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

+ W.P.(C) 5606/2020 & CM No.20319/2020

SHYAM UNIVERSITY Petitioner

Through Mr. Sanjay Sharawat, Adv.

versus

REHABILITATION COUNCIL OF INDIA..... Respondent

Through Ms. Anuja Saxena, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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11.09.2020

This hearing is conducted through Video Conferencing.

1. This Writ Petition is filed by the petitioner seeking a direction to quash the Notification dated 21.08.2020 as being arbitrary, discriminatory and violative of the Fundamental Rights. Other connected reliefs are also sought.

2. The Notification in question dated 21.08.2020 reads as follows:-

"Considering the unprecedented COVID-19 pandemic situation, the following decisions have been taken by the Council regarding approval to conduct RCI approved Courses by the Training Institutes/National Institutes/University Departments for the current academic session 2020-21:

(a) Institutions whose inspection is done for ongoing courses and proposal is rejected for the academic year 2020-21 are being given an opportunity to submit the undertaking/affidavit on the prescribed format on non-judicial stamp paper for compliance of shortcomings and based on it, permission for admission can be given for 2020-21 batch on conditional basis. Team to be deputed for the next academic session 2021-22 subject to the condition that if similar shortcomings are

observed by the team, then further extension of approval will not to be given under any circumstances

(b) Institutions whose proposal is due for extension of approval and team has already been deputed for inspection for the academic session 2020-21 however, inspection could not be completed due to COVID-19 situation are also being considered for permission to admit students for 2020-21 batch, subject to the condition that the institution will submit the undertaking/ affidavit on the prescribed format on non-judicial stamp paper stating that if any shortcomings are found during the inspection, the Council shall reserve the right to withhold the extension of approval for next batch 2021-22 or take any penal action against the institutions as deemed fit. The team already deputed will be asked to carry out the inspection once normalcy is restored.

(c) For fresh proposals received for 2020-21, without inspection permission cannot be granted. However, team will visit the institutions in due course depending on the COVID-19 situations for academic session 2021-22.

2. For the academic session 2020-21, the maximum intake will remain same as approved for the academic session 2019-20."

3. Essentially, the grievance of the petitioner is regarding clause (c), namely, that fresh proposals received for 2020-21 without inspection permission cannot be granted and that the team for inspection will visit the institutions depending on the COVID-19 situation for the Academic Session 2021-22.

4. The case of the petitioner is that it is a Private University established by Rajasthan State Legislature Act known as The Shyam University, Lalsot, Dausa Act, 2018. The petitioner desired to start Special Education courses, namely, Diploma in Education (D.Ed.) and Bachelor of Education (B.Ed.) in

Hearing Impairment. The said courses are written as "D.Ed-Spl.Ed. (HI)" and "B.Ed-Spl.Ed (HI)".

5. Vide notice dated 16.8.2019 respondent invited applications from institutions seeking approval for various courses for the Academic Session 2020-21. The petitioner submitted two applications on 25.10.2019 for approval of the aforementioned courses. On 10.7.2020 respondent constituted the assessment/inspection team and informed the petitioner of the said assessment which was likely to take place. Petitioner is said to have made all arrangements for the inspection and invested large amounts in getting ready the aforesaid infrastructure. The grievance of the petitioner is that now at the last minute the aforesaid direction has been passed.

6. The respondents have filed a counter-affidavit. In the Counter-affidavit it has been stated that for grant of approval to the courses in question one of the essential conditions is that the institution must have its own running special school in the respective area of disabilities like special school for children with special needs (hearing impairment, intellectual disability, visual impairment) as per the norms of the answering respondent. As there are directions of the State Government for closing all educational institutions, colleges, universities, special schools for children with special needs, the assessment of institutions will remain incomplete. It is pleaded that as per norms/functions special school for children with special needs is a must for practice teaching by student trainees being a professional course in special education and disability rehabilitation. Since the special schools are closed at present, the inspection teams cannot give scores in respect of infrastructural facilities available in the special schools like strength of children with special needs, certified special educators, facilities for

physiotherapy, occupational therapy etc. Hence, it is pleaded that the said decision has been taken as without inspection report the respondent cannot permit the institute/college/University to run any of its approved courses.

7. I have heard learned counsel for the parties. Learned counsel for the petitioner has strenuously urged that the petitioner university is affiliated to a Government run special school which is a very old school. He states that the school is open in the sense that the teachers and facilities are available. It is admitted that the students are not coming. He has taken me through the marking system of the respondent including the Revised Manual on Assessment of Training of Institutions. Learned counsel has sought to submit that for different aspects certain marks are provided in the said Manual for assessment of training institutions. 70% is required in most of the categories and an average of 65% is required to be secured for an institution to be recognised. He states that as the Special School in question which is affiliated to the petitioner university is physically open, the assessment team would be able to assess the infrastructure available, faculty strength and other such connected aspects. At best, the students would not be there for which no marks need to be given. It is pleaded that based on the assessment criteria the petitioner feels that it will be able to secure the requisite marks even in the absence of the students.

8. Learned counsel for the respondent has opposed the present petition. She states that unless school is functional with the students the inspection team cannot assess and give marks as is sought to be urged. She has strongly urged that the inspection of the said school is a mandatory requirement for an institution as the teaching skills can only be taught to the students of these courses in the said school.

9. I may just take an example of the mechanism in which the Manual in question seeks to assess the institutions. The relevant portion of Assessment Manual reads as follows:-

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Section IV

Summary of Scores for Diploma level (New Proposal)							
Essential (Part A)			Desirable (Part B)			Credentials (Part C)	
SL	Parameters	Max Score	Obtained Score	%	Max. Score	Obtained Score	Obtained Score (out of 100)
1.	Building	100			20		
2.	Human Resources	160			40		
3.	Special School OR Clinical Services	140			40		
4.	Clinical Infrastructure/Resource Room	120			20		
5.	Library Resources	120			20		
6.	Community Promotional Activities	80			40		
	Total	720			180		

Summary of Scores for Bachelor/Master's level (New Proposal)							
Essential (Part A)			Desirable (Part B)			Credentials (Part C)	
SL	Parameters	Max Score	Obtained Score	%	Max. Score	Obtained Score	Obtained Score (out of 100)
1.	Building	100			20		
2.	Human Resources	160			40		
3.	Special School OR Clinical Services	140			40		
4.	Clinical Infrastructure/Resource Room	120			20		
5.	Library Resources	120			20		
6.	Community Promotional Activities	80			40		
7.	Faculty Development & Research	120			40		
	Total	840			220		

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10. What clearly follows is that the above is not a mathematical formula as is sought to be urged by learned counsel for the petitioner. The functioning of the special school which is attached to the college would be an essential requirement for examining and to assess the new applicant college which wishes to start the courses. Unfortunately on account of the Pandemic it is not possible in these facts and circumstances to carry out a proper inspection as is to be done. Hence, the Notification dated 21.08.2020 is in order.

11. There is no merit in the petition. Same is dismissed. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

SEPTEMBER 11, 2020/n