

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No.16473 of 2020 (O&M)

Date of decision: 05th January, 2021.

Bhagwati College of Pharmacy, Bhikhi Mansa

....Petitioner

Versus

Union of India and Others

...Respondents

(Heard through Video-Conferencing)

**CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. G.S. Attariwala, Advocate
for the petitioner.

Mr. Sudhir Nar, Senior Central Govt. Counsel,
for respondent No.1-UOI.

Mr. Mandhir Singh Virk, Advocate,
for respondent No.3.

Mr. Sandeep Vermani, Addl. AG, Punjab.

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MEENAKSHI I. MEHTA, J.

By way of the instant petition, the petitioner seeks the indulgence of this Court for issuance of a writ in the nature of certiorari quashing the letter dated 26.06.2020 issued by respondent No.3 qua non-recommendation of its (petitioner-College's) name for affiliation and admission in Diploma in Pharmacy Course for Session 2020-21 as well as the letter dated 13.08.2020 issued by the said respondent denying reconsideration of its earlier decision, i.e the said letter dated 26.06.2020. A further prayer for staying the operation of both the above-said impugned

letters and for permitting the petitioner-College to admit 60 students in the said Course has also been made.

2. Bereft of unnecessary details, the averments as set-forth by the petitioner in this petition, are that it is an unaided self-financed Pharmacy College and has been set up by Bhagwati Professional Educational Society. The said Society had, initially, applied to respondent No.2-All India Council of Technical Education (for short 'AICTE'), in accordance with Regulation 1.2 of All India Council for Technical Education (Grant of Approvals for Technical Institutions) Regulations, 2018 (for short 'Regulations of 2018'), for grant of permission to initiate the said Course in the Session 2019-20 which was so granted vide letter dated 30.04.2019 (Annexure **P-2**) for a period of two years, i.e from 2019 to 2021. Respondent No.3-Punjab State Board of Technical Education and Industrial Training (for short 'PSBTE& IT') is the Controlling Authority in the State of Punjab for setting up a new Pharmacy College as well as for the inspection of the infrastructure available therein. Vide notification dated 08.04.2019 (Annexure **P-4**), respondent No.4-Department of Technical Education and Industrial Training, Punjab (for short 'DTEIT') had also appointed respondent No.3-PSBTE & IT as the competent authority for conducting admissions in the said Course of two years for Academic Session 2019-20. On 20.09.2018, respondent No.3 issued a consent letter to it (petitioner-College) for starting the said Course with 60 seats for the Session 2019-20. Respondent No.3 carried out the necessary inspection of the petitioner-College for the

purpose of granting permission to start the said Course. However, the petitioner received letter dated 01.08.2019 (Annexure **P-6**) from respondent No.3 wherein it was intimated that its name had not been recommended for affiliation as well as admission in the said Course. Then, the petitioner preferred Civil Writ Petition bearing No.21829 of 2019 before this Court challenging the said letter Annexure **P-6** and vide order dated 17.09.2019 (Annexure **P-7**) as passed therein, this Court quashed the said letter and also imposed a cost of Rs.18 lacs upon respondent No.3. Though respondent No.3 preferred a Review Application bearing No.483 of 2019 in the said CWP but the same is still pending.

3. The petitioner has, further, averred that vide letter dated 31.12.2019 (Annexure **P-8**), it again applied to respondent No.3, in the prescribed performa along-with the Demand Draft of the requisite fee, for seeking affiliation for the Session 2020-21. Vide communication dated 19.03.2020 (Annexure **P-9**), respondent No.3 asked it to appear before the Hearing Committee on 26.03.2020. However, the said hearing was postponed to 10.06.2020 and on that day, its representative appeared before the said Committee. Thereafter, vide the impugned letter dated 26.06.2020 (Annexure **P-12**), respondent No.3 conveyed to it that its case for affiliation for the Session 2020-21 had been dismissed. As per the said letter, respondent No.3 has denied its (petitioner-College's) affiliation on two grounds; firstly, for its not having applied for a fresh consent letter and secondly, on account of its not having given any proper reply in respect of

the Change of Land Use (for short 'CLU') documents submitted for seeking affiliation for the Session 2019-20 whereas, in fact, the consent letter, which had been issued by respondent No.3 in its favour for the Session 2019-20, was to continue as respondent No.2-AICTE had given the requisite approval having the validity of two years and so far as the CLU permission documents were concerned, it has already applied to the competent authority for the same on 15.09.2020 and has also deposited the requisite fee for this purpose. On 02.07.2020, it again requested respondent No.3 for reconsidering its said decision Annexure P-12 but vide the impugned letter dated 13.08.2020 (Annexure **P-15**), respondent No.3 conveyed to it that the matter could not be reconsidered. Both the impugned letters deserve to be quashed as these smack of bias and discrimination.

4. Respondent No.3-PSBTE & IT submitted its short reply, by way of the affidavit of its Secretary, asserting therein that the petitioner-College has concealed the material facts and has not approached this Court with clean hands as along-with the application as moved by it (petitioner) for seeking the consent to start the Diploma in Pharmacy Course in the Session 2019-20, two documents dated 24.02.2011 and 11.10.2020 (actually dated 11.10.2010 as is explicit from Annexure **R-3/3**) had been submitted regarding the CLU which were, subsequently, got verified from the concerned issuing authority on the receipt of a complaint in respect thereof and the same were found to be the fake ones. The consent letter, as issued by respondent No.3, was valid for the Session 2019-20 only and therefore, a

fresh consent letter was required to be applied for and obtained for initiating the said Course in Session 2020-21. The petitioner-College also could not advance any satisfactory reply regarding submission of the said fake CLU documents and also for not having applied for a fresh consent letter and hence, its application for affiliation had been rightly rejected vide impugned letter Annexure **P-12**. Moreover, several deficiencies had also been found by the competent authorities at the time of conducting the inspection of the petitioner-College and its re-inspection as well, for the purpose of its affiliation for the Session 2019-20. Further, it is pertinent to mention here that in compliance of the order dated 10.11.2020 as passed in this petition, a separate affidavit has also been filed by respondent No.3, through its Secretary, wherein he has specifically deposed that no new institution, placed similarly to the petitioner-College, has been granted the affiliation in the absence of CLU.

5. We have heard learned counsel for both the parties in the instant petition and have also perused the file thoroughly.

6. Learned counsel for the petitioner has contended that respondent No.3 has arbitrarily rejected the application as moved by the petitioner-College for seeking affiliation for the purpose of starting Diploma in Pharmacy Course during the Session 2020-21 on the grounds that the petitioner had not given any satisfactory reply for the submission of the fake documents regarding CLU and had not applied for the fresh consent letter for the said purpose whereas Annexure **P-5** is the consent letter already

issued by respondent No.3 on 20.09.2018 and Annexure **P-2** is the Letter of Approval as issued by respondent No.2-AICTE on 30.04.2019 for the said purpose which was valid for two years, i.e upto 30.04.2021 and therefore, no fresh consent letter was required to be obtained for the purpose of starting the said Course in the Session 2020-21 and moreover, the petitioner-College has applied to the competent authority on 15.09.2020 for the grant of CLU permission and has also deposited the requisite fee for the same vide the documents annexed in the paper-book as **P-13** and even otherwise, respondent No.3 has discriminated against the petitioner because it has granted affiliation to several other Colleges without submission of CLU documents and in these circumstances, it becomes crystal clear that both the impugned letters, i.e Annexures **P-12** and **P-15**, have been issued illegally and hence, the same deserve to be quashed.

7. Per-contra, learned counsel for the respondents have argued that respondent No.2 regulates the establishment/setting-up of the Colleges for imparting the technical education and is the competent authority to grant approval for the same whereas respondent No.3 is the competent authority to grant the affiliation to such Colleges after ascertaining as well as verifying the completion of all the necessary formalities by the concerned College for this purpose and since the petitioner-College could not submit and rather, even did not apply for the fresh consent letter for seeking its affiliation for the Session 2020-21 and it also could not satisfactorily explain the submission of the fake CLU documents by it while submitting

the application for seeking the requisite consent as well as affiliation for initiating the said Course in the Session 2019-20, therefore its affiliation has rightly been rejected by respondent No.3 vide the impugned letters Annexures **P-12** and **P-15** and the same do not suffer from any illegality or infirmity.

8. Undisputedly, as per Regulation 1.2 of the Regulations of 2018, respondent No.2-AICTE is the competent authority to grant the necessary approval for setting up a new Technical Institution offering a technical program, Diploma/Post Diploma Certificate/under Graduate Degree/Post Graduate Diploma/Post Graduation Degree level. Annexure **P-2** is the Letter of Approval issued by respondent No.2 in respect of the petitioner on 30.04.2019 wherein a Note appearing at page No.41 of the paper-book reads as under:-

*“*Note: The approval is valid for two years from the date of issue of this letter only for getting affiliation with respective University/Board of Technical Education (BTE)/Board of Technical Education & Training (BTET) (as applicable) and fulfilling State Govt. requirements for admission. If institution is unable to start in the academic session 2019-20 due to reason mentioned above, the institution will have to apply on-line on AICTE web portal in the academic session for continuation of approval.”*

Thus, the afore-mentioned Note explicitly specifies that the said approval, as granted by respondent No.2, was valid for two years from the date of issue of the Letter of Approval, i.e Annexure **P-2** and was meant exclusively for getting the affiliation with the respective University/Board of Technical Education/Board of Technical Education and Training (as applicable) and also for fulfilling the State Government's requirements for admission in the said Course.

9. Further, a perusal of Annexure **P-5**, i.e the copy of the consent letter issued by respondent No.3 for starting a new Pharmacy Institute, i.e the petitioner-College, reveals that it has been categorically mentioned therein that the consent was granted for starting the said Course in the College w.e.f Session 2019-20 and was valid for the said Session only. To add to it, as mentioned in the said Note in Annexure **P-2**, if the institution, i.e the petitioner-College, was unable to start in the academic Session 2019-20 due to reason mentioned therein, it would have to apply online on AICET web portal in the academic Session for continuation of the said approval. It being so, both the said letters, i.e Annexures **P-2** and **P-5**, when read in juxta-position, make it quite clear that these do not overlap each other at all. Hence, the mere fact that the approval granted vide Annexure **P-2** was valid upto 30.04.2021 can, in no way, be read to construe that no fresh consent letter was required for the Session 2020-21.

10. Though the petitioner alleges that respondent No.3 has granted affiliation to some other new Pharmacy Colleges without the submission of

the CLU documents but however, as discussed earlier, the Secretary of respondent No.3 has made specific depositions in his affidavit to deny this allegation and the petitioner has not filed any counter-affidavit to falsify or rebut the same. Even otherwise, the very factum of the petitioner having applied for CLU on 15.09.2020 vide Annexure **P-13** itself speaks volumes of the fact that the submission of the CLU permission documents is a pre-requisite for seeking the affiliation. Thus, it is explicit that the petitioner-College has not complied with all the requisite formalities for the purpose of grant of affiliation to it.

11. As a sequel to the fore-going discussion, it follows that this petition is devoid of any merit and hence, it deserves dismissal. We order accordingly.

(DAYA CHAUDHARY)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

05th January, 2021.
seema

Whether speaking/reasoned?	Yes/No
Whether Reportable?	Yes/No