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

+ LPA 894/2024, CM APPL. 51585/2024 & CM APPL. 51586/2024

**SMT MANJIRA DEVI AYURVEDA MEDICAL COLLEGE
AND HOSPITAL**

.....Appellant

Through: Mr. Harmeet Singh Ruprah, AOR and
Mr. Kanishk Sharma, Advocate.

versus

UTTRAKHAND UNIVERSITY OF AYURVEDA & ORS.

.....Respondents

Through: Mr. Farman Ali (Senior Panel
Counsel, Mr. Vidur Dwivedi, (G.P.)
Ms. Usha Jamnal and Mr. Shakir
Shabir, Advocates for R-2/UOI.
Mr. Kumar Prashant, Advocate for R-
3 & 4.

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Date of Decision: 5th September, 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 under Clause X of the Letters Patent Act, 1866 against the order dated 2nd September, 2024 passed in W.P.(C) No.12041/2024 whereby the learned Single Judge has dismissed the said writ petition on the ground of lack of territorial jurisdiction.

2. Mr. Harmeet Singh Ruprah, learned counsel for the appellant states that the appellant is an Ayurveda Medical College situated within the nine hilly districts of the State of Uttarakhand and claims to stand against the injustices imposed upon the students of the appellant and the residents of the



said Districts. He states that the inaction of the respondents has resulted in denial of access to quality medical education and essential health care services.

3. He states that the appellant has been offering the Bachelor of Ayurvedic Medicine and Surgery (hereinafter referred to as “*BAMS*”) Course from the last many years. He states that this course was conducted in accordance with the directives of the State University to which the appellant is affiliated, namely the Uttarakhand Ayurveda University (hereinafter referred to as the “*University*”).

4. He states that till the year 2021, the aforesaid course was being conducted in accordance with the directives of the University. He further states that on and from the year 2021, the appellant was compelled to conduct admissions exclusively through the National Eligibility Entrance Test (hereinafter referred to as “*NEET*”) for all medical courses, including the Ayurvedic Courses. He states that this transition has resulted in significant challenges due to geographical, economic and social constraints faced by the students in these hilly regions. According to the appellant, a large proportion of students come from economically and socially backward communities who lack access to adequate information and resources, who are unable to appear for the NEET examination on account of various factors, including but not limited to the lack of examination centres in and around their home districts. On this basis, learned counsel for the appellant states that the respondents be directed to allow the students of the appellant of the batch of the year 2022 to appear for the regular as well as elective examinations for the entire course duration along with other relevant examinations for the course.



5. He states that the learned Single Judge, instead of considering the matter on merits and examining the issue of violation of Articles 14 and 19(1)(g) of the Constitution of India *qua* the students of the 2022 batch and the appellant, has perfunctorily dismissed the writ petition on the hyper-technical ground of lack of territorial jurisdiction. According to learned counsel for appellant, since respondent nos. 2, 3 and 4 are located in Delhi, there is no question of lack of territorial jurisdiction with this Court. Moreover, he states that the respondent nos. 2 and 4 are central to the issue raised by the appellant and are Ministries/Departments whose decisions would be relevant to ameliorate the grievances of the appellant. He states that it is only the respondent nos. 2 to 4 against whom an appropriate writ of Mandamus can be issued by this Court. On this basis, he states that it is clear that this Court has the appropriate territorial jurisdiction to entertain the underlying writ petition.

6. He further states that since respondent no.1/University necessarily has to comply with the directives of respondent nos. 2 to 4, the appellant had filed the underlying writ petition before the learned Single judge of this Court seeking appropriate directions. Thus, on this ground too, he states that there is no lack of territorial jurisdiction of this Court. He prays that the impugned judgment be set aside and the matter be remanded back to the learned Single Judge for consideration on merits.

7. He also states that the learned Single Judge has misdirected himself by referring only to prayer (a) of the writ petition and has overlooked prayer (b) of the para containing prayers for interim reliefs. From this contention, learned counsel for appellant seeks to urge that in prayer (b), the appellant had sought interim directions to the Board of Ayurveda of National



Commission for Indian System of Medicine i.e., respondent no.4, to allow the students of the batch of the year 2022, to appear for the elective examinations of the first profession. In other words, learned counsel states that this prayer (b) is directed against respondent no.4 which is located in Delhi, hence there cannot be a dispute in respect of territorial jurisdiction with this Court.

8. *Per contra*, Mr. Farman Ali, learned counsel appearing for the respondents supports the observations made by the learned Single Judge in the impugned order regarding lack of territorial jurisdiction. In support of the said contention, he invites attention to page nos.55 and 100 of the paper book annexed to the underlying writ petition. He states that admittedly, these are representations submitted by the appellant to the Secretary, Ayush and Ayush Education, Uttarakhand Secretariat, Dehradun, Uttarakhand, dated 5th September, 2022 and to the Registrar, Uttarakhand Ayurveda University, Harrawala, Dehradun dated 14th August, 2024, raising the same issues as contended in the underlying writ petition. According to Mr. Ali, the appellant has already invoked the jurisdiction of the Institutions in Uttarakhand and as such, may have a cause of action for invoking the jurisdiction of High Court of Uttarakhand. According to him, no cause of action at all has arisen within the local limits of the territorial jurisdiction of this Court. Thus, he states that the present appeal be dismissed.

9. This Court has heard the arguments of learned counsel for the parties on the limited point of maintainability of the underlying writ petition on account of lack of territorial jurisdiction and has examined the documents on record.

10. This Court has meticulously examined the impugned judgment dated



2nd September, 2024 and is in complete agreement with the rationale behind the opinion rendered by the learned Single Judge.

11. On a query by this Court, learned counsel for the appellant very fairly admitted that no cause of action so far as the issue raised in the underlying writ petition is concerned, has arisen within the local limits of the territorial jurisdiction of this Court. Apart from emphasizing that the respondents are located in Delhi, no other credible argument as to how this Court could possibly exercise its jurisdiction over an Institution in Uttarakhand has satisfactorily been projected before this Court.

12. It is not disputed that the appellant is located in Uttarakhand. It is also not disputed that the respondent no.1/University, to which the appellant is affiliated, is also located in Uttarakhand. Undeniably, the representations by the appellant have been submitted not only to the Registrar of the Uttarakhand Ayurveda University at Dehradun but also to the Secretary, Ayush and Ayush Education, Uttarakhand Secretariat which itself is located in Dehradun in the State of Uttarakhand. Admittedly, no representation at all on the issue raised in the underlying writ petition has ever been submitted to any of the respondent nos. 2 to 4 who are located in Delhi. It is not the case of the appellant that any such representation was indeed made over to respondent nos. 2 to 4 or that the same were either rejected or not responded to. The mere presence by virtue of the location of their offices at Delhi would not, *ipso facto*, confer exclusive jurisdiction upon this Court to exercise its jurisdiction under Article 226 of the Constitution of India. It is apparent that no cause of action at all has arisen within the local limits of the territorial jurisdiction of this Court.

13. This Court is fortified in its aforesaid view by a catena of judgments



of this Court as also of the Supreme Court. To cite a few, it would be apposite to refer to the judgment of the Supreme Court in ***Kusum Ingots & Alloys Ltd. v. Union of India, (2004) 6 SCC 254***, Full Bench judgment of this Court in ***Sterling Agro Industries Ltd. v. Union of India, (2011) 124 DRJ 633(FB)***, as also the judgment passed by the learned Coordinate Bench in ***Riddhima Singh v. CBSE, 2023 SCC OnLine Del 7168***. The ratio laid down by these judgments deals not only with the issue regarding the exercise of jurisdiction by a High Court under Article 226 of the Constitution of India but also succinctly laid down the law as to under what circumstances a High Court can exercise jurisdiction under Clause 2 of Article 226 of the Constitution of India. It would not be out of place to also observe that the aforesaid judgments also take note of the “*Doctrine of Forum Conveniens*”. The Full Bench of this Court in ***Sterling Agro (supra)*** as also the Supreme Court in ***Kusum Ingots (supra)*** had considered the scope of Clause 2 of Article 226 of the Constitution of India and conclusively observed that though a small part of cause of action may confer such jurisdiction, yet, unless the said cause of action is a material fact in issue, ordinarily the Courts having jurisdiction over material/major facts alone would exercise their jurisdiction under Article 226 of the Constitution of India. The relevant para of ***Riddhima Singh (supra)*** reiterating the ratio as laid down in ***Sterling Agro (supra)*** is reproduced hereunder:-

“9. It is a settled position of law that where only a small part of the cause of action arises in the territorial jurisdiction of a Court, the same cannot automatically clothe the Court with jurisdiction under Article 226 of the Constitution of India. In such cases, the Court is obligated to follow the doctrine of forum conveniens. The doctrine of forum conveniens was elucidated by a full bench of this Court in Sterling Agro (supra) where it was held as follows:”



“31. The concept of forum conveniens fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the lis, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the Apex Court has clearly stated in the cases of Kusum Ingots (supra), Mosaraf Hossain Khan (supra) and Ambica Industries (supra) about the applicability of the doctrine of forum conveniens while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

32. The principle of forum conveniens in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the Court would not itself constitute to be the determining factor compelling the Court to entertain the matter. While exercising jurisdiction under Articles 226 and 227 of the Constitution of India, the Court cannot be totally oblivious of the concept of forum conveniens...”.

14. Keeping in view the fact that the cause of action has arisen within the territorial jurisdiction of the Courts of Uttarakhand and the convenient forum to hear and decide the present writ petition would be the Uttarakhand High Court, this Court finds no merit in the instant appeal and the same is dismissed without any order as to cost. This Court, however, reiterates the liberty granted by the learned Single Judge to the appellant to approach the appropriate Court of competent jurisdiction for redressal of its grievance in accordance with law.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 05, 2024/rl