

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No. 26877 of 2021

***Managing Committee,
Acharya Harihar Bidyapith***

.....

Petitioner

Mr. P. Das, Advocate

Vs.

State of Odisha & Anr.

.....

Opposite parties

State Counsel

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE V. NARASINGH

ORDER

21.02.2022

Order No.

6

This matter is taken up through hybrid mode.

2. Heard Mr. P. Das, learned counsel for the petitioner and Mr. R.C. Mohanty, learned counsel for opposite party no.2.

3. The petitioner has filed this writ petition seeking to quash the order of rejection of dated 23.08.2021 under Annexure-3 passed by opposite party no.2, by which the application of the petitioner institution has not been considered fit to be recommended for grant of NOC.

4. Mr. P. Das, learned counsel for the petitioner contended that the petitioner has built up area of 24726 sqft. and accordingly, submitted the document to that effect, but the same has not been accepted for recommendation for grant of NOC on the plea of non-availability of adequate built up

area, as the minimum requirement of built up area for GNM course is 37500 sqft. But this fact has not been intimated to the petitioner as per clause-v of the General Guidelines for issue of NOC to different institutions for opening of nursing, paramedical or allied medical science courses and the different fees, which states that in case of any deficiency, the Registrar shall inform the applicant in writing regarding such deficiencies and give a time of at least one month for compliance and in case of non-compliance within stipulated time, the application shall be rejected and the applicant may apply afresh with fresh fees in next year after the floating of advertisement. It is contended that because of non-consideration of its application for grant of NOC, earlier the petitioner had approached this Court by filing W.P.(C) No.28011 of 2013, which was disposed of on 13.07.2021 with a direction that if the petitioner files a fresh application to the authority, he shall consider the same in terms of the extant Rules and Policy and the decision thereon shall be communicated to the petitioner. But, no such communication has been made to the petitioner.

5. Mr. R.C. Mohanty, learned counsel for opposite party no.2 contended that he has already filed counter affidavit stating, inter alia, as per prescribed guidelines of INC, the teaching block for establishment of GNM program requires built up area of 20000 sq.ft and 17500 sq.ft built up area for hostel block. Thereby, in total 37500 sq.ft built up area is required. Since the petitioner-institution does not possess the aforesaid built up area as per the guidelines of INC, the order impugned dated 23.08.2021 under Annexure-3 has been

passed rightly by opposite party no.2.

6. Considering the contentions raised by learned counsel for the parties and after going through the records, it appears that the petitioner applied for grant of NOC for opening of GNM course and submitted the plan of built up area of 24726 sq.ft. But, as per prescribed guidelines of INC, the teaching block for establishment of GNM program requires 20000 sq.ft. built up area and 17500 sq.ft. built up area for hostel block and in total it requires 37500 sq.ft. built up area. For better appreciation, Clause-v of the General guidelines for issuance of NOC to different institutions for opening of nursing, paramedical or allied medical science courses and different fees is extracted below:

*“v. **Scrutinisation of application:** On receipt of application a scrutinizing team shall examine the applications and the documents enclosed. When the documents are in order as per requirement an acknowledgement letter shall be issued by the council indicating that the institution shall be inspected for assessing feasibility for issue of NOC. In case of any deficiency, the Registrar shall inform the applicant in writing regarding such deficiencies and give a time of at least one month for compliance. In case of non-compliance within stipulated time, the application shall be rejected and the applicant may apply afresh with fresh fees in next year after the floating of advertisement”.*

On perusal of the aforesaid guideline, it appears that in case of any deficiency, the Registrar shall inform the applicant in writing regarding such deficiencies and give a time of at least one month for compliance and in case of non-compliance within stipulated time, the application shall be rejected and the applicant may apply afresh with fresh fees in next year after the floating of advertisement. The order impugned dated 23.08.2021 under Annexure-3 clearly states that no such communication has been made by opposite party no.2

to the petitioner for compliance of the requirement. As such, there is gross violation of clause-v of the guideline. More so, when opposite party no.2 filed counter affidavit, he has not given para-wise reply to the writ petition rather he has given consolidated statement stating that the requirement has not been complied with. Apart from the same, when the petitioner approached this Court to consider its representation and this Court directed to consider the representation, opposite party no.2 has mechanically rejected the same.

7. In view of such position, the order dated 23.08.2021 under Annexure-3 cannot sustain in the eye of law and accordingly, the same is hereby quashed and the matter is remitted back to opposite party no.2 to reconsider the same in accordance with law as expeditiously as possible preferably within a period of three weeks from the date of communication of the order after giving opportunity of hearing to the petitioner.

8. With the above observation and direction, the writ petition is disposed of.

9. Issue urgent certified copy as per rules.

Alok

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(DR. B.R. SARANGI)
JUDGE

.....
(V. NARASINGH)
JUDGE