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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5276/2022 & CM APPL. 15747/2022 (interim relief)

SOPHIA HOMOEOPATHIC MEDICAL COLLEGE AND  
RESEARCH INSTITUTE ..... Petitioner

Through Mr.Animesh Kumar, Mr.Nishant  
Kumar, Mr.Rishab Gupta & Ms.Rushali Agarwal,  
Advs.

versus

UNION OF INDIA & ORS. .... Respondents

Through Mr.Vivek Kumar Goyal &  
Mr.Bibhash Kumar, Advs. for R-1 & R-3.  
Mr.Sunil Narula, Adv. for R-2

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% 01.04.2022

CM APPL. 15748/2022

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 5276/2022 & CM APPL. 15747/2022 (interim relief)

3. The petitioner has approached this Court assailing the order dated 22.03.2022 passed by the respondent no.1 whereby the petitioner's second appeal against the refusal of permission by the respondent no.3/Medical Assessment and Rating Board for Homeopathy for commencing PG courses in 5 disciplines with an intake of 45 students, has been rejected.
4. Issue notice. Mr.Vivek Goyal & Mr.Sunil Narula accept notice on behalf of respondent nos.1 & 3 and 2 respectively.
5. Keeping in view, the fact that the petitioner has placed on record all

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Rajesh Kumar Wanjuhna  
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the relevant documents and the urgency involved in the matter, the writ petition is, with the consent of the parties, taken up for disposal today itself.

6. Learned counsel for the petitioner, by drawing my attention to the impugned order, submits that the primary basis for passing of the impugned order is the respondent no.1's presumption that if a college was not running as a UG college continuously for the last 5 years, it cannot be granted permission for PG courses. He contends that this presumption is wholly erroneous as, irrespective of whether the college was continuously running as a UG college for the last 5 years, an institute would still be entitled to be granted recognition for PG courses, if it meets all the relevant criteria. He further submits that the impugned order passed by the respondent no. 1 clearly shows that the same is based on grounds other than those referred to in the Letter of Intent issued by respondent no.3. Moreover, even as per the shortcomings referred to in the impugned order, the petitioner fulfils the relevant criteria for all the disciplines except 'Psychiatry' for which it is not seeking any permission. Finally, he submits that due to the shortfall of 1 Reader in 'Repertory', the petitioner is now seeking permission for 27 seats in all as against it's original application for 45 seats.
7. Per contra, Mr. Vivek Goyal, appearing on behalf of the respondent no.2, opposes the petition on the same grounds as mentioned in the impugned order. He submits that even if the petitioner has appointed one library assistant to cure the deficiency, thereby removing all the existing deficiencies pointed out in the Letter of Intent, it would still

Supreme Court of India  
Petition No. 4200  
Date: 10/01/2018  
Time: 10:00 AM  
Court: Hon'ble Justice

not be entitled to grant of permission for running PG courses as it had been denied permission for the UG courses for the last 2 years, which he claims is an essential condition for grant of permission for PG courses.

8. On the other hand, Mr. Sunil Narula, learned counsel for the respondent nos. 2 and 3, while fairly stating that the contention of Mr. Goyal, regarding the recognition for PG courses being dependent upon the continued recognition for UG courses during the last 5 years is not correct, submits that the petitioner was rightly denied permission as it was found to be not having the requisite infrastructure and faculty required as per the regulations. He is, however, not in a position to deny that the deficiencies mentioned in the impugned order, except the deficiency of 1 Library Assistant, are different from those mentioned in the Letter of Intent issued by respondent no 3. He also does not dispute that the requirement of Hospital System Software mentioned in the impugned order, is not a mandatory condition as per the existing guidelines.
9. Having considered the submissions of the parties and perused the record, I find that even though the impugned order dated 22.03.2022 purports to 8 deficiencies, most of these, except for deficiency nos. II,V, VII and VIII, do not even relate to the 4 PG disciplines for which the petitioner is now seeking permission. What also emerges is that in view of the shortcoming no.II, regarding one of the readers in the '*Repertory*' being ineligible, the petitioner itself is now seeking permission for lesser number of seats than initially prayed for. Insofar as the shortcoming no. V regarding '*Pharmacy*' is concerned, the

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JULY 2022

same relates to the petitioner not possessing a licence for transportation of alcohol, which the petitioner has explained is issued only at the time of transportation. These aspects, I find, have been simply overlooked by the respondents. Insofar as the Objection nos. VII and is concerned, learned counsel for the respondents have not denied that the requirement of a Hospital System Software is not a mandatory requirement as per the existing Regulations. Now coming to the deficiency No. VIII, I find that it is the common case of the parties, that the petitioner has already engaged 1 additional Library Assistant and thus even this deficiency no longer survives. It is also noteworthy that except the shortfall of 1 Library Assistant, none of the grounds, based on which the impugned order has been issued by the respondent no.1, formed part of the letters of intent, issued by the respondent no.3. It is thus evident that even otherwise, all these grounds have been held against the petitioner without putting them to notice. I, therefore, merit in the petitioner's plea that the respondent no.1 was primarily swayed by the fact that the petitioner, having been refused recognition for 2 out of the last 5 years for its UG course, was *per se* not eligible for grant of recognition in respect of any PG course. This presumption of the respondent no.1, as rightly contended by the learned counsel for the petitioner as also conceded by the learned counsel for the respondent nos. 2 and 3, was completely erroneous.

10. In light of the aforesaid, while taking into account that the petitioner has been running as a medical college for the last almost 20 years and almost all the deficiencies noted in the impugned order except that

relating to shortfall of one Library Assistant, are different from those pointed out in the letter of intent, the writ petition deserves to be and is accordingly, allowed. The impugned order dated 22.03.2022 is quashed and the respondents are directed to forthwith issue letters of permission in favour of the petitioner for 26 seats in the 4 PG disciplines being 8 seats in 'Homeopathic Materia Medica', 6 seats in 'Pharmacy', 6 seats in 'Homeopathic Philosophy/Organon' and 7 seats in 'Repertory'. Resultantly, the petitioner will be permitted to participate in the forthcoming counselling for admission in these 4 PG disciplines for the ensuing academic session 2021-2022.

REKHA PALLI, J

APRIL 1, 2022

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REKHA PALLI  
JUDGE  
HONOURABLE COURT  
BOMBAY HIGH COURT

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5276/2022

SOPHIA HOMOEOPATHIC MEDICAL COLLEGE AND  
RESEARCH INSTITUTE

..... Petitioner

Through: Mr. Amitesh Kumar, Ms. Binisa  
Mohanty and Ms. Priti Kumari, Advs.  
versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Bibhash Kumar and Mr. Vivek  
Kumar Goyal, Advs. for R-1&3  
Ms. Isha Thakur, Adv. for R-2

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

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**ORDER**  
**08.04.2022**

**CM APPL. 17662/2022 -Mod. by Petr**

1. This is an application filed by the petitioner seeking correction of an inadvertent typographical error which has crept in the last order dated 01.04.2022 vide which the writ petition was disposed of.
2. Issue notice. Learned counsel for the respondent accepts notice and does not dispute that an inadvertent typographical error has crept in para 10 of the order.
3. The application is therefore allowed and para 10 of the order will now read as under:-

*"10. In light of the aforesaid, while taking into account  
that the petitioner has been running as a medical college*

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CHANDRA MISRA  
Signing Date: 08.04.2022  
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for the last almost 20 years and almost all the deficiencies noted in the impugned order except that relating to shortfall of one Library Assistant, are different from those pointed out in the letter of intent, the writ petition deserves to be and is accordingly, allowed. The impugned order dated 22.03.2022 is quashed and the respondents are directed to forthwith issue letters of permission in favour of the petitioner for 27 seats in the 4 PG disciplines being 8 seats in 'Homeopathic Materia Medica', 6 seats in 'Pharmacy', 6 seats in 'Homeopathic Philosophy/Organon' and 7 seats in 'Repertory'. Resultantly, the petitioner will be permitted to participate in the forthcoming counselling for admission in these 4 PG disciplines for the ensuing academic session 2021-2022."

4. This order will be read in conjunction with the order dated 01.04.2022.
5. The application is, accordingly, disposed of.

**REKHA PALLI, J**

**APRIL 8, 2022**

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

+ W.P.(C) 6468/2022

SOPHIA HOMOEOPATHIC MEDICAL  
COLLEGE AND RESEARCH INSTITUTE ..... Petitioner

Through: Mr. Animesh Kumar, Mr. Nishant  
Kumar, Mr. Rishabh Gupta and  
Ms.Rushali Agarwal, Advocates.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Jitesh Vikram Srivastava and  
Mr.Prajesh Vikram Srivastava,  
Advocates for respondent No. 1.  
Mr. Sanjay Khanna and Ms. Pragya  
Bhushan, Advocates for National  
Testing Agency.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE  
HON'BLE MR. JUSTICE NAVIN CHAWLA**

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**O R D E R**  
**22.04.2022**

**C.M. No. 19639/2022**

Exemption allowed, subject to all just exceptions. The application stands disposed of.

**W.P.(C) 6468/2022 and C.M. No. 19638/2022**

Issue notice. Learned counsels for the respondents appear and accept notice. Let notice issue to the unserved respondents, returnable on 19.07.2022.

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By:BHUPINDER SINGH  
ROHELLA  
Signing Date:25/04/2022  
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The served respondents may file their respective counter-affidavits within four weeks. Rejoinders thereto, if any, be filed before the next date. Our attention has been drawn to the order dated 25.02.2022 passed by this Court in W.P.(C) No. 451/2022, wherein the similar issue has been raised. Interim directions in terms of that order are passed in the present proceedings as well.

**VIPIN SANGHI, ACJ**

**NAVIN CHAWLA, J**

**APRIL 20, 2022**  
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