.*

(ii) Printer not available in all the teaching departments.

2. College website (www.siaravurved.com) is non-functional.

3. AGBAS Bio-Metric attendance system is not available.

4. Teaching Staff:-

*(i) There is no higher faculty available in the department of Dravyaguna, Swsthavritta & yoga and Prasuti & Stri Roga against minimum requirement of Olin each. **(THUS THERE IS TOTAL DEFICIENCY OF 4 HIGHER FACULTIES)***

(ii) Availability of higher faculty is 70% against the minimum requirement of 90%.

5. Functionality of Hospital:- No deliveries have been conducted from 1st Jan 2018 to 31st Dec 2018.

6. Hospital Staff:-

(i) There is 01 Emergency Medical Officer available against the minimum requirement of 02.

(ii) There are 03 Panchkarma Assistant available against the minimum requirement of 04.

7. There is shortage of some instruments/equipments in following departments- Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD Section.

05. That the Ministry has examined the recommendations and visitation report of the CCIM in terms of the "Indian Medicine Central Council **(Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016**, provisions under the IMCC Act, 1970, relevant regulations made thereunder and as per approved Standard Operative Procedures (SOPs) and policies issued from time to time for issuing Permission for this purpose.

06. That the Ministry has examined the case in light of above notified & approved criteria and on perusal of visitation reports. It was observed that the; college was not fulfilling the basic eligibility condition and the following deficiencies were found:

I. There is no higher faculty available in the department of Dravyaguna, Swasthavritta & yoga and Prasuti & Stri Roga against minimum requirement of 01 in each as per RMS, 2016.

II. Specialist doctor is not available in the Shalakya department against the requirement of 01 as per RMS, 2016.

III. There is one Laboratory Technician available in the department of Roga Nidan evem Vikriti Vigyan against the minimum requirement of 02 as per RMS, 2016.

IV. There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna as per RMS, 2016.

V. Printer not available in all the teaching departments.

VI. College website (www.siaravurved.com) is non functional, as specified in regulation 9(2) of RMS.

VII. Bio-Metric attendance system is not available as per RMS, 2016.

VIII. Availability of higher faculty is 70% against the minimum requirement of 90% as per RMS, 2016.

IX. Functionality of Hospital; - No deliveries have been conducted from 1Jan 2018 to 31Dec 2018 as per RMS, 2016.

X. There is 01 Emergency Medical Officer available against the minimum requirement of 02 as per RMS, 2016.

XI. There are 03 Panchkarma Assistant available against the minimum requirement of 04 as per RMS, 2016.

XII. There is shortage of some instruments/equipments in following department- Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD Section as per RMS, 2016.

XIII. Cadaver is not available in Sharir Rachna dept for dissection.

XIV. Functional Clinical laboratory is not available as per RMS, 2016.

07. That considering the deficiencies, the college was given **an opportunity of hearing** vide Hearing dated **03.05.2019** in terms of the first proviso to sub section (5) of Section 13A of the IMCC Act, 1970 to appear on **12.06.2019** at 10.00 AM. The college was instructed to make oral as well as written submissions in respect of the case.

08. The college was represented by Dr. Simran, Principal, and Dr. Satender Kumar, Director of the aforesaid college. The representatives of the college submitted oral as well as written submissions against the deficiencies conveyed to them vide the Ministry's letter dated 03.05.2019.

09. That in view of the observation of the Hearing Committee based on submission made by the college representatives during hearing and the recommendations and visitation report of the CCIM it is found that **Shivaiik Institute of Ayurved and Research, Jhajra, Chakrata Road, Dehradun-248007, Uttarakhand** is not fulfilling the following basic

minimum requirements for grant of permission for the academic session 2019-20:

I. There is no higher faculty available in the department of Dravyaguna, Swasthavritta & yoga and Prasuti & Stri Roga against minimum requirement of 01 in each as per RMS, 2016. (Teaching staff is essential for conduction of regular classes for the Students and necessary Patient care through the OPD& IPD services and play cardinal role in the functionality of the college & hospital)

II. There is one Laboratory Technician available in the department of Roga Nidan evem Vikriti Vigyan against the minimum requirement of 02 as per RMS, 2016. (Technical and other staff is essential for smooth functioning of teaching department, clinical departments & college administration).

III. There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Drvyaguna as per RMS, 2016.

IV. Printer not available in all the teaching departments.

V. College website (www.siaravurved.com) is non-functional, as specified in Regulation 9(2) of RMS. (Updated college website is important for disseminating the overall information regarding the college to the public and the students. It also reflects the regular functionality of the college and hospital).

VI. Bio-Metric attendance system is not available as per RMS, 2016. (Biometric attendance is important parameter to assess the regular availability of teaching faculty for conduction of regular classes for the Students and regular availability of Hospital staff for necessary Patient care through the OPD& IPD services).

VII. Functionality of Hospital: - No deliveries have been conducted from 1st Jan 2018 to 31st Dec 2018 as per RMS, 2016. (Absence of functional Labour room adversely affects the ability of college to provide quality medical education& Training to the student and proper medical/surgical care to the patients)

VIII. There is 01 Emergency Medical Officer available against the minimum requirement of 02 as per RMS, 2016. (Hospital Staff is essential for providing necessary Patient care through the OPD & IPD services and play cardinal role in the functionality of the hospital)

IX. There are 03 Panchkarma Assistant available against the minimum requirement of 04 as per RMS, 2016.

X. There is shortage of some instruments/equipments in following department- Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD Section as per RMS, 2016 (Equipments & Instruments are necessary for imparting practical training to students and also for conduction of various clinical procedures in OPD/IPD/OT.

XI. Cadaver is not available in Sharir Rachna dept for dissection. (It is very much essential for practical training of human anatomy to the Students).

XII. Functional Clinical laboratory is not available as per RMS, 2016. (It is very much essential for providing proper medical care to OPD & IPD patients).

10. That in view of the shortcomings and deficiencies the Ministry it is found that the said college is not fulfilling the requirements as per regulation 3 of the Indian Medicine Central Council (Requirements of Minimum Standard for Undergraduate colleges and attached Hospital) Regulations, 2016, provision under the IMCC Act, 1970, relevant regulation made there under and as per approved Standard Operative Procedures (SOPs) for granting permission for 60 seats in UG (BAMS) course for the academic session 2019-20.

11. That vide letter dated 06.07.2019, the Central Government for **denial of permission** to **Shivalik institute of Ayurved and Research, Jhajra, Chakrata Road, Dehradun-248007, Uttarakhand** with 60 seats in UG (BAIWS) course under section 13A/13C of the IMCC Act, 1970 for the academic session 2019-20.

12. Furtlier, it is informed that the college is being provided a period up to 31.12.2019 to fulfill the shortcomings observed during this year as mentioned in above paras

along with the following requirements, so that the CCIM may carry out inspection of the college for consideration of matter for grant of permission for taking admissions in UG (BAMS) course from the academic year 2020-21.”

20. The respondent no.1 thus submits that the petitioner college is not entitled to any relief. The said short affidavit submitted on behalf of the respondent no.1 indicates that as on the date when the inspection was conducted by the CCIM on 15/16.03.2019, deficiencies as detailed in the letter dated 06.07.2019 Annexure P-1 were found to exist in the petitioner no.1 college.

21. Regulation 3(1)(a) of the Indian Medicine Central Council (Requirements of Minimum Standard for Undergraduate colleges and attached Hospital) Regulations, 2016 categorically stipulates to the effect that the Ayurveda colleges established under Sections 13A & 13C of the IMCC Act and their attached hospitals were to fulfil the requirement of minimum standards for infrastructure and training facilities referred to in the regulation 4 to 11 upto 31st December of a year and that the petitioner was provided a period till 31.12.2019 to fulfil the shortcomings that had been observed in the year 2019, so that the CCIM may carry out the inspection for consideration of the matter for grant of permission to effect admissions in the BAMS (UG) Course for the academic session 2020-2021.

22. The petitioner put forth a chart to indicate the comparative assessment for the year 2019-20 and the CCIM Visitors Report and requirements as per RMS, 2016, which chart reads to the effect:

CHART

Sl. N.	<u>Shortcoming (Deficiency)</u>	<u>CCIM Assessment Report For The Year 2019-20</u>	<u>CCIM Visitors Report</u>	<u>As Per RMS 2016, Regulation</u>
1.	There is no higher faculty available in the Department of Dravyaguna, Swasthavritta & Yoga and Prasuti & Stri Roga against minimum requirement of 01 each as per RMS, 2016	<u>Page No.7 of Report : Clause 3.2</u> <u>Total No.of Teaching Staff -19</u> <u>Clause 3.5: There are no ineligible teachers</u> <u>Page No.18 of Report: Clause 8.2</u> <u>(s.no.10)- Availability of total teaching staff in %age- 92.16%</u> <u>(S.No.12)- as per council verification- meeting the requirement of eligible teacher- YES</u>	<u>At Page No.85 of Report</u> <u>Certification details: It is certified that the college is having 19 teachers</u>	<u>Schedule-V</u> <u>Page 64 of petition</u> <u>Note-iii</u> <u>Deficiency shall not exceed more than 10%</u>
2.	There is one laboratory technician available in the Department of Rog Nidan evam Vikriti Vigyan against the minimum requirement of 02 as per RMS, 2016	<u>Page 17 of Report: Clause 8.1</u> <u>*Non-teaching Seema Rana having ID No.10, working as LT in Rog Nidan in the section of Hospital Staff has left the college on 20.02.2019. Mr Manish has joined on 21.02.2019 for above post*</u>	<u>Page 85 of Report</u> <u>*Non-teaching Seema Rana having ID No.10, working as LT in Rog Nidan in the section of Hospital Staff has left the college on 20.02.2019. Mr Manish has joined on 21.02.2019 for above post*</u>	<u>Schedule-VI</u> <u>Page 65 of petition</u> <u>Required No.Of Technical & Other Staff (Non Teaching)- 25</u>

		<u>Clause 8.2 (S.No 16) page no.18</u> <u>Availability of non-teaching staff in</u> <u>%age- 96%</u>	<u>Page No.86 of report</u> <u>Certification: It is certified that</u> <u>college is having 25 non teaching</u> <u>staff</u>	<u>(i.e 100%</u> <u>available)</u> <u>Note: for</u> <u>conditional</u> <u>permission 80%</u> <u>non teaching</u> <u>staff is required</u>
3.	There is no specimen available in museum of department of Ayurveda Samhita & Siddhant, Kriya Sharir, Prasuti & Stri Roga and Dravyaguna as per RMS, 2015.	<u>Page No.4 of Report: Clause 2.4.3</u> <u>All deptt. Having satisfactory number</u> <u>of specimen</u>	<u>Page No.85 of Report</u> <u>No objection for specimen</u>	<u>Number of</u> <u>specimens in any</u> <u>deptt. not</u> <u>mentioned</u>
4.	Printer not available in all the teaching departments	<u>Page No.17 of Report: Clause 8.2:</u> <u>Overall assessment by the Council:</u> <u>objection not mentioned.</u>	<u>Page No.85 of Report</u> <u>Objection/deficiency Not</u> <u>mentioned</u>	<u>Not mentioned</u>
5.	College website (www.siarayurved.com) is non-functional, as specified in Regulation 9(2) of RMS.	<u>Page No.5 of Report: Clause 2.10</u> <u>College website- functional</u>	<u>Page No.85 of Report</u> <u>deficiency Not mentioned</u> <u>Page No.87 of Report</u> <u>Certify that all the information</u> <u>has been up-loaded on college</u>	<u>Available as per</u> <u>Regulation 9(3)</u> <u>of MSR</u>

			website as per Regulation 9 (3) of MSR	
6.	Bio-Metric attendance system is not available as per RMS, 2016	No	<u>Page No.85 of Report</u> <u>There is another type of Biometric as thumb impression is functional</u>	<u>NOTE: Biometric attendance is required but due to network problem, connectivity is not possible.</u>
7.	Functionality of hospital: deliveries have been conducted from 01.01.2018 to 31.12.2018 as per RMS, 2016	<u>Page No.11 of report: Clause 5.2</u> <u>No. of deliveries- 0,</u> <u>but shortcoming is- nill</u>	<u>Page No.85 of Report</u> <u>No shortcoming has been mentioned</u> <u>Page No.87</u> <u>Certification: college Hospital is genuinely functional</u>	<u>Deliveries in Hospital – not mandatory</u>
8.	There is one (1) emergency medical officer available against the minimum requirement of two (2) as per RMS, 2016	<u>Page No.18 of Report: Clause 8.2</u> <u>(S.no.18)- Availability of Hospital Staff in Sage- 96.43%</u>	<u>Page No.49 of Report</u> <u>Grand Total Hospital Staff- 71</u> <u>Certification: It is certified that the college is having -71 Hospital Staff</u>	<u>Page No.63 of petition</u> <u>56- Hospital staff is required excluding teachers.</u> <u>As per MSR, 2016, for</u>

				<u>conditional permission minimum 80% hospital staff is required</u>
9.	There are 03 Panchkarma Assistant available against the minimum requirement of 04 as per RMS, 2016	<u>Page No.18 of Report: Clause 8.2</u> <u>(S.no.18)- Availability of Hospital Staff in %age- 96.43%</u>	<u>Page No.49 of Report</u> <u>Grand Total Hospital Staff- 71</u> <u>Certification: It is certified that the college is having -71 Hospital Staff</u>	<u>Page No.63 of petition</u> <u>56- Hospital staff is required excluding teachers .</u> <u>As per MSR,2016, for conditional permission minimum 80% hospital staff is required</u>
10.	There is a shortage of some instruments/equipment in following departments- Kriya Sharir Laboratory, Labour Room Operation Theatre and OPD	<u>Page No.17 of Report:</u> <u>Mean of general and essential equipments/ instruments in %age- 93.60%</u> <u>Note: The mean of total %age of available essential instruments &</u>	<u>Page No.85 of Report</u> <u>No shortcoming has been mentioned in observation report</u>	<u>No %age condition has been prescribed</u>

	Section as per RMS, 2016.	<u>general instruments will be considered for recommendation</u>		
11.	Cadaver is not available in sharir Rachna dept. for dissection.	<u>Page No.17-19 of Report: Clause 8.2:</u> <u>In overall assessment by the council - no shortcoming for Cadaver has been mentioned</u>	<u>Page No.85 of Report</u> <u>Virtual Manakin Cadaver is available</u>	=
12.	Functional clinical laboratory is not available as per RMS,2016.	<u>Page No.17-19 of Report: Clause 8.2:</u> <u>No shortcoming in overall assessment</u>	<u>Page No. 45 of Report</u> <u>As per Central Laboratory details Laboratory is functional being maximum laboratory procedure are carried out.</u>	=

23. The respondent no.1 also placed on record the Visitation Report of the visitation conducted suo moto by the respondent no.2 of the petitioner no.1 on 15/16.03.2019 on behalf of the respondent no.1 whilst contending that the deficiencies that had been pointed out by the respondent no.2 in its 1st inspection conducted on 07.02.2018 and as per revisit on 28/29.05.2018 itself had not been removed by the petitioner.

24. Reliance has been placed on behalf of the respondent on the verdict of the Hon'ble Division Bench of the Calcutta in ***Raghunath Ayurved Mahavidyalaya & Hospital & Ors. Vs. Union of India & Ors.*** in MAT 1553/20118 to contend that timelines specified under Regulation 3(1)(a) of the Indian Medicine Central Council

(Requirements of Minimum Standard for Undergraduate colleges and attached Hospital) Regulations, 2016 is specifically and mandatorily required to be adhered to and where the requisite requirements of deficiencies were not made up by the 31st December of any year, the permission for conducting the academic session from the next forthcoming year cannot be granted. The observations of the Hon'ble Division Bench of the Calcutta in the said verdict vide paras 8, 9 & 10 are to the effect:

“There is however, no quarrel with the proposition of law as laid down by the Hon'ble Supreme Court of India in the decision reported at [AIR 1987 (SC) 537 (Comptroller and Auditor General of India Gian Prakash, New Delhi and Another appellants -vs.- K.S. Jagannathan and Another respondents)] cited by the learned Advocates of the appellants. However, in the facts of the instant case it appears that the appellants herein have failed and neglected to comply with the requirements within the stipulated time limit. The respondent authorities had directed the appellant to comply with the requirements by December 31, 2017 for grant of permission for the academic session 2018-2019. Thus, the respondent authorities were well within their authority to deny permission to the appellants herein to admit students to UG Course for the academic sessions 2018-2019.

The decision reported at [(2013) 16 SCC 96 (Ayurved Shastra Seva Mandal and Another -vs- Union of India and Others)] cited by the learned advocate for the respondent No.1 is squarely applicable to the facts of the instant case. In the case in hand, the respondent authorities after conducting inspection were of the opinion that the college has not fulfilled the requirements for grant of permission to admit students in UG Course for the academic session 2018-2019. The appellants in the reply to the show cause notice have rather admitted that they have complied with

the requirements after receipt of the show cause notice. Since the respondent authorities being the experts to judge as to whether the college has fulfilled the criteria for grant of permission is of the opinion that permission for the academic session 2018-2019 cannot be granted, it is not for this court to set aside the said order denying permission as there is nothing to show that the respondent authorities have failed to exercise or has wrongly exercised the discretion conferred upon it by the statute. The appellants have failed to show that the decision of the respondent authority is a mala fide one or is based on irrelevant considerations or that relevant materials have been ignored by it while passing the order denying permission to admit the students for the academic session 2018-2019.

The appellants have failed and neglected to fulfil the requirements as indicated in sub-paragraphs (i), (ii) and (iii), of paragraph 4 of the letter dated August 4, 2017, on or before December 31, 2017. As such the appellants are not entitled to admit students to BAMS Course for the academic session 2018-2019. Thus, the respondent authority was justified in denying permission to the appellants for taking admission to the said course for the academic session 2018-2019.”

ANALYSIS

25. On a consideration of the submissions that have been made on behalf of either side, in terms of Regulation 3(1)(a) of the Indian Medicine Central Council (Requirements of Minimum Standard for Undergraduate colleges and attached Hospital) Regulations, 2016, it being apparent through the inspection conducted by the respondent no.2 on 15/16.03.2019 as per copy of the Visitation Report of the petitioner no.1, the assessment made for the year 2019-20 read to the

effect:

“8. Assessment

8.1 Observation by the visitors

Observations

*The college is having 26 Teachers at the time of visitation. The college has filled 19 teachers in Part-1. Remaining 7 teachers are working with college, as below:-*1. Dr. Kusumlata Lohiya having teacher code AYUPS0161 working in the department of PTSR has applied for appointment of new teacher but she is not showing in part-2. She has Joined this college on 31.12.2018. The college has mailed to CCIM on March 2nd, 2019 for the same. 2. Dr. Sarversh Kumar AYUSK0884 assigned to T0000032 working in department of shalakya has joined the college on 01.08.2018. 3. Dr. Sunita Goyla AYUAT0536 has applied for linking to this college on 12.01.2018 but not yet approved. 4. Dr. Surekha Manohar Vadalkar has applied for linking and the CCIM has approved her on 09.03.2019 but she is not showing in Part-2. 5. Dr. Kamal Kishore presently having teacher's code AYURN1247 is working in this institute since 02.11.2018 previously he has teacher code AYUKS1098. He applied for new code in Roga Nidana. Dr. Kishore was allotted new teacher code on 09.03.2019 so he is not showing in Part-2. 6. Dr. Nidhi Garg presently having teacher code AYUDG1413 is working with this college since 02.04.2018 in the department of Dravyuaguna. She has applied for changing the teacher code 02.04.2018 and new code was issued on 08.03.2019. 7. Dr. Diwaker Shukla has applied for teacher code on 17.08.2018 and issued on 13.03.2019. He is not showing in Part-2. Mr. Deepak Prasad Kumar appointed as yoga teacher not found present. He is working on call.- Non-Teaching-Seema Rana having ID No.10 working as LT in Roga Nidana in the section of hospital staff has left the college on 20.02.2019. Mr. Manish has joined on 21.02.2019 for above post. Hospital:- Sunita having ID No.11 working as PK Assistant has left the college and the college has appointed Ms. Seema as PK Assistnat having ID No.11- Dr. Neha Bhatt has left the college ID No.02 working as EMO. The college has appointed Dr. Kanwal Preet Kaur on 01.03.2019 as EMO.- The college has appointed Dr. Mahesh Kumar Jha as

Physiotherapist on 14.05.2018 in Modern Medical Staff section.- Cadaver is not available virtual (Manakin) cadaver is available. The College has applied for new cadaver to DM.-Biometric AGBAS is not functioning. There is another type of Biometric as thumb impression is functional.- IPD and Bed occupied details are filled as same digits in Part-1. Examining the records we found that the CIPD is 1859 and Occupied days are 11754. But the college has filled 11754 in IPD as well as Bed occupied in Part-1.- Acquaintance Salary Register of Hospital Staff and Teaching Staff should be separated.- Record Keeping can be bit improved. The college is having herbal garden with medicinal plants.

8.2 Overall Assessment by the Council”

<i>S.N O.</i>	<i>Assessment Parameter</i>	<i>Minimum require ment</i>	<i>Availa ble/ not availa ble</i>	<i>Meeting the require ment</i>	<i>Other Findings</i>
<i>1</i>	<i>Constructed area of the college (in sq. mt.)</i>	<i>1578.0</i>	<i>Availa ble</i>	<i>Yes</i>	<i>2076.74</i>
<i>2</i>	<i>Shortcomings in individual components of constructed area of college</i>	<i>-</i>	<i>No</i>	<i>Yes</i>	<i>-</i>
<i>3</i>	<i>No. of Lecture Halls</i>	<i>3</i>	<i>Availa ble</i>	<i>Yes</i>	<i>-</i>
<i>4</i>	<i>Constructed area of Hospital (in sq. mt.)</i>	<i>2000.0</i>	<i>Availa ble</i>	<i>Yes</i>	<i>-</i>
<i>5</i>	<i>Shortcomings in individual components of constructed</i>	<i>-</i>	<i>Yes</i>	<i>No</i>	<i>There is shortcom ing(s) in individua</i>

	<i>area of Hospital</i>				<i>l compon nts of construct ed area of hospital. Please refer to Table no.5.1</i>
6	<i>Available area of Herbal garden (in sq. mt.)</i>	2500.0	<i>Availa ble</i>	Yes	-
7	<i>Minimum requirement of teaching staff in all the department.</i>	-	<i>Not availa ble</i>	No	College's Total eligible HF 7 and eligible LF 15. Shortco mings of HF 3 and LF 0.
8	<i>Department without Teacher</i>	-	No	Yes	-
9	<i>Availability of HF in %age (including excess)</i>	<i>Require d</i>	<i>Not availa ble</i>	No	63.02%
10	<i>Availability of Total Teaching staff in %age (including excess)</i>	<i>Require d</i>	<i>Not availa ble</i>	No	92.16%

11	Availability of at least 8 HF in minimum 8 Departments	Required	Not available	No	Required HF is not available in required departments. Please refer to table no.3.1.
12	Any ineligible teacher as per council verification	-	No	Yes	-
13	Shortcomings in Yoga Teacher	1	No	Yes	-
14	Shortcomings of Biostatistician	1	Yes	No	There is a shortcoming of 1 Biostatisticians.
15	Minimum requirement of Non-teaching staff in all the departments	-	Not available	No	1.Roga Nidan evam Vikriti Vigyan has 1 less Laboratory Technician Please refer to table 4.1

					<i>for more details.</i>
16	Availability of Non Teaching staff in %age	Required	Not available	No	96.00%
17	Minimum requirement of Hospital staff in all the departments	-	Not available	No	1. Emergency Medical Officer is short by 1. 2. Panchkarma Assistant is short by 1.
18	Availability of Hospital Staff in %age	Required	Not available	No	96.43%
19	Minimum requirement of books available in the library	5000	Available	Yes	-
20	Computerized central registration availability in the Hospital	Required	Available	Yes	OPD: available IPD: Available
21	All modern medical consultants	9	Available	Yes	-
22	Availability of Yoga Teacher	1	Available	Yes	-
23	OPD Patients count (per day)	120.0	Available	Yes	-
24	Bed occupancy %	40.0	Available	Yes	-
25	PG Clinical	1:20 for	-	-	-

	<i>Registrars/ Senior Resident requirement as per the MSR (Application only for PG Institutionis)</i>	<i>Beds</i>			
26	<i>Equipment and instruments availability</i>	<i>Require d</i>	<i>Not availa ble</i>	<i>No</i>	<i>Instrume nts/Equi pments are not available in some sections. Please refer Table 7.1</i>
27	<i>Availability of General Equipments/Inst ruments in %age</i>	<i>Require</i>	<i>Not availa ble</i>	<i>No</i>	95.65%
28	<i>Availability of Essential Equipments/Inst ruments in %age</i>	<i>Require</i>	<i>Not Availa ble</i>	<i>No</i>	91.55%
29	<i>Statutory approval of the availability of attached hospital as per the state/local norms</i>	<i>-</i>	<i>-</i>	<i>Not require</i>	<i>Not required</i>
30	<i>Availability of AGBAS Biometrics to track</i>	<i>Require</i>	<i>Not availa ble</i>	<i>No</i>	<i>There is shortcom ing in tracking</i>

	<i>attendance of Staff</i>				<i>attendance of Teaching, Hospital and Non Teaching staff.</i>
31	<i>Availability of College Council and its constitution as per norms.</i>	<i>Require</i>	<i>Available</i>	<i>Yes</i>	-
32	<i>Availability of the college website</i>	<i>Require</i>	<i>Available</i>	<i>Yes</i>	www.siarayurved.com

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which thus brings forth that there were shortcomings *inter alia* in relation to the minimum requirement of teaching staff in all departments with deficiencies in relation to the higher faculty, shortcoming of biostatistician with a lack of laboratory technician, with a lack of emergency medical officer, with a lack of Panchkarma Assistant, with requisite instruments not being available, with their being shortcomings in the tracking attendance of teaching, hospital and non-teaching staff coupled with the factum that the DM-Biometric AGBAS was not functional and the petitioner had filled in the CIPD as 1859 and occupied days are 11754 but that the college had filled in 11754 in IPD as well as Bed occupied in Part-I, it is apparent that the deficiencies that had been pointed out by the respondent no.2 on inspection of the petitioner no.1 college cannot be ignored, and even if

as sought to be contended on behalf of the petitioner that the deficiencies had been removed in relation to the appointment of faculty by the names of Ms. Sunita Gupta and Dr. Kusumlata being uploaded on the portal of the petitioner, the same in any event were uploaded beyond 31.12.2018, apart from also the appointment of Laboratory Technicians Mr. Santosh Kumar & Mr. Manish as per records were uploaded and registered only after 31.12.2018 with the bio-metric attendance mechanism being available with the petitioner college only from 14.03.2019, it is apparent that the impugned order dated 6.7.2019 issued by the respondent no.1 declining the permission to the petitioner college for induction of students with 60 seats in the UG BAMS Course under Sections 13A & 13C of the IMCC Act, 1970 for the academic year 2019-20 cannot be faulted with.

26. The petition thus seeking the setting aside of the order dated issued vide letter F. No.L-14014/253/2019-EP(IM-1) for 2019-20 of the Respondent No.1 denying the permission to the petitioner no.1 college for taking admission to BAMS course with 60 UG seats for academic session 2019-20, is declined. The application CM APPL. 32943/2019 is also thus declined. The same would however not preclude the petitioner from seeking consideration for grant of permission for the petitioner no.1 institute for taking admission in UG BAMS Course for the academic session 2020-21. Copy of the judgment be given dasti under the signatures of the Court Master, as prayed.

ANU MALHOTRA, J.

AUGUST 19th, 2019 /vm