



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18770-2024 (O&M)
Reserved on:13.08.2024
Date of decision:22.08.2024

Baba Jaswant Singh Dental College, Hospital and Research Institute

....Petitioner

Versus

Union of India and others

..Respondents

CORAM: HON’BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Vijay Kumar Jindal, Senior Advocate
with Mr. Abhishek Shukla, Advocate
Mr. Shoryaveer Vashist, Advocate,
for the petitioner

Ms. Promila Nain, Senior Panel Counsel (UOI)
Ms. Harveen Mehta, Advocate
for respondent No.1 and 3

Mr. Manpreet Singh Longia, Advocate
for respondent No.2

ANIL KSHETARPAL, JUDGE

1. Brief facts of the case :

1.1 Primarily, the petitioner-College calls in question the correctness of Government of India’s communication dated 05.07.2024, directing it to fill only 50 seats of Bachelor of Dental Surgery in the academic

session 2024-25, instead of 100 seats as in the academic session 2023-24.

1.2 On 20th and 21st June, 2022, a periodic inspection was carried out at the petitioner-College. The report submitted was considered by the Executive Committee (EC) of Dental Council of India (DCI) in its meeting held on 14.07.2022. The petitioner was given opportunity on 21.07.2022 to make compliance while sending a copy of the inspection report. The petitioner college submitted compliance on 03.08.2022 which was considered by the EC in its meeting held on 17.09.2022 and a decision was taken to appoint Inspectors for compliance verification. Thereafter, on 28th and 29th November, 2022, compliance verification inspection was carried out. The EC after considering the compliance verification inspection report recommended the Government of India (GOI), on 22.12.2022, to reduce the intake of the students in the petitioner-College to 50 seats for the academic session 2023-24. The GOI after granting an opportunity of hearing on 26.04.2023 to the College, sought comments from the Punjab Government; however, no comments were received. Once again, vide communication dated 18.08.2023, a fresh communication was sent, requesting the Punjab Government to send comments. On 13.12.2023, the GOI stated that the DCI provided a negative recommendation for the academic year 2023-24 and requested clarification for the academic year 2024-25. The DCI vide communication dated 02.01.2024 informed the GOI that admissions for the academic year 2023-24 were over. Hence, a fresh inspection for the coming academic year 2024-25 will have to be

carried out. The GOI sought the DCI's recommendations in two days. In response thereto, vide communication sent on 27.03.2024, the DCI reiterated the need for fresh inspection before making a recommendation for the academic year 2024-25. On 28.03.2024 the GOI requested the DCI to conduct a fresh inspection. On 8th and 9th April 2024, a fresh inspection was carried out and after considering the report, recommendations to reduce the intake of BDS seats by 50% was forwarded by the DCI to the GOI; were accepted on 05.07.2024.

2 Arguments put forth by the learned counsel representing the parties:

2.1 The learned senior counsel representing the petitioner, while drawing attention of this Court to letters dated 09.06.2023, 18.08.2023 and 12.09.2023 submitted that no decision with respect to the academic session 2023-24 was taken. He further submits that as per Regulation 14 of the Dental Council of India (Miscellaneous) Regulations, 2015 (hereinafter referred to as '2015 Regulations'), the intake of petitioner-College could not be reduced without giving an opportunity of hearing. After the inspection on 8/9th April 2024, the petitioner has not been granted an opportunity to explain its position. While relying upon the judgment passed in **Royal Medical Trust (Regd.) and another vs. Union of India and another 2015 (10) SCC 19**, he submits that observance of principles of natural justice at various levels is mandatory, which have not been observed.

2.2 Per contra, separate counsels representing DCI as well as UOI, while highlighting the facts which have already been noticed above, submitted that the petitioner-College has already been granted an

opportunity of hearing on 03.08.2022 when inspection report dated 14.07.2022 was furnished. Thereafter, compliance verification inspection was carried out on 28th /29th November, 2022, and the GOI afforded a personal hearing to the petitioner-College on 26.04.2023. It is submitted that the joint inspection carried out on 8th /9th April, 2024 revealed that there was no Osteology and demonstration room. There was no clinical laboratory of general pathology and microbiology. The clinical lab for biochemistry was also not there. The laboratory for Pharmacology with store, clinical lab and staff room did not exist. There were deficiencies of Lecturers in the Department of Anatomy, two Lecturers in Physiology, three Lecturers in Pharmacology, one Lecturer in General Pathology, one Lecturer in the Department of General Medicine and one Lecturer in General Surgery. All the chairs and units were not functional and electrically operated. Approximately 1/3rd of the dental chairs in the UG Clinical area were non-functional. It has been pointed out that a significantly large number of deficiencies were found during inspection.

3. Discussion and analysis:

3.1 Having heard learned counsel representing the parties at length, this Bench is of the considered view that the petitioner-College does not deserve indulgence from this Court for the following reasons:-

i) On a careful reading of Regulation 14 (v) of the 2015 Regulations, it is evident that the opportunity for compliance in respect of deficiencies should be normally given to the Dental College, however, the word used

is ‘*normally*’ which is not mandatory. Regulation 14 (v) is extracted hereunder:-

“14. Procedure of DCI Inspections:-

(v) The dental colleges should normally be given one opportunity for compliance in respect of their deficiencies.”

ii) Moreover, the inspection carried out 8th / 9th April, 2024 cannot be read in isolation or divorced from the previous two inspections, which were carried out on 20th /21st June, 2022 and 28th / 29th November, 2022. Thereafter, the petitioner has been granted an opportunity of hearing and made compliances. It was only due to inaction on the part of the GOI that no decision for the academic session 2023-24 was taken, though the DCI, vide communication dated 22.12.2022, recommended reducing permission by 50%. Thereafter, the GOI, instead of taking decision immediately; granted an opportunity of hearing to the petitioner-College, and sought comments from the Punjab Government, which were never sent. Hence, the petitioner has been granted an opportunity of hearing on 26.04.2023, and the inspection dated 8th /9th April, 2024 is in continuation of the previous inspections.

iii) The petitioner does not allege any bias or malafide against the members of the inspection team. On 20th /21st June, 2022 the inspection was carried out by Dr. Aditya Mitra, Purba Medinipur (West Bengal) and Dr. Neeraj Kumar Dhiman, Varanasi. Thereafter on 28th / 29th November, 2022 joint inspection was carried by Dr. Sunil Sharma, Jaipur and Dr. Vinay Kumar Srivastva and Dr. Manu Rathee, Rohtak.

This time, the inspection has been carried out by Dr. Uttam Kumar Sain,

Dr. Manu Rathee, and Dr. Mridula Trehan. These three inspections are in the same series.

3.2 Moreover, the violation of principles of natural justice, by itself cannot be made the sole basis to reverse the order unless some prejudice is apparent on the face of the decision. The Supreme Court in para 39 of the judgment passed in **State of Uttar Pradesh vs. Sudhir Kumar Singh 2020 SCC Online 847**, emphasized that the principles of natural justice are not rigid, but rather a flexible tool in the hands of the court. This flexibility allows the court to tailor its approach to the specific circumstances of each case, ensuring that substantive justice is achieved. A mere technical breach of these principles does not automatically invalidate an otherwise valid order. For an order to be set aside on the grounds of breach of principles of natural justice, there must be a clear and demonstrable prejudice caused to the party affected by the decision. In absence of such prejudice, particularly when the outcome of the decision would likely remain unchanged, a mere technical error in procedure cannot be a valid ground for overturning an otherwise lawful and just order. The relevant part of the aforesaid judgment is extracted as under:-

“(1) Natural justice is a flexible tool in the hands of the judiciary to reach out in fit cases to remedy injustice. The breach of the audi alteram partem rule cannot by itself, without more, lead to the conclusion that prejudice is thereby caused.

(2) Where procedural and/or substantive provisions of law embody the principles of natural justice, their infraction per se does not lead to invalidity of the

orders passed. Here again, prejudice must be caused to the litigant, except in the case of a mandatory provision of law which is conceived not only in individual interest, but also in public interest.

(3) No prejudice is caused to the person complaining of the breach of natural justice where such person does not dispute the case against him or it. This can happen by reason of estoppel, acquiescence, waiver and by way of non-challenge or non-denial or admission of facts, in cases in which the Court finds on facts that no real prejudice can therefore be said to have been caused to the person complaining of the breach of natural justice.

(4) In cases where facts can be stated to be admitted or indisputable, and only one conclusion is possible, the Court does not pass futile orders of setting aside or remand when there is, in fact, no prejudice caused. This conclusion must be drawn by the Court on an appraisal of the facts of a case, and not by the authority who denies natural justice to a person.

(5) The “prejudice” exception must be more than a mere apprehension or even a reasonable suspicion of a litigant. It should exist as a matter of fact, or be based upon a definite inference of likelihood of prejudice flowing from the non-observance of natural justice.”

3.3 Similarly in para 25 of **Manohar Lal Sharma Vs. Medical Council of India and others (2013) 10 SCC 60**, the Supreme Court held that rigid rules of natural justice are neither contemplated nor envisaged for an administrative authority. It simply signifies that strict or inflexible rules of natural justice are not intended or expected to be applied to decisions made by administrative authorities. These

authorities often need flexibility to make decisions efficiently and effectively, rather than being bound by rigid legal procedures.

3.4 The decision taken by the GOI is based on the recommendations made by the DCI. In exercise of power of judicial review, interference in the decision of a specialized expert body should not be made unless there is gross and patent illegality in the decision. In this case, the DCI recommended to the GOI a reduction of 50 BDS seats for academic year 2023-24. However, due to a delay a timely decision was not taken. Thereafter, on 25.04.2024, the DCI once again recommended to the GOI to reduce 50% of the BDS seats of the petitioner-College for the academic year 2024-2025, which has been accepted by the GOI.

3.5 The reliance placed by the learned senior counsel representing the petitioner on the judgment in **Royal Medical Trust ‘s case (supra)** is misplaced because the Supreme Court was considering the regulations issued by Medical Council of India. The Court has only laid down that observance of natural justice at various levels is required, particularly in processes where decisions significantly impact the rights and interests of individuals or entities. While courts may demand strict adherence to these principles in judicial settings, in administrative context, the requirements may be more flexible, tailored to balance fairness with the need for efficiency and practicality. In this case, the Regulation itself uses the expression “*ordinarily*” which cannot be interpreted as mandatory.

4. Decision

4.1 In view of the aforesaid discussion, this Court does not find it appropriate to issue the writ as prayed for.

4.2 Accordingly, the writ petition stands dismissed.

4.3 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

22.08.2024

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No