

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

+ **W.P.(C) 1733/2023 and CM APPL.6615/2023**

Date of Decision: 17.02.2023

IN THE MATTER OF:

**MANGLA KAMLA HOMOEOPATHIC MEDICAL COLLEGE &
HOSPITAL**

THROUGH ITS SECRETARY

MS. NIKKI KUMARI

AT PROF. VISHNU SINHA MARG,

NEAR SBI BRANCH SRINAGAR,

SIWAN, BIHAR-841226,

.... PETITIONER

**Through: Mr. Kundan Kumar & Mr. Saswat
Adhyapak, Advocates.**

versus

UNION OF INDIA

THROUGH MINISTRY OF AYURVEDA, YOGA,

NATUROPATHY, UNANI, SIDDHA AND HOMOEOPATHY

(AYUSH) B BLOCK, GPO COMPLEX,

I.N.A. NEW DELHI- 110023

THROUGH ITS SECRETARY

.... RESPONDENT NO.1

NATIONAL COMMISSION FOR HOMOEOPATHY,

THROUGH ITS SECRETARY,

6I-65, INSTITUTIONAL AREA, OPPO. BLOCK D,

JANAKPURI, DELHI- 110058

.... RESPONDENT NO. 2

**MEDICAL ASSESSMENT AND RATING BOARD FOR
HOMOEOPATHY (MARBH),**

THROUGH ITS PRESIDENT, AUTONOMOUS BODY UNDER

NATIONAL COMMISSION FOR HOMEOPATHY 61.65,

INSTITUTIONAL AREA OPP. D' " BLOCK, JANAKPURI, NEW

DELHI - 110058

..... RESPONDENT NO.3

**Through: Ms.Nidhi Banga, Senior Panel
Counsel and Ms.Archana Kumari,
GP for R-1/UOI.**

Mr.Sunil Narula and Ms.Isha

Thakur, Advocate for R-2 & 3

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner-college in the instant petition seeks to challenge the order dated 08.12.2022, passed by respondent No.3, whereby the petitioner-college has been denied the permission to undertake admission in the Undergraduate Bachelor of Homeopathic Medicine and Surgery Course (hereinafter referred to as the ('BHMS Course')) with an intake capacity of 50 seats for the academic year 2022-2023.
2. Learned counsel appearing on behalf of petitioner-college at the outset, submits that the impugned decision has been taken by respondent No.3 without providing them a copy of the inspection report.
3. Learned counsel appearing on behalf of respondents does not dispute the aforesaid position and they state that taking into consideration the nature of deficiencies existing in the petitioner-college, the same does not deserve any recognition.
4. Having considered the submissions made by learned counsel appearing on behalf of the parties, and having perused the pleadings, it is noted that the petitioner-college has not been furnished with the copy of the inspection report. Only the findings of the inspection report have been communicated to the petitioner-college. On the basis of the inspection report, certain observations were noted by the authority and the petitioner-college was called upon to respond to those selective observations. The petitioner-college is in existence since 1988, however, for the last two consecutive years, the permission to operate the 'BHMS'

Course' for 50 intake capacity, has not been granted to the petitioner-college.

5. The impugned order dated 08.12.2022 also does not reflect that the copy of the inspection report was provided to the petitioner-college.

6. In view of the aforesaid, the impugned order suffers with material illegality and the same cannot be sustained. The same is found to have been passed in violation of the principles of natural justice and fair play. Accordingly, order dated 08.12.2022 is set aside and following directions are issued:-

(i). Respondent No.2 is directed to provide a copy of the inspection report to the petitioner-college within a period of three days from today.

(ii). The petitioner-college is at liberty to submit its explanation within three days thereafter. Respondent No.3 is directed to provide the petitioner-college, an opportunity of personal hearing within further three days from the date of receipt of the explanation from the petitioner-college.

(iii). Depending upon the outcome of the explanations and the submissions to be made in the personal hearing, respondent No.3 shall decide the case of the petitioner-college with respect to grant of recognition for the academic year 2022-2023 in accordance with law before 02.03.2022.

(iv) If the respondent No.3 finds that the petitioner-college deserves recognition, necessary orders be passed in that respect and the petitioner-college thereafter, shall be entitled to admit students, if the date of counselling does not expire; and the petitioner-college fulfils all other requirements in accordance with law.

(v). If the decision of the respondent No.3 goes against the petitioner-

college, the petitioner-college would be at liberty to take appropriate recourse in accordance with law.

7. With the aforesaid directions, the petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 17, 2023/MJ

