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

Date of decision: 17th September, 2019

+ LPA 604/2019 and CM Nos. 41412-41413/2019

GLOCAL MEDICAL COLLEGE SUPER SPECIALITY
HOSPITAL AND RESEARCH CENTRE Appellant

Through: Mr. Neeraj Jain and
Mr. Anupam Mishra, Advs.

versus

UNION OF INDIA & ANR Respondents

Through: Mrs. Suparna Srivastava and
Ms. Sanjna Dua, Advs. for R-1
Mr. T. Singhdev, Ms. Puja
Sarkar, Ms. Michelle B. Das,
Ms. Arunima Pal and Mr.
Abijit, Advs. for R-MCI

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

ORDER

17.09.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

CM No. 41413/2019 (exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

LPA 604/2019

3. This Letters Patent Appeal has been preferred by the original petitioner, whose W.P.(C) 6958/2019 was dismissed by the learned Single Judge *vide* judgment dated 5th September, 2019.

4. This appellant had preferred a writ petition for quashing and setting aside the order dated 18th May, 2019 passed by Respondent No. 2, which is at Annexure P-6 to the memo of this appeal.

5. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that this appellant was directed not to give admission to students in their MBBS course for the academic year 2019-20 by the impugned order dated 18th May, 2019 (Annexure P-6), mainly for the reason that there are as many as 25 deficiencies pointed out in the communication by respondent no. 2 to this appellant (original petitioner). These deficiencies were not removed and hence, the permission to admit students in their MBBS course for the academic year 2019-20 was refused.

6. It is submitted by counsel for the appellant (original petitioner) that the first inspection was carried out on 3rd January, 2019 and without giving a report, a second inspection was again carried out on 4th February, 2019. Counsel for the appellant submits that without giving a report of the first inspection, the second inspection could not have been carried out. Moreover, in a personal hearing given by the respondents on 7th May, 2019, in detail, it was pointed out by this appellant that there are no deficiencies, as enumerated by the respondents, with this appellant and hence, admission to students in MBBS must be allowed for the academic year 2019-20. It is also submitted by counsel for the appellant (original petitioner) that the removal of the deficiency has not been properly appreciated by the learned Single Judge while deciding the writ petition preferred by this appellant and hence, the judgment and order dated 5th September,

2019 passed by the learned Single Judge in W.P.(C) 6958/2019 deserves to be quashed and set aside. Counsel for the appellant has also submitted that the time limit which is prescribed can be relaxed by this Court while exercising its power under Article 226 of the Constitution of India. Much time has been consumed by the respondents in inspection, reporting and pointing out the deficiencies observed. The work, which was to be completed in the month of January, has been completed in the month of May, 2019 by the respondents and hence, delay is on the part of the respondents. Therefore, the time limit to give permission to this appellant and admission to students may be relaxed by this Court.

7. We have also heard counsel for the respondents who have submitted that no error has been committed by the learned Single Judge while deciding W.P.(C) 6958/2019 *vide* judgment dated 5th September, 2019. The respondents have pointed out, categorically, the deficiencies with this appellant-institution, which are as many as 25 deficiencies. These deficiencies have not been removed by this appellant. It is further submitted by counsel for the respondents that the appellant, initially, was very reluctant in allowing the inspection team to carry out the inspection, but later, the same was allowed. Counsel for the respondents submitted that this appellant had refused the carrying out of the inspection twice. This aspect of the matter has also been properly appreciated by the learned Single Judge. The deficiencies, which are enumerated in the order dated 18th May, 2019, were such that they cannot be ignored. Hence, no error is committed by the respondents while passing the order dated 18th May, 2019, whereby permission was refused to give admission to students in

MBBS course for the academic year 2019-20. Counsel for the respondents has placed reliance upon the decision rendered by the Hon'ble Supreme Court in *Ashish Ranjan & Ors. v. Union of India & Ors., (2016) 11 SCC 225* and has submitted that the cut-off date for granting admission to students in MBBS for the academic year 2019-20 was 31st August, 2019. Admittedly, this date has already passed and no relaxation can be granted by this Court looking to the judgment, order and the directions given by the Hon'ble Supreme Court in the aforesaid decision.

Reasons

8. Having heard counsels for both the sides and looking to the facts and circumstances of the case, it appears that this appellant (original petitioner) had preferred a writ petition, being W.P.(C) 6958/2019, wherein the order dated 18th May, 2019 (Annexure P-6) passed by Respondent No.2 was under challenge, whereby the respondents have refused to give permission to this appellant for admission of students in MBBS for the academic year 2019-20.

9. Looking to the order dated 18th May, 2019 at Annexure P-6, the following are the deficiencies pointed out by the respondents for this appellant :

- “1. *MCI regional (nodal) centre for training of staff for Medical Education is not mentioned.*
2. *Orientation and Basic course workshop has not been undergone by MEU faculty.*
3. *3rd LT in College is under construction.*

4. *Students reading room in central in central library Inside & outside) less by 175 accommodation and reading staff reading room by 5.*
5. *Books less by 864, Journal Indian by 3, foreign by 2*
6. *UG students hostel accommodation by 30 in boys hostel and in girls hostel*
7. *Resident + PG hostel accommodation less by 6*
8. *Residential quarters in teaching staff less by 6 and for non-teaching staff less by 6*
9. *Biometric devices not installed in college*
10. *No of normal deliveries & Ceasarian Section - Nil*
11. *CT Scan done - Nil*
12. *No. of beds in NICCU/PICU is 1 each, deficient by 4 beds in each.*
13. *CT spiral Minimum 16 slice, the purchase order has been placed.*
14. *Central Research Lab - not functional*
15. *In Anatomy dept. histology lab has seating capacity of 75 as against 90 (15 seats less)*

16. *Ten short tables less in Dissection Hall*
17. *In Patho Demo rooms (both) the capacity is less by 40 in each demo room (Required 80, available 40)*
18. *In microbiology service labs available are 4 against 7 (3 deficient)*
19. *In pharma dept. Experimental Pharma Labs not available and mannequins also not available.*
20. *In community Medicine, Demo room Capacity, for 70 as against 80*
21. *No specialist visits in UHTC*
22. *Deficiency of Faculty - 74.35% (87/117)*
23. *Deficiency of Residents - 78.78% (52/66)*
24. *Only 5 pts in male surgical, 2 each in female surgical & Paed wards were admitted.*
25. *No surgery was performed, as per OT register on 19.1.2019. Post OT recovery data register showed last operation was done on 24.1.19."*

10. The aforesaid deficiencies were pointed out by Respondent No.2 to this appellant and the same have not been removed.

11. Initially, the inspection team had visited this appellant, but it appears that inspection was not allowed. This has occurred twice

previously, initially, on 3rd January, 2019 and secondly, on 5th April, 2019.

12. It further appears that the deficiencies which were pointed out, personal hearing was also given to this appellant on 7th May, 2019.

13. Counsel appearing for the appellant submits that these deficiencies have been removed. We are not in agreement with this contention, mainly for the reason that the inspection team of the experts have pointed out these deficiencies and they are not yet removed, as per Respondent No.2. Looking to the deficiencies pointed out as stated hereinabove, they are such that they cannot be ignored. These aspects of the matter have been properly appreciated by the learned Single Judge while deciding W.P.(C).6958/2019, *vide* judgment dated 5th September, 2019.

14. It has been held by the Hon'ble Supreme Court in ***Ashish Ranjan & Ors. v. Union of India & Ors., (2016) 11 SCC 225*** in the tables incorporated at pages 226-227, 227-228 and 228-229 of the decision as under :

“TIME SCHEDULE FOR RECEIPT OF APPLICATIONS FOR ESTABLISHMENT OF NEW MEDICAL COLLEGES/RENEWAL OF PERMISSION AND PROCESSING OF THE APPLICATIONS BY THE CENTRAL GOVERNMENT AND THE MEDICAL COUNCIL OF INDIA

<i>Sl. Nos.</i>	<i>Stage of processing</i>	<i>Last date</i>
<i>1.</i>	<i>Receipt of applications by the Central Government.</i>	<i>Between 15th June to 7th July (both days inclusive) of any year</i>
<i>2.</i>	<i>Forwarding application by the Central Government to the Medical Council of India.</i>	<i>By 15th July</i>
<i>3.</i>	<i>Technical scrutiny, assessment and recommendations for letter of permission by the Medical Council of India.</i>	<i>By 15th December</i>
<i>4.</i>	<i>Receipt of reply/compliance from the applicant by the Central Government and for personal hearing thereto, if any, and forwarding of compliance by the Central Government to the Medical Council of India.</i>	<i>Two months from receipt of recommendation from MCI but not beyond 31st January</i>
<i>5.</i>	<i>Final recommendations for the letter of permission by the</i>	<i>By 30th April</i>

	<i>Medical Council of India.</i>	
6.	<i>Issue of letter of permission by the Central Government.</i>	<i>By 31st May</i>

Note 1. – In case of renewal of permission, the applicants shall submit the application to the Medical Council of India by 15th July.

***TIME SCHEDULE FOR RECEIPT OF APPLICATIONS
FOR INCREASE OF ADMISSION CAPACITY IN MBBS
COURSE/RENEWAL OF PERMISSION FOR INCREASE
OF SEATS AND PROCESSING OF THE
APPLICATIONS BY THE CENTRAL GOVERNMENT
AND THE MEDICAL COUNCIL OF INDIA***

Sl. No.	Stage of processing	Last date
1.	Receipt of applications by the Central Government.	Between 15 th June to 7 th July (both days inclusive) of any year
2.	Forwarding application by the Central Government to the Medical Council of	By 15 th July

	India.	
3.	Technical scrutiny, assessment and recommendations of letter of permission by the Medical Council of India.	By 15 th December
4.	Receipt of reply/compliance from the applicant by the Central Government and for personal hearing thereto, if any, and forwarding of compliance by the Central Government to the Medical Council of India.	Two months from receipt of recommendation from MCI but not beyond 31 st January
5.	Final recommendations for the letter of permission by the Medical Council of India.	By 30 th April
6.	Issue of letter of permission by the Central Government.	By 31 st May

Note 1.—In case of renewal of permission, the applicants shall submit the application to the Medical Council of India by 15th July.

***TIME SCHEDULE FOR COMPLETION OF THE
ADMISSION PROCESS FOR FIRST MBBS COURSE***

<i>Sl. Nos.</i>	<i>Schedule for admission</i>	<i>Seats to be filled up by the Central Government through the All India Entrance Examination</i>	<i>Seats to be filled up by the State Government /Institution</i>
<i>1.</i>	<i>Conduct of entrance examination</i>	<i>Between 1st to 7th May</i>	<i>Between 10th to 17th May</i>
<i>2.</i>	<i>Declaration of the result of the qualifying exam/entrance exam</i>	<i>By 1st June</i>	<i>By 1st June</i>
<i>3.</i>	<i>1st round of counselling/ admission</i>	<i>To be over by 25th June</i>	<i>Between 6th July to 15th July</i>

4.	<i>Last date for joining the allotted college and the course.</i>	<i>By 5th July</i>	<i>By 22nd July</i>
5.	<i>2nd round of counselling/ admission for vacancies.</i>	<i>Between 23rd July to 30th July</i>	<i>Between 10th to 22nd August</i>
6.	<i>Last date of joining for the 2nd round of counselling/ admission</i>	<i>By 9th August</i>	<i>By 28th August</i>
7.	<i>Commencement of academic session/term</i>	<i>1st of August</i>	<i>1st of August</i>
8.	<i>Last date up to which students can be admitted/ joined against vacancies arising due to any reason</i>		<i>By 31st August</i>

Note 1. – All India quota seats remaining vacant after last date for joining i.e. 9th August will be deemed to be converted into State quota.

2. Institute/college/courses permitted after 31st May will not be considered for admission/allotment of seats for current academic year.

3. In any circumstances, last date of admission/joining will not be extended after 31st August.”

15. In view of the aforesaid time limit granted by the Hon’ble Supreme Court, permission ought to have been obtained by this appellant for the academic year 2019-20 by, latest, 31st May, 2019. This date has gone, and permission has not been given to this appellant.

16. Moreover, the cut-off date for admission of students in MBBS for the academic year 2019-20 was 31st August, 2019. This date has also gone and no admission has been given to any student. In view of the aforesaid decision and the directions given by the Hon’ble the Supreme Court, we see no reason to extend the time limit given by the Hon’ble Supreme Court for admission of students in MBBS.

17. Much has been argued by counsel for the appellant that the respondents have consumed much time and hence, this time limit has been crossed. Be that as it may, the fact remains that the time limit given by the Hon’ble Supreme Court has passed and hence, we see no

reason to extend the time limit for the grant of permission, nor do we want to extend the time limit for admission to students in the academic year 2019-20. If at all this appellant is much aggrieved, by the behaviour of the respondents, they are at liberty to take action before the appropriate forum or tribunal or court.

18. The aforesaid facts, reasons and judicial pronouncements have been properly appreciated by the learned Single Judge while deciding the writ petition preferred by this appellant, being W.P.(C) 6958/2019, *vide* judgment dated 5th September, 2019. We are in full agreement with the reasons given by the learned Single Judge, hence, there is no substance in this appeal and the same is hereby dismissed.

CM Nos. 41412-41413/2019

1. In view of the order passed in the appeal, these applications stand disposed of.

CHIEF JUSTICE

SEPTEMBER 17, 2019//kr

C. HARI SHANKAR, J.