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

Date of Decision: 24.10.2019

+ LPA 679/2019 & CM APPL. 46920/2019

HAKEEM ABDUL HAMEED UNANI MEDICAL COLLEGE

..... Appellant

Through: Mr. Ashok Panigrahi with
Ms. Guninder Kaur Gill, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Vikrant N. Goyal with
Mr. Jaswant Rai Aggarwal &
Ms. Deepali Sharma, Advs. for R-1.
Ms. Archana Pathak Dave with
Ms. Ankita Chaudhary, Advs. for
R-2/CCIM.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (Oral)

CM APPL. 46920/2019 (exemption)

Allowed, subject to just exceptions.

LPA 679/2019

1. This Letters Patent Appeal has been preferred by the original petitioner whose application for stay was not allowed by the learned Single Judge in W.P.(C) No.9101/2019. The writ petition is already pending before the learned Single Judge and the next date of hearing is 27.11.2019.

2. The appellant had preferred an application being CM No.37602/2019 before the learned Single Bench for getting stay against an order passed by the respondents dated 13.07.2019 (Annexure P-1 at Page 73 of the memo of this Letters Patent Appeal). The stay was not granted by the learned Single Judge and the next date of hearing of the writ petition bearing No.9101/2019 is fixed as 27.11.2019.

3. Having heard learned counsel for both the sides and looking to the facts and circumstances of the case, it appears that the appellant had preferred an application for seeking permission to admit 60 students to the Bachelor of Unani Medicine and Surgery Course (hereinafter referred to as “BUMS Course”) for the Academic Session 2018-19. This application was dismissed or declined by the respondent/Government which was challenged in the writ petition.

4. It further appears from the facts of the case that the respondents have carried out more than one inspection wherein several deficiencies have been found out at the Institute of the present appellant. As the writ petition is already pending before the learned Single Judge, we are not much analyzing the facts of the case. Nonetheless, suffice it to state that there are more than 10 deficiencies with the present appellant Institution, as pointed out in the order passed by the respondents dated 27.09.2019. Moreover, prima facie, on receiving report of the inspection and thereafter filing the reply dated 27.06.2019, opportunity of being heard was also given to the appellant.

5. Looking to the deficiencies found with the appellant Institution, there appears no prima facie case in favour of the appellant. Moreover, balance of convenience is also not in favour of the appellant and no irreparable loss will be caused to the appellant if the stay as prayed for is not granted. In our

view, aforesaid aspects of the matter have been properly appreciated by the learned Single Judge while passing an order in CM No.37602/2019 in W.P.(C) No.9101/2019 dated 27.09.2019. We are in full agreement with the reasons given by the learned Single Judge in the aforesaid order dated 27.09.2019. Hence, we see no reason to entertain this Letters Patent Appeal.

6. Learned counsel appearing for the appellant has relied upon the decision rendered by the Hon'ble Supreme Court in *D.K. Yadav v. J.M.A. Industries Ltd.*, (1993) 3 SCC 259. This judgment is of no help to the appellant mainly for the reason that opportunity of being heard has already been given to the appellant. The reply was also filed by the appellant after the inspection was carried out by the respondents. The reply of the appellant to the respondents is dated 27.06.2019 which is on record of this Letters Patent Appeal. These facts make the present case different from the facts upon which reliance is placed by the counsel for the appellant. Hence also, we see no reason to entertain this Letters Patent Appeal.

7. Accordingly, this Letters Patent Appeal is hereby dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

OCTOBER 24, 2019

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