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

+ **W.P.(C) 11065/2023**

**SHRI DHANWANTRI AYURVEDIC MEDICAL COLLEGE AND
RESEARCH CENTRE**Petitioner

Through: Mr. A. Mariarputham, Sr. Adv. with
Mr. Avneesh Arputham, Mr. Ankit
Sharma, Advs.

versus

UNION OF INDIA AND OTHERSRespondents

Through: Mr. Bhagwan Swarup Shukla, CGSC
with Mr. Sarvan Kumar, Adv. for
UOI.
Mr. Vivek Goyal, CGSPC with Mr.
Gokul Sharma, GP for UOI/R-1.
Mr. Kumar Prashant, Mr. Shreyas
Balaji, Advs. for R-2 and 3.
Mr. Sharavan Kumar, Adv. for R-6.

**CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA**

**ORDER
29.01.2025**

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1. Learned counsel for the petitioner submits that initially, the petitioner had invoked the jurisdiction of this Court vide W.P.(C) 2783/2022 seeking a direction to the respondents to permit the petitioner to participate in the counseling for admission to the UG & PG courses in Ayurveda which was ongoing that time for the academic year 2021-22, till the second appeal was pending before respondent no.1, and the co-ordinate bench of this Court vide order dated 14.02.2022 permitted



the petitioner to participate in the ongoing counseling subject to outcome of petitioner's pending appeal. Petitioner was granted liberty to approach the court in case the petitioner is aggrieved by any order passed by Respondent no. 1.

2. Consequently, the respondents challenged this order before Division Bench vide LPA 136/2022. The Division Bench of this Court vide order dated 28.04.2022 closed the appeal keeping the question of law open. Subsequently, petitioner filed W.P.(C) 5005/2022, challenging the order dated 23.03.2022, whereby its second appeal against the denial order dated 17.12.2021 for admission to 100 seats in the UG BAMS course for the academic session 2021-2022, was rejected by the respondent no.1. Learned counsel for the petitioner submits that vide order dated 22.04.2022, the co-ordinate bench of this Court *inter alia* held as under:

“3. The petitioner has approached this Court being aggrieved by the order dated 23.03.2022, whereby its second appeal against the denial order dated 17.12.2021 for admission to 100 seats in the UG BAMS course for the academic session 2021-2022, has been rejected by the respondent no.1.

4. The primary contention of learned senior counsel for the petitioner is that the impugned order has been passed on the premise that there are existing deficiencies in the petitioner institute on three counts. He submits that that all these deficiencies stand rectified, which fact would have been evident if the respondent no.1 had considered the documents filed by the petitioner along with its appeal. By drawing my attention to para. II (C) and III (C) of the impugned order, he submits that the respondent no.1 has not even noted the



submissions of the petitioner. He therefore prays that the impugned order which has been admittedly passed without granting any opportunity of hearing, be set aside.

5. Learned counsel for the respondent no.1 defends the impugned order by stating that the same has been passed after considering all the contentions of the petitioner. He is, however, not in a position to dispute the fact that the order doesn't even refer to the petitioner's submissions qua deficiency no. II and III.

6. Having considered the submissions of the parties and perused the record, I find merit in the petitioner's plea that the impugned order does not even prima facie note the contentions raised by the petitioner in its appeal. Even though as urged by the learned counsel for respondent no.1, an opportunity of hearing may not be a mandatory requirement for disposal of the second appeal by respondent no.1, the fact remains that the impugned order does not even reflect a prima facie consideration of the petitioner's detailed submissions in respect of deficiency no. II and III.

7. The petitioner has also stated that even though it has 53 teachers, it still meets the requirement for teaching faculty for 100 seats in UG BAMS course; this aspect has also been simply overlooked by the respondent no.1 and therefore, even the finding in the impugned order qua deficiency no. I suffers from non-application of mind. The second appeal preferred by the Ayurveda College to the respondent no.1 is very important statutory remedy available to the colleges. The respondent no.1 is therefore expected to deal with all the submissions raised by the parties. In the present case, unfortunately the impugned order reflects complete non-application of mind and can therefore not be sustained.

8. The impugned order dated 23.03.2022 is, accordingly set aside and the matter is remanded back to the respondent no.1 for reconsideration of the petitioner's appeal by following the laid down procedure. While passing a fresh



order, the respondent no.1 will specifically deal with all the detailed submissions made by the petitioner in its second appeal.

9. Keeping in view the fact that the petitioner is a college running for the last more than 9 years as also the fact that our country has, after the outbreak of the covid-19 pandemic, been staunchly promoting the Ayurvedic system of medicine, prejudice would be caused not only to the petitioner institute but also to the prospective students if the petitioner institute is not allowed to participate in the ongoing counseling. It would, therefore, be in the interest of justice to permit the petitioner to participate in the counseling, till the petitioner's second appeal is reconsidered by the respondent no.1 in terms of this order. The petitioner, will, however publish a notice on its web portal informing the general public that this permission being granted to it, to participate in the ongoing counseling, will be subject to the outcome of the petitioner's second appeal.

10. Needless to state, this order will not create any special equities in favour of the petitioner and in case, the petitioner is aggrieved by any order which may be passed by respondent no.1, it will be open for the petitioner to seek legal recourse as permissible in law."

3. Learned counsel for the petitioner states at bar that this order was not challenged by the respondents. However, now the petitioner has filed the present petition challenging the impugned order dated 13.07.2022 whereby the second appeal of the petitioner's institute for the academic session 2021-22 was re-considered and dismissed. This exercise of re-consideration was done in subsequent order of this Court in W.P.(C) 5005/2022 titled *Shri Dhanwantri Ayurvedic Medical College and Research Centre vs. Union of India and Others*.



It was further *inter alia* held that students admitted to UG and PG Courses pursuant to the orders passed by this Court in W.P.(C) 2783/2022 may not be disturbed and be allowed to undertake the examinations conducted by the university.

4. Learned counsel has invited the attention of the Court to the order passed by this Court on 21.08.2023 in W.P.(C) 11065/2023 whereby the coordinate bench of this Court *inter alia* directed that the students admitted as per the interim orders passed by this Court may not be deprived of their appearance in the ensuing examinations to avoid any irreparable injury.
5. Learned counsel for the petitioner has stated that the petitioner institute has been granted recognitions for the academic session 2023-24 and 2024-25. Learned counsel for the petitioner on instructions also states at bar that he shall not pursue the present writ petition if the students admitted pursuant to the interim orders as passed by this Court as mentioned above may be regularized.
6. Learned counsel for respondent submits that the students so admitted must fulfill the criteria as laid down by National Commission for Indian System of Medicine Act, 2021.
7. Since, the students have been admitted pursuant to the interim orders passed by this Court in W.P.(C) 2783/2022 and W.P.(C) 5005/2022, and have already undergone substantial part of their course, this court considers that it would not be in the interest of the justice if they are disturbed at this stage. Hence, the admission of the students so admitted be regularized if they fulfill the eligibility criteria as laid down by the National Commission for Indian System of Medicine



Act, 2021 and fulfill all the requisite conditions for admissions.

8. In view of the above facts and circumstances, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

JANUARY 29, 2025/AR/SMG..