

26.12.2024
Sl. No.1
Vacation Bench
srm/GB

**MAT 2353 of 2024
With
CAN 1 of 2024**

**Sri Ramkrishna Institute of Medical Sciences
& Sanaka Hospitals & Anr.**

Versus

Union of India & Ors.

Mr. Jitendra Singh Bhasin,
Mr. Srijib Chakraborty,
Mr. Pankaj Agarwal,
Mr. Rittick Chowdhury,
Mr. Nishant Skukun,
Mr. Aditya Mondal,
Ms. Champa Pal.

...for the Applicants.

Mr. Siddhartha Lahiri,
Mr. Santosh Kumar Pandey,
Mr. Sukanta Ghosh

...for the Union of India.

Mr. S. Banerjee,
Mr. A. Nag,
Ms. Deboleena Ghosh

... for the W.B.M.C.C.

Mr. Sunit Kumar Roy

... for the N.M.C.

Mr. D.N. Maiti,
Mr. A. Santra

... for the Respondent No.5.

1. The petitioners, by filing the writ petition, challenge an order issued by the second appellate authority on November 26, 2024, by the Ministry of Health and Family Welfare, Government of India, wherein their request for an

increase of 50 seats for the MBBS course for the academic session 2024-25 was declined.

2. The learned Single Judge, by an order dated December 2, 2024, directed the respondents to file a report in the form of an affidavit in response to the writ petition within two weeks. Any exceptions were to be filed by December 19, 2024. The matter was scheduled for hearing on December 20, 2024.
3. On December 20, 2024, the learned Single Judge extended the deadline for filing the report and the exceptions. The matter was rescheduled for hearing on January 2, 2025.
4. While the Union raises the issue of the maintainability of this appeal on the grounds that no Letters Patent appeal lies against the said orders, we have decided to address the writ petition on its merits, based on the admitted facts, without requiring the exchange of affidavits to prevent any further delay in the final adjudication, which could render the writ petition infructuous.
5. It appears that the appellants/writ petitioners were granted permission to increase the intake capacity from 150 to 200 MBBS seats for the academic year 2023-24.
6. The appellants subsequently applied for permission to increase the intake capacity from 200 to 250 for the academic session 2024-25, pursuant to a public notice

issued by the National Medical Commission (NMC) on August 18, 2023.

7. However, the appellants' application was rejected by the Medical Assessment and Rating Board (MARB) by an order dated April 3, 2024, on the grounds that the institution had already been allowed to increase the intake by 50 seats for the academic year 2023-24. Consequently, the further request for an additional 50 seats for the academic year 2024-25 was denied.
8. This order was appealed by the appellants before the NMC, which, on May 29, 2024, affirmed the MARB's decision.
9. The order of the NMC was subsequently appealed to the Union by way of a second appeal, and by an order dated September 30, 2024, the Union remanded the matter back to the NMC, citing the failure to conduct an assessment of the college for the additional seat increase for the academic year 2024-25.
10. The matter was again heard by the NMC, which, by an order dated October 15, 2024, declined the request for an increase in seats, primarily on the grounds that the institution had been fined Rs. 8,00,000 for deficiencies that persisted in relation to the existing 200 seats, as indicated in the institute's annual declaration form.

11. The NMC's order of October 15, 2024, was challenged

before the Union, which, by an order dated November 26,

2024, upheld the decision of the NMC.

12. The operative part of the order issued by the Union is as

follows:

- *“The aforementioned information clearly shows that a total 57 faculty was appointed after getting disapproval from the MARB/NMC and most of them are recently appointed very recently.*
- *The Committee has noted that the institute was running with 150 MBBS seats annually and was granted permission for increase of intake from 150 to 200 MBBS seats in the academic year 2023-24. Therefore, the institute should be fully compliant with the Minimum Standard Requirements prescribed for 200 MBBS admissions annually.*
- *The Committee further noted that a total of 114 faculty is required for 150 MBBS seats, 142 for 200 MBBS seats 168 for 250 MBBS seats annually. If these newly appointed 57 faculty are not considered, then there would be only 116 (173-57) faculty available with the institute. This shows that the College is currently running with 200 MBBS seats annually and is hardly complied for the 150 MBBS seats. Considering the same, the Institute was levied a penalty of Rs.8,00,000/- by the Under Graduate Medical Education Board of the NMC.*
- *The Committee has also acknowledged that NMC while rejecting the appeal of the Institute has rightly pointed out that as per the AEBAS attendance of from 01.07.2024 to 30.09.2024, there was deficiency of 66% in Anatomy and 25% in Physiology and Bio-Chemistry which are the subjects are taught in the first academic year to the UG students.*
- *The Committee further opined that the contention of the Institute to consider deficiency of faculty in totality and not Department-wise does not hold ground as the MSRs are framed Department – wise and faculty of one Department cannot compensate deficiency of another Department.*
- *The Committee also observed that the Departments of Dermatology, ENT, Orthopaedics and Ophthalmology do not have Professor and the same are appointed recently.*

- *The Committee has also acknowledge that the Institute was grossly deficient in terms of the faculty and the recent recruitment was made to build a case for getting permission for 250 MBBS seats annually and the same is not acceptable from a running medical Institute.*

11. The documents and submissions made by the appellant have been considered by the Central Government. The Central Government after due examination has decided to reject the Second Appeal filed by the Shri Ramkrishna Institute Of Medical Sciences & Sanaka Hospitals, Durgapur, West Bengal for increase of intake capacity from 200 to 250 MBBS seats annually for the academic year 2024-25.

12. Accordingly, the 2nd Appeal dated 22/08/2024 of Shri Ramkrishna Institute Of Medical Sciences & Sanaka Hospitals, Durgapur, West Bengal stands disposed of."

13. In challenging the order dated November 26, 2024, the appellants contend that the second appellate authority failed to consider the details provided by the appellants in the Standard Assessment Form (SAF), which clearly indicated that the institution was not deficient in the number of faculty members or in any other regard. The appellants assert that the SAF was issued to them only on September 27, 2024, via email, following the remand order by the Union. Subsequently, the National Medical Commission (NMC) declined the appellants' request for an increase in student intake without issuing a show-cause notice or providing an opportunity to address the identified deficiencies.

14. The appellants further argue that the relevant date for assessing the institution's infrastructure and faculty

members for the purpose of increasing the intake should be the date of submission of the SAF. They additionally contend that, according to the circulars issued by the NMC, a deficiency of up to 5% in a private medical college is permissible. Therefore, the appellants assert that the Union should have granted permission for the increase in student seats.

15. The appellants rely on the order dated August 30, 2024, appearing on page 553, issued by the Ministry of Health and Family Welfare, Government of India, as well as another order dated September 30, 2024, found on page 557 of the appeal. The appellants argue that in these cases, despite deficiencies being noted, the Union allowed the increase in seats, taking into account the infrastructure and faculty members of the institutions at the time of the appeal's consideration.

16. In contrast, the Union refers to relevant part of the notice dated August 18, 2023, inviting applications for an increase in intake. The Union asserts that, on the date of submission of the application, an institution must have met the criteria outlined in the Minimum Standard Requirements for Establishment of New Medical Colleges/Increase of Seats in MBBS Courses Guidelines, 2023. The Union maintains that, on the date of the application, the institution was

deficient in the number of faculty members, and thus, the request for an increase in intake was rightfully denied. Additionally, the Union submits that, in reviewing the order of a second appellate authority, this Court should refrain from interfering with factual findings.

17. It is also argued that the appellants were given an opportunity to present their case before both the NMC and the appellate authority, with all relevant stakeholders present. Therefore, the Court, in its writ jurisdiction, has no grounds to alter the factual findings made by these authorities.

18. It is an acknowledged fact that the appellants were asked to submit the SAF only on September 27, 2024. However, we are not persuaded by the appellants' argument that the relevant date for determining the number of faculty members should be the date of submission of the SAF.

19. It is evident that the Medical Assessment and Rating Board (MARB) rejected the application for an increase in student intake on April 3, 2024. After this rejection, the institution recruited 50 faculty members (as opposed to the 57 faculty members indicated by the Union in the order dated October 15, 2024). The required number of faculty members was 168 for 250 MBBS seats. Therefore, prior to the rejection order of April 3, 2024, the institution had

recruited 123 faculty members. In its order dated November 26, 2024, the Union noted that the college, while currently operating with 200 MBBS students, did not meet the requirement for even 150 seats.

20. In light of the fact that the appellants were found to be deficient in the number of faculty members as of October 10, 2024, the appellants cannot argue that the belated submission of the SAF on September 27, 2024, should extend the relevant date for the recruitment of faculty members to that point.

21. We are not inclined to accept the appellants' assertion that the date of filing of the SAF on September 27, 2024, should be considered the relevant date for determining the number of faculty members.

22. In the circumstances outlined, the appellants cannot rely on the other orders issued by the Union allowing an increase in seats, as those decisions were based on the specific facts of those particular cases.

23. While it is true that the institution should have been afforded an opportunity to remedy the deficiencies identified by the MARB after submitting the SAF, on September 30, 2024, such an opportunity was not provided in this case. However, at this juncture, we are not inclined to approve the increase in the number of seats from 200 to

250, given that the Hon'ble Supreme Court's order dated December 20, 2024, in Writ Petition (Civil) No. 833 of 2024 has extended the last date for admission until December 30, 2024. Consequently, the State fixed the date for choice filling from December 23, 2024, to December 24, 2024.

24. Even if this appeal were to be allowed, students would be unable to participate in the counselling process, as the last date for choice filling has already passed.

25. Accordingly, the appeal in MAT 2353 of 2024, along with CAN 1 of 2024, and the writ petition in WPA 28593 of 2024, are hereby dismissed.

26. There shall be no order as to costs.

27. All concerned parties shall act upon the server copy of this order, duly downloaded from the official website of this Court.

(Uday Kumar, J.)

(Kausik Chanda, J.)