

Shri Dhanwantri Ayurvedic Medical ... vs Union Of India And Others on 22 February, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2449/2021

SHRI DHANWANTRI AYURVEDIC
MEDICAL COLLEGE AND RESEARCH CENTRE Petitioner
Through: Mr. A Mariarputham, Senior
Advocate with Ms. Anuradha
Arputham & Mr. Avneesh
Arputham, Advocates.

versus

UNION OF INDIA AND OTHERS Respondents
Through: Mr.Aakash Meena, G.P. for Union
of India/R-1.
Ms.Archana Pathak Dave,
Mr.Kumar Prashant & Ms. Vanya
Gupta, Advocates for R-2/CCIM.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 22.02.2021 The proceedings in the matter have been conducted through video conferencing.

CM APPL. 7156/2021(exemption) Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 2449/2021 & CM APPL. 7155/2021(interim relief)

1. Issue notice. Mr. Aakash Meena, learned counsel for respondent no.1/Union of India [hereinafter, "the Union"] and Ms. Archana Pathak Dave, learned counsel for the respondent no.2/Central Council of Indian Medicine [hereinafter, "the CCIM"], accept notice. Notice to the remaining respondents be served through all permissible modes, dasti in addition.

2. Several matters concerning admission to Ayurvedic, Homeopathic and Unani colleges are listed today, in which the learned Additional Solicitor General was requested to assist the Court. At his request, the petitions have been listed on 25.02.2021 in order to enable the Union to consider the

modalities for fresh consideration of the petitioners' case therein. In the present case, however, the petition is taken up today for consideration of interim orders in view of the fact that the counselling for undergraduate and postgraduate admissions in the State of Uttar Pradesh is stated to end on 25.02.2021.

3. The present petition has been filed by an Ayurvedic college, challenging the order of the Union dated 19.02.2021, rejecting its applications for permission to admit 100 students in the undergraduate and 54 students in the postgraduate Ayurveda courses for the academic year 2020-2021. The impugned order has been passed pursuant to recommendations received by the Union from the CCIM dated 04.12.2020, after giving a show cause notice to the petitioner/institution dated 05.01.2021, and providing a hearing to the petitioner/institution on 11.01.2021. The petitioner participated in the hearing convened by the Union, and also submitted a written representation in answer to the show cause notice on the date of hearing.

4. Learned counsel for the petitioner submits that the principal issues raised in this petition is covered in their favour by interim orders granted by this Court in favour of other similarly placed institutions, including the following orders:

(a) Order dated 08.02.2021 in W.P.(C) 1539/2021 [SKS Ayurvedic Medical College and Hospital through its Secretary vs. Union of India, Ministry of Ayush through Secretary & Anr.] and connected matters.

(b) Order dated 12.02.2021 in W.P.(C) 1854/2021 [RB Ayurvedic Medical College and Hospital vs. Union of India and Ors.] and connected matters.

(c) Order dated 15.02.2021 in W.P.(C) 1958/2021 [Dr Anar Singh Ayurvedic Medical College and Hospital vs. Union of India & Ors.] and connected matters.

5. In the aforesaid writ petitions, the Court was concerned with challenges to similar denial orders passed against other institutions. Following the approach indicated by the order of the Division Bench dated 04.02.2021 in LPA 49/2021 [Shivang Homeopathic College vs. Union of India & Ors.], I had granted interim relief on the finding that the petitioner has made out a prima facie case in their challenge to the impugned orders. By the aforesaid order dated 04.02.2021, the Division Bench had held that the questions of balance of convenience and irreparable harm were in favour of the petitioner/institutions, and stayed the order of this Court dated 01.02.2021 in W.P.(C) 1265/2021 to the contrary.

6. Following the same approach, I proceed to examine the question of prima facie case in the present petition:

(a.) The principal ground upon which the petitioner's application has been rejected is that various members of the petitioner's faculty have been considered to be "ineligible" or "not linked with the college" by the CCIM. By the aforesaid interim orders, I have found that the show cause notices issued to the petitioners did not

indicate the identity of particular faculty members or the nature of the objection of the respondents to their inclusion. On this basis, I had recorded a prima facie finding in favour of the petitioners therein. The impugned order in the present case is not distinguishable from the orders impugned in those petitions. The issue of prima facie case, on this aspect, is therefore decided in favour of the petitioner.

(b.) A defect has been found with regard to the adequacy of the information and the updation of the websites of the petitioner-institutions. In the aforesaid interim orders, I have considered this issue also, and have come to the conclusion that it is a remediable defect, and denial of recognition on the basis of this defect is a disproportionate consequence. (c.) With regard to the deficiency noted in paragraph 5(xi), an observation has been made about a complaint lodged by a teacher of the college, viz. Dr. Meemansa. Mr. A. Mariarputham, learned Senior Counsel for the petitioner, submits that the said ground is not one of the grounds specified in the Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016 for denial of permission to the college and, in any event, the teacher concerned had acknowledged that the institution had resolved her grievance. A copy of the communication in this regard dated 30.10.2020 had also been submitted to the Union alongwith the petitioner's representation.

7. In view of the aforesaid, I find that the petitioner in this case has made out a good prima facie case for grant of an interim order. Following the observations of the Division Bench and its order dated 04.02.2021 passed in LPA 49/2021, the petitioner is hereby permitted to participate in the ongoing counselling process.

8. This being an interim order, it is naturally subject to the results of the writ petition, and the petitioner is directed to inform the prospective students accordingly.

9. Counter affidavits be filed within four weeks. Rejoinders thereto, if any, be filed within two weeks thereafter.

10. List on 07.04.2021.

PRATEEK JALAN, J FEBRUARY 22, 2021 'pv'