

Court No. - 19

Case :- MISC. SINGLE No. - 29522 of 2018

Petitioner :- G.S. Ayurveda Medical College & Hospital Thru. Secy.

Respondent :- Union Of India Thru. Ministry Of Ayurveda, Yoga & Naturopathy

Counsel for Petitioner :- Rajat Rajan Singh, Vidhu Bhushan Kalia

Counsel for Respondent :- C.S.C., A.S.G., Sharad Nandan Ojha

Hon'ble Vivek Chaudhary, J.

Heard Sri S.K. Kalia learned Senior Advocate, assisted by Sri Sameer Kalia, Rajat Ranjan Singh learned counsels for petitioner; Sri Savitra Vardhan Singh, learned counsel for respondent No.1 and 2, Union of India; Sri Sharad Nandan Ojha, learned counsel for respondent No.5, Central Council of India Medicine, New Delhi and the learned standing counsel for respondent No.3 and 4.

Petitioner institution, G.S. Ayurveda Medical College and Hospital, at Hapur, was granted annual recognition for 100 seats of UG (BAMS) for the year 2016-2017 and 2017-2018. The petitioner institution also applied for such permission for the year 2018-2019.

It appears that an inspection was made under Section 13-A of Indian Medical Central Council Act, 1970 (Act of 1970) by the Central Council of Indian Medicine (CCIM). It submitted conditional recommendation in favour of the petitioner institution. A decision was to be taken by the Central Government on the same.

The petitioner institution filed Writ Petition No.28615 (M/S) of 2018 with prayer for directions to respondents to grant annual permission to run their Ayurvedic Medical College as despite submitting all documents no orders for permission for the academic session 2018-2019 were passed. This Court by order dated 1.10.2018 disposed of the said writ petition with direction to respondents to consider the petitioner's case within four days and pass an order. The order of this Court dated 1.10.2018 reads as under:-

"Heard learned counsel for petitioner, Sri Shashi Prakash Singh, learned Additional Solicitor General, assisted by Sri Savitra Vardhan Singh, learned counsel for Union of India (opposite party no.1 and 2), Sri Sharad Nandan Ojha, learned counsel for respondent no.5, and learned standing counsel for respondent no.3 and 4.

Petitioner has approached this Court making a submission that they were given annual permission to run their Ayurvedic Medical College and such a permission was being granted since the academic session 2017-18. Petitioner submits that they have submitted all their documents and have been heard by respondent no.1 for permission for academic session 2018-19, but till date orders are not passed on their application.

Sri Savitra Vardhan Singh, learned counsel for respondent no.1 & 2 submits that the such orders will be passed within a period of one week from today.

In view thereof, respondent no. 2 Under Secretary, Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homeopathy (Ayush), Ayush Bhawan, B-Block, GPO Complex, New Delhi is directed to pass a reasoned and speaking order on the application of the petitioner in accordance with law within a period of four days from today or say by 06.10.2018 considering the report of the council which has recommended for permission.

It is made clear that this court has not gone into the merits of the case and all questions are left open to be considered and decided by respondent no.2 in accordance with law.

With the aforesaid, the writ petition disposed of."

Submission of learned counsel for petitioner is that they appeared before the Central Government, Under Secretary of the concerned Ministry but no orders were passed.

Learned counsel for petitioner relies upon the judgment dated 27.9.2018 of Rajasthan High Court at Jodhpur in S.B. Civil Writ No.14784 of 2018 (Punjab Medical, Technical and General Educational Society, Patiyala and another. Vs. Union of India and others), where in the similar situation after issuing notices the Court passed following orders:-

"In view of the submissions made, issue notice. Issue notice of the stay application also, returnable in four weeks.

Notices when issued be given 'dasti' to the learned counsel for the petitioners.

In the meanwhile and until further orders, the respondent Nos.3 and 5 are directed to include the petitioner-college in the counselling going on and allotment them students for UG (BAMS) Course with 60 seats for academic session 2018-2019.

However such allotment shall remain subject to the final outcome of the present writ petition"

Learned counsel for respondents on instructions submits that the Central Government looking into the deficiencies, did not find favour for granting approval to petitioner institution.

Sri Savitra Vardhan Singh and Sri Sharad Nandan Ojha, learned counsel for respondents have raised serious objection to the prayer of petitioner institution for interim relief.

Learned counsels for the respondents submit that since last date earlier was 30.9.2018 which was extended upto 9.10.2018, therefore, further dates were fixed by the Under Secretary, Central Government for deciding the matter. Whatever be the reason, since there was specific order of this Court, it was incumbent upon the respondents to consider and decide the matter expeditiously.

Learned counsel for petitioner further relies upon last two paragraphs of the the judgment dated 17.7.2018 of Hon'ble Supreme Court in the Civil Appeal No.6734 of 2018 (The Temple of Hanemann Homoeopathic Medical College and Hospital. Vs. Union of India and others). The relevant last two paragraphs of the said judgment are as under:-

"In our opinion, though Central Government on a complaint or otherwise, as contemplated under Regulation 3 (5) of the Regulations, 2013 may cause inspection would mean only that inspection to be made by a team to be appointed by CCH. A team of inspectors or visitors as the case may be, can be appointed by CCH under Section 17 or 18 of the Act. However, after an inspection is made, action has to be taken on the basis of the report as provided under the Act and the Regulations by the Central Government on the basis of the recommendation made by the CCH.

The appeals are allowed. The impugned judgment and order passed by the division bench are set aside and that of the Single Bench is restored. No costs."

Looking to the facts and circumstances of the case, since despite specific order of this Court, the Central Government has failed to take a decision in the case of the petitioner institution and that the institutions is having permission since last year and visitor's report and CCIM recommend their case and also the fact that since counselling is going to start from tomorrow i.e., 10.10.2018, therefore, the petitioner institution is entitled to the similar relief.

In view thereof, let respondents file their counter affidavit within three weeks from today. Thereafter, petitioner may file rejoinder affidavit within a week.

List thereafter.

Meanwhile, since the counselling for allotment of seats is to start from tomorrow, on 10.10.2018, it is provided that the respondent No.3 and 4 shall include the petitioner institution in the counselling for allotment of 100 seats to the students of UG (BA MS) Course for academic session 2018-2019. Respondent No.3 and 4 shall register the petitioner institution for the same.

Looking into the facts and circumstances, the learned standing counsel shall ensure that the order is communicated to the respondent No.3 and 4 today.

It shall be open to respondents Central Government/Under Secretary to further proceed in the matter, by another inspection if found required, or in accordance with law and getting any deficiencies if found to be removed without delay. Petitioner shall fully cooperate and comply with such orders.

Order Date :- 9.10.2018
Rajneesh DR-PS)

(Vivek Chaudhary, J.)