



2024:DHC:5088-DB



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

+ LPA 525/2024 & CM APPLs.36361/2024, 36362/2024, 36363/2024

**DR B. R. AMBEDKAR INSTITUTE OF DENTAL SCIENCE AND
HOSPITAL**AppellantThrough: Mr.Ankur Mahindro, Mr.Shaurya
Lamba, Mr.Soumil Gonsalves,
Ms.Vishali S., Advocates

versus

UNION OF INDIA AND ORSRespondentsThrough: Mr.Ripudaman Bhardwaj, CGSC with
Mr.Kushagra Kumar, Mr.Abhinav
Bhardwaj, Advocates for UOI
Mr.T Singhdev, Mr.Bhanu Gulati,
Mr.Abhijit Chakravarty, Mr.Anum
Hussain, Mr.Tanishq Srivastava,
Mr.Aabhaas Sukramani, Mr.Sourabh
Kumar, Ms. Ramanpreet Kaur,
Advocates for R-4 (DCI)

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Date of Decision: 08th July, 2024**CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****MANMOHAN, ACJ : (ORAL)**

1. Present appeal has been filed challenging the order dated 14th May, 2024 passed in W.P. (C) 4058/2024, whereby the learned Single Judge upheld the decision/letter dated 5th March, 2024 issued by Respondent no.1 [Ministry of Health & Family Welfare (Dental Education Section), Government of India], whereby the Central Government accepted the



recommendations of the Respondent no.4/Dental Council of India ('DCI') for withdrawing recognition of the appellant institution under Section 16A of the Dentist Act, 1948, stoppage of admission in the institution, closure of the college and shifting of students studying in the institution and the consequent communication dated 7th March, 2024 from the MoHFW to the DCI, directing taking of necessary action to shift the students studying in the appellant institution to another dental college within the State of Bihar.

2. Learned counsel for the Appellant states that on 30th August, 2021, consequent to a demand of Rs.50,00,000/- by and on behalf of the DCI officials as a cost for not disturbing the admission process in BDS Course, the Appellant institute through its Chairman lodged an F.I.R against the DCI officials. He states that on 22nd August, 2022, as a counter blast to the aforementioned FIR, DCI through its Executive Committee conducted inspection of the Appellant Institute and found deficiencies contrary to the earlier inspection dated 12th February, 2019.

3. He states that DCI vide its letter dated 11th November, 2022 addressed to Respondent No.1 recommended the Central Government to stop admission in BDS and MDS Courses in the Appellant institute from the Academic Year 2022-23. A personal hearing was granted to the Appellant institute on 2nd December, 2022, wherein the Appellant institute submitted a compliance report dated 1st December, 2022, giving clarification with respect to the deficiencies pointed out by DCI.

4. He states that the Central Government on 7th December, 2022 directed the DCI to verify the compliance report and evidence submitted by the Appellant Institute. He states that a fresh inspection was conducted on 20th & 21st December, 2022, wherein an identical report was submitted on 28th



December, 2022.

5. He states that after receipt of the Inspection Report dated 28th December, 2022, Respondent No.2 vide its letter dated 28th April, 2023, requested State of Bihar/Respondent no.5 to provide its comments on the issue. He further states that Respondent no.5 issued a show cause notice to the Appellant institute which was duly replied to. However, Respondent no.5 failed to provide any comments to the Central Government on the issue, whereafter the impugned letters dated 5th & 7th March, 2024 were issued.

6. Though, the appellant has made allegations of personal mala fide against Dr. Dibyendu Majumdar, yet he has not been impleaded as a respondent to the present proceedings.

7. It is settled law that where allegations of personal malice in fact are made against a particular individual, the said individual has to be impleaded as a respondent to enable him/her answer the charge. A judicial pronouncement declaring an action to be mala fide is a serious indictment of the person concerned that can lead to adverse civil consequences against him. [See: *Rajneesh Khajuria vs. Wockhardt Limited and Another*, (2020) 3 SCC 86)

8. Further, in the present case, two inspections were carried out by different Inspectors and in each case, the Inspecting Officers were of the stature of head of departments or principals of different institutions or senior medical personnel. They were the best persons to assess the competence of the petitioner to provide education as a dental educational institution. It is settled law that the Courts must defer to the decision of the experts unless it is found to be completely capricious or unsustainable in law – which we do



2024:DHC:5088-DB



not find in the present case.

9. At this stage, learned counsel for the appellant prays for liberty to implead Dr. Dibyendu Majumdar as a party to the present proceedings. However, as Dr. Dibyendu Majumdar was not a respondent in the underlying writ petition and the learned Single Judge has not had the opportunity of hearing his say, this Court is of the view that the said prayer cannot be entertained. Accordingly, the said prayer is declined.

10. For the aforesaid reasons, the present appeal along with pending applications being bereft of merit is dismissed.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

JULY 8, 2024
AS

Signature Not Verified

Digitally Signed By: ASWANT
SINGH RAWAT
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LPA No.525/2024

Page 4 of 4