

October 28, 2024
(Vacation Bench)
ARDR/S.D (24)

W.P.A. 26174 of 2024

**Mandakini Institute of Medical
Sciences & Hospital
Vs.
National Medical Commission & Ors.**

Adv. Mr. Saptangshu Basu, Sr. Adv.,
Adv. Mr. Sourav Sen,
Adv. Debjit Mukherjee,
Adv. Ms. Susmita Chatterjee,
Adv. Mr. Kaustav Bhgatacharya,
Adv. Ms. Priyanka Jana
.....for the Petitioner
Adv. Mr. Sunit Kumar Roy
...for the National Medical Commission

Affidavit of service and the supplementary affidavit
filed by the petitioner are taken on record.

The petitioner is a private medical college parting
with the medical education to the students. The
petitioner approached this Court against the order of
disapproval of affiliation, passed by the concerned
National Medical Commission on July 4, 2024. Against
which, the petitioner approached the First Appellate
Authority under the statutory board of the National
Medical Authority, who also affirmed the order passed on
July 4, 2024. The petitioner approached to the Second
Appellate Authority. The Second Appellate Authority
being the Deputy Secretary of the Government of India,
Ministry of Health and Family Welfares has passed the

impugned order on October 1, 2024 upholding the order of the First Appellate Authority.

Being aggrieved by and dissatisfied with the said order, the instant writ petition has been preferred.

It is the submission of the learned counsel for the petitioner that deficiency as assessed by the inspection team regarding the faculty and resident is improper. According to the guideline, the number of whole strength of faculty has been totally filled up, but as some Professors were on leave on the day of inspection, thus, the order of disapproval has been passed illegally.

Learned counsel for the petitioner further argued that the learned Second Appellate Authority has not considered the entire aspect and passed the illegal order. He submitted a supplementary affidavit containing *inter alia* another order of Second Appellate Authority in respect of other private medical colleges wherein, though there are 100 per cent deficiency in respect of teaching faculty, 100 per cent deficiency of residents as well as the non-presence of college building, the Second Appellate Authority has approved the affiliation on the basis of undertaking of the college authorities.

Learned counsel appearing on behalf of the National Medical Council has raised an objection and submits that concerned authority has made inspection in the college and found several deficiencies which were depicted in the inspection report. The First Appellate Authority has also perused the report and affirmed the

order of disapproval of recognition. He further submits that Second Appellate Authority being the designated person has perused the orders passed by the First Appellate Authority and also heard the college authority and passed the reason decision. There is no justification to interfere with the said decision.

It appears to me that the inspection report has not demonstrated the leave taken by the Professors at the day of inspection. It further appears through the affidavit shown by the college authority that the building has been completed and the college has been entered into a memorandum of understanding with Ranaghat Sub-Divisional Hospital for the purpose of Blood Bank licence.

Considering the situation, it appears to me that the impugned order passed by the Second Appellate Authority on October 1, 2024 suffers illegality and the same is hereby set aside.

The Second Appellate Authority is directed to take a decision afresh on the basis of the observations made hereinabove. The Second Appellate Authority is further directed to pass a necessary order within two working days positively for the purpose of recognition. The petitioner is directed to approach the Second Appellate Authority immediately couple with the orders of this Court.

Under the above observations, the writ petition is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official *website* of this Court.

(Subhendu Samanta, J.)