

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11441 of 2019

The Governing Body of Buddha Institute of Dental Sciences and Hospital through its Secretary, Rama Kant Singh (Male) aged about- 65 years, Son of Late Ram Khelawan Singh, West of TV Tower, Sanjay Gandhi Nagar Road, P.S. and P.O. Kankarbagh, Patna, Bihar 800020.

... .. Petitioner/s

Versus

1. The Union of India Ministry of Health and Family Welfare, through its Secretary, Nirman Bhawan, Near Udyog Bhawan Metro Station, Maulana Azad Road, New Delhi, Delhi- 110011.
2. The State of Bihar, Department of Health, through its Principal Secretary, 1st Floor, Vikas Bhawan, Bailey Road, Patna, Bihar- 800 015.
3. The Dental Council of India, through its Secretary, Aiwan-e- Galib Marg, Kotla Road, Temple Lane, Opp. Mata Sundari College for Women, New Delhi, Delhi- 110002.
4. Magadh University, through its Registrar, Bodh Gaya, Bihar- 824234.
5. The Shikshan Shulk Nirdharan Samiti, Bihar through its Chairman, 3rd Floor, State Health Society, Bihar, Sheikhpura, Patna, Bihar- 800014.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh, Advocate Mr. Lal Babu Singh, Advocate
For the University	:	Mr. Ritesh Kumar, Advocate
For the Respondent/s	:	Mr. Birju Prasad (GP-13) Mr. Ravi Kumar, AC to GP- 13 Mr. Ajit Anand, AC to GP -13
For the DCI	:	Mr. S.D. Sanjay, Sr. Advocate, AD SG Ms. Priya Gupta, Advocate
For the U.O.I.	:	Ms. Punam Kr. Singh, CGC.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 03-02-2020

A supplementary affidavit has been filed during
the course of argument.

Let it be taken on record.

Heard Mr. Sanjay Singh, learned advocate for the
petitioner, Mr. Birju Prasad, GP-13 for the State and Mr.



S.D. Sanjay, learned senior advocate for the Dental Council of India.

The petitioner, which is a dental college and hospital is aggrieved by the decision dated 13.04.2017 by the Sikshan Shulk Nirdharan Samiti, Bihar regarding fee fixation for M.D.S. course for the years 2019-2024.

It has been submitted that necessary allowances have not been made nor depreciation has been given while fixing the M.D.S. fee. There is a further grievance of the petitioner that the inflation index has also been completely ignored.

Apart from this, it has been urged on behalf of the petitioner/college that if the quantum of fee to be charged by the college from its students has been slashed down considerably on the ostensible ground that no meaningful data was provided by the college to the committee of Chartered Accountants, such relevant data ought to have been asked for from the college before taking a final call on the fixation of the schedule of fee for



M.D.S. course. Not doing so, the committee has completely abdicated its duty as it is supposed to consider the claim of a particular college with respect to the resolution/regulation of the Dental Council of India in that regard. A basic minimum standard of infrastructure is required to be maintained by such college and teaching faculty also has to be engaged in accordance with such regulation. This involves finances and the only source of income for a college is the fee which is taken from the students.

Learned counsel for the petitioner has drawn the attention of this Court to various paragraphs of the order/decision taken by the committee which indicates that such fixation of fee was made in the absence of complete documents. The management of the college claims to be in complete ignorance of the documents which they were required to furnish for the committee to take a decision with respect to fixation of fee.



As opposed to the aforesaid contentions, learned counsel for respondent nos. 2 and 5 have stated that the order/decision impugned is self explanatory in as much as notwithstanding the lack of materials provided by the petitioner/college, a decision was taken on the basis of past records. The committee, while taking a decision, took note of the fact that the college had not provided the bifurcated UG & PG expenses for the purposes of fixation of PG fee and therefore the committee was absolutely justified in earmarking 20% of the expenses towards the fee for Masters course and this was further calculated on the basis of the number of seats available in the college.

Apart from this, it has been urged that the college did not maintain multiple ledger involving various heads like salary, PF, ESI, stipend etc. and for claiming depreciation, the invoices and payments of assets which were filed by the college did not match and therefore, no depreciation was allowed on those heads. It has also been argued that for the aforesaid reasons, the depreciation



under various heads was disallowed and under some of the heads, expenses were slashed down because the proposed fee was found to be in excess of the requirement. Some of the expenses which were met through cash were also not accounted for and therefore the expenses by way of fee has been slashed down from Rs. 9 lakhs for a clinical course in M.D.S. to Rs. 5.60 lakhs. Whatever material was provided to the committee by the college and on going through the report of the chartered accountant, such fee was fixed and the same cannot be questioned in a writ petition as being not commensurate with the demand and the necessity of the college.

In response to the aforesaid objection of respondents no. 2 and 5, learned counsel for the petitioner has submitted that because of the introduction of new M.D.S. course regulation in the year 2017, necessary investments are required to be made in the infrastructure, equipments and other facilities in order to maintain the minimum standard fixed by such regulation. The staffing



pattern also has been categorized in the regulation and any college which is to remain affiliated with Dental Council of India has to conform to the aforesaid pattern in its entirety. This aspect, it has been urged, has not been taken into account by the committee while fixing the fee.

Apart from this, it has been submitted that the committee has not been alive to the difficulties of the Institution and in case some documents furnished by the petitioner were not found to be meaningful, instead of taking an arbitrary decision with respect to quantum of fee, the college ought to have been asked for further relevant information. Not doing this has only reflected the insensitive approach of the committee and the consequent difficulty of the college management in running the Institution on daily basis.

Lastly, it has been submitted that a review application also has been filed by the petitioner/college for giving a re-look at the order dated 11.04.2019. This application appears to have been filed on 19.04.2019, a



copy of which has been brought on record by way of Annexure-7 to this writ petition. The aforesaid application indicates that the fee fixed is not in accordance with the decision of the Supreme Court in ***T.M.A. Pai Foundation v. State of Kerala and Ors. (2002)(8) SCC 481*** and ***Islamic Academy of Education and Anr. v. State of Karnataka and Ors. (2003 (6) SCC 537)***. The review application therefore refers to the committee having overlooked the inflation index which has made the decision absolutely lop-sided.

Under the aforesaid circumstances, it is prayed that a direction be issued to the committee to give a fresh look at the entire set of facts and if any document is required for a meaningful consideration by the committee, the same ought to be asked for from the college and the college assures and undertakes that such documents which shall be demanded shall be furnished without any delay for a proper consideration.



Mr. S.D. Sanjay, learned senior advocate appearing for the Dental Council of India submits that so far as fixation of fee is concerned, the council has little say in the matter. The only requirement of the council is to ensure that proper infrastructural and academic standards as set forth in the regulation of 2017 is maintained. So far as fee to be taken from students by a college is concerned, in the state of Bihar, the same has to be decided by a committee which has been constituted in compliance of the order of the Supreme Court in ***Civil Appeal no. 5041 of 2005 (PA Inamdar and Ors. v. the State of Maharashtra)***.

On going through the averments made in the petition and the counter affidavits as also from the submissions advanced on behalf of the parties, this Court deems it appropriate to direct that in case a fresh petition is filed along with relevant documents in support of its claim by the college before the Sikshan Shulk Nirdharan Samiti, Bihar within a period of four weeks, all aspects



shall be gone into by the committee and the committee shall give a re-look at its earlier decision and communicate the decision, if taken differently from the earlier decision which has been impugned in the present petition. This Court provides that such a decision be taken within a period of eight weeks of the filing of such fresh representation by the petitioner.

With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2020
Transmission Date	

