

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH

WRIT PETITION NO. 2307 OF 2020

1. The Vidarbha Youth Welfare Society
Amravati, a society registered under
the provisions of Societies Registra-
tion Act, 1860 and the registered
Public Trust, having its registered
office at Camp – Amravati through
its Secretary.
2. Vidarbha Youth Welfare Society's
Dental College and Hospital,
Amravati, Tapovan, Vadali Road,
Amravati, through its Dean. ... PETITIONERS

Versus

1. The Union of India,
through its Secretary, Ministry of
Health and Welfare (Dental
Education Section), Nariman
Bhawan, Maulana Aazad Road,
New Delhi 110 002.
2. The Dental Council of India
(constituted under the Dentists
Act, 1948) Aiwan-e-Ghalib Marg,
Kotala Road, New Delhi 110 002
through its Secretary. ... RESPONDENTS

Shri R.D. Bhuibhar, Advocate for the petitioners.
Shri U.M. Aurangabadkar, ASGI for the respondents.

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CORAM : R.K. DESHPANDE AND
PUSHPA V. GANEDIWALA, JJ.
OCTOBER 20, 2020.

ORAL JUDGMENT: (PER R.K. DESHPANDE, J.)

In the order dated 23.09.2020, the date 31.12.2019 given in para 2 be corrected as 31.08.2020. The correction be carried out in the order and the order be re-uploaded.

2. Rule. Rule is made returnable forthwith. Hearing was conducted through Video Conferencing and the learned counsel for the parties agreed that the audio and visual quality was proper.

3. The challenge in this petition is to the communication dated 31.08.2020 issued by Respondent No. 1, rejecting the claim of the petitioners for approval of the scheme to increase the intake capacity of the students in the Dental College run by the petitioner – society. This Court had passed an order on 23.09.2020, which we reproduce below :

“Hearing was conducted through Video Conferencing and the learned counsels agreed that the audio and visual quality was proper.

The challenge in this petition is the communication dated 31.08.2020 containing the decision of disapproval of the application for increase of seats from 50 to 100 of

B.D.S. in the schedule college run by the petitioner. The main ground of the challenge is that without granting hearing to the petitioner order has been passed and the reliance is placed upon the paras 17 and 19 of the petition and the decision of this Court and the decision of the Hon'ble Supreme Court reported in the case of Swami Devidayal Hospital and Dental College vs. Union of India and others, reported in (2014) 13 SCC 506.

Issue notice for final disposal of the matter to the respondents, returnable on 07.10.2020.

Shri U.M. Aurangabadkar, learned A.S.G.I. waives service of notice for respondents.

We expect the respondents to respond to this averment.”

4. In response to the aforesaid order, the learned A.S.G.I. appearing for the respondents has no hesitation to concede that the hearing was not given to the petitioners before the order was passed. In the decision of the Hon'ble Apex Court in the case of Swamy Devi Dayal Hospital and Dental College vs. Union of India & Ors., reported at (2014) 13 SCC 506. It is held in para 12 as under :

“..... It can either approve or disapprove the scheme. However, in case the Central Government is proposing to disapprove the scheme, a final decision in this behalf can be taken only after giving the person, authority or

institution concerned, a reasonable opportunity of being heard. This is the mandate of the proviso to Section 10-A(4) of the Act.”

5. In view of the aforesaid law laid down by the Hon’ble Apex Court and the fact that the petitioners were not granted hearing before passing the impugned order, hence, the order cannot be sustained.

6. In the result, writ petition is allowed. The order dated 31.08.2020 passed by Respondent No. 1, rejecting the claim of the petitioners for increasing the seats is quashed and set aside. The respondent to grant the petitioners hearing in the matter within a period of two weeks from today and thereafter to pass the order and communicate it to the petitioners within a further period of one week.

7. The petitioners to contact Respondent No. 1 for getting the date for hearing.

8. Writ Petition is disposed of accordingly. Rule is made absolute in above terms. However, there shall be no order as to

costs.

9. This order be communicated to the learned counsels appearing for the parties, either on the e-mail address or on Whatsapp or by such other mode, as is permissible in law.

JUDGE

JUDGE

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