



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 11 of 2024

Reserved on : 16.07.2024

Pronounced on : 30.08.2024

Punjab Unaided Colleges Association

....Petitioner

Versus

Punjab State Board of Technical Education and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sameer Sachdeva, Advocate for the petitioner.

Mr. P.K.Shekhon, Advocate for respondent No.1.

Ms. Monica Chhibber Sharma, Advocate with
Ms. Priyanka Goyal, Advocate for respondent No.2.

Mr. D.S.Bhinder, Advocate with
Mr. S.S.Sekhon, Advocate for respondent No.3.

Mr. S.K.Sharma, Advocate with
Mr. Rajat Sharma, Advocate for respondent No.4.

Mr. Saurav Khurana, Addl. Advocate General, Punjab.

Mr. Ashish Rawal, Advocate for respondent-UOI.

VIKAS SURI, J.

1. Through this petition filed under Articles 226/227 of the Constitution of India, the petitioner, viz. Punjab Unaided Colleges Association, has approached this Court for its member institutions with the following substantive prayer:-



“(II) Issue an appropriate writ, order or direction against the illegal, arbitrary and haphazard approach/orders of Respondent-Board Authorities and all consequent proceedings in above regard, whereby inspite of implementing the directions issued by the Hon'ble Supreme Court and the Approval/circular granted by the superior binding Statutory National Body-Pharmacy Council of India (PCI) extending the date of admission and affiliation till 31.12.2023, the respondents authority by adopting a pick and choose policy and in open discrimination and for extraneous considerations have sit over the matter and have stalled the admission process in open defiance to statutory permissions, particularly when they have entertained the claim of similarly placed colleges by way of open favouritism and have relaxed the cut off date even beyond the date given by the Hon'ble Supreme Court i.e. 30.11.2023 and the petitioner colleges have been made to suffer harassment in a cryptic nonchalant manner by further ordering to extend the dates to ensure that the students interest is properly watched.”

2. Briefly stated, petitioner is an association of private unaided, self financed Pharmacy colleges duly recognized and affiliated, being run by duly registered body under the Societies Registration Act, 1860. The issue agitated in the present petition revolves around the cut off date vis-à-vis the order passed by the Apex Court, for making admissions to the Degree and Diploma courses in Pharmacy for the academic session 2023-24. The courses run by the member institutes of the petitioner Association fall within the domain of the



Pharmacy Council of India (for short, 'PCI'). The schedule of admissions, which is being sacrosanctity followed by all concerned, is as laid down by the Supreme Court of India in ***Parshavanath Charitable Trust and others vs. All India Council for Technical Education and others***, (2013) 3 SCC 385.

2.1 The PCI vide its resolution/communication dated 17.07.2019 had resolved to put a moratorium on the opening of new Pharmacy colleges for running Diploma as well as Degree courses in Pharmacy for a period of five years, beginning from the academic year 2020-21. Vide resolution/communication dated 09.09.2019, the aforesaid moratorium was modified, thereby exempting its application to (i) Government Institutions; (ii) Institutions in North-East region; and (iii) States/Union Territories where the number of institutions offering D.Pharm and B.Pharm courses (both combined) is less than 50. Additionally, the aforesaid resolution/communication provided that the institutions which had applied for opening colleges offering D.Pharm and/or B.Pharm courses for 2019-20 academic session, were allowed to apply for conducting diploma as well as degree courses in Academic Session 2020-21 and existing approved pharmacy institutions were allowed to increase the intake capacity as per PCI norms and/or to start additional pharmacy course(s).

2.2 The aggrieved institutions filed writ petitions before the jurisdictional High Court at Karnataka, Delhi and Chhattisgarh, thereby challenged the validity of aforesaid moratorium and also prayed for a direction to PCI to grant approval for opening new Pharmacy Institutions imparting courses for the academic year 2022-23 on the basis of inspection already



conducted by PCI and not to insist on fresh applications. The said writ petitions were allowed.

2.3 Aggrieved by the aforesaid judgments, PCI carried the matter to the Hon 'ble Supreme Court of India, which appeals were dismissed vide judgment dated 15.09.2022. The common judgment rendered in the lead case, is reported as ***Pharmacy Council of India vs. Rajeev College of Pharmacy and others, (2023) 3 SCC 502.***

2.4 By when the aforesaid appeals were decided by the Apex Court, the time granted for approval by PCI to the Institutions for Academic Session 2023-24, as per ***Parshavanath Charitable Trust's case*** (supra), was already over. The PCI, thus, moved an application for extension of time in ***Parshavanath Charitable Trust's case*** (supra), which was allowed vide order dated 06.09.2023 passed in Miscellaneous Application No.1927 of 2023 in C.A. No.9048 of 2012 (Annexure P-2).

2.5 The petitioner Association invoked jurisdiction of this Court seeking direction to the respondent authorities to implement the directions issued by the Apex Court extending the date of admission and affiliation till 31.12.2023. The aforesaid prayer was on behalf of all member institutions of the petitioner Association, which included even those institutions/colleges whose approval for the respective course already stood allowed and pursuant thereto, admissions had been made adhering to the academic schedule fixed in ***Parshavanath Charitable Trust's case*** (supra).

3. Upon notice, respondent No.1-Punjab State Board of Technical Education and Industrial Training, contested the writ petition while taking a



stand in its written statement that the order dated 06.09.2023 (Annexure P-2), passed by the Apex Court on the application of PCI, pertains to the institutions that were not granted approval for opening new Pharmacy Institutions imparting Pharmacy courses and in compliance with the orders passed by the respective High Court, their applications were to be reprocessed. In view of the above, vide order dated 26.02.2024 passed by this Court, the Pharmacy Council of India was ordered to be impleaded as respondent No.4. Detailed response to the averments made in the petition was sought and direction was also given to apprise the Court with regard to the nature of the proceedings pending before the Hon'ble Supreme Court leading to the passing of order dated 06.09.2023 (Annexure P-2).

4. The petitioner Association was also directed to place on record the brochure/notification pertaining to admission for the academic Session 2023-24 to the Degree and Diploma courses in Pharmacy, the cut off date prescribed therein for making the admissions and to provide the list of students admitted by the members of the petitioner Association after the prescribed cut off date. In response thereto, some institutes provided the information. This Court was also informed, as noticed in order dated 26.02.2024, that by then the affiliating Universities had already granted approval to the admissions made by the member Colleges of the petitioner Association after the prescribed cut off date. The Registrars of respondent Nos.2 and 3 (University) were directed to file their respective affidavits detailing therein the circumstances in which the said approval had been granted.



5. Pursuant to the aforesaid order dated 26.02.2024, respondent University Nos.2 and 3 filed their respective affidavits, wherein it has been averred that the last date for admission for the year 2023-24 for various technical courses and other courses as per the academic calendar of All India Council for Technical Education (for short, 'AICTE') was 15.09.2023. The AICTE vide letter dated 17.10.2023 issued revised academic calendar for the year 2023-24 stating to be in compliance with order dated 13.10.2023 passed by the Hon'ble Supreme Court and accordingly, the last date for admission was extended upto 30.10.2023 and the same was notified on AICTE's website. The subject line of the letter dated 17.10.2023 (Annexure R/4) read as, "Sub:- Revised Academic Calendar 2023-24 as approved by Hon'ble Supreme Court". The said letter was addressed to all the Vice-Chancellors of Affiliating Universities/Directorate of Technical Education (DTE) of all State Governments and Union Territories. The PCI also issued a notice/announcement dated 20.10.2023 (Annexure R/6) for the information of the State Governments, Examining Authorities, admission making authorities and all approved Pharmacy Institutions regarding the order dated 06.09.2023 passed by the Apex Court. In the said notice, the subject referred to the order of the Hon'ble Supreme Court of India, for existing and new institutions. Accordingly, while referring to the aforesaid order of the Apex Court, the revised date lines were specified as, last date for completion of approval process upto 31.10.2023 and appeals/compliances process till 30.11.2023 for academic year 2023-24. It was further clarified that the period for counselling shall stand extended by one month thereafter, i.e. by 31.12.2023. Thus, the



plea taken in defence by both the Universities is that they acted in compliance with the public notice of PCI and letter of Punjab Pharmacy Council, to inform the affiliated/autonomous pharmacy colleges of the university to submit the details of the students who have taken admission between 31.10.2023 to 31.12.2023. The aforesaid fact has also been affirmed in the respective written statements filed on behalf of the University concerned, i.e. respondent Nos.2 and 3.

6. Vide order dated 13.05.2024, the coordinate Bench had directed the Secretary, Health and Family Welfare, Government of India, to file an affidavit with regard to the fact as to whether extension of date granted through the order of the Apex Court dated 06.09.2023, passed in M.A. No.1927 of 2023 in C.A. No.9048 of 2012 titled as *Parshavnath Charitable Trust vs. All India Council for Technical Education and others*, applies only to grant of approvals to new institutes or also to the admissions to be made by the existing institutes. In compliance with the said order, affidavit dated 16.05.2024 has been filed wherein it is submitted that the order of the Hon'ble Supreme Court dated 06.09.2023 for the academic year 2023-24 is for existing and new institutions.

7. At the very commencement of final hearing, learned counsel for the petitioner sought withdrawal of the writ petition against respondent Nos.2 and 3 i.e. I.K.Gujral Punjab Technical University, Jalandhar and Maharaja Ranjit Singh Punjab Technical University, Bathinda, which prayer was granted. Accordingly, vide order dated 16.07.2024, the writ petition stands dismissed as withdrawn qua respondent Nos.2 and 3.



8. Learned counsel for the petitioner has contended that the only issue arising in the instant writ petition is whether the extension of date, granted vide order dated 06.09.2023 passed by the Apex Court, would apply only to those institutions where grant of approval was pending being a new institution or also to those existing approved institutions, which seek to make further admissions. It is further submitted that the present petition survives only qua those member institutions of the petitioner Association whose case for approval already stood allowed prior to passing of the order dated 06.09.2023.

9. Per contra, learned counsels for respondent No.1 and respondent No.4 have assertively opposed the present petition. It is submitted that the petitioner as well as the University, have misread and misconstrued the order dated 06.09.2023 passed by the Supreme Court of India and also the public notice issued by PCI and Punjab Pharmacy Council. It is further submitted that a perusal of the pleadings in the application and the prayer that has been granted vide order dated 06.09.2023, leaves no room for any doubt that the same was with regard to institutions, whether new or existing, whose process for approval was still pending pursuant to the decision by the three High Courts, referred to hereinbefore. It is further submitted that countered by the aforesaid contention, learned counsel for the petitioner had sought time from this Court to approach the Hon'ble Supreme Court by filing an appropriate application to seek clarification of the order dated 06.09.2023 passed by the Apex Court, as noticed in the order dated 17.05.2024. It is further submitted that apparently, neither the petitioner has filed any such application seeking



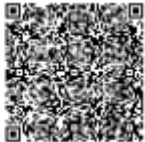
clarification of the aforesaid order nor any material in that regard has been placed on record. The petitioner unsuccessfully impugned order dated 17.05.2024 passed by this Court, through SLP(C) No.12562/2024, which stands dismissed as withdrawn vide order dated 10.07.2024. It is further contended that the petitioner Association by way of the present petition seeks undue advantage for its member institutions, whose approval already stood granted and they had also completed the process of admissions as per the originally issued academic calendar of AICTE, claiming benefit of an order which does not extend to them.

10. We have heard learned counsel for the parties at length and have perused the record, with their able assistance.

11. In the absence of any subsequent order of the Supreme Court of India clarifying or modifying the earlier order dated 06.09.2023, having been brought to our notice, the petitioner has failed to make out a case and on the other hand, submissions made on behalf of the contesting respondents, holds water.

12. To appreciate the issue arising in the present petition, it would be apposite to refer to the pleadings of the application in respect of which the prayer made therein, has been allowed by the Apex Court vide order dated 06.09.2023. The relevant paragraphs and the prayer made in the aforesaid application, are reproduced hereunder for convenience of reference:-

“25. Since the many institutions have challenged the BTE order and the matter is still pending. In case the institutions Writ Petitions are allowed; the Applicant PCI have to once again process the entire batch of institutions from the scratch

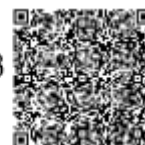


and this will take considerable time.

26. The applicant states that the since then total no.850 of new applications to be considered for the 2023-2024 academic session out of which 500 is yet to be processed due to paucity of time and limited infrastructure and staffs. The status of the processing of these applications can be summarised as hereinunder:-

Sl. No.	Particulars	Data (in figure)
1.	Application to be scrutinized	Nil (all scrutinised)
2.	Deficient applications (Conveyed deficient applications appx)	1500
3.	Inspection arranged	2845
4.	Inspection Report received and reported to EC	2845
5.	Inspection of Institutions to be conducted for approval	400
6.	Revisiting decisions in terms of Hon'ble Delhi High Court directions	1500
7.	Total number of Institutions for which decision of approval is pending	850

27. The applicant/Pharmacy Council of India states that the applicant is still processing the applications of institutions covered under moratorium as well as revisiting all the process of approval for already processed application to comply with the Hon'ble Delhi High Court direction and in case the Hon'ble Allahabad High Court, Lucknow Bench allows the institutions Writ Petition filed against the decision of the BTE, the applicant has to then process approx 450 institutions applications and all those applications will have to be considered on or before 30.08.2023 and for appeal case 30.09.2023 as prescribed in *Parshavanath Charitable Trust and others vs. All India Council for Technical Education (2013) 3 SCC 385* vide its order from time to time.



28. That in view of the above, considering the exigency and extraordinary situation, the Applicant/Pharmacy Council of India submits that the applicant/Pharmacy Council of India may be permitted to grant approval of pending institutions by extending the cut-off date from 30.08.2023 to 31.10.2023 for approval and for appeal/compliances from 30.09.2023 to 30.11.2023 for the academic year 2023-2024. The applicant/Pharmacy Council of India submits that total 850 applications from new institutions from entire country (including 450 applications from new institutions affected by UP Board of Technical Education in respect of cancellation of NOCs and subsequent interim orders granted by Hon'ble High Courts) have to be considered for the year 2023-2024 and the same may be remedied by issuance of appropriate directions by this Hon'ble Court only otherwise they will suffer.

29. That, thereafter, the Petitioner humbly submits that in the peculiar facts and circumstances of the case as mentioned herein above, it is necessary as also expedient for the ends of justice to allow this present application which is being filed bonafidely and in the interest students at large and also in the interest of justice.

PRAYER

In the facts and circumstances mentioned herein above it is respectfully prayed that this Hon'ble Court may be pleased to

- (a) Grant extension of the date for completion of approval process up to October 31st 2023 and appeals/compliances process till November 30th 2023 to the Applicant/Pharmacy Council of India for the academic year 2023-2024; and
- (b) pass such order(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the present case.

AND FOR THIS ACT OF KINDNESS THE APPLICANT AS IN DUTY BOUND SHALL EVER PRAY”



13. Considering the aforesaid averments and prayer clause ‘(a)’ along with those made in two other connected miscellaneous applications, the Supreme Court allowed the said application(s) vide order dated 06.09.2023 (Annexure P-2). The said order reads as thus:-

“1. Heard Mr. R.Venkataramani, learned Attorney General for India, Mr. Tushar Mehta, learned Solicitor General of India, Mr. A.N.S. Nadkarni and Dr. Abhishek Manu Singhvi, learned senior counsel, Mr. Harish Pandey, learned counsel.

2. Though normally we would not have entertained the application for extension of period, however, taking into consideration that the career of about four lacs students is at stake, by way of last opportunity, we are inclined to allow the application in terms of prayer clause “(a)” in all the applications, which are extracted below:-

M.A. No.1927/2023 in C.A. No.9048/2012

“(a) Grant extension of the date for completion of approval process up to October 31st 2023 and appeals/compliances process till November 30th 2023 to the Applicant/Pharmacy Council of India for the academic year 2023-2024;”

MA 1928/2023 in C.A. No.9048/2012

“(a) extend the cut-off date for grant of affiliation upto 15.09.2023 in respect of Applicant Technical Institutions/courses approved by AICTE for the Academic Sessions 2023-24.”

MA 1929/2023 in C.A. No.8048/2012

“(a) Extend/relax the cut-off dates specified in order dtd. 24.03.2023 for affiliation and completion of Admissions process by the Applicant University to AICTE and COA approved courses/institutions by a reasonable time, as provided in para 21 of this Application.”



3. Needless to state that the period for counseling shall stand extended by one month thereafter.

4. The applications are, accordingly, disposed of.”

14. A perusal of the prayer made in the aforementioned application(s) would show that the same is specifically for grant of extension of the date of completion of approval process upto 31.10.2023 and appeals/compliances process till 30.11.2023, to PCI for the academic year 2023-2024. The order dated 06.09.2023 also records that their Lordships of the Apex Court were inclined to allow the application in terms of prayer clause ‘(a)’ in all the applications, which has been reproduced in the order itself. A perusal of the same leaves no room for any doubt that the extension sought by PCI, was with regard to the date for completion of approval process and its consequential compliances. The order dated 06.09.2023 is candid and admits no scope for any other interpretation.

15. It is the conceded case of the parties that pursuant to orders passed by various High Courts noticed above, the process of grant of approval had to be once again start from scratch. The said institutions, include both new as well as existing institutions. It is also evident from the affidavit dated 16.05.2024, filed by the Under-Secretary of the Ministry of Health and Family Welfare, Government of India, that the grant of extension of the date for completion of approval process was for both existing and new institutions. The institutions in respect of which the miscellaneous applications had been moved by PCI, were those institutions whose approval process could not have



been completed by the date originally stipulated and, thus, before the Apex Court, prayer for grant of extension for completion of the approval process, had been made. To our mind, the aforesaid order neither refers to any other class of institutions nor the same can be extended to such institutions whose approval process was not pending on the date when the said order was passed.

16. No other argument was raised.

17. In the light of the above discussion, we are of the considered view that the instant petition is misconceived and without any substance. Thus, being bereft of merit, the same is liable to fail.

18. Resultantly, the writ petition is dismissed.

19. Pending applications, if any, also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(VIKAS SURJ)
JUDGE

August 30, 2024
Varinder

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No