

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

+ W.P (C)No.8094/2019 and 33533/2019 and 35202/2019

Judgment reserved on : 14.08.2019

Date of decision : 21.08.2019

KATYAN SHIKSHAN SAMITI Petitioner
Through: Mr.Arjun Garg, Ms.Sana
Kamra and Mr.Rahul Gupta,
Advocates

versus

UNION OF INDIA & ORS. Respondents
Through: Mr. NikhilGoel, Standing
Counsel, Ms.Ridhima Gaur,
Adv for Union of India.
Ms.Archana Pathak Dave, Adv
for R-2
Mr.Aditya Ranjan, Standing
Counsel for R-3

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The petitioner, Katyan Shikshan Samiti, situated at Bhopal, Madhya Pradesh, seeks the setting aside of the impugned order dated 19.7.2019 issued by the respondent No.1, Government of India, Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy, i.e. AYUSH declining the grant of issuance of the letter of permission to the petitioner institute to start a new Ayurveda College in the name of Dr.Shankar Dayal Sharma Ayurvedic College

& Hospital, Bhopal, Madhya Pradesh with 60 seats in the BAMS/UG course from the academic year 2019-20 under Section 13A of the Indian Medicine Central Council (IMCC) Act, 1970 and vide which letter of intent issued vide letter dated 11.4.2019 as issued to the petitioner, was also withdrawn. The petitioner also seeks direction to the respondent No.1 to issue the letter of permission in favour of the petitioner for starting the said new college for the academic session 2019-20 submitting that all requirements of RMS-2016 have been complied with and the petitioner also seeks directions to the respondent No.1 and 2 to conduct the fresh inspection of the college of the petitioner.

2. The respondents arrayed to the present petition are the Union of India through its Director, Ministry of AYUSH, as respondent No.1 , the Central Council of Indian Medicine as the respondent No.2, the State of Madhya Pradesh as the respondent No.3 and Dr. Shankar Dayal Sharma Ayurvedic College & Hospital, Bhopal, Madhya Pradesh as the respondent No.4

3. It has been submitted on behalf of the petitioner that pursuant to the application dated 28.8.2018 filed by it to the respondent No.1 for obtaining permission under the IMCC Act, 1970 for starting a new Ayurvedic College & Hospital in the name & style of Dr.Shankar Dayal Sharma Ayurvedic College & Hospital, i.e., (the respondent No.4) from the academic year 2019-20, the respondent No.2 had conducted the inspection on 12.6.2019 and 13.6.2019 to assess the available facilities of teaching and practical training and to furnish a report of recommendation to the Central Government and that on

25.6.2019, the respondent No.1, the Union of India, issued a show cause notice to the petitioner as to why the letter of permission to establish a new Ayurvedic college under Section 13A of the IMCC Act, 1970, from the academic year 2019-20 be not denied to the petitioner and the petitioner was informed of an opportunity of hearing in terms of the first proviso to Sub-section (5) of Section 13A of the IMCC Act, 1970, on 1.7.2019 before the designated Hearing Committee in the Ministry of Aayush.

4. The petitioner submits that on 1.7.2019 the representative of the college appeared before the Designated Hearing Committee and explained in detail with oral as well as the documentary evidence that the deficiencies or short comings raised in the hearing notice had been rectified.

5. The petitioner submits that the hearing before the Designated Hearing Committee ought to have taken place only on the basis of the shortcomings or deficiencies raised in the inspection report pursuant to the inspection carried on 12-13.6.2019 by the team of Inspectors of the respondent No.2 but to the shock and surprise of the petitioner, the Hearing Committee asked for the documents that had no relation whatsoever with the deficiencies mentioned in the Hearing Notice. The petitioner has thus submitted that the procedure carried out in the hearing in the manner of fresh inspection is erroneous and arbitrary.

6. The impugned order dated 19.7.2019 of the respondent no.1 is as under:

संख्या/E.No. 1-14012/02/2018-EP (IM-1)

भारत सरकार

Government of India

आयुर्वेद, योग व प्राकृतिक चिकित्सा, यूनानी, सिद्ध एवं होम्योपैथी (आयुष) मंत्रालय

Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy

"आयुषभवन" "AYUSH BHAWAN"

"बी" ब्लॉक, पी.पी.जी. कॉम्प्लेक्स, "B" Block, GPO Complex,

आई.एन.ए., नई दिल्ली-110 023, INA, New Delhi-110 023

दिनांक/Dated: 19.07.2019

ORDER

WHEREAS, the Secretary, Kalyan Shikshan Samithi, Tripathi Hospital, Gufa Mandir Road, Lalghati square, Bhopal, Madhya Pradesh vide its application dated 28.08.2018 had applied for grant of permission of the Central Government to start new Ayurveda college in the name of Dr. Shankar Dayal Sharma Ayurvedic College & Hospital, Bhopal, Madhya Pradesh, with 60 seats in BAMS (UG) course from the academic session 2019-20 under Section 13A of the Indian Medicine Central Council (IMCC) Act, 1970.

2. WHEREAS, The Ministry had decided not to receive fresh applications for starting new ASU&H colleges for A.Y. 2019-20 and A.Y. 2020-21 vide its policy dated 15.05.2018. However, in compliance of order dated 29.08.2018, passed by the Hon'ble High Court of Delhi at New Delhi in W.P.No. 9599/2018 CM No. 15119/2018 (Stay), the application of the aforesaid Trust, was forwarded on 27.12.2018, to the OCIM for examination of the application and inspecting the above proposed college in accordance with the notified Regulations and to verify the existence of a fully-owned functional attached Ayurveda Hospital with requisite infrastructure and staffing position.

3. WHEREAS, the OCIM has visited the college on 06.02.2019 to verify the availability of requisite teaching and training facilities in terms of the provision under the IMCC Act and relevant regulations and issued Letter of Intent vide letter no 3-5/2019-Ay.(50) NP dated 11.04.2019 for establishment of a new Ayurved college with 60 seats in UG (BAMS) course from the academic session 2019-20.

4. WHEREAS, the OCIM again visited the proposed college on 12-13.06.2019 to assess the available facilities of teaching and practical training for issuing/ not issuing LOP to establish new Ayurveda College with 60 seats in UG (BAMS) course and also to verify the compliance of shortcomings informed by the OCIM. Further, the OCIM has furnished its report and recommendation to the Central Govt. vide letter Ref. No. 3-5/2019-Ay.(50) dated 23.06.2019 and conveyed the following shortcomings:-

1. College website is not available as updated details of Director (Dean/Principal/Medical Superintendent) not available in the website.
2. AGBAS Bio-metric attendance system for teaching, non-teaching and hospital staff is not available.
3. College council has not been constituted.
4. Teaching Staff:-
 - i. Sanskrit teacher is not available.
5. Non-teaching staff:-
 - i. There is 01 multipurpose worker available in the garden against the minimum requirement of 02.
6. Hospital staff:-
 - i. There is no Nurse available in Operation theatre against the minimum requirement of 01 (Ms. Prabhavati Yadav has not been considered due to Unauthorized absence).
 - ii. Dr. Mahavir Mahadev Aldar (Consultant in hospital staff) has not been considered due to unauthorized absence.
 - iii. There is no medical Specialist, Surgical specialist, obstetrician & Gynaecologist, Pathologist, Anaesthesiologist, Ophthalmologist, Paediatrician, radiologist and Dentist available in Modern Medical staff against the minimum requirement of 01 each (as per Visitors observation report, it is mentioned but consents received from the staff but not yet joined).
7. Functionality of Hospital:-
 - i. Labour room is functional, but total number of deliveries conducted from 1st Jan. 2019 - 31st Dec. 2019 are nil.
 - ii. Total number of operations done from 1st Jan. 2019 - 31st Dec. 2019 are nil.
 - iii. In central Laboratory, Procedures are not carried out for Sputum examination and Instruments/Equipment are not available.
 - iv. In OPD and IPD data, cash receipts for OPD charges and IPD charges are not available.
8. There is shortage of some instruments/equipments in following departments:
Dissection Hall, Labour Room, Operation theatre and OPD section.
9. Mean availability of essential and general equipments/instruments is 90.88

5. WHEREAS, the recommendations and visitation report of the CCM 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) and policies issued from time to time for issuing Permission for this purpose;

6. WHEREAS, on examining the case in light of above notified & approved criteria and on perusal of visitation report, it was observed that the proposed college was not fulfilling the basic eligibility criteria and the following deficiencies were found:

- i. College website is not available as updated details of Director /Dean/Principal/Medical Superintendent not available in the website as per RMS, 2016.
- ii. Bio-metric attendance system for teaching, non-teaching and hospital staff is not available as per RMS, 2016.
- iii. College council has not been constituted as per RMS, 2016.
- iv. Sanskrit teacher is not available in Ayurveda Samhita deptt. against the minimum requirement of 01 as per RMS, 2016.
- v. There is 01 Multipurpose worker available in the garden against the minimum requirement of 02 as per RMS, 2016.
- vi. There is no Nurse available in Operation theatre against the minimum requirement of 01 as per RMS, 2016. (Ms. Prabhavati Yadav has not been considered due to Unauthorized absence).
- vii. Dr. Mahavir Mahadev Aldar (Consultant in hospital staff) has not been considered due to unauthorized absence).
- viii. There is no medical Specialist, Surgical specialist, obstetrician & Gynaecologist, Pathologist, Anaesthesiologist, Ophthalmologist, Paediatrician, radiologist and Dentist available in Modern Medical staff against the minimum requirement of 01 each as per RMS, 2016.
- ix. Total number of deliveries conducted from 1st Jan. 2019 -31st Dec. 2019 are nil.
- x. Functional Operation Theatre is not available as per RMS, 2016. (Total number of operations done from 1st Jan. 2019 -31st Dec. 2019 are nil)
- xi. In central Laboratory, Procedures are not carried out for Sputum examination and Instruments/Equipment are not available as per RMS, 2016.
- xii. In OPD and IPD data, cash receipts for OPD charges and IPD charges are not available as per RMS, 2016.

7. WHEREAS, considering the deficiencies observed therein as mentioned in para 6 above, the college was given an opportunity of hearing vide Hearing Notice No.L-14012/02/2018-EP(IM-1) dated 23.06.2019 in terms of the first proviso to sub-section (5) of Section 13A of the MOC Act, 1978 to appear on 01.07.2019 at 10.00 AM before the designated Hearing Committee in the Ministry of AYUSH to present their case, to clarify the above position and to show cause as to why the application dated 28.08.2018 to establish a new Ayurveda college in the name of Dr. Shankar Dayal Sharma Ayurvedic College & Hospital, Bhopal, Madhya Pradesh with admission capacity of 60 seats in UG (BAMS) course from the academic session 2019-20 under section 13A of the MOC Act should not be rejected and Letter of Intent dated 11.04.2019 issued earlier should not be withdrawn. The applicant college was directed to make oral as well as written submissions before the designated Hearing Committee and to produce all relevant valid documents/records/proof in original to substantiate their claims against the deficiencies/shortcomings as indicated in the hearing notice and to submit authenticated copies for evidence/verifications by the Central Government.

8. WHEREAS, the college through its representatives Dr. V.S. More, Principal and Sh. Sanjiv Mishra, Administrative Officer, Dr. Shankar Dayal Sharma Ayurvedic College & hospital, Bhopal appeared before the Hearing Committee on 01.07.2019 and made their written/oral submission against the shortcomings communicated vide Hearing Notice dated 23.06.2019.

9. WHEREAS, 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 referred in para 4 above, it is found that the proposed college is not fulfilling the following the minimum requirements as per RMS, 2016, for issuing Letter of Permission to establish a new Ayurveda College with 60 seats in (UG) BAMS course under section 13A of the IMCC Act, from the academic session 2019-20.

- i. In OPD and IPD data, cash receipts for OPD charges and IPD charges in the hospital are not available.
(Proper records of OPD & IPD data is one of the critical parameters to assess the genuine functionality of the hospital, which is required to provide quality medical education & Training to the student and proper medical/surgical care to the patients.)
- ii. Functional Operation Theatre is not available as per RMS, 2016.
(Absence of functional OT adversely affects the ability of college to provide quality surgical training to the student and proper surgical care to the patients)
- iii. 01 Sanskrit teacher in Samhita & Siddhant is not available for first professional as per RMS, 2016.
(Teaching staff is essential for conduction of regular classes for the Students and play cardinal role in the functionality of the college).
- iv. Functionant Labour Room is not available as per RMS, 2016.
(Absence of functional Labour Room adversely affects the ability of college to provide Labour/delivery related medical education & Training to the student and proper medical/surgical care to the patients).
- v. Biometric attendance system for teaching, non-teaching and hospital staff 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)
- vi. 01 multipurpose worker in Herbal Garden is not available as per RMS, 2016. (Technical and other staff is essential for smooth functioning of teaching department, clinical departments & college administration).
- vii. Updated college website is not available as per RMS, 2016.
(Updated college website is important for disseminating the overall information regarding the college to the public and to the students. It also reflects the regular functionality of the college and hospital)
- viii. College Council is not available as per RMS, 2016.
(College Council is necessary for the welfare of the student)

10. WHEREAS, in view of the shortcomings and deficiencies mentioned in above paras, it is found that the said proposed college is not fulfilling the requirements as per regulation 3 and 10 of the Indian Medicine Central Council (Requirements of Minimum Standard for Undergraduate Colleges and attached Hospitals) Regulations, 2016, provision under the IMCC Act, 1970, relevant regulations made thereunder and as per approved Standard Operative Procedures (SOPs) and other relevant regulations for issuing Letter of Permission for 60 seats in UG (BAMS) course from the academic session 2019-20;

11. NOW, THEREFORE, in view of the shortcomings and deficiencies particularly about the non-availability of required number of updated college website, Biometric attendance system for teaching, non-teaching and hospital staff, College Council, 01 Sanskrit Teacher, 01 Multipurpose worker in Herbal Garden, Functional Labour Room, Functional Operation Theatre and OPD and IPD data, Cash receipts for OPD charges and IPD charges in the hospital as per RMS, 2016, which violate the provisions of the IMCC Act and the relevant Regulations and are of such a serious and fundamental in nature that they adversely affect the ability of the college to provide quality medical education in terms of the provisions of the IMCC Act and the relevant Regulations, it has been decided by the Central Government not to issue Letter of Permission to the Secretary, "Katyari Shikshan Samiti, Tripti Hospital, Gufa Mandir Road, Lalghati square, Bhopal, Madhya Pradesh" to start new Ayurveda college in the name of "Dr. Shankar Dayal Sharma Ayurvedic College & Hospital, Bhopal, Madhya Pradesh" with 100 seats in BAMS (UG) courses from the academic year 2019-20 under Section 13A of the Indian Medicine Central Council (IMCC) Act, 1970 and the application dated 28.08.2018 for the purpose is disapproved. Further, Letter of Intent issued earlier vide letter dated 11.04.2019 in this regard to the applicant is also hereby withdrawn.

12. This issues with the approval of competent authority.

Shiksha
19.07.19
(Shiksha Tirkey)

Under Secretary to the Government of India
Phone No. 011-24651976/80

To

The Secretary,
Katyari Shikshan Samiti, Tripti Hospital,
Gufa Mandir Road, Lalghati Square, Bhopal,
Madhya Pradesh-462001

7. Qua the deficiencies that have been set forth through observations of the Hearing Committee to state that the minimum requirement as per RMS, 2016 for issuance of the letter of permission to establish a new Ayurveda College with 60 seats of UG/BAMS

course under Section 13A of the IMCC Act, 1970, from the academic year 2019-20 had been fulfilled, the submissions made on behalf of the petitioner are to the effect:

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S. No.	<i>Alleged Deficiencies as stated in Impugned order</i>	<i>Submissions</i>
1.	<i>In OPD and IPD data, cash receipts for OPD charges and IPD charges in the hospital are not available.</i>	<i>The hospital provides treatment free of cost and the expenses of the hospital are borne by the petitioner society and not by the college and therefore, the cash receipts are not available with the college. Bank statements of the petitioner society reflecting payments for expenses of the hospital (ANN.)</i>
2.	<i>Functional Operation Theatre (OT) is not available as per RMS, 2016 (In the inspection report it was pointed out that the total number of operations done from 1st Jan, 2019-31st Dec. 2019 are nil.)</i>	<i>Respondent No. 1 & 2 did not consider that it was due to a clerical error at the time of filing "Part- 1" i.e. the Online Application that the said entry was filled in as "nil". Documentary evidence such as OT Register, proof of 81 operations done. Equipment Receipt, and photos of a functional OT clearly show that the petitioner has a functional OT.</i>
3	<i>01 Sanskrit teacher in Samhita & Siddhant is not available for first professional as per RMS, 2016.</i>	<i>The documents produced before respondent no. 2 on the day of inspection as well as the documents produced before respondent no.1 at the time of hearing clearly show that Dr. Deepika Singh Chandel was already appointed as Sanskrit teacher vide appointment letter dated 08.05.2019 and she was even</i>

		<i>present on the day of inspection which can be seen from the photographs of the day of inspection. (ANN.)</i>
4	<i>Functional Labour Room is not available as per RMS, 2016</i>	<i>Contradictory observations by Respondent no. 1. Page 2 of the 10, it has been stated that the hospital has a functional Labour room and on the other hand, at page 6 the respondent no. 1 has held that a functional labour room is • not available as per RMS, 2016. The functionality of the hospital as completed in the RMS, 2016 is not determined by the number of operations/ deliveries conducted but from availability of the equipment and necessary infrastructure as required under the RMS, 2016.</i>
5	<i>Biometric attendance system for teaching, non-teaching and hospital staff is not available as per RMS, 2016</i>	<i>The Biometric System that as installed in the college and as even checked by the visitation team of respondent no. 2. Furthermore, when the photographs of the inspection day which evidently show the Biometric Device installed on the wall of the college, the same was not accepted by respondent no. 1. Furthermore, the invoice issued in favour of the Petitioner for purchase of the Biometric Device and the system generated 'Monthly Status Report (Basic Work Duration)' have also not been accepted by respondent no. 1.</i>
6	<i>01 multipurpose worker in Herbal Garden is not available as per</i>	<i>Petitioner vide letter dated 03.06.2019 transferred Mrs. Savita Bai who was</i>

	<i>RMS, 2016.</i>	<i>previously' working under "Others" category to the Herbal Garden as a multipurpose worker. The college was fulfilling the requirement of having minimum of 2 multipurpose workers in the Herbal Garden as per the requirements of RMS, 2016. The letter dated 03.06.2019 substantiates the claim of the petitioner that the alleged deficiency did not even exist at the time of inspection.</i>
<i>7</i>	<i>Updated college website is not available as per RMS, 2016. (The date of joining and registration number of the Principal is not updated on the website)</i>	<i>The same has now been rectified. The screenshot of the updated website showing the date of joining and registration number (ANN.)</i>
<i>8.</i>	<i>College Council is not available as per RMS, 2016</i>	<i>The respondent no. 2 completely disregarded the Office order dated 02.05.2018 and the minutes of the first meeting of the College Council held under the chairmanship of the Principal whereby the College Council comprising of Dr. V.S. (Principal) as Chairman of the Council and three members. namely. Dr. S.K. Mehar (HOD, Samhita Siddhanta), Dr. Prativa Samal (HOD, Anatomy) and Dr. Abijeet Babaso (HOD, Physiology) was constituted as per the requirements of RMS, 2016 and as directed by respondent no. 2. The minutes of the said meeting were duly recorded in the college</i>

		<i>records. The office Order dated 02.05.2019 and the minutes of the first meeting of the College Council marked as annexures to the present Petition. Respondent no. 1 & 2 did not even give any reason for not considering the documents so produced before them.</i>
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8. The petitioner submits that the submissions made before the Hearing Committee as detailed herein above through the chart in relation to the deficiencies put forth by the respondent No.2 and the submissions made by the petitioner have not been adverted to.

9. The petitioner has thus contended to the effect:

“A. That the respondent no. 1, while declining the grant of LOP to the Petitioner for starting a new Ayurveda College for Academic session 2019-2020, has not stated any reason for the same which is arbitrary and in violation of the principles of natural justice and article 14 and 19(1)(g) of the Constitution of India;

B. That the respondent no. 1 has acted arbitrarily by not passing a reasoned speaking order while declining the grant of LOP to the Petitioner and that in view of the settled principle of law, is legally unsustainable;

C. That it has been held by the Hon'ble Supreme Court that irrespective of the fact whether the decision is subject to appeal, revision or judicial review, the recording of reasons by an administrative authority by itself serves a salutary purpose, viz., it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making;

D. That the visitation team of Respondent no. 2 had conducted the inspection in an arbitrary manner wherein despite having a duly constituted college council, a Sanskrit Teacher in Ayurveda Samhita Department, a Bio-metric attendance system, 2 multipurpose workers in the Herbal Garden, functional operation theatre and labour room, the respondent no. 2 has observed the contrary in its report;

E. that the respondent no. 1&2 wrongly pointed out the deficiency of non-availability of OPD charges and IPD charges as the hospital provides treatment free of cost and the expenses of the hospital are borne by the petitioner society and not by the college and therefore, the cash receipts are not available with the college.

F. That the respondent no. 1 & 2 had failed to consider the documentary evidence such as OT Register, proof of 81 operations done. Equipment Receipt, and photos of a functional OT produced during the hearing which clearly showed that the petitioner has a functional OT;

G. That the respondent no. 1, in a desperate attempt to reject the grant of LOP to the petitioner, had dug out minor clerical mistakes pertaining to old records of the hospital and had termed them as deficiencies;

H. That the respondent nos. 1 & 2 had shown absolute non-application of mind by wrongly pointing out the deficiency of non-availability of Sanskrit Teacher as the documents produced before respondent no. 2 on the day of inspection as well as the documents produced before respondent no. 1 at the time of hearing clearly showed that Dr. Deepika Singh Chandel was already appointed as a Sanskrit teacher vide appointment letter dated 08.05.2019 and she was even present on the day of inspection as visible from the photographs of the day of inspection;

I. that the respondent no. 1 had given contradictory observations with respect to the functionality of the Hospital as on one hand, at Page 2 of the impugned order, it has been stated that the hospital has a functional Labour room and on the other hand, at page 6 of the impugned order, the respondent no. 1 has held that a functional labour room is not available as per RMS, 2016 and that the functionality of the hospital as contemplated in the RMS, 2016 is not determined by the number of operations/ deliveries conducted but from availability of the equipment and necessary infrastructure as required under the RMS, 2016 and that the respondent no. 1 & 2 had grossly erred in observing that the hospital did not have a functional labour room/ operation theatre;

J. that the respondent no. 1 & 2 had wrongly pointed out the deficiency of non-availability of Bio-metric attendance system as the photographs of the inspection day showed the Biometric Device installed on the wall of the college.

K. that the respondent nos. 1 & 2 failed to consider the letter dated 03.06.2019 which substantiated the claim of the petitioner that vide letter dated 03.06.2019 Mrs. Savita Bai who was previously working under "Others" category was transferred to the Herbal Garden as a multipurpose worker.

L. that the respondent no. 2 completely had disregarded the Office order dated 02.05.2018 and the minutes of the first meeting of the College Council whereby the College Council was constituted as per the requirements of RMS, 2016 and as directed by respondent no. 2;

M. that the respondent no. 1 had failed to perform its duty as provided by RMS, 2016 as well as the provisions

under the IMCC Act, 1970 and that it ought to have applied its mind and given its reasons as to why the petitioner ought or ought not to be given the permission and that the respondent No. 1 had copied the deficiencies pointed out Respondent no. 2 without adhering to the Principles of Natural Justice;

N. that the Order dated 19.07.2019 passed by respondent no. 1 was in breach of principles of natural justice and reliance was placed by the petitioner on the verdict of the Hon'ble Supreme Court in State of W.B. v. Alpana Roy, (2005) 8 see 296, wherein the following observations were made:

"8. Even in respect of administrative orders Lord Denning, M.R. in Breen v. Amalgamated Engg. Union [(1971) 1 All ER 1148 : (1971) 2 QB 175 : (1971) 2 WLR 742 (CA)] (All ER p. 1154h) observed: "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree [1974 ICR 120 (NIRC)] it was observed: "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision-taker to the controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the

affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance",

O. Likewise, the petitioner placed reliance on the observations in para 14 of the verdict of the Hon'ble Supreme Court in Anand Brothers Private Limited v. Union of India, (2014) 9 SCC 212: -

"14. .. Application of mind is best demonstrated by disclosure of the mind; mind in turn is best disclosed by recording reasons. That is the soul of every adjudicatory process which affects the rights of the parties. This is true also in the case of a finding of fact where too the process of reasoning must be disclosed.";

P. that the respondents had acted in arbitrary manner by not considering the documents produced by the college representatives to show compliance of the RMS, 2016;

Q. that in Beehive Ayurved Medical College And Hospital V. Union of India W.P. (C) 10959/2018 & CM No. 42690/2018 wherein the permission to the petitioner was denied without considering the proof of deficiencies having been rectified by the petitioner, the Court had issued notice to the Respondent and as interim relief, permitted the petitioners to proceed with admissions;

R. that in Parashar Ayurvedic Medical College and Hospital v. Union of India and Anr. W.P. (C) 11517/2018 this Court vide order dated 11.10.2018 directed the respondent therein to upload on their respective websites the name of the petitioner college

amongst the names of colleges who had received recognition/ permission;

S. that in a batch of Writ Petitions the lead matter being Doon Institute of Medical Sciences and Anr. v. Union of India and Anr. W.P.(C) 11458/2018, this Court had permitted the petitioners therein to proceed with admissions and directed the respondents to upload/include the name of the petitioners in the list of colleges reflected on their respective web portals;

T. that the RMS, 2016 provides for grant of conditional approval in case of minor deficiencies.

10. *Inter alia* reliance has been placed on behalf of the petitioner on the verdict of the Hon'ble Supreme Court in ***Temple of Hanemann Homoeopathic Medical College and Hospital v. Union of India and Ors.***: 2018 SCC Online SC 818 wherein the provisions of the Homoeopathy Centre Council Act, 1973 which were under consideration which the petitioner submits are in *pari materia* with the IMCC Act, 1970, it was held by the Hon'ble Supreme Court that the role of the Central Government is a supervisory one and not investigatory and reliance has been placed on behalf of the petitioner on the observations in paragraph 20 of the said verdict which reads to the effect:

“20 A bare reading of the provisions contained under Section 17 makes it clear that as per statutory provision, duty has been enjoined upon the CCH to appoint a team of Inspectors. Such a power has been specifically conferred on such Expert Bodies under various enactments also. It is the function of the expert

bodies in the field and they are supposed to appoint a team of Inspectors and it is for expert bodies to make the recommendations to the Central Government. The role of the Central Government is a supervisory one and not to start an investigation by making the appointment of a team of Inspectors, as that is not envisaged under the Act of 1973 itself.”

11. The petitioner has further placed reliance on the verdict in ***R.N.Kapoor Memorial Homoeopathic Hospital and Medical College v. Union of India***; 2019 SCC Online Del 8907, to contend that the scope of powers of the Central Government as envisaged in the Homoeopathy Central Council Act, 1973 which are *pari materia* with the IMCC Act, 1970, is limited to the deficiencies pointed out by the Central Council of Homeopathy and that the respondent No.1 ought to have limited its consideration to the deficiencies that have been pointed out by the CCH in its inspection report.

12. Though no counter affidavit was filed on behalf of the respondent, submissions have been made on behalf of either side by the learned counsel.

13. Whereas, on behalf of the petitioner it was sought to be submitted that there are no deficiencies as have been pointed out in the show cause notice by the CCIM pursuant to its inspection on 12.6.2019 and 13.6.2019, the Hearing Committee of the respondent No.2 had put forth different requirements other than those mentioned in the show cause notice.

14. In relation to this aspect it is essential to observe that the discrepancies and short comings that have been pointed out by the

Hearing Committee through the impugned order are significant and major and cannot be overlooked.

15. The requirement of Minimum Standards to grant the permission as prescribed through the notification dated 7.11.2016 issued by the respondent No.2 is the sanction of the Central Government i.e., the respondent No.1 through Regulation 3(1) (A) **thereof which prescribes that the Ayurveda Colleges established under Section 13A and Section 13(c) of the Act and their attached hospital shall fulfill the requirement of Minimum Standards in infrastructure and teaching and training facilities referred to in the Regulations 4 to 11 upto 31st December, of every year for consideration of grant of permission for undertaking admissions for the academic sessions.**

16. The requirements of teaching hospitals as prescribed through the said notification is as under:-

“(1)The teaching hospital shall fulfill all the statutory requirements of the concerned State or Union territory or local authority to establish and run the hospital and shall submit the updated certified copies of such permission(s) or clearance (5) to the Central Government and the Central Council. The concerned State Government or Union territory shall issue the No Objection Certificate to such applicant colleges after verifying the availability of such permission(s) or clearance(s).

(2) Requirement of beds, bed occupancy and Out-Patient Department attendance: The ratio of students with number of beds, In-Patient Department bed occupancy and Out-Patient Department attendance shall be 1:1, forty per cent, and 1:2,respectively, as given in Table below and the distance

between two beds in general ward shall not be less than one and a half meter,

<i>Intake capacity per year</i>	<i>Minimum number of beds in In-Patient Department on the 1:1 student-bed ratio</i>	<i>Minimum per day average number of patients in In-Patient department during last one calendar year (365 days) (40% bed occupancy)</i>	<i>Minimum per day average number of patients in Out-Patient department during last one calendar year (300 days) (1:2 student patient ratio)</i>
<i>Up to sixty students</i>	<i>60 beds</i>	<i>24</i>	<i>120</i>
<i>Sixty-one to hundred students</i>	<i>100 beds</i>	<i>40</i>	<i>200</i>

To calculate the number of beds occupied, the college shall maintain the date and time of admission and discharge of each patient. The bed occupied by a patient at mid-night, shall be counted as one bed day occupied and if a patient is discharged before mid-night that shall be counted as 0.5 bed day occupied. To calculate bed occupancy following formula shall be applicable-

Number of bed days occupied X100

Number of bedsXNumber of days

Maintenance of record of attendance of Out-Patient Department and In-Patient Department patients:

(i)The College and hospital shall maintain the web based computerised central registration system for maintaining the records of patients in Out-Patient Department and In-Patient Department. The college shall also maintain the Department-

wise Out-Patient Department and In-Patient Department records, case papers of Out-Patient Department and In-Patient Department patients, laboratory and radiological investigation reports, medicines dispensing register, diet register for In-Patient Department patients, duty roster of hospital staff, birth and death certificates etc.so as to substantiate the claim of genuine functional Ayurveda hospital fulfilling the norms as specified in the sub-regulation (2) of regulation 7.

(ii) For conditional permission, the College and hospital shall maintain the computerised central registration system for maintaining the records of patients in Out-Patient Department and In-Patient Department, the college shall also maintain the Department-wise Out-Patient Department and In-Patient Department records to substantiate the claim of genuine functional Ayurveda hospital fulfilling the norms as specified in the sub-regulation (2) of regulation 7 and the computerised central registration system shall be web based from the 1st December, 2016. Colleges which were permitted for a period not exceeding five years from the academic session 2014-15 and 2015-16 shall be required to maintain web based computerised central registration system from the 1st December, 2016.

4.Space requirement:

The hospital shall accommodate Out-Patient Department and In-Patient Department and wards in addition to reception, patient's waiting area, dispensing room, dressing room, clinical laboratory, radiology section, hospital side pharmacy, kitchen, service rooms, medical record-room, Panchakarma therapy section, Ksharsutra therapy section, Operation Theatre, Labour Room, Store Rooms, separate wards for male and female, Duty rooms for Doctors, Nurses and other staff etc. required for a fully functional hospital and the specification of built up are in the attached hospital shall be as per the Schedule-I.

(5) Out patient Department:

The hospital shall have minimum eight following Out-patient Departments, namely-

- (i) *Kayachikitsa*
- (ii) *Panchakarma*
- (iii) *Shalya Tantra*
- (iv) *Shalkya Tantra (Two rooms for Out-Patient Department)*
 - (a) *Netra Roga Vibhaga*
 - (b) *Karn-Nas-Mukha evam Dant Roga Vibhaga*
- (v) *Prasuti evam Striroga*
- (vi) *Kaumarabhritya (Balaroga)*
- (vii) *Swasthavitta evam Yoga*
- (viii) *Aatyayuka (Emergency)*

(6) In-Patient Department: The In-Patient Department of the hospital shall have separate male and female wards and distribution of beds shall be as under:

<i>In-Patient Departments</i>	<i>Distribution</i>	<i>60 beds</i>	<i>100 beds</i>
<i>Kaychikitsa (Panchakarma, Rasyan and Mana Rog etc.)</i>	<i>50% beds</i>	<i>30</i>	<i>50</i>
<i>Shalya Tantra and Shalakya Tantra</i>	<i>25% beds</i>	<i>15</i>	<i>25</i>
<i>Prasuti evam Striroga and Kaumarabhritya</i>	<i>25% beds</i>	<i>15</i>	<i>25</i>

(7) Rog Nidan evam Prayogshalya Parikshan Prayogshla (Clinical Laboratory for clinical diagnosis and investigations): There shall be a clinical laboratory in the hospital complex with infrstructure and manpower as specified in the Schedule I, the Schedule-II, the Schedule-IV,

the Schedule-V and the Schedule-VII for carrying out routine , pathological, biochemical and hematological investigations and Ayurvedic diagnostic techniques on the patients referred from Out-Patient and In Patient Departments of the hospital.

(8) Hospital Staff: The minimum staff required for hospital shall be as specified in the Schedule-IV.

8. Requirements of College:

(1) (a) Teaching staff: There shall be minimum thirty full time teachers and fort- five full time teachers appointed on regular basis for admissions of up to sixty students and sixty-one to hundred students respectively with the addition of ten part time teachers (eight teachers of Modern Medicine, one Yoga teacher and one Bio- statistician) for each slab as specified in the Schedule-V, the teacher fulfilling the eligibility norms of the related teaching post or subject teacher shall be appointed on deputation or contractual basis.

(b) Age of superannuation of teachers: The age of superannuation of teachers shall be as per the order of the Central Government or State Government or University Grant Commission. The retired teachers, fulfilling the eligibility norms of teachers may be re-employed up to the age of sixty-five years as full time teacher.

(c) The detail of every teacher such as academic qualification, total teaching experience along with name of previous institutions, date of joining shall be on the website of college.

(d) The list of all the teachers with complete detail such as Code allotted by the Central Council, academic qualification, total teaching experience along with name of previous institutions and present institute, shall be displayed at the website of the Central Council.

(2) Requirement of technical and other staff: Technical and other staff in various units and departments of the college shall be as per the details given in the Schedule-VI.”

17. Taking the requirements for the teaching hospital requisite in terms of the notification dated 7.11.2016 which notification applies to the facts and circumstances of the instant case, which requirements in terms of the said notification **have to be fulfilled by the 31st December of each year for consideration of grant of permissions for undertaking admissions in the coming academic sessions**, the submissions that have been made on behalf of the petitioner that the teaching faculty was complete by the appointment of Dr. Deepika Singh Chandel on **8.5.2019**, that the multipurpose worker was appointed into the Herbal Garden Category by a transfer on **3.6.2019** and the College Council sought to be contended by the CCIM to be not in existence was constituted as per the records of the petitioner vide its office order dated **2.5.2019**, all bring forth that the said requirements which needed to be complied with by **31.12.2018** for undertaking admissions in the coming academic session had not been complied with by 31.12.2018.

18. Another contention that had been raised during the hearing was that as per the observations of the Hearing Committee in the OPD and the IPD data, cash receipts for OPD charges and IPD charges in the hospital were not available, which the CCIM and the respondent No.1 contend are critical parameters to assess the genuine functionality of the hospital which was required to provide quality medical education and training to the student and proper medical/surgical care to the

patients qua which it was submitted on behalf of the petitioner on 31.7.2019 that the receipts in relation to the OPD/IPD data were not maintained in as much as all patients were treated free. On behalf of the respondent No.1 it had been submitted to the effect that the requirements of OPD and IPD was for the purpose of ascertaining the number of patients that had been treated. In view of the submissions that have been made on behalf of the petitioner the affidavit of the authorized representative of the petitioner specifying the names and addresses of patients that had been treated with the ID numbers during the year 2018-19 were directed to be placed on record an affidavit has been filed on behalf of the petitioner qua CM No. 35202/2019 of the Secretary of the Petitioner. Through the submissions that have been placed on the record on behalf of the petitioner thereby placing reliance on the certificate issued by the petitioner to contend that it had certified that the hospital expenses are borne by the society and the hospital and that they provide the services free of cost and that entries have been made in the OPD register and in the IPD register as well as in the ledger account of the hospital society with invoices issued by the suppliers in favour of the society as well as the bank statement of the society evidencing payment for the hospital expenses, to thus contend on behalf of the petitioner that the requisite records had been maintained as was submitted through CM No. 35202/2019.

19. Qua the same, apparently as rightly sought to be contended on behalf of the respondent No.2 the said OPD register, IPD register and ledger account appear to be filled in single handwritings by the departments concerned and that the authenticity of the same is not free

from doubt in the circumstances of their not having been maintained in accordance with the requisite regulations in the form of the web based computerized central registration system.

20. It is essential to observe that the Regulation 7 (2) (i) of the notification dated 7.11.2016 issued by the respondent No.2 with the sanction of the respondent No.1 makes it apparent that the teaching hospital shall fulfill all the statutory requirements of the concerned State or Union territory or local authority to establish and run the hospital and shall submit the updated certified copies of such permission(s) or clearance (5) to the Central Government and the Central Council. The concerned State Government or Union territory shall issue the No Objection Certificate to such applicant colleges after verifying the availability of such permission(s) or clearance(s).

21. As regards the bio-metric attendance system for teaching and non-teaching and hospital staff sought to have been put into place by the petitioner, the same is indicated to have been put in place only pursuant to an invoice dated 29.4.2019 and thus it was not in place on the date 31.12.2018.

22. It is apparent thus on a bare consideration of the submissions that have been made on behalf of the petitioner that even if it is sought to be contended on behalf of the petitioner that the requirements requisite in the terms of RMS 2016 had been complied with substantially, they have not been complied with by the date 31.12.2018 and the parameters essential for granting of permission for undertaking admissions in the academic session 2019-20 had not been put in place by the date 31.1.2018 by the petitioner.

23. As regards the submissions made on behalf of the petitioner that the RMC, 2016 provides for grant of conditional approval in minor deficiencies, as observed elsewhere herein above, the deficiencies pointed out by the Hearing Committee are significant and major and thus cannot be overlooked as also observed by this Court in WP(C) 7934/2019 titled ***Shivalik Institute of Ayurved And Research & Anr. V. Union of India & Anr..***

24. Reliance thus placed on behalf of the respondent No.2 on the verdict of the Hon'ble Supreme Court in Civil Appeal No(s). 10372/2018 titled ***Medical Council of India v. The Chairman, S.R. Educational and Charitable Trust & Anr.,*** Civil Appeal No(s). 10373/2018 titled ***Medical Council of India v. The Chairman, Al-Azhar Medical College and Super Speciality Hospital & Ors.,*** Civil Appeal No(s). 10374/2018 titled ***Medical Council of India v. B. M. Education & Research Foundation & Ors. and*** Civil Appeal No(s). 10375/2018 titled ***Medical Council of India v. Dr. P. Krishna Kumar & Ors.,*** though the said verdicts relate to the MCI regulations, nevertheless the ratio laid down therein is wholly applicable to the facts of the instant case, whereby it has been observed that the conditional permission to admit students should not be granted and that for efficacious medical education, it would not be appropriate to permit any unequipped college to impart training without proper infrastructure, faculty and patients, which serve the object of teaching.

25. In the circumstances, the petition and the accompanying applications seeking relief for the academic year 2019-20 are declined.

A copy of the judgment be given *dasti* under the signatures of the Court Master, as prayed by the petitioner.

ANU MALHOTRA, J.

AUGUST 21, 2019/SV

