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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 09.07.2024**+ **W.P.(C) 9139/2024****WHITE MEDICAL COLLEGE AND HOSPITAL ...Petitioner**

Through: Ms, Pinky Anand, Senior Advocate with Mr Amarinder Singh, Mr Somesh Arora, Ms Asees Jasmine Kaur, Ms Saudamini Sharma & Mr Samrath Passricha, Advocates.

versus

UNION OF INDIA & ORS.**.....Respondents**

Through: Ms. Avshreya Pratap Singh Rudy SPC with Mr. Hussain Adil Taqvi, Adv (GP) & Ms. Usha Jamnal, Advocate for R-1. Mr. T. Singhdev, Mr. Bhanu Gulati & Mr. Sourabh Kumar, Advocates for R-2 & 3.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)**

1. The present writ petition has been filed under Article 226 of the Constitution of India by the petitioner i.e. White Medical College and Hospital seeking the following reliefs:

“i. Allow the instant petition;



ii. Issue a writ of Mandamus or any other writ, order direction, directing the respondents to grant renewal permission to the petitioner institute for 150 seats for admission to the MBBS Course for Academic Year 2024-25.

iii. Issue a writ of Certiorari/setting aside the letter no Renewal/UGMEB/2023-727 dated 28.06.2024 issued by the respondents declining the renewal permission to the petitioner institute and or

iv. Issue necessary directions to the respondents to grant an opportunity of being heard and then deciding the case of the petitioner on merits on parity with the other institutions to which the permission of renewal has been granted”.

2. The present petition has been filed by the petitioner seeking setting aside of the letter no. Renewal/UGMEB/2023-24/727 declining the renewal permission of the petitioner-institute for 150 seats for admission to the MBBS course for the academic year 2024-2025. The White Medical College and Hospital formerly known as Chintpurni Medical College and Hospital is situated on the border of the State of Punjab & Himachal Pradesh and Union Territory of Jammu & Kashmir. The petitioner-institute is affiliated with Baba Farid University of Health Science and is approved by National Medical Commission/ Respondent no. 2. It is stated that the petitioner-institute is also approved and recognized by the State Government of Punjab. The name of the institute was changed from Chintpurni College and Hospital to White Medical College and Hospital. The petitioner is aggrieved by the communication dated 24.06.2024 bearing no. Renewal/UGMEB/2023-24/727 issued by the National Medical Commission/respondent no. 2.

3. Ms. Pinky Anand, learned Senior Counsel appearing on behalf



of the petitioner-institute argues that on, 24.06.2024 a communication bearing no. Renewal/UGMEB/2023-24/727 had been issued by respondent no. 2 i.e. National Medical Commission on the subject assessment of annual declaration form and grant of renewal of undergraduate seats (MBBS) for the year 2024-25, whereby the petitioner-institute had been denied renewal of seats of MBBS for the academic year 2024-25. In this regard, it is argued that said communication dated 24.06.2024 is illegal, arbitrary and unjustified as the same has been issued without providing the petitioner-institute an opportunity of being heard, which is in contravention with the principles of natural justice. It is further argued that as per Chapter III - Penalties Clause 8 of the Maintenance of Standard of Medical Education Regulation, 2023, the petitioner-institute had to be provided with a reasonable opportunity to rectify the deficiencies, if any, and only thereafter, any action could have been taken if the petitioner-institute would have failed to meet the requisite norms. However, it is stated that the same has been blatantly ignored by respondent no. 2 in the present case. It has been further argued that many other medical institutes are similarly placed with the petitioner-institute and the respondents have granted renewal permission to the said medical institutes to admit candidates for the academic year 2024-25 by imposing monetary penalty as per law. Thus, it is prayed that the petitioner-institute be given an opportunity to rectify the deficiencies and be allowed to admit candidates for the MBBS course for the academic year 2024-25 in accordance with law.

4. At the outset, Mr T. Singdev, who appears on advance notice on



behalf of respondent no. 2 i.e. National Medical Commission, fervently opposes the present writ petition on the issue of maintainability. It is argued that the petitioner-institute is located in Village Bungal, District Pathankot, Punjab and any remedy sought by the petitioner-institute against the respondents will fall within the territorial jurisdiction of the Hon'ble Punjab and Haryana High Court. To substantiate his argument, Mr. T. Singhdev has placed reliance on order dated 01.11.2023 passed by the Coordinate bench of this Court in W.P. (C). 14187/2023 titled as *Ardra Joseph v. Union of India & Ors.*, and order dated 21.11.2023 also passed by the Coordinate bench in W.P. (C). 15028/2023 titled as *The White Medical College and Hospital formerly known as Chintpurni Medical College and Hospital v. Union of India & Ors.*

5. In rebuttal, Ms. Pinky Anand, learned Senior Counsel appearing for the petitioner-institute submits that since the grievance of the petitioner is primarily against respondent no. 2 i.e. National Medical Commission, whose head office is situated in Delhi and all the communications with the petitioner-institute have been made by respondent no. 2 from Delhi itself, the petitioner-institute has approached this Court and the present writ petition is thus maintainable.

6. This Court has heard arguments on behalf of both the parties and has perused the material placed on record.

7. It is noted that the petitioner-institute is situated in the State of Punjab and the medical college is affiliated with Baba Farid University of Health Science and is under the administrative control of



the Director, Medical Education and Research, Punjab, SAS Nagar, Mohali, Punjab. The petitioner-institute is also approved and recognized by the State Government of Punjab. The ground on which the petitioner-institute has approached this High Court is that the Head Office of National Medical Commission i.e., respondent no. 2 is situated within the territorial jurisdiction of this Court. However, merely because the office of respondent no. 2 is situated within the territorial jurisdiction of this Court, it cannot be a ground to entertain the instant writ petition.

8. In this regard, it will be useful to refer to the judgment of Hon'ble Apex Court in case of *Kusum Ingots & Alloys Ltd. v. Union of India* (2004) 6 SCC 254. The relevant observations which are relevant to the facts of the present case are extracted hereunder:

“Forum conveniens

30. We must, however, remind ourselves that **even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.** [See *Bhagat Singh Bugga v. Dewan Jagbir Sawhney, Madanlal Jalan v. Madanlal, Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd., S.S. Jain & Co. v. Union of India and New Horizons Ltd. v. Union of India.*.]”

(Emphasis supplied)

9. Thus, as per the abovesaid judgment, in case a small part of cause of action arises within the territorial jurisdiction of a High Court, the same by itself may not be considered to be a determinative factor to compel that particular High Court to exercise its jurisdiction.



Further, in appropriate cases, the Court may decline to exercise its discretion by invoking the doctrine of forum conveniens.

10. A similar view was also taken by the Hon'ble Apex Court in the case of *State of Goa v. Summit Online Trade Solutions (P) Ltd.* (2023) 7 SCC 791, wherein it has been held as under:

“14. While dealing with an objection as to lack of territorial jurisdiction to entertain a writ petition on the ground that the cause of action has not arisen within its jurisdiction, **a High Court essentially has to arrive at a conclusion on the basis of the averments made in the petition memo treating the contents as true and correct. That is the fundamental principle.** Bearing this in mind, we have looked into the petition memo of WP (C) No. 38 of 2017 and searched in vain to trace how at least part of the cause of action has been pleaded by the petitioning company, to have arisen within the territorial jurisdiction of the High Court.

15. This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. **The constitutional mandate of clause (2) is that the “cause of action”, referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.**

16. The expression “cause of action” has not been defined in the Constitution. However, the classic definition of “cause of action” given by Lord Brett in *Cooke v. Gill* [*Cooke v. Gill*, (1873) LR 8 CP 107] that “*cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court*”, has been accepted by this Court in a couple of decisions. It is axiomatic that without a cause, there cannot be any action. **However, in the context of a writ petition, what would constitute such “cause of action” is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.**

17. Determination of the question as to whether the facts



pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests”

(Emphasis Supplied)

11. A Coordinate Bench of this Court in the case of *Chinteshwar Steel Pvt. Ltd. v. Union of India* 2012 SCC OnLine Del 5264, has held that in case of pan India Tribunals, or Tribunals/statutory authorities having jurisdiction over several States, the situs of the Tribunal would not necessarily be the marker for identifying the jurisdictional High Court.

12. This Court also notes, based on judicial precedents, that Courts have the power under Article 226 of the Constitution of India to exercise or decline their discretion to entertain writ petitions when the petitioner has an alternative, more appropriate, and convenient High Court to approach. As mentioned above, it is reiterated that it is a settled position of law that if only a part of the cause of action arises within the territorial jurisdiction of the Court, the Court may decline to entertain the case if it is of the opinion that it is not the *forum conveniens*. This Court also notes that an earlier writ petition filed by



the same medical college in Writ Petition (C) 15028/2023 was withdrawn by the learned counsel for the petitioner with further liberty to approach the jurisdictional High Court.

13. In view of the aforesaid, the present petition is dismissed alongwith pending applications solely on the ground of territorial jurisdiction. The petitioner would be at liberty to approach the appropriate Court of jurisdiction for redressal of his grievance, in accordance with law.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JULY 9, 2024/at