

Court No. 24
21.09.2021
(Item No. 5)
(SB)

W.P.A. 7369 of 2020
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CAN 1 of 2020
+
CAN 2 of 2021
(via video conference)

Skylark Private Trust
VS
Union of India & Ors.

Mr. Pankaj Haldar
Mr. Sanatan Panja
..... for the petitioner
Mr. Kumar Jyoti Tewari
.... For respondent No. 1
Mr. Tarun Jyoti Tewari
... Pharmacy Council of India
Mr. Swapan Kumar Datta
Mr. Tapas Kumar Mandal
..... for the State
Mr. Debu Chowdhury
.... for AICTE

The petitioner is aggrieved by the resolution adopted by the Pharmacy Council of India on February 25, 2020 whereby the prayer of the petitioner for approval of the Pharmacy Institute/College has been rejected relying upon the moratorium dated 17th July, 2019. The petitioner's college intends to start D. Pharm and B. Pharm courses from 2020-2021.

The ground for rejection was that the number of pharmacy institutions in West Bengal being more than fifty the moratorium as applicable in West Bengal will stand in the way of the petitioner from getting permission for starting of D. Pharm and B. Pharm courses for the year 2020-2021.

The classification to the moratorium dated September 9, 2019 issued by the Pharmacy Council of India mentions that on the opening of new Pharmacy Colleges for running diploma as well as degree course in pharmacy for a period of five years beginning from the academic year 2020-2021 will be subject to the condition that the moratorium will not apply to the State/Union Territories where the number of D. Pharm and B. Pharm institutions (both combined) is less than 50.

The institutions which had applied for opening D. Pharm/B. Pharm Colleges for 2019-2020 academic session either to the Pharmacy Council of India or to the All India Council for Technical Education and the proposal was rejected or not inspected due to some reason or the other will be allowed to apply for 2020-2021 academic session and this relaxation is given only for one year *i.e.* for 2020-2021 academic session.

The Pharmacy Council of India has annexed a list containing the names of the existing institutions in the State of West Bengal conducting B. Pharm and D. Pharm courses. It appears therefrom that there are more than fifty colleges in the State.

The State of West Bengal has also filed a report which mentions that there are more than fifty Pharmacy Colleges in the State of West Bengal. The State has clearly mentioned that at present total

Pharmacy Institutions both D. Pharm and B. Pharm combined in West Bengal is more than fifty.

All India Council for Technical Education has filed an affidavit wherefrom it appears that according to the records maintained by All India Council for Technical Education there are forty Pharmacy Colleges in West Bengal as on November, 2020.

The lists of the institutions provided by the Pharmacy Council of India and the All India Council for Technical Education are different. All India Council for Technical Education has not mentioned the names of the institutions which have been affiliated by the Pharmacy Council of India.

As it appears from records that the number of Colleges which have been indicated in the list provided by the Pharmacy Council of India exceeds fifty in the State of West Bengal accordingly, the petitioner does not have a chance for getting affiliation for the current academic session.

The learned counsel appearing on behalf of the Pharmacy Council of India has submitted that the supply of candidates from the Pharmacy Colleges is far more than the demand in the State of West Bengal. In such a position, there will be severe chaos on account of huge unemployed students and accordingly no permission ought to be granted for affiliation or recognition of new colleges at this stage.

According to the petitioner, the list of institutions annexed to the affidavit of the Pharmacy Council of India is incorrect. The institutions mentioned in serial numbers 4 and 27 are relating to M. Pharm course and the serial numbers 25 and 38 ought not to have been included for the purpose of extension of the moratorium. According to the petitioner, if four institutions are taken out from the list of fifty-three institutions the petitioner has a chance to be considered for affiliation.

I am not convinced with the submission made on behalf of the petitioner. The list included in the affidavit clearly mentions that there are more than fifty institutions and grant of affiliation in respect of new colleges will create unrest by the unemployed youth of the State. That being the position no relief can be granted to the petitioner in the instance case.

In the event, the State invites application for grant of fresh affiliation then the petitioner shall be entitled to apply for the same.

The writ petition along with all connected applications stand disposed of.

Affidavits-in-reply filed by the petitioner to the affidavit-in-opposition filed by the Pharmacy Council of India and the State are taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)