

**CWP-26429-2023 (O&M)**

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CWP-26429-2023 (O&M)
Date of decision: 16.05.2024****SFC College of Nursing**

..... Petitioner

versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

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

Mr. Amit Goyal, Additional Advocate General, Punjab.

Ms. Neha Jain, Advocate for respondent No.3.

Mr. R.S. Kalra, Advocate for respondent No.4.

Deepak Sibal, J.

1. The petitioner is a nursing college situated in Moga, Punjab. It made an application to the Government of Punjab seeking therein a No Objection Certificate/essentiality certificate (for short – NOC) to start the course of B.Sc. Nursing (Basic) with intake capacity of 60 seats. Through order dated 22.04.2022 the Government of Punjab issued to the petitioner NOC for making admissions against 60 seats of B.Sc. Nursing (Basic) course. One of the conditions contained in the NOC was that before making admissions the petitioner shall obtain recognition / affiliation from the Indian Nursing Council (for short – INC), Baba Farid University of Health Sciences, Faridkot (for short –University) and the Punjab Nurses

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Registration Council (for short –PNRC). As per the NOC no admission could also be made by the petitioner without the prior approval of the State for which the petitioner was required to submit a separate application after it had obtained the aforesaid approvals/ affiliation.

2. For the academic session 2022-2023 the petitioner could not obtain all the requisite approvals and therefore, no admissions were made for that academic session.

3. Armed with the State's NOC dated 22.04.2022 the petitioner then started its campaign to seek the requisite approvals/ recognitions/ affiliation so that it could make admissions in the academic session 2023-2024. The respondent-University through its letter dated 13.04.2023 granted consent of affiliation to the petitioner. In this letter the University clarified that the consent was not to be construed as grant of affiliation. This was only to enable the petitioner to get the requisite approvals / recognition from the INC, PNRC and the State. The petitioner institute was then inspected by the INC. Through its letter dated 04.08.2023, INC found the petitioner to be suitable to make admissions to the B.Sc. Nursing (Basic) course for 30 seats. The petitioner's application was then dealt with by the PNRC which through its letter dated 19.10.2023 conveyed its consent to the petitioner for admitting 30 students in the B.Sc. Nursing course. However, the consent letter by PNRC clearly stipulated that the same was not to be construed as recognition and that such consent had been granted only to facilitate the petitioner to apply and get the other required approvals.

4. Basing its claim on the INC's suitability certificate and the consents granted by the PNRC and the University the petitioner then applied

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to the State for the grant of final approval but when no decision by the State was conveyed to the petitioner and the last date for making admissions was fast approaching, the petitioner knocked the doors of this Court through the instant petition seeking issuance of directions to the State and the University to permit the petitioner to make admissions qua 30 seats in the B.Sc. Nursing (Basic) course. The case set up by the petitioner was that it had all the requisite approvals/ recognitions from the INC, PNRC and the University and therefore approval by the State was an empty formality.

5. Through issuance of interim directions a coordinate Bench permitted the petitioner to admit, for the academic session 2023-24, students in B.Sc. Nursing (Basic) course. However, such admissions were to abide by the final decision in the petitioner's writ petition and that the students to be admitted were to be informed about such condition in the interim order.

6. In pursuance to the interim order of this Court the petitioner could admit only one student.

7. Learned counsel for the petitioner submitted that for the academic session 2023-2024 the petitioner had been issued the NOC by the State and the affiliation by the University. The INC had also found the petitioner suitable for admitting 30 students in the course of B.Sc. Nursing. Even the PNRC had granted consent to the petitioner for admitting 30 students in the B.Sc. Nursing course. That being so, the State was left with no further role to play and that the afore permissions/ approvals/affiliation were enough for the petitioner to go ahead with the admissions.

8. Learned State counsel submits that inspection of the petitioner college conducted by the State has revealed that the staff claimed to be

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employed by the petitioner was found to be deficit as also that other infrastructural facilities like hostel etc. were also not meeting the required norms.

9. Learned counsel for the PNRC drew the attention of this Court to the order of the PNRC dated 30.11.2023 as per which, after going through the petitioner's self appraisal report, the PNRC had found that the petitioner was failing to meet the requisite norms qua its library, clinical facilities and teaching faculty. Therefore, through its aforesaid order, PNRC had refused to grant any recognition to the petitioner for making any admissions to the B.Sc. Nursing (Basic) course for the academic session 2023-2024.

10. Learned counsel for the PNRC further questioned the petitioner's bona fides by submitting that no recognition to make admissions to the B.Sc. Nursing (Basic) course had been granted to the petitioner by the PNRC. However, the petitioner attempted to mislead this Court by projecting the consent granted by the PNRC as recognition and so that the correct facts may never be brought to the notice of this Court, the petitioner had intentionally not arrayed the PNRC as a respondent as PNRC was impleaded as a respondent only under the *suo moto* orders passed by this Court.

11. The afore rival submissions have been considered and the record of the case has also been perused.

12. The applicable regulations are the Indian Nursing Council (Revised Regulations and Curriculum for B.Sc. (Nursing) Program – Corrigendum) Regulations, 2020 (for short – the 2020 Regulations). Guidelines regarding minimum pre-requisites for the B.Sc. (Nursing) course



contained in Regulation V. Regulation V (1) to (5) of the 2020 Regulations are reproduced below : -

V. GUIDELINES REGARDING MINIMUM PRE-REQUISITES FOR GRANTING SUITABILITY FOR B.Sc. (NURSING) COLLEGE OF NURSING

1. The following Organizations/Establishments are eligible to establish/open a B.Sc. (Nursing) College of Nursing:

- a) Central Government/State Government/Local Body;*
- b) Registered Private or Public Trust;*
- c) Organizations Registered under Societies Registration Act including Missionary Organizations;*
- d) Companies incorporated under Section 8 of Company's Act.*

2. The eligible Organizations/Establishments should have their own 100 bedded Parent Hospital.

Provided that in respect of Tribal and Hilly Area the requirement of own Parent Hospital is exempted.

a) Tribal Area – Scheduled notified area [Areas as the President of India may by order declare to be Scheduled Areas];

b) Hilly Area – UTs of Jammu & Kashmir and Ladakh, North Eastern States, Himachal Pradesh and Uttarakhand.

3. The eligible Organizations/Establishments should obtain Essentiality Certificate/No Objection Certificate from the concerned State Government where the B.Sc. (Nursing) College of Nursing is sought to be established. The particulars of the name of the College/Nursing Institution along with the name of the Trust/Society/Company [as mentioned in Trust Deed or Memorandum of Association] as also full address shall be mentioned in No Objection Certificate/Essentiality Certificate.

4. After receipt of the Essentiality Certificate/No objection Certificate, the eligible institution shall get recognition from the

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concerned SNRC for the B.Sc. (Nursing) program for the particular academic year, which is a mandatory requirement.

5. The Council shall after receipt of the above documents/proposal by online, would then conduct Statutory Inspection of the recognized training nursing institution under Section 13 of the Act in order to assess the suitability with regard to availability of Teaching faculty, Clinical and Infrastructural facilities in conformity with Regulations framed under the provisions of the Act.”

13. As per afore quoted regulations any eligible institute which intends to establish / start teaching the course of B.Sc. (Nursing) should have their own 100 bed parent hospital with exemption granted to institutes in tribal / hilly areas. The eligible institutes are first required to obtain NOC from the concerned State government where it seeks to establish a B.Sc. (Nursing) College or where an existing college seeks to introduce for the first time teaching in the B.Sc. (Nursing) course. The particulars of the College alongwith name of the trust/ society / company as also its full address is required to be mentioned in the NOC to be given by the concerned State Government. After the receipt of the NOC from the State Government the eligible institute is mandatorily required to get recognition for the academic year in question from the Nurses and Midwives Registration Council of the concerned State and only after the eligible institute has obtained the NOC from the State Government and the recognition from the concerned State Nurses Registration Council, the Indian Nursing Council would conduct the statutory inspection of the recognized institute to assess

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its suitability with regard to the availability of required teaching faculty, clinical and infrastructural facilities.

14. In the case in hand, though the petitioner had obtained on 22.04.2022, the NOC from the State Government, it has, till date, no recognition from the PNRC. Rather, through order dated 30.11.2023, the PNRC has specifically refused to grant recognition to the petitioner to make any admission qua the B.Sc. (Nursing) course for the academic year 2023-2024.

15. Sans any recognition by the PNRC for making admissions to the B.Sc. (Nursing) course for the academic year 2023-2024, which is a mandatory requirement under Regulation V(4) of the 2020 Regulations, the petitioner cannot be permitted to make any admissions to such course especially, when the order of the PNRC dated 30.11.2023, through which the petitioner has been denied recognition, has neither been challenged nor even a rebuttal to the same has been filed disputing the deficiencies pointed out in the said order on the basis whereof the PNRC has refused to grant recognition to the petitioner.

16. Reliance by the petitioner on the consent dated 19.10.2023 by the PNRC is misconceived. In the said letter the PNRC has clearly stated that such letter is not to be construed as recognition and that the same has been issued only to enable the petitioner to pursue its case with the INC and the State Government. The operative part of the said letter is reproduced below for reference:-

“You are further informed that this letter of Consent of Recognition is being issued to facilitate you to move your case



with the Indian Nursing Council, New Delhi and in no case mean the grant of Recognition. All the conditions laid down in the “No Objection Certificate/ Essentially Certificate” by the Punjab Government will be applicable. The permission to admission from the State Govt. and suitability from Indian Nursing Council be submitted to PNRC. It is made clear that no admission would be made prior to issuance of recognition by PNRC.”

(emphasis supplied)

17. Thus, through its letter dated 19.10.2023 the PNRC had not granted any recognition to the petitioner to start the B.Sc. (Nursing) course. In fact, till date no recognition has been granted. Rather, as noted earlier, through its order dated 30.11.2023 the PNRC has refused to grant recognition to the petitioner but in spite of the same the petitioner attempted to mislead this Court by projecting the “consent” by the PNRC as recognition. The petitioner also withheld from the Court the order dated 30.11.2023 by the PNRC. The petitioner had also not impleaded the PNRC as a respondent. It is only on the directions by this Court that the PNRC was impleaded as a respondent and then directed to produce the relevant record. After the PNRC filed its reply and produced relevant record was it revealed that way back on 30.11.2023 the petitioner had been refused recognition by the PNRC. Thus, the petitioner did not approach this Court with clean hands.

18. After examining the self certification proforma submitted by the petitioner, through its order dated 30.11.2023, the PNRC refused to grant any recognition to the petitioner for making admissions to the B.Sc. Nursing

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(Basic) course for the academic year 2023-2024. The grounds on which the PNRC took its decision are as follows:-

“1. Library:- As per norms, the required library area is 2400 sq. ft. but the library is having only 2000 sq. ft.

2. Clinical Facilities:-

- Documents of Parent Hospital not attached.

- Garg Hospital (Parent Hospital) giving permission to other Nursing Institute.

- The following affiliated hospitals of the institute giving permission to other Nursing Institutes:-

(i) Aashta Hospital Moga

(ii) Civil Hospital Zira

(iii) Civil Hospital, Jagraon

(iv) Civil Hospital, Moga

- Clinical permission letters not attached.

Hence, student patient ratio (1:3) not adequate.

3. Teaching Faculty:- Two teaching faculty of the institute are showing duplicate, working in other institutes also:-

(i) Manpreet Kaur showing as duplicate in Dr.Ravinder Institute of Nursing, Baja Khanna, Faridkot

(ii) Jasvir Kaur showing as duplicate in Swami Vivekanand College of Nursing & Hospital, Faizgarh, Khanna.”

19. Thus, the PNRC denied the grant of recognition to the petitioner for having not furnished documents with regard to having a parent hospital; its library not meeting the requisite norms; clinical permission letters having not been filed; its students patient ratio not being adequate and the petitioner not having the requisite faculty. These grounds are found to be valid reasons to deny recognition to the petitioner especially, when the petitioner has not even rebutted the same.



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20. The petitioner also cannot derive any benefit from the suitability certificate obtained by it from the INC. The 2020 Regulations provide for a stepwise procedure to be followed by an eligible institute either to start a B.Sc. (Nursing) college or before an existing nursing college starts imparting education in the B.Sc. (Nursing) course. The first step in such process is for the eligible institute to get a NOC from the concerned State Government, then recognition from the State Nurses Registration Council and only thereafter knock the doors of the INC to seek a suitability certificate. The facts of the present case reveal that sans any recognition by the PNRC the INC has not only entertained the petitioner’s application seeking a suitability certificate but has also granted it. This procedure is alien to the process enshrined under the 2020 Regulations.

21. In the light of the above discussion, the prayer made by the petitioner for issuance of directions to permit the petitioner to make admissions for the academic year 2023-2024 in the course of B.Sc. (Nursing) cannot be granted.

22. Dismissed.

(Deepak Sibal)
Judge

16.05.2024
gk

(Deepak Manchanda)
Judge

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