

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4463/2023 and CM APPL. 17137/2023**

Date of Decision: 12.04.2023

IN THE MATTER OF:

SLS COLLEGE OF PHARMACY
THROUGH SUNDERLAL SHRIVASTAVA MEMORIAL
SHIKSHAN SAMITI [REGD] HOUSE NO. 10,
GAMBHIRIYA, NEAR MAKRONIYA RAILWAY STATION,
SAGAR, MADHYA PRADESH
THROUGH ITS SECRETARY SH AJAY SHRIVASTAVA
..... PETITIONER

Through: Mr. Sanjay Sharawat, Mr. Ashok
Kumar and Mr. Nadeem Khan,
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. Mobashshir Sarwar, Standing
Counsel with Dr. Amit George and
Mr. Swaroop George, Advocates.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. This petition under Article 226 of the Constitution of India has been filed to challenge the e-mail and the communication both are dated 31.03.2023 on the ground that the same are in violation of the directions given by this court *vide* order dated 27.01.2023 in W.P.(C) 17374/2022.
2. The learned counsel appearing on behalf of the petitioner-institution states that on 27.01.2023, this court while setting aside the earlier order of rejection to operate the concerned course, directed the Pharmacy Council of India (in short, PCI) to point out the deficiencies with respect to each institution to the representative of the concerned petitioner-institution within a period of twenty one (21) days from the date of passing of the order along with the copy of the inspection report. He further states that after receipt of the communication from PCI, the institutions concerned were directed to rectify the deficiencies, if any, and to submit their inspection to the PCI within a period of seven days.
3. According to him, in the instant case, the inspection was carried out accordingly and the deficiencies were pointed out. He, therefore, states that on the basis of the communication made by PCI, the deficiencies were explained and were rectified, therefore, there was no reason for re-inspection of the same institution. He further states that if the re-inspection is allowed, the same would violate the Scheme for approval of D.Pharm course purportedly approved under Section 12 of the Pharmacy Act, 1948 and the Education Regulations, 2020 for diploma course in pharmacy. According to him, Clause 5 of the said scheme, Step-3 requires that once a copy of the inspection report is forwarded by PCI to the concerned applicant for rectification of the deficiencies with documentary evidence, the same matter is required to be placed in the Executing Committee/Central Council and the

decision arrived at, will be communicated to the applicant. He, therefore, states that there is no provision for re-inspection under the concerned scheme.

4. According to him, if the re-inspection is allowed and again the fresh deficiencies are pointed out, the procedure will become an endless exercise and the institution will be put to intense hardship and harassment. He further states that even this court did not allow the PCI to go for re-inspection as the deficiencies were pointed out and the appropriate explanation was submitted by the institution concerned.

5. The learned counsel appearing on behalf of the PCI states that in terms of Section 16 of the Pharmacy Act, 1948, the PCI is competent to direct for inspection and the instant inspection cannot be objected to on the ground that the PCI had already conducted one inspection. According to him, this re-inspection is required to verify the rectification/compliance made by the petitioner-institution in response to the notice of deficiencies served on the petitioner-institution. He then explains that notwithstanding, there is no specific direction by this court in its earlier order dated 27.01.2023, the PCI is still entitled to go for re-inspection limiting to the extent of verifying the correctness of recently rectified compliances/deficiencies by the petitioner-institution. He, therefore, states that in absence of proper satisfaction by the PCI on the points of rectification/new compliances, the PCI cannot proceed to take a decision and if a decision is taken, the petitioner-institution would have a grievance of not considering its rectification/compliance of deficiencies.

6. According to him, in all fairness, if the re-inspection is conducted, the same would be in the interest of the petitioner-institution. He also explains

that on the basis of the reply given by the petitioner-institution, there is no proper documentation with respect to some of the faculties and also with respect to few equipments whether the same is in place.

7. The learned counsel appearing on behalf of the petitioner-institution, in his rejoinder, submits that if the entire documents are examined carefully the same would indicate that there is sufficient compliance and the petitioner-institution has already enclosed adequate documents to justify that there are no deficiencies. According to him, the documents have also been enclosed along with the compliance report with respect to the recently rectified deficiencies. He, however, states that in any case, his endeavour is not to seriously object to the re-inspection but his endeavour is to ensure that the fate of the petitioner-institution is decided either way, otherwise they lose one more academic year, i.e. 2023-24.

8. He, therefore, states that these are the institutions who have applied for the permission of operation of the concerned course in the year 2022-23 and they have already lost one academic year. This court has already set aside the earlier decision passed by the PCI on the ground that the same was in violation of the principles of natural justice. Despite the petitioner-institution succeeded in the earlier round, it could not operate the course as the dates for grant of permission and admission were already over. He, therefore, apprehends that if this re-inspection is allowed, there is a possibility of losing the next academic year i.e., 2023-24 also.

9. I have heard the learned counsel appearing on behalf of the parties and perused the record.

10. A perusal of notice dated 14.03.2023 issued to the petitioner-institution would show that the PCI on the basis of inspection report notifies

two broad deficiencies. One is regarding the non-availability of equipments as per norms and the second is to non-availability of teaching staff as per norms.

11. It is seen that in response to the notice dated 14.03.2023, the petitioner-institution has submitted its explanation/compliance of deficiencies notice on 22.03.2023 wherein, the petitioner-institution claims to have appointed five new teaching staff. The list of five newly appointed teaching staff is extracted as under:

01	Mr. Satish Kumar Sahu	Asso. Prof	20.03.2023	M.Pharm	Pharmaceutical Chemistry	10
02	Mrs. Neha Vishwakarma	Asso. Prof	20.03.2023	M.Pharm	Pharmaceutical	05
03	Mrs. Deepshikha Ray	Asso. Prof	20.03.2023	M.Pharm	Pharmaceutical	04
04	Mrs. Smita Thakur	Asso. Prof	20.03.2023	M.Pharm	Pharmaceutical	04
05	Miss. Sapna Choubey	Asso. Prof	20.03.2023	M.Pharm	Pharmaceutical	04

12. The petitioner-institution also enclosed some of the documents with respect to their appointment orders. A perusal of one of the appointment orders with respect to one Mr. Satish Kumar Saho dated 18.03.2023 shows there is no address mentioned, no proof of his identity is referred to, whether a person in the name of Satish Kumar Saho at all exists is doubted by the PCI on the basis of its past experience.

13. It is seen that almost similar appointment orders are issued in favour of other newly appointed teaching staff also. Similarly, with respect to the non-availability of equipments, invoice dated 22.03.2023, furnished by the petitioner-institution does not reflect the signatures of the customer or the seal of the concerned company. Whether the equipments at all exist, is a fact to be ascertained by the PCI. Admittedly, the new faculties and new equipments were not in place at the time of the earlier inspection. Therefore, there was no reason to record any satisfaction with respect to these aspects.

14. The learned counsel appearing on behalf of the respondent, therefore, clarifies that the fresh inspection is intended to verify the aspects which are claimed to have been put in place by the petitioner-institution after the service of the deficiency notice. This court finds force in the submissions made by him and unless the PCI records its satisfaction with respect to the rectification of the recently rectified deficiencies, no proper decision can be taken. It is for this reason; this court does not find any reason to interfere with the impugned e-mail and communication dated 31.03.2023. However, it is directed that the fresh inspection shall only be confined to the verification of newly rectified deficiencies which are claimed to have been rectified by the petitioner-institution.

15. In view of the aforesaid, the instant petition is disposed of with the following directions:

- (i) Let a fresh notice for the re-inspection confining to recently rectified deficiencies aspects be issued within six working days from today.
- (ii) Let the inspection date be fixed within seven days from the date

of issuance of the re-inspection notice.

- (iii) Let a copy of the re-inspection report be furnished to the petitioner-institution within three days from the date of re-inspection.
- (iv) Let the petitioner-institution be allowed to submit any explanation/document in response to observations made in the re-inspection report within two days from the date of receipt of the re-inspection report.

16. After the aforesaid exercise is completed, the appropriate decision as has already been directed by this court in the order dated 27.01.2022 shall be taken by the PCI.

17. *Dasti.*

PURUSHAINDRA KUMAR KAURAV, J

APRIL 12, 2023

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