

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

+ **W.P.(C) 16769/2022**

Date of Decision: 19.01.2023

IN THE MATTER OF:

MADHU VACHASPATI INSTITUTE OF PHARMACY
PHARMACY, AT RASOOLABAD URG
KOILAHA PURAMUFTI, G.T. ROAD,
KAUSHAMBI, UTTAR PRADESH-212213
THROUGH ITS REGISTRAR 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-1 LANDMARK (NEAR
HOTEL CROWNE PLAZA) NEW DELHI -
110020, THROUGH ITS REGISTRAR CUM
MEMBER SECRETARY Respondent

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

+ **W.P.(C) 16799/2022**

J.M.B. INSTITUTE
J.M.B. INSTITUTE, (ALSO KNOWN AS J.M.B.
INSTITUTE OF LIFE SCIENCES & HIGHER
EDUCATION) BEING RUN AND MANAGED
BY JAGVATI DEVI MOOL CHAND BABOO
RAM INSTITUTE OF LIFE SCIENCES AND
HIGHER EDUCATION), 102, MADHOTANDA
ROAD, PILIBHIT, UTTAR PRADESH-262001,
THROUGH ITS SECRETARY 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-1 LANDMARK (NEAR
HOTEL CROWNE PLAZA) NEW DELHI -
110020, THROUGH ITS REGISTRAR CUM
MEMBER SECRETARY

..... Respondent

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

+

W.P.(C) 16801/2022

SHRI GULAB SINGH COLLEGE OF PHARMACY
SHRI GULAB SINGH COLLEGE OF PHARMACY,
PLOT NO.337, OPPOSITE G.S. LAW COLLEGE,
VILLAGE MALEPUR, POST FARIDPUR, AURAIYA
TO PHAPHUND ROAD, AURAIYA, UTTAR
PRADESH-206122, BEING RUN AND MANAGED
BY SHRI GULAB SINGH SHIKSHA PRASAR
SAMITI, THROUGH AUTHORISED SIGNATORY..... 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-1 LANDMARK (NEAR
HOTEL CROWNE PLAZA) NEW DELHI -
110020, THROUGH ITS REGISTRAR CUM
MEMBER SECRETARY

..... 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

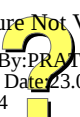
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PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. These petitions seek to challenge the common decision of rejection of the applications of the petitioners-institutions for grant of approval of B.Pharm course by the Pharmacy Council Of India (PCI) and therefore, the same are being taken up for hearing analogously.
2. The facts are referred from W.P.(C)16769/2022.
3. The petitioner-institution being desirous of opening B.Pharm Course made an application to PCI for grant of approval on 30.12.2021. The petitioner-institution had obtained consent of affiliating University and examination authority which was duly communicated to PCI.
4. On 25.07.2022 in terms of 370th Meeting of Executive Committee (EC) of PCI, the application of the petitioner-Institution was rejected by the PCI on the ground of non-submission of NOC by the concerned State Government.
5. The petitioner approached the Hon'ble High Court of Allahabad and in terms of the directions issued by the Hon'ble High Court, the State Government had granted NOC to the petitioner-institution.
6. On 23.09.2022, petitioner-institution had submitted NOC to the PCI in the form of compliance on the PCI portal. According to the petitioner-institution all other requirements in accordance with the Pharmacy Act, 1948 and the Regulations were being fulfilled by the petitioner-institution. Despite that, in terms of meeting held on 11.11.2022 (381st meeting) the PCI rejected the application of the institution on the ground that the Institution has failed to appoint faculty and facilities as per the statutory provision.
7. Learned counsel appearing on behalf of the petitioner states that firstly, the decision which was taken by the PCI only pointed out the



deficiency with respect to the NOC. Once the NOC requirements were fulfilled, it was not permissible for the PCI to again point out some different deficiencies. According to him, the PCI being statutory authority, should decide the matter and consider the application in a comprehensive manner. The piecemeal decisions are neither in the interest of the PCI nor in the interest of the institution rather the same go contrary to the public interest at large.

8. Nevertheless, the case of the petitioner is that the petitioner fulfils all requirements including the faculty etc., and if proper opportunity of hearing is afforded to the petitioner, then the petitioner would satisfy that there is no deficiency existing in the petitioner-Institution.

9. In W.P.(C) 16799/2022, learned counsel appearing on behalf of the petitioner states that in the form of an appeal/compliance, detailed representation was made to the PCI. The same has also not yet been decided by the PCI. In sum and substance, the submission made by learned counsel appearing on behalf of the petitioner is that whatever may be the deficiencies, if the same are pointed out to the petitioner-institution and appropriate opportunity is given, then the petitioner-Institution would be able to satisfy the PCI and accordingly, the PCI can proceed with the respective application.

10. This court while considering the cases of institutions relating to D.Pharm, has taken a view that the decision of the PCI should contain specific deficiencies and before taking such decisions, the PCI is required to intimate/furnish the report of inspection to the respective Institution granting them sufficient time to rectify those deficiencies.

11. Having considered the submissions made by the learned counsel appearing on behalf of the parties and in view of the decision taken in

W.P.(C) 150/2023 *Raghunathpur College Of Pharmacy v. Pharmacy Council Of India*, this court finds it appropriate to dispose of these 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.

12. It is directed that if in case, the PCI decides not to grant the approval to any petitioners-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.

13. Accordingly, the petitions stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

JANUARY 19, 2023/MJ

