



2024:DHC:4511



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4058/2024 and CM APP. 16549/2024**

**DR B R AMBEDKAR INSTITUTE OF DENTAL
SCIENCE AND HOSPITAL**

..... Petitioner

Through: Mr. Manish Kumar Saran, Mr.
Satya Prakash, Ms. Ananya Tyagi and Mr.
Yash Prakash Sharan, Advocates

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Ripu Daman Bhardwaj,
CGSC with Mr. Kushagra Kumar and Mr.
Abhinav Bhardwaj, Advocate for R1
Mr. T. Singhdev, Mr. Bhanu Gulati, Mr.
Abhijit Chakravarty, Ms. Anum Hussain,
Mr. Tanishq Srivastava, Mr. Aabhaas
Sukhramani, Ms. Ramanpreet Kaur and Mr.
Saurabh Kumar, Advocates for R3
Mr. Divyansh Mishra and Mr. Manish
Kumar, Advocates, for Respondent 5.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

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14.05.2024

W.P.(C) 4058/2024

Issue in controversy

1. The petitioner Dr. B.R. Ambedkar Institute of Dental Science and Hospital assails communication dated 5 March 2024 issued by the Dental Education Section in the Ministry of Health & Family Welfare

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(MoHFW), whereby the Central Government has accepted the recommendation of the Dental Council of India (DCI) for withdrawing recognition of the petitioner institution under Section 16A¹ of the Dentist Act, 1948, stoppage of admission in the institution closure down of the college and shifting of students studying in the institution and the consequent communication dated 7 March 2024 from the MoHFW to the DCI, directing taking of necessary action to shift the students studying in the petitioner institution to another dental college within the State of Bihar.

Facts

2. There is quite clearly no love lost between the petitioner and either the DCI or the MoHFW. The petitioner has been subject to repeated inspections and adverse reports, which has vitalized the petitioner into approaching every judicial forum, upto the Supreme

¹16A. Withdrawal of recognition of recognised dental qualification.—

- (1) When, upon report by the Executive Committee or the Visitor, it appears to the Council—
- (a) that the courses of study and training or the examination to be undergone in order to obtain a recognised dental qualification from any authority or institution in a State, or the conditions for admission to such courses or the standards of proficiency required from the candidates as such examinations are not in conformity with the regulations made under this Act or fall short of the standards required thereby, or
- (b) that an institution does not, in the matter of staff, equipment, accommodation, training and other facilities, satisfy the requirements of the Council, the Council shall send a statement to that effect to the Central Government.
- (2) After considering such a statement, the Central Government may send it to the Government of the State in which the authority exercises power or the institution is situated, and the State Government shall forward it, along with such remarks as it may think fit to make, to the authority or institution concerned, with an intimation of the period within which the authority or institution may submit its explanation to the State Government.
- (3) After considering the explanation, or where no explanation is submitted within the period fixed, then, on the expiry of that period, the State Government shall make its recommendations to the Central Government.
- (4) The Central Government may, after considering the recommendations of the State Government and after making such further inquiry, if any, as it may think fit, by notification in the Official Gazette, direct that an entry shall be made in Part I of the Schedule against the qualification granted by the authority or institution declaring that it shall be a recognised dental qualification only when granted before a specified date or that the said recognised dental qualification if granted to students of a specified college or institution affiliated to any University shall be a recognised dental qualification only when granted before a specified date or, as the case may be, that the said recognised dental qualification shall be a recognised dental qualification in relation to a specified college or institution affiliated to any University only when granted after a specified date.

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Court of India. It is not necessary to refer to the entire sequence of litigative excursions on which the petitioner has embarked. The recital of facts, for the purpose of the present petition, may be commenced with an inspection of the petitioner institution conducted by the DCI on 22/23 August 2022. Following the inspection, the DCI wrote to the MoHFW on 11 November 2022, alleging that the petitioner institution was suffering from the following deficiencies:

“1. University Affiliation for the current Academic Year not provided

2. Essentiality certificate not provided.

3. Man Power Requirement:-

Health Staff - Lab Technician/Blood Bank Tech-1,
Engineering Staff- Civil-2,

4. The following Dental teaching faculty were absent on the days of inspection:-

(i) Dr. Manoj Dhamija, Professor & HOD,
Department of Periodontics- absent on both days of inspection

(ii) Dr. Shweta Sinha, Reader, Department of
Periodontics- absent on day one of the inspection.

(iii) Dr. Priya Singh, Sr. Lecturer, Dr. Ankita Raj, Sr.
Lecturer, Dr. Manish Kumar,

(iv) Sr. Lecturer, Department of Prosthodontics were
absent on day one of the inspection.

(v) Dr. Kumar Tathagat Singh, Professor,
Department of Oral & Maxillofacial Surgery was absent
on both days of the inspection.

(vi) Dr. Sumit Verma, Professor, absent on the day of
inspection

(vii) Dr. Harsh Ranjan, Sr. Lecturer and Dr. Adil

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Pawez, Tutor, Department of Oral & Maxillofacial Surgery were absent on both days of inspection.

(viii) Dr. Parthasasthi Gautam, Sr. Lecturer, Dept. of Oral Medicine and Radiology was absent on day one of the inspection.

(ix) Dr. Smriti Vijay, Tutor, Dept. of Conservative Dentistry and Endodontics was absent on day one of the inspection.

(x) Dr. Vishakha Rani, Sr. Lecturer, Department of Public Health Dentistry was absent on day one of the inspection.

5. None of the faculty members had salary statement and the same were not provided to the inspectors.

6. Majority of faculty members do not have TDS Certificate and the same were not provided to the inspectors.

7. Dr. Anamika and Dr. Sharurya's DCI renewal not done.

8. Old format of affidavits was provided

9. Deficiencies of Major Equipments:-

(i) Prosthodontics:- Semi adjustable articulator-with face bow-2, Extra Oral / Intra Oral tracer-2, Curing Pressure Pot-1

(ii) Ceramic and Cast Partial Laboratory:- Wax Heater-1, Wax carver-1, Curing Pressure Pot-1, Micro surveyor-1, Pre-Clinical Prosthetics Laboratory- 20

(iii) Conservative Dentistry and Endodontics:- Ultrasonic Cleaner-1, Bleaching Unit – 1

(iv) Oral Pathology:- Spencer Knife – 1

(v) Oral & Maxillofacial Surgery:- Exodontia Ultrasonic Cleaner -1

(vi) Periodontology:- Surgical Motor with physio dispenser-1

(vii) Orthodontics:- Ultrasonic cleaner -1

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(viii) Pediatric and Preventive Dentistry:- Ultrasonic cleaner -1

(ix) Pedo Lab:- Lab Micro Motor-Heavy Duty with Hps-1, Steam Cleaner-1

(x) Public Health Dentistry:- Ultrasonic cleaner -1

(xi) Mobile Clinic- Mobile Dental Van, Dental Chair with unit- not functional, Autoclave-1, Intraoral X-ray-1 Glass bead sterilizers-1, Compressor-1.25HP-1, Metal Cabinet with wash basin-1, Portable Dental Chair with suitcase unit with airrotar, micromotor, scaler and compressor 0.25 HP -2, Stabilizer 4 KV-1, Generator 4 KV-1, Water Tank 400 Ltrs-1, Oxygen cylinder-1, Public Address system-1, TV and Video cassette Player-1, Demonstration Models

10. Infrastructure & Functional Requirement:- Compressor and room for gas plant -2, Cafeteria - 1, Auditorium (to accommodate at least 500 people) – 1

11. Latest International Journals are not available

12. E-Library not renewed

13. NAAC Accreditation Certificate not provided

14. DCI Biometric Machine not installed

15. Central Compressor facility not available

16. Fire and safety equipments not installed and agreement not provided

17. Bio-medical waste agreement not provided

18. AERB Certificate not provided

19. Tobacco Cessation Centre not in working condition

20. Mobile Dental Van is not in working condition.

21. List of books not provided to the inspectors

22. The following faculty members were present on day 1 but reported late to the college:-

(i) Prof. Dr. M.N. Mishra, Principal, reported to college around 10:15 am

(ii) Dr. Anushuman Gautam, Professor, Periodontics, reported around 11:44 am

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- (iii) Dr. Shweta Lal, Professor & Head, Conservative Dentistry and Endodontics, reported around 10:55 am
- (iv) Dr. Anamika Parashar, Reader, Conservative Dentistry and Endodontics, reported around 11:13 am
- (v) Dr. Sanjeev Kumar, Professor & Head, Prosthodontics, reported around 11:45 am
- (vi) Dr. Vaibhav Kamal, Reader, Pediatric and Preventive Dentistry, reported 11:50 am
- (vii) Niharika, Sr. Lecturer, Pediatric and Preventive Dentistry, reported 12:10 pm”

3. On 28 November 2022, the MoHFW wrote to the petitioner, drawing attention to the communication dated 11 November 2022 (*supra*) from the DCI to the MoHFW and the recommendation, therein, that the petitioner be discontinued with effect from 2022-2023. The petitioner was, therefore, granted an opportunity of personal hearing by the MoHFW. The petitioner submitted a compliance report on 1 December 2022 to the MoHFW, in which the petitioner endeavoured to submit that the deficiencies noted in the letter dated 11 November 2022 either did not exist or stood rectified. Specifically, with respect to the various alleged deficiencies in the petitioner institution, it was submitted as under:

- (i) The allegation that the petitioner did not have any university affiliation for the current academic year was incorrect, as the petitioner had a permanent affiliation from the Magadh University, Bodh Gaya, a copy of which was enclosed.

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(ii) The objection that the petitioner had not provided the Essentiality Certificate was misguided as the petitioner institution was established prior to 1 June 1992, as was also recorded in letter dated 4 January 1996 of the Central Government, during which period the law did not require an Essentiality Certificate.

(iii) the allegation that the petitioner did not have a lab technician or blood bank technician was ALSO misguided as the petitioner had a tie-up with the Indira Gandhi Institute of Medical Sciences (IGIMS), Patna *vide* memo dated 5 February 2019, which was followed by a Memorandum of Understanding dated 18 February 2019, whereunder training in all medical subjects, to BDS students and general surgery for MDS student was to be provided by the IGIMS.

(iv) For the same reason, the petitioner was not required to have engineering staff, so that the objection that the petitioner did not have two civil engineering staff was also misguided.

(v) Apropos the allegation that certain dental teaching faculty members were absent on the date of institution, it was submitted as under:

(a) Dr. Manoj Dhamija was absent on the days of 22-23/August 2022, when inspection was conducted. Leave application of Dr. Dhamija was enclosed.

(b) The allegation that Dr. Shweta Sinha was absent on



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the date of inspection was incorrect. She was not only absent but photographs of her with the inspectors, copies of which were enclosed.

(c) The allegation that Dr. Priya Singh, Dr. Ankita Raj, and Dr. Manish Kumar were absent on the date of inspection was also incorrect, though they arrived at late on 22 August 2022, owing to VIP movement. Moreover, the reporting time for faculty at the institution was 9.30 to 10 am, whereas the inspectors from the DCI had arrived at 9 am.

(d) Similarly, contrary to the allegation in the communication dated 11 November 2022, Dr. Kumar Tathagat Singh and Dr. Sumit Verma were also present on 22-23 August 2022, though they arrived late.

(e) Dr. Harsh Ranjan and Dr. Adil Pawez were also present on both days of inspection but did not meet the inspectors, as the inspectors arrived half an hour before the reporting time in the petitioner institution.

(f) This position applied also to Dr. Parthasashti Gautam and Dr. Smriti Vijay, who were also, therefore, present on the days of inspection, contrary to the allegation in the communication dated 11 November 2022.



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(g) Ms. Vishakha Rani, Senior Lecturer was absent on 22 August 2022 as she had taken leave. Her leave application was enclosed.

(vi) Apropos the allegation that the salary statements of the faculty members were not provided to the inspectors, the petitioner enclosed the salary statement of the last six months.

(vii) Regarding the allegation that most of the faculty members did not have TDS certificate, it was submitted that TDS was not been deposited as the college was facing financial crunch but that the TDS would be deposited with late fee.

(viii) Regarding the allegation that renewal of Dr. Anamika and Dr. Sharuya with the DCI had not been done, it was pointed out that the petitioner had applied for renewal with the requisite fee. The application was closed.

(ix) Regarding the allegation that there was deficiency in major equipment, it was submitted that though these deficiencies had earlier been pointed out by the DCI in 2019, a four-member Expert Committee constituted by the State of Bihar had, in its inspection in October 2019, found no deficiencies, on the basis of which the process for withdrawing recognition of the petitioner was itself recalled on 15 October 2020. It was denied that there was deficiency in equipment as alleged in the communication dated 11 November 2022.



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(x) Similarly, it was denied that there was any shortage in infrastructural or functional requirement.

(xi) The allegation that latest international journals were not published with the available with the petitioner was denied. A list of the journals was enclosed with the photographs of the library in the petitioner institution.

(xii) Apropos the allegation that e-library of the petitioner had not been renewed, it was submitted that renewal of the e-library was in process.

(xiii) Regarding the allegation that NAAC Accreditation certificate had not been provided, it was submitted that NAAC had not visited the State of Bihar for accreditation.

(xiv) The allegation that there was no DCI biometric machine installed in the petitioner institution was also denied. It was submitted the DCI had installed the said machine.

(xv) Contrary to the allegation in the communication dated 11 November 2022, it was asserted that each department of the petitioner institution had a separate compressor facility so that no central compressor facility was required.

(xvi) Similarly, it was asserted that fire and safety equipment

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were available in the petitioner institution contrary to the allegation in the communication dated 11 November 2022.

(xvii) Qua the allegation that there was no bio-medical waste agreement, it was asserted that an agreement had been executed with the State Pollution Board, which was renewed on 22 June 2022.

(xviii) The Atomic Energy Regulatory Board (AERB) certificate, which was alleged not to have been provided, was also enclosed.

(xix) The allegation that the Tobacco Cessation Centre in the petitioner institution was not in working condition was denied. It was denied that the Centre was not in working condition, the photograph was also enclosed.

(xx) The allegation that Dr. M.N. Mishra, Dr. Anshuman Gautam, Dr. Shweta Lal, Dr. Anamika Parashar, Dr. Sanjeev Kumar, Dr. Vaibhav Kamal and Ms. Niharika had arrived late was denied. It was pointed out that the time of reporting in the college was 9.30 am to 10 am whereas the inspectors had arrived at 9 am.

4. An opportunity of personal hearing was also granted by MoHFW to the petitioner on 2 December 2022, which was attended by the Principal of the petitioner institution.

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5. In view of the above compliance report submitted by the petitioner, the MoHFW wrote to the DCI on 7 December 2022, enclosing a copy of the compliance report and requiring the DCI to review/verify/physically verify/inspect the petitioner institution in the light of the compliance report, and submit revised recommendation to the MoHFW at the earliest. The said communication may be reproduced thus:

“No.V.12017/1 2/2022 -DE
Government of India
Ministry of Health & Family Welfare
(Dental Education Section)
Nirman Bhawan, New Delhi,

Dated the 07th December, 2022.

To,

The Secretary,
Dental Council of India (DCI),
Aiwan-E-Ghalib Marg, Temple Lane,
Kotla Road, New Delhi -110002.

Subject: Forwarding of compliance of dental college for BDS and MDS Courses 2022-23 after persona hearing – reg.

Sir,

I am directed to refer to the subject noted above and to say that as per proviso under section 10A(4) of the Dentists Act, personal hearing was afforded to dental college on 02.12.2022 before the Hearing Committee in the Ministry. Based on the compliance submitted by the colleges concerned in support of their claims, the Committee recommended for review/verification/physical verification/inspection in respect of Dr. B.R. Ambedkar Institute of Dental Sciences & Hospital, Patna, Bihar in BDS and MDS Courses for the academic year 2022-23.

2. In view of above, DCI is requested to review/verify/physically verify/inspect the schemes in the light of the compliance along with supporting documents submitted by the colleges/applicants and the recommendations of the Committee. You are requested to furnish the revised recommendations to the Ministry at the earliest as per the time schedule in DCI

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Regulations. The compliance reports/supporting documents submitted by the colleges/applicants concerned in original along with the copy of the report of the Hearing Committee is also sent herewith.

3. This issues with the approval of Competent Authority.

Encl. As above.

Yours faithfully.

Sd/-

Signed by Rajeev Kumar

Date: 07-12-2022

(Rajeev Kumar)

Under Secretary to the Govt, of India

Tel.23061213”

6. In compliance with the said directions, the DCI, once again, inspected the petitioner’s premises on 20-21 December 2022.

7. The verifying team, comprising Dr. Ashu Gupta, Principal, HP Government Dental College & Hospital, Shimla and Dr. Sanjay Singh, Dean, Professor and HOD, Jamia Millia Islamia, New Delhi, returned the following observations, contained in a tabular statement forwarded to the DCI:

S. No.	Deficiencies pointed out as per DCI letter dated	Compliance report dated 17.06.2022 submitted by college	Inspectors observations (Complied/n ot-complied)	Supporting Annexure
1	University affiliation for the current Academic year not provided	College has permanent affiliation from Magadh University, Bodh Gaya, Copy enclosed.	letter of affiliation dated 27.02.96 from registrar magadh university is available which gives	

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			affiliation from 1990-1991. The letter does not mention anything about the duration/period upto which the affiliation is valid.	
2	Essentiality Certificate not provided	Not required as College was established before 01.06.1992 when Essentiality Certificate was not required as per law. Even Govt. of India letter date, 4.1.1996 records this fact. Copy of	With respect to essentiality a letter no. V.13015/15/; 90-pms from under secretary, GOI dated 4.1.96 is attached which says essentiality is not required prior to 1.6.92	
3	Man Power requirement: Health Staff-Lab Technician/Blood Bank Tech-1.	Health Staff: Lab Technician and Blood Bank tech is not required in our college since the college is attached (tie-up) with Indira Gandhi Institute of Medical Sciences (IGIMS), Patna which is a MCI recognized government Medical College vide Memo no. 142/Acad.,, dated 05/02/2019 and pursuant to that a memorandum of understanding	As per DCI Requirement s 102 non-teaching staff is required. The college has provided a list of 33 non-teaching staff out of which 13 people were present. There is no dental hygienist, dental mechanic, staff nurse et. It may also be mentioned that there is no category of	

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		Memorandum of Understanding has been signed on 18.02.2019 between Dean (Academic). IGIMS, Patna and Chairman, Dr. B. R. Ambedkar Institute of Dental Sciences & Hospital. Patna for undergoing training in All medical subjects to BDS students and General Surgery for MDS students. The photocopy of Memo no. 142/Acad. dated 05/02/20.19.and Memo no. 196/ Acad. Dated 18/02/2019 are Enclosed herewith for your kind perusal and ready reference.	maintenance staff in the said list for civil and electrical maintenance staff which is not covered by IGIMS as per the letter submitted by the college authorities.	
	Engineering Staff: Civil 2	Engineering Staff is not required in our college since the college is attached (tie-up) with Indira Gandhi Institute of Medical Sciences (IGIMS), Patna which is a MCI	Same as Point No.3	

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		recognized government medical college vide Memo No.142/Acad., dated 05/02/2019.And pursuant to that, a Memorandum of Understanding has been signed on 18.02.2019 as mentioned above. Copy of MOU enclosed as Annexure -8		
4	The following Dental Teaching faculty were absent on the days of inspections:-			
	Dr. Manoj Dhamija, Professor & HOD, Department of Periodontics-absent on both days of inspection.	He was on leave on 22.08.2022 and 23.08.2022. Leave application enclosed.	Dr. Manoj Dhamija, Professor was absent and no application provided.	
	Dr. Shweta Sinha, Reader, Department of Periodontics - absent on day one of the inspection.	She was Present on both days of inspection and there are photographs with Inspectors. Copy of Photograph enclosed.	Dr Shweta Sinha, Reader. Periodontics was present.	
	Dr. Priya Singh, Sr.Lecturer. Dr.Ankita Raj, Sr. Lecturer, Dr. Manish Kumar, Lecturer, Department of Periodontics were absent on day' one of the inspection	All these three Faculty Members were present but came late on one day (22.8.2022) because of VIP movement. Moreover the inspectors came	Priya Singh, Reader Periodontics was present Dr.Ankita Raj, Reader Periodontics was present	

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		at 9 am on the date of inspection whereas the reporting time of duty is between 9.30 - 10.00 am	Dr. Manish Kumar, Periodontics absent. No application.	
	Dr. Kumar Tathagat Singh, Professor, Department of Oral & Maxillofacial Surgery was absent on both days of the inspection.	Present on both days but came late.	Dr. Tathagat Oral Surgery present.	
	Dr. Sumit Verma, Professor absent on the day of inspection.	Present on both days but came late at 10.30 am.	Dr. Sumit Verma, Oral Surgery, present.	
	Dr. Harsh Ranjan, Sr. Lecturer and Dr. Adil Pawez, Tutor, Department of Oral and Maxillofacial Surgery were absent on both days of inspection.	This Faculty member was present but came late on one day (22.8.2022) because of VIP movement. Moreover the inspectors came at 9 on the Date of Inspection whereas reporting time is between inspection. 9.30-10.00 am.	Dr. Harsh Ranjan, absent. No application. Adil Prawez-present	
	Dr. Parthasasthi Gautam, Sr., Lecturer, Dept. of Oral Medicine and Radiology was absent on day one of the Inspection	This Faculty member was present but came late on one day (22.8.2022) because of VIP movement moreover the inspectors came at 9 am. on the	Dr. Parthasasthi Gautam absent. Leave application attached	

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		Date of Inspection whereas the time schedule is to report between 9.30 - 10.00 am		
	Dr. Smriti Vijay, Tutor, Dept. of Conservative Dentistry and Endodontics was absent on day one of the inspection.	This Faculty members was present but came late on one day (22.8.2022) because of VIP movement moreover the inspectors came at 9 am on the Date of Inspection whereas the time schedule is to report between 9.30- 10.00 am.	Smriti Vijay Absent, no Application.	
	Vishakha Rani, Sr. Lecturer Department of Public Health Dentistry was absent on day of the Inspection	One day (22.8.2022) Leave application enclosed	Present	
			Other absent teaching staff on the day of inspection. Arsha Sagarika Absent. maternity leave application attached. Dr. Subhra absent without any application- tutor OMDR prof. MN Mishra, Prof. Oral	

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			Pathology absent without application. Supriya Bharti absent application attached reader Oral Pathology Lovely Priya absent no application periodontia Apurva Singh Absetn tutor periodontia, no application. Shagaf Rehman Came late tutor periodontia Shivani Singh absent without application. Abhishek Awasthi absent & shown on camp duty.	
5.	None of the faculty members had salary statement and the same were not provided to the inspectors.	Salary statement enclosed of last six months	Salary statement for provided for six months	
6.	Majority of faculty members do not have TDS certificate and the	TDS has not been deposited as college is facing financial	Not provided.	

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	same were not provided to the inspectors	crunch. However the TDS with late fee will be deposited as per law.		
7.	Dr. Anamika and Dr. Sharuya's DCI renewal not done.	Applied for renewal with requisite fee. Application with copy of DD enclosed	No Documents provided	
8.	Old formal of affidavits was provided.	Affidavit already provided.	Affidavit not provided.	
9.	Deficiencies of Major equipments:- Prosthodontics: Semi adjustable articulator with face bow-2, extra oral/intra oral tracer-2, curing pressure pot-1. Ceramic and Cast Partial Laboratory:- Wax Heater-1, Wax carver- I, Curing Pressure Pot-1, Micro Surveyor-1, Pre-Clinical Laboratory-20	The deficiencies qua the equipments were pointed out by DCI earlier in 2019 also. However all these deficiencies were found to be non-existent by the Four Expert Committee Member Constituted by State of Bihar which conducted it's inspection in October 2019 and even sent a Positive recommendation to GOJ upon which the process of withdrawal of Recognition was recalled on 5.10.2020 by GOI. Copy of Govt of Bihar letter dt. 10.10.2019 and 001 letter dated	Equipment was shown but some of the equipment& were not in working order and Quotation/Invoices were provided but no bills or payment proofs were provided. No proper records were maintained in departmental stock registers and stock entries were not available in the departmental stock registers	

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		15.10.2020 are enclosed as annexure 3 and 5.		
	Conservative Dentistry and Endodontics:- Ultrasonic Cleaner-1, Bleaching Unit-1. Oral Pathology:- Spencer Knife-1 Oral & Maxillofacial Surgery:- Exodontia Ultrasonic Cleaner-1 Periodontology:- Surgical mother with physio dispenser-1 Orthodontics:- Ultrasonic Cleaner-1 Pediatric and preventive Dentistry:- Ultrasonic Cleaner-1 Pedo Lab:- Lab Micro Motor-Heavy Duty with Hqs-1, Steam Cleaner-1 Public Health Dentistry Ultrasonic cleaner-1. Mobile clinic	It is necessary to mention that in each every inspections, the DCI Inspecting Team is pointing out some new deficiencies in respect to equipments, which are absent in earlier one and those equipment were found to be present. But surprisingly is shown missing in subsequent inspection only in order to put the College in Trouble. Infact there is no deficiency in respect to equipment which can be verified even from the video Photography as conducted by State of Bihar.		

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	-Mobile Dental Van, Dental Chair with unit-not functional, Autoclave- I, Intraoral X-ray- 1 Glass bead sterilizers- I, Compressor- 1.25HP-1, Metal Cabinet with wash basin-1, Portable Dental Chair with suitcase unit with airrotar, micromotor, scaler and compressor 0.25 HP-2, Stabilizer 4 KV-1. Generator 4 KV-1, Water Tank 400 Ltrs-1, Oxygen cylinder- 1, Public Address system- I, 1V arid Video cassette Player-1, Demonstration Models.			
10.	Infrastructure & Functional:- Requirement:- Compressor and room for gas plant-2, Cafeteria- I, Auditorium (to Accommodate at least 500 people)- I.	Same response as in Cl. No. 9 above	Canteen is closed, Central Compressor not available, No gas Plant is available. Auditorium is a hall with 34 number of plastic chairs available in it. No proper auditorium was shown	
11	Latest International Journals are not	List of Journals and Book enclosed with	No latest Journals Available as	

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	available	photographs of library	per the version of the librarian since 2015	
12.	E-Library not renewed	Renewal in Process, letter enclosed	E Library is not available	
13.	NAAC Accreditation Certificate not provided	As NAAC has not visited State of Bihar for Accreditation therefore NAAC accreditation certificate is not there of any college in State of Bihar.	NAAC Accreditation is not available nor is there any activity with respect to the same	
14.	DCI Biometric Machine not installed	DCI has installed the machine. Even as per Biometric Attendance ranking as per DCI, the College is at Sl. No. 69 in Rank. Copy of Ranking enclosed.	Bio Matrix is installed but no CCTV camera installed on biometric machine.	
15.	Central Compressor facility not available	All Deptt. has separate compressor facility.	Central Compressor Not Available however few separate small compressors are available	
16.	Fire and safety equipments not installed and agreement not provided	Equipment Available Fire Deptt. letter dt. 14.7.2022. copy enclosed.	1. fire extinguisher installed however no fire alarm systems installed as under fire safety regulation act	
17.	Bio-medical	Agreement with	2. year	

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	Waste agreement not provided	Bihar State Pollution Board Renewed on 22.6.2022. Copy enclosed.	contract outsource with the Pollution Control Board provided but however no segregation of waste in the departments was noticed- and no colour coded bins were physically seen in the departments	
18.	AERB Certificate not provided	Certificate enclosed	2. AERB certificates were provided by the college authorities	
19.	Tobacco Cessation Centre not in working condition	In working condition photo enclosed along with certificate	No dedicated TCC room was shown by the college authorities.	
20.	Mobile Dental Van is not in working condition.	In working condition photograph enclosed	Mobile dental van as per the version of the college authorities has gone for camp on dated 20 and 21 dec and no documentary evidence was provided for the Mobile DENTAL Van. The	

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			college authorities were also requested to show it on video call which was also not acceded to by them. No bills were also produced or shown.	
21.	List of books not provided to the inspectors	List of Books enclosed as per Cl. No. 11 above.	List of the books provided but no new books have been purchased by the college since 2018 as per the version of the librarian, photocopier in the library was not working, all available journals were in photocopy format, no current journals purchased since 2015 also publication year in the list of books provided is not mentioned.	
22.	The following Faculty Members were present on day 1 but reported late to the college:-			

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	Prof. Dr. M.N. Mishra, Principal, reported to college around 10.15 am.	Reporting time in college is from 9.30 -10 am. As inspectors came at 9 am on both days, so there is comments of late coming.	Left the college	
	Dr. Anushuman Gautam, Professor, Periodontics, Reported around 11.44 am.	Reporting time in college is from 9.30-10 am. As inspectors came at 9 am on both days, so there is comments of late coming.	Present	
	Dr. Shweta Lal, Professor & Head, Conservative Dentistry and Endodontics, Reported around 10.55 am.		Present	
	Dr. Anamika Parashar, Reader, Conservative Dentistry and Endodontics, reported around 11.13 am.	Reporting time in college is from 9.30 -10 am. As inspectors came at 9 am on both days, so there is comments of late coming.	Present	
	Dr. Sanjeev Kumar, Professor & Head, Prosthodontics, reported around 11.45 am.	Reporting time in college is from 9.30 -10 am. As inspectors came at 9 am on both days, so there is comments of late coming.	Present	
	Dr. Vaibhav Kamal, Reader, Pediatric and Preventive Dentistry, reported 11.50	Reporting time in college is from 9.30 -10 am. As inspectors came at 9 am on	Present	

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	am.	both days, so there is comments of late coming.		
	Niharika, Sr. Lecturer, Pediatric and Preventive Dentistry, reported 12.10 am.	Reporting time in college is from 9.30 -10 am. As inspectors came at 9 am on both days, so there is comments of late coming.	Present	

8. The following remarks/observations were entered by the inspecting team below the aforesaid tabular statement:

“Remarks/observation, if any

- 1) No boys hostel available, girls hostel available in a rented building near the college premises but the same was locked and not shown to the inspectors, no faculty guest house, no Principals bungalow and no staff quarters were available
- 2) An MOU with IGIMS was provided which was signed by the Dean Academics dated 21.03.20 for a validity period of 3 years but on visiting the IGIMS the Dean Academics could not be contacted as he was not available, however, his office superintendent Rama Shankar Caudhary was available who showed the letter no.339-A dated 23.3.21 which says that the medical teaching was done for 1 month in the year 2021 and he also told that no dental students of Ambedkar dental college have visited so far in the year 2022 till the date of inspection, on interaction with the 1st year BDS students the same was confirmed that they have never had teaching in medical subjects. No list of teaching faculty of medical subjects was provided by the college authorities.
- 3) Clinical material grossly insufficient as per the perception of eyes.
- 4) Lecture halls did not have smart boards etc.
- 5) No recovery room in the department of Oral Surgery
- 6) Some of the chairs were not in working order

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- 7) Maintenance and upkeep of equipment and college binding was not up to date
- 8) Lack of faculty staff rooms
- 9) Principals chamber ill equipped with no phone even available.
- 10) Examination Hall not available in the college
- 11) No museum available in the college in any department
- 12) No Play ground or indoor or outdoor facilities available for the students in the college campus
- 13) No legal case pending against the college certificate, has not been provided by the college authorities.
- 14) No new affidavits have been provided by the college authorities.”

9. The aforesaid joint inspection report following the inspection dated 20-21 December 2022 was considered by the Executive Committee (EC) of the DCI in its meeting dated 24 December 2022, pursuant to which the EC reiterated its earlier recommendations to the MoHFW to discontinue admission to the BDS and MDS course at the petitioner institution from the 2022-23 academic session onwards and to initiate the process of withdrawal of recognition of the petitioner under Section 16A of the Dentist Act, close down the petitioner and shift the students enrolled with it.

10. The MoHFW forwarded the joint inspection report dated 28 December 2022 to the Principal Secretary, Department of Health and Family Welfare, Government of Bihar, to provide its comments thereon. This was followed by a reminder of 11 June 2023.

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11. The writ petition asserts that the State of Bihar issued a show cause notice to the petitioner on 3 July 2023, seeking the petitioner's clarification regarding the joint inspection report following the inspection dated 28 December 2022 and that the petitioner submitted a response to the said notice issued by the State of Bihar on 18 July 2023.

12. As there was no response from the State of Bihar, the MoHFW, again wrote to the State of Bihar on 18 August 2023, requiring the State of Bihar to provide its comments within seven days, failing which it was stated that further action would be initiated as per the recommendations of the DCI.

13. On 30 October 2023, the State of Bihar wrote to the MoHFW, stating that comments regarding the petitioner would be provided at the earliest.

14. No comments were, however, forthcoming from the State of Bihar even thereafter, resulting in the issuance, by the MoHFW, of the impugned communication dated 5 March 2024 and 7 March 2024, accepting the recommendations of the DCI in its letter dated 28 December 2022 and, on that basis, withdrawing the petitioner's recognition, directing shutting down of the petitioner institution and shifting of the students studying with the petitioner to other colleges in the State of Bihar.

15. Aggrieved by the said decision, the petitioner has approached

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this Court by means of the present writ petition, seeking issuance of an appropriate writ, quashing the afore-noted decisions dated 5 March 2024 and 7 March 2024 issued by the MoHFW as well as all communications issued by DCI and MoHFW prior thereto, recommending withdrawal of the petitioner's recognition and closure of its institution.

Rival contentions

16. I have heard Mr. Manish Kumar Saran, learned Counsel for the petitioner, and Mr. T. Singhdev, learned Counsel for the DCI at considerable length.

17. Mr. Saran submits that the DCI had some kind of an axe to grind against the petitioner, as was manifest from the fact that repeated unwarranted inspections of the petitioner's premises were conducted, the observations following many of which were found to be unjustified. He drew my attention, in this context, to the fact that the Supreme Court had, in its order dated 13 December 2018, directed the Inspector of the DCI to conduct a fresh inspection of the petitioner's premises, following which a fresh inspection was conducted, by the DCI, which recommended de-recognition of the petitioner. The Central Government forwarded the said recommendation to the State of Bihar, which set up a committee which, on inspecting the petitioner's premises, recommended, on 10 October, 2019 for discontinuance of proposal to withdraw the petitioner's recognition. This recommendation was accepted by the



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Central Government on 15 October 2020, whereafter the proposal to withdraw the petitioner's recognition, as forwarded by the DCI, was itself withdrawn.

18. Mr. Saran submitted that, in view of the said acceptance, by the Central Government, on 15 October 2020, of the recommendation of the State of Bihar directing discontinuance of the proposal to withdraw the petitioner's recognition, the DCI was not justified in conducting a fresh inspection on 22-23 August 2022, resulting in joint inspection report 11 November 2022. All proceedings, thereafter were, therefore, according to Mr. Saran, misconceived and null and void *ab initio*.

19. Mr. Saran further submitted that the impugned order dated 5 March 2024 was non-speaking and merely reflected a blind repetition, by the MoHFW, of the joint inspection report as accepted by the EC of the DCI. He states that such a mechanical reiteration of the recommendation of the inspecting team was not what was contemplated by Section 16A of the Act. In this context, Mr. Saran emphasis the word "considering" as contained in Section 16A (2) to (4) of the Dentists Act. Consideration, he submits, does not envisage a mechanical or blind reiteration. He relies, for this purpose, on para 18 of the judgment of the Supreme Court in ***Bhikhubhai Vithlabhai Patel v. State of Gujarat***².

20. He seeks, in this context, to contrast the impugned order dated 5



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March 2024 with the earlier order dated 15 October 2020 issued by the MoHFW, whereby it had accepted the recommendations of the State of Bihar dated 10 October 2019 and withdrawn the proposal to de-recognise the petitioner. The said decision, he submits, was well-reasoned, unlike the impugned order dated 5 March 2024, which does not reflect any independent application of mind whatsoever. He also cites, in this context, paras 14, 15 and 47 of the judgment of the Supreme Court in *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan*³.

21. Mr. Saran further submits that, in the scheme of Section 16A (2) to (4), once the Central Government had decided to seek the comments of State of Bihar, it should not have been proceeded till the said comments were received. It is pointed, in this context, that it was not as though the State of Bihar was quiescent in the matter. The State of Bihar had in fact, issued a show cause notice to the petitioner, to which the petitioner had responded, following which the State of Bihar had set up its own committee to inspect the petitioner's premises.

22. In these circumstances, Mr. Saran contends that the impugned order has been passed in undue haste, which also results in its being vitiated.

23. Responding to Mr. Saran's submissions, Mr. Singhdev submits that the Central Government did not refer the issue of continuance of



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the recognition of the petitioner-institution to the State of Bihar for the year 2024-2025 and that the reference was only for the year 2023-2024. Even otherwise, he submits that the reference to the State Government is not mandatory but is a matter of discretion under Section 16A(2) of the Dentists Act. Under Section 16A(4), even if a recommendation is received from the State Government, the Central Government is not bound to accept it, but is empowered to make further enquiry as it may think fit. As such, he submits that the MoHFW cannot be faulted in not having chosen to wait any further for the opinion of the State of Bihar.

24. Mr. Singhdev also relies on Regulation 11A of the DCI Regulations, 2006, which reads thus :-

“Stop of admissions

11 A - When, upon report by the Executive Committee or the Visitor it appears to the Council that— Any recognized Dental institution does not satisfy the requirement of the Council at undergraduate and/or postgraduate level in terms of staff, building, equipment, accommodation, training and other facilities as prescribed in the Dentist’s Act, 1948 and Rules & Regulations made thereunder, as amended from time to time it may recommend to the Central Government for withdrawal of recognition of such dental qualification at undergraduate and/or postgraduate level under section 16A of the Dentists Act and the Central Government may take appropriate action thereon as it may think fit in the facts and circumstances of each case including stoppage of admission at such course(s) of study and training, after an opportunity of hearing is granted to such dental institution” .

25. The submission of the petitioner that its compliance report dated 1 December 2022 was not considered by the MoHFW is not correct and he refers in this context to letter dated 7 December 2022

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from the MoHFW to the DCI extracted in para 3 *supra*. He submits that the second inspection carried out by the DCI after the submission of compliance report by the petitioner was by two Inspectors who were different from those who had carried out the inspection on 22-23 August 2022. The second joint Inspection report was also seen by the Executive Committee of the DCI which, on the basis thereof, recommended withdrawal of the petitioner's recommendation and closure of its institution. Referring to paras 24, 25 and 27 of the judgment in *Manohar Lal Sharma v. MCI*⁴, paras 21 and 22 of *MCI v. Kalinga Institute of Medical Sciences*⁵, and paras 10 and 11 of *MCI v. Vedantaa Institute of Academic Excellence Pvt. Ltd.*⁶, Mr. Singhdev submits that the observations of the assessors who inspected the petitioner's institution have to be treated as final in the absence of any malice being attributed to them.

26. In rejoinder, Mr. Saran merely submits that certain additional deficiencies were included in the second joint inspection report following the inspection conducted on 20 to 21 December 2022 which were not to be found in the earlier report dated 11 November 2022.

Analysis

27. At the outset, the relevant sequence of events has to be noted. The first inspection of the petitioner's institution took place on 22-23 August 2022. This culminated in an inspection report dated 11

⁴ (2013) 10 SCC 60

⁵ (2016) 11 SCC 530

⁶ (2018) 7 SCC 225



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November 2022, which was communicated to the petitioner. On the basis of the said inspection report, the petitioner was issued a show cause notice on 28 November 2022. The reply to the show cause notice was submitted on 1 December 2022.

28. The Central Government wrote to the DCI on 7 December 2022 enclosing the compliance report of the petitioner and directing the respondents to conduct a fresh inspection.

29. Following this, a fresh inspection of the petitioner's premises was carried out on 20-21 December 2022. The assessors who inspected the petitioner's premises were different from those who had carried out the first inspection on 22-23 August 2022. On the basis of the said inspection, a fresh inspection report dated 21 December 2022 was issued by the Inspecting Team. On the basis of this inspection report, the Executive Committee of the DCI once again recommended withdrawal of recognition and closure of the petitioner Institution *vide* its recommendation dated 28 December 2022 to the Central Government. The Central Government by the impugned order dated 5 March 2024 accordingly accepted the recommendations of the DCI and its Executive Committee and therefore directed stoppage of admission in the BDS/MDS course of the petitioner, closure down of the college and shifting of its students to other institutes.

30. There can be no denying the fact that there has been a proper procedure followed in the present case. The petitioner's premises were inspected once. The petitioner was thereafter given an opportunity to

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show cause against the deficiencies found during inspection.

31. The petitioner submitted a compliance report. On the basis of the compliance report, a fresh inspection of the petitioner premises was undertaken by another Inspecting Team. The said Inspecting Team also submitted a report, which was seriously adverse to the petitioner. That report was considered by the Executive Committee and on the basis thereof, closure of the petitioner-institution and withdrawal of its recognition was recommended. The said recommendation was accepted by the Central Government.

32. I was, at an initial stage, debating on whether the impugned order was liable to be set aside on account of its not having taken into consideration the reply/compliance report dated 1 December 2022 submitted by the petitioner by way of response to the show cause notice dated 28 November 2022 or having failed to make any observation regarding the contents of the said reply. However, this view cannot commend itself to acceptance as, in its communication dated 7 December 2022 addressed to the DCI directing it to conduct a fresh inspection, the Central Government made reference to the compliance report dated 1 December 2022 submitted by the petitioner. As such, the Central Government was alive to, and aware of, the compliance report dated 1 December 2022 and, therefore, the impugned order must also be taken to have been passed in full consciousness of the said compliance report.

33. Once this position is accepted, there is little scope for this Court

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to interfere in the present proceedings. The matter involves the entitlement of a Dental College to provide medical education to students who are thereafter to practice dentistry. The health of the public is in the hands of such doctors and there can be no compromise whatsoever in quality in such situations. The decisions cited by Mr. Singhdev are testimony to the fact that courts have to hold their hands in such cases unless the case discloses such gross arbitrariness or failure to follow the prescribed procedure as would justify interdiction by the Court.

34. The judgments on which Mr. Singhdev places reliance, are also relevant in this context. Paras 24 to 26 of *Manohar Lal Sharma* and paras 21 and 22 of *Kalinga Institute of Medical Sciences* and paras 10 and 11 of *Vedantaa Institute of Academic Excellence Pvt Ltd* may be reproduced thus :

“Paras 24 to 26 from *Manohar Lal Sharma*

24. Surprise inspection, in this case, was conducted to ascertain whether compliance report could be accepted and to ascertain whether the deficiencies pointed out in the regular inspection were rectified or not. By pointing out the deficiencies, MCI is giving an opportunity to the College to rectify the deficiencies, if any noticed by the inspection team. It is the duty of the College to submit the compliance report, after rectifying the deficiencies. MCI can conduct a surprise inspection to ascertain whether the deficiencies had been rectified and the compliance report be accepted or not.

25. MCI, while deciding to grant permission or not to grant permission, is not functioning as a quasi-judicial authority, but only as an administrative authority. Rigid rules of natural justice are, therefore, not contemplated or envisaged. Regulation 8(3)(i) of the Establishment of Medical College (Amendment) Regulations, 2010 (Part II), provides for only an “opportunity and time to rectify the deficiencies”. A compliance report is called for only to ascertain whether the deficiencies pointed out

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were rectified or not. If MCI is not satisfied with the manner of compliance, it can conduct a surprise inspection. After that, no further time or opportunity to rectify the deficiencies is contemplated, nor further opportunity of being heard, is provided.

26. We have already dealt with, in extenso, the deficiencies pointed out by the MCI team in its report dated 6-7-2013. In our view, the deficiencies pointed out are fundamental and very crucial, which cannot be ignored in the interest of medical education and in the interest of the student community. MCI and the College authorities have to bear in mind, what is prescribed is the minimum, if MCI dilutes the minimum standards, they will be doing violence to the statutory requirements. MCI is duty-bound to cancel the request if fundamental and minimum requirements are not satisfied or else the College will be producing half-baked and poor quality doctors and they would do more harm to the society than service. In our view, the infirmities pointed out by the inspection team are serious deficiencies and the Board of Governors of MCI rightly not granted approval for renewal of permission for the third batch of 150 MBBS students for the academic year 2013-2014.

Paras 21 and 22 from *Kalinga Institute of Medical Sciences*

21. A perusal of the decision of the High Court clearly indicates that it considered the latest report of the Inspection Team as if it was hearing an appeal against the report. In doing so, the High Court went into great details on issues relating to the number of teaching beds in the hospital, the limitations in the OPD Department, the number of units available in the subjects of General Medicine, Pediatrics, etc., bed occupancy, number of caesarean sections, discrepancy in data of major and minor operations, computerisation in the institution, number of patients in the ICU, number of static x-ray machines, deficiency of examination halls, lecture theatres, library, students hostel, interns hostel, playground, etc. etc. Surely, this was not within the domain of the High Court in exercise of its jurisdiction under Article 226 of the Constitution.

22. The High Court did not appreciate that the inspection was carried out by eminent Professors from reputed medical institutions who were experts in the field and the best persons to give an unbiased report on the facilities in KIMS. The High Court under Article 226 of the Constitution was certainly not tasked to minutely examine the contents of the inspection report

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and weigh them against the objections of KIMS in respect of each of its 18 items. In our opinion, the High Court plainly exceeded its jurisdiction in this regard in venturing into seriously disputed factual issues.

Paras 10 and 11 *Vedantaa Institute of Academic Excellence (P) Ltd.*

10. Though Regulation 8(3)(1)(a) was challenged in the writ petition filed by Respondents 1 and 2, they did not press the relief. They restricted their challenge to the manner in which the inspection was done and for a direction to the appellant Council to carry out a fresh inspection. The interpretation of Regulation 8(3)(1)(a) by the High Court is patently erroneous inasmuch as the High Court did not take note of the proviso to Regulation 8(3)(1). Without a proper examination of the provision, the High Court fell in error in holding that Regulation 8(3)(1)(a) would be applicable only to the colleges seeking second renewal i.e. admissions of the third batch. Admissions *up to* the second renewal i.e. admissions to third batch would fall under Regulation 8(3)(1)(a). In other words, the proviso is not restricted only to second renewal cases. Even the first renewal is covered by proviso (a) to Regulation 8(3)(1) as the language used is “up to second renewal”. We do not see any conflict between Sections 10-A(3) and (4) of the Act on one hand and Regulation 8(3)(1)(a) on the other. Regulation 8(3)(1)(a) is complementary to Section 10-A of the Act. Fixing minimum standards which have to be fulfilled for the purpose of enabling a medical college to seek fresh inspection would not be contrary to the scheme of Section 10-A. In fact, Regulation 8(3)(1) provides that an opportunity shall be given to the medical college to rectify the defects. But, the proviso contemplates that certain minimum standards are to be satisfied i.e. there should not be deficiency of teaching faculty and/or residents more than 30% and/or bed occupancy should not be less than 50%. This prescription of standards for availing an opportunity to seek reinspection is not ultra vires either the Regulation or Section 10-A of the Act.

11. On perusal of the material on record, we are of the opinion that the conclusion reached by the High Court regarding the manner in which inspection was conducted is also not correct. Bed occupancy at 45.30% on random verification was the claim of Respondents 1 and 2. However, the inspection report shows that out of required minimum of 300 patients only 3 were available at 10.00 a.m. on 25-9-2017. This Court in *Kalinga* has held that medical education must be taken very seriously and

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when an expert body certifies that the facilities in a medical college are inadequate, it is not for the courts to interfere with the assessment, except for very cogent jurisdictional reasons such as mala fides of the inspection team, ex facie perversity in the inspection, jurisdictional error on the part of MCI, etc. The submission relating to the cyclone being a reason for the number of patients being less is not acceptable. We are in agreement with the submission made on behalf of the appellant that the resident doctors are required to be in the hospital at all points of time.”

35. It is clear from the above decisions that, once the first inspection report was provided to the petitioner, and the petitioner represented thereagainst claiming to have cured the deficiencies, DCI was only required to conduct a second inspection to verify the correctness of the compliance report submitted by the inspection and nothing further was required to be done. If the second inspection revealed that the institution was still deficient in respect of essential requirements, the Court cannot further interfere in the matter.

36. Besides, it is also relevant to note that the two inspections were carried out by different Inspectors and in each case, the Inspecting Officers were reputed and senior medical personnel. They were the best persons to assess the competence of the petitioner-institution to provide education as a dental education institution and the Court must necessarily defer to their decision unless it is found to be completely capricious or unsustainable in law, or as such as one that no person aware of the facts and reasonably instructed in the law would arrive at.

37. In the facts of the present case and for the reasoning already provided hereinabove, it cannot be said that the impugned decision suffers from such illegality or infirmity as would justify this Court

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reversing the said decision in exercise of its power of judicial review. It is also well for this Court to remember that, under Article 226, the exercise of judicial review partakes more of the character of examining the correctness of the manner in which the decision is arrived at, rather than the merit of the decision itself.

38. Viewed from that perspective, it cannot be said that the impugned order is liable to be interfered with.

39. The writ petition is accordingly dismissed with no orders as to costs.

C. HARI SHANKAR, J.

MAY 14, 2024
yg/dsn/rb

[Click here to check corrigendum, if any](#)

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