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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6877/2022, CM APPL. 45700/2022**

GET WELL HOSPITAL AND RESEARCH CENTERPetitioner
Through: **Mr.Raghavendra Mohan Bajaj, Mr.**
Kanav Agarwal,Adv.

versus

NATIONAL BOARD OF EXAMINATIONSRespondent
Through: **Mr.Waize Ali Noor,Adv.**

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

11.02.2025

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1. The present petition has been filed challenging the action of the respondent National Board of Examinations (NBE) whereby the respondent rejected the petitioner's application for accreditation and refunded only 50% of the fee submitted instead of 90% of the fee required to be refunded to the petitioner.
2. The facts in brief are that the NBE issued an Information Bulletin on 20.08.2020 outlining the application process and refund policy. The Petitioner submitted six applications for Post-MBBS diploma accreditations in various specialties. However, NBE rejected all six applications for not fulfilling the minimum accreditation criteria in respect to the faculty as provided in Clause 4 in Information Bulletin.
3. The petitioner moved an application for reconsideration of the order. However, the same was also rejected. The petitioner's application to reconsider the order of rejection was also rejected by the respondent.
4. Learned counsel for the petitioner submits that the respondent arbitrarily rejected the petitioner's application without following the



mandatory procedure and the order of respondent is in violation of clause 3.32, which required notifying deficiencies for rectification. Learned counsel submits that the petitioner was not given any opportunity to address deficiencies as required by the clause 3.34 of Information Bulletin. It has further been submitted that respondent refunded only 50% of the fee instead of 90% stipulated under Clause 3.29 of summarily dismissed applications, contravening the refund policy.

5. Learned counsel for the respondent submits that the petitioner applied for accreditation in six diploma courses during 2020 cycle. It has further been submitted that as per the minimum condition for accreditation, the petitioner was required to fulfil the faculty requirement including verification of full-time status and remuneration details.
6. Learned counsel for the respondent submits that the as per the Information Bulletin, the faculty members must be fulltime employees at the applicant's hospital. However, as per the remuneration, the proposed faculty member at the petitioner's hospital were getting salaries between 40,000/- to 50,000/- which was lower than the stipends required to be given to the trainee as mandated by the Government of Rajasthan. It has been submitted that due to non fulfilment of any accreditation criteria, the respondent has rejected the application at the pre-assessment level and refunded only 50% of the fees as per clause 3.29 of the Information Bulletin.
7. Learned counsel also submits that the subsequently, the petitioner submitted Form-26 AS with its representations however, respondent



found no evidence of changes in the faculty's professional income to support their full time status, reaffirming the earlier decision to reject the applications was maintained.

8. Upon review of established precedents regarding Writ Jurisdiction, it is well-settled that this Court possesses the authority to examine decision-making processes to ensure fairness and propriety. While exercising this power judiciously, the Court's primary focus is to safeguard against any arbitrary/*malafide* or improper decisions. In this context, this court finds particular relevance in Clause 3.29 of the Information Bulletin, which provides as under:

3.29. Partial refund of Accreditation Fee is admissible under following conditions:

Refund of Accreditation Fee admissible*	Terms & Conditions
90% of total fee#	- If the application is withdrawn by the applicant hospital/institute within 4 weeks of the last date of online application submission to NBE. - Incomplete application which is summarily rejected without subjecting it to a detailed "Pre-assessment processing".
50% of total fee#	- If the application is withdrawn by the applicant hospital / institute after 4 weeks of the last date for online application submission to NBE but before the assessment of the applicant department by NBE appointed assessor. - If the application is rejected at pre-assessment level (prior to assessment of the department by NBE appointed assessor) due to non-fulfilment of minimum accreditation criteria and/or the hospital fails to submit definite compliance within stipulated time (if so required) to the Pre - Assessment deficiencies communicated to the hospital by NBE.
No refund shall be admissible	Once the assessment of the applicant department has been conducted by NBE

* Application Form Fee of Rs. 3,000/- + GST @ 5% on Application Form Fee (i.e. a total of Rs. 3150/-) is non-refundable under any circumstance.

GST paid by the hospital shall be refunded proportionately. For Example:

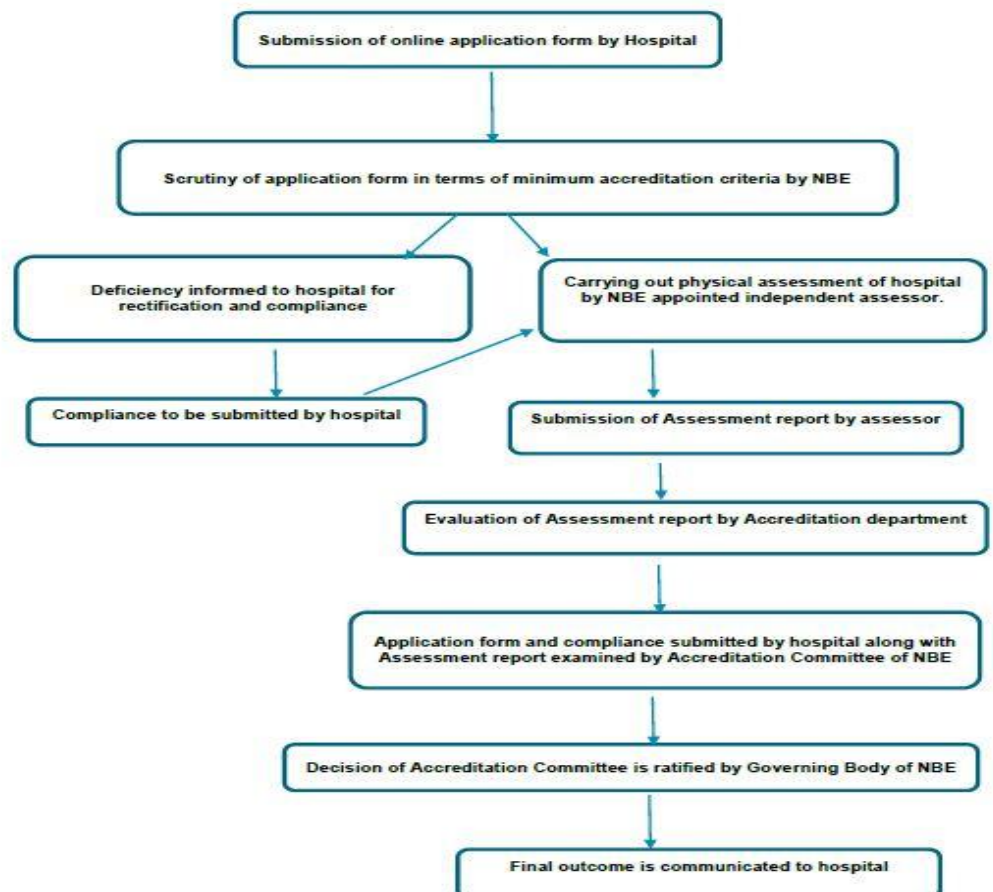
Refundable Fee	Amount	GST Refundable	Total Refund
90% of Accreditation fees	Rs. 1,80,000/-	Rs.32,400/-	Rs.2,12,400/-
50% of Accreditation fees	Rs. 1,00,000/-	Rs.18,000/-	Rs.1,18,000/-



9. The bare perusal of this makes it clear that if any incomplete application is summarily rejected without subjecting it to a detailed “pre-assessment processing”, the respondent is liable to refund 90% of the total fee. However, if the application is rejected at the pre-assessment level (prior to the assessment of the department by an NBE-appointed assessor) due to non-fulfilment of minimum accreditation criteria, the respondent shall be liable to refund only 50% of the total fee.
10. The Information Bulletin also provides the flow chart enumerating the processing of the application, which reads as under:

E. Processing of Application:

3.32. The application processing sequence is shown as follows:





11. The perusal of the flowchart also indicates that after the scrutiny of the application form in terms of minimum accreditation criteria by NBE, the next step is to inform the deficiencies to the hospital for rectification and compliance and/or carry out physical assessment of the hospital by an NBE-appointed independent assessor.
12. Learned counsel for the respondent admits that the deficiencies were not informed to the hospital for rectification and compliance, and the form was rejected. Learned counsel submits that, in fact, since the petitioner did not fulfil the minimum accreditation criteria, there was no question of informing the hospital of the deficiencies for rectification and compliance. Learned counsel submits that in this case, the shortfalls which were noted by the respondent could not have been rectified and complied with.
13. It is relevant to note that Clause 3.33 of the Information Bulletin, which provides that “*Grossly incomplete applications or applications not fulfilling the minimum accreditation criteria shall be closed at Pre-assessment level i.e. without undertaking any physical assessment/ inspection of the applicant hospital.*” This clause effectively clinches the issue at hand.
14. In the present case, the application was rejected as the petitioner was not fulfilling the eligibility criteria. It is also relevant to note that in the e-mail dated 12.03.2021, the petitioner was informed by the respondent that during the pre-assessment process of the speciality-specific application, it has been noted that the hospital does not fulfil the minimum criteria. Thus, on the face of it, the case falls within the ambit of Clause 3.33, and thus, the respondent is required to refund



90% of the total fee instead of 50% of the total fee. It is not disputed that the application was rejected on the ground of non-fulfilment of minimum accreditation criterion. The Petitioner was not informed of any deficiency. If this is not the preliminary stage, the court is at loss to imagine it to be falling in any other category.

15.Hence, in view of clause 3.33 of the Information Bulletin, the respondent is directed to refund 90% of the total fee.

16.With the above directions, the present petition is allowed and disposed of accordingly.

DINESH KUMAR SHARMA, J

FEBRUARY 11, 2025

Pallavi/HT