

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

+ **W.P.(C) 422/2023**

Date of Decision: 19.01.2023

IN THE MATTER OF:

SHRI GIRRAJ MAHARAJ COLLEGE OF PHARMACY
Through Shri Girraj Maharaj Educational & Charitable Society
[Regd] Krishna Nagar, Goverdhan Chauraha
Mathura, Uttar Pradesh
Through its Member Sh. Ashutosh Shukla Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA
NBCC Centre, 3rd Floor,
Plot No.2, Community Centre,
Maa Anandamai Marg, Okhla Phase - I
New Delhi - 110020. Through its Member Secretary
..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

+ **W.P.(C) 142/2023**

ANKUR COLLEGE OF PHARMACY
Through Ch Jamadar Singh Mahavidalaya Samiti Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA Respondent
Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 149/2023

KD COLLEGE OF PHARMACY

Through Ch Jamadar Singh Mahila Degree College Samiti

..... Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA

..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 150/2023

RAGHUNATHPUR COLLEGE OF PHARMACY

Through Asalma Foundation [Regd]

..... Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA

..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 151/2023

BALPAI COLLEGE OF PHARMACY

Through Asalma Foundation

..... Petitioner

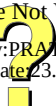
Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA

..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.



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W.P.(C) 152/2023

APJ ABDUL KALAM MEDICAL INSTITUTES

Through Dr AP J Abdul Kalam Educational Trust [Regd]

.....Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA

..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 186/2023

MAHADEV COLLEGE OF PHARMACY

Through Mahadev Educational & Welfare Trust [Regd]

..... Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA

..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 264/2023

ROHINI COLLEGE OF PHARMACY

Through Sai Gramothan Sewa Samiti [Regd]

..... Petitioner

Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA

..... Respondent

Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 17192/2022 & CM APPL. 54646/2022

MK RAI DEEP ADARSH PHARMACY COLLEGE



Through MK Rai Deep Adarsh Shikshan Evam Petitioner
Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA Respondent
Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 634/2023

SHRI HEERA LAL SMARAK COLLEGE OF PHARMACY
Through Rajpoot Sewa Trust [Regd] Petitioner
Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA Respondent
Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

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W.P.(C) 671/2023

PRAKASH MAHAVIDHYALAY
Through Bhardwaj Shiksha Prasara Samiti [Regd] Petitioner
Through: Mr.Sanjay Sharawat, Mr.Divyank
Rana and Mr.Ashok Kumar, Advocates.

versus

PHARMACY COUNCIL OF INDIA Respondent
Through: Mr.Abhishek Singh, Mr.Amit Bhalla
and Ms.Aparna Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This batch of writ petitions is taken up for hearing analogously as

the issue involved is similar.

2. The facts are taken from W.P.(C) 150/2023 *Raghunathpur College Of Pharmacy v. Pharmacy Council Of India*.

3. The petitioner - *Raghunathpur College Of Pharmacy* with an object to impart education in pharmacy courses made an application with requisite fees etc on 09.08.2022 to Pharmacy Counsel of India (PCI) for the grant of approval to run diploma in Pharmacy (D.Pharm) course for the academic session 2022-2023.

4. On 05.12.2022, an inspection of the petitioner-institution was conducted by a team of two inspectors. On 17.12.2022, Executive Committee (EC) of PCI considered the case of the petitioner in its 386th EC meeting and rejected the application of the petitioner on the ground that the institution has failed to provide facilities as per statutory regulations.

5. Needless to state that in all writ petitions, a similar decision has been taken on three dates i.e. 05.12.2022 (384th meeting), 09.12.2022 (385th meeting), and on 17.12.2022 (386th meeting).

6. The grievance of the petitioner is that the impugned decisions are completely non-speaking. The report prepared by the respective inspectors with respect to each institution have never been furnished to the petitioners-institutions. Without providing or pointing out the specific deficiencies, a decision for rejection of the petitioner's application should not have been taken.

7. Learned counsel appearing on behalf of the petitioners specifically states that, had there been any opportunity of hearing to the petitioners, they would have rectified the deficiencies. According to him, the dates have been fixed by the Hon'ble Supreme Court for filing of the

applications, for carrying out inspection and to take any decision with respect to grant or non-grant of the approval. It is submitted that in the instant case, immediately after the inspection was carried out, the decision was taken and the respondent-PCI did not furnish any inspection report to any of the petitioners. He further states that neither under the Pharmacy Act, 1948, nor under the applicable regulations, there is any mechanism for filing of an appeal. According to him, the decision taken by the PCI also runs contrary to the Division Bench decision of this court in LPA 753/2022.

8. Learned counsel appearing on behalf of the PCI, on instructions submits that the PCI itself has decided to afford opportunity of hearing in the form of an appeal with respect to decision taken in 384th EC meeting dated 05.12.2022. He states that the appeals/compliances were to be accepted up to 21.12.2022, as per PCI circular dated 14.12.2022, however he has instructions to state that if the petitioners-institutions, whose cases thereof were rejected in the meeting held on 05.12.2022, they can still be entertained by the said Committee. With respect to decision dated 09.12.2022 (385th meeting) and 17.12.2022 (386th meeting) he states that in terms of circular dated 17.01.2023, those institutions who suffered the rejection in terms of those meetings, can still file appeal/compliances before 27.01.2023. He emphasized that appeal/compliances, if are preferred by the petitioners-institutions, their cases would be considered by the PCI in accordance with law and appropriate decision in that respect would be taken.

9. Learned counsel appearing on behalf of the petitioners however, states that under the facts of the present cases, the institutions if at all are entitled to conduct the courses, they can only do it from the academic

year 2023-2024. According to him in all fairness, all institutions are entitled for inspection report and sufficient time to rectify the deficiencies to satisfy PCI.

10. One of the communication of the impugned decision dated 17.12.2022 (386th meeting) is reproduced as under:

Sir/Madam

With reference to the subject cited above. I am directed to convey the decision of 386th Executive Committee held on 17.12.2022, which decided as under:

S.No.	Institution Name/ID/State/Course	Examining Authority	386/EC Decision (17.12.2022)
14	Raghunathpur College of Pharmacy 0, Nh-60, Sagar, Birbhum. 731124 PCI-5782	D.Pharm- The Secretary West Bengal State Council of Technical Education Kolkata Karigori Floor S N Banerjee Road Kolkata (West Bengal) Email ID : excamcell@webscte.co.in	D.Pharm Reject It was noted that institution has failed to provide facilities as per statutory provisions of - •Minimum Qualification for Teachers in Pharmacy Institutions Regulations, 2014. •Education Regulations, 1991 / 2020 for the Diploma course in Pharmacy. In view of above, it was decided to reject the application for D.Pharm course.

This is for your information.

Yours faithfully

(PRATIMA TIWARI)

Assistant Secretary

11. The PCI purportedly in exercise of its statutory powers under Pharmacy Act,1948, has approved scheme for approval of D.Pharm courses under Section 12 of the Pharmacy Act,1948. Clause (d) of Step 3 of Clause 5 of the said scheme provides for forwarding of inspection report to a concerned applicant for rectification of deficiencies if any, and submission of compliance report with documentary evidence. Relevant extract of Clause 5 of the scheme is reproduced as under:

5. Procedure:

A. For New institutions

Step-1 - Registration on the PCI portal.

- a) Type on web browser www.pci.nic.in*
- b) Click on DIGI-PHARMed as available on right corner.*
- c) New page will be open. Click on "Institute Registration" corner.*
- d) A registration Form namely "user Management" will open.*
- e) For first time registration, the institute needs to pay Rs.10,000/- as Pharmacy Education Regulatory Charges for registration to proceed further,*

Step-2 - Payment of course-wise establishment fee which includes annual PERC.

- a) New institutions can apply for following courses only -*
 - i) D.Phann*
 - ii) B.Phann*
 - iii) M.Pharm (only Central Government/ State Governments institutions)*
- b) Institution shall pay course-wise establishment fee which includes annual PERC.*
- c) Establishment fee is non-refundable.*

Step-3 - Submission of SIF and statutory documents.

- a) Institution shall submit the SIF along with the statutory documents as prescribed in the Schemes.*
- b) If SIF and statutory documents are complete, window shall open for payment of course-wise security deposit.*
- c) On receipt of security deposit, surprise inspection will be arranged u/s 16 of the Pharmacy Act, 1948 for verification of the facilities.*
- d) A copy of the Inspection Report will be forwarded by the Pharmacy Council of India to the applicant for rectification of the deficiencies if any and submission of compliance report with documentary evidence.*
- e) The Inspection Report will be placed in the Executive Committee / Central Council of the Pharmacy Council of India and the decision arrived at will be communicated to the applicant.*
- f) The decision of the Central Council shall be final.*
- g) If SIF and statutory documents are in-complete If SIF and statutory documents are in-complete, application will be rejected. The establishment fee will not be refunded being non-refundable.*

12. Having heard the learned counsel appearing on behalf of the parties, this court finds that the prayer of the petitioners deserve consideration. A perusal of the decision taken in respective meetings nowhere indicates as to which institution is deficient of what requirement. The decision so taken by the PCI is completely non-speaking. It was incumbent upon the PCI to have informed the institutions, with respect to the specific deficiencies, if any. Had it been done with opportunity to explain, those Institutions could have no grievances.

13. Having said so, this court finds it appropriate to dispose of all writ petitions with the following directions:-

- (i) Impugned decisions relating to petitioners are hereby set-

aside.

(ii) PCI is directed to point out deficiencies with respect to each Institution to the concerned representative of the petitioners, within a period of 21 days from today with inspection report.

(iii) After receipt of the communication from PCI, each institution would be entitled to rectify the deficiencies if any, and to submit the explanation to the PCI within a period of seven days.

(iv) Depending upon the submission/explanation made by each institution, the PCI is directed to take a final decision within a period of two weeks thereafter, with respect to approval for the academic session 2023-2024.

(v) Any compliance/appeal filed by any of the petitioners in pursuance to PCI circulars dated 14.12.2022 and 17.01.2023, stands withdrawn as all the petitioners have been directed to take a fresh re-course in terms of the directions given in this order.

Needless to state that nothing expressed in this order be construed to be an expression on the merits of the entitlement of the approval of the petitioner-institutions or on the validity of circular dated 14.12.2022 and 17.01.2023.

14. It is directed that if in case, the PCI decides not to grant the approval to any petitioner-institutions, the PCI should specifically point out the deficiencies in its decision so that the petitioners would be at liberty to take appropriate recourse in accordance with law.

15. Accordingly, the petitions stand disposed of.

PURUSHAINdra KUMAR KAURAV, J

JANUARY 19, 2023/MJ

