



2024:DHC:2106



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

+ W.P.(C) 6499/2022

**PREM RAGHU AYURVEDIC MEDICAL COLLEGE AND
HOSPITAL**

..... Petitioner

Through: Mr. A. Mariarputham, Mr.
Avneesh Arputham & Mr. Ankit Sharma,
Advs.

versus

UNION OF INDIA AND OTHERS Respondents

Through: Mr. Vijay Joshi, SPC with Mr.
Shubham Chaturvedi, Adv. for R1.

Mr. Kumar Prashant & Mr. Shashwat, Advs.
for NCISM.

Mr. Sarvan Kumar with Ms. Priya Dwivedi,
Advs. for R6.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (O R A L)

% **12.03.2024**

1. The petitioner, an Ayurvedic Medical College and Hospital, assails order dated 24 March 2022, passed by the Ministry of AYUSH, whereby the petitioner was denied permission to admit sixty students to the UG (BAMS) course for the academic year 2021-22.

2. The reasons for rejecting permission as contained in the impugned order dated 24 March 2022, are as under:

“Observation of Central Government:

I, II and III. On examining the submission made by the college at the time of second appeal and documents received from NCISM



the observation is as under:

The college after availing the relaxation, as per Relaxation/support policy 26.03.2021 and 15.04.2021 issued by Ministry of Ayush, which states: “For those institutions who avail relaxation in Higher Faculty, the relaxation/rule for Conditional Permission with respect to the requirement of total number of Teaching faculty as mentioned in Schedule-V (point iii and point iv) of the Indian Medicine Central Council (Requirement of Minimum Standard for under-graduate Ayurveda/Siddha/Unani Colleges and attached Hospitals) regulation 2016 shall not be applicable to them.” The following shortcomings have been observed:-

- **There is a shortcoming of 1 Higher Faculty in the department of Swasthavritta & Yoga.**

Further, with respect to the appointment of Higher faculty, Dr. Yogesh Dattatray Warke, in the department of Swasthavritta & Yoga, it is observed that, the said faculty was appointed on 08.11.2021 which is after the submission of Part-1 visitation proforma. Therefore, as observed by the Hearing Committee during the first appeal, Dr. Yogesh Dattatray Warke is not eligible to be considered for the session 2021-22.

Therefore, in view of the above, it is observed that the deficiency related to shortage of Higher Faculty in the department of Swasthavritta & Yoga is genuine and is still persisting as mentioned above.

- **Submission of information/documents with regard to Panchkarma staff and Nursing staff during second appeal is not genuine.**

Further, with regard to submission of false information in respect of Panchkarma staff and Nursing staff, as observed by the hearing committee during first appeal, the documents submitted by the college during second appeal are carefully examined and **it is observed that Deepika Kushwah, Staff Nurse has joined the college on 01.12.2016, whereas, the training period mentioned in the Registration Certificate for Diploma in General Nursing & Midwifery in respect of Deepika Khuswah is from September-2013 to April-2017, which is practically impossible and seems to be incorrect and fabricated.** Further, the salary statements in respect of Panchkarma staff and Nursing staff is provided for only three months i.e., from November-2021 to January-2022 which is incomplete.

Therefore, it is found that the observation of the hearing



committee during first appeal regarding submission of false information in respect of Panchkarma staff and Nursing staff seems appropriate.

3. NOW, THEREFORE, in view of the shortcomings and deficiencies mentioned above particularly related to Higher Faculty, it is observed that the college **is not fulfilling the requirements for granting Permission for 60 seats in UG (BAMS) course for the A.Y. 2021-22**, as per relevant Acts and regulations due to the **shortcoming of 1 Higher Faculty in the department of Swasthavritta & Yoga**. The deficiency pertaining to Higher Faculty is of such a serious and fundamental in nature that they adversely affect the ability of the College to provide quality medical education.”

3. The rejection of promotion for an intake of sixty students in the UG (BAMS) course has, therefore, in the impugned order, been sought to be justified on the ground, that firstly, there was one shortage of Higher Faculty in the Department of Swasthavritta and Yoga; secondly, the training period in respect of one of the staff nurses were shown as September 2013 to April 2017 whereas she had joined the college on 1 December 2016, and thirdly, the salary statement in respect of Panchkarma staff and Nursing staff were provided only for the period from November 2021 to January 2022.

4. Prior to the passing, by the Ministry of AYUSH, of the impugned order dated 24 March 2022 under challenge in the present writ petition, order dated 10 December 2021 has been passed by National Commission for Indian System of Medicine (hereinafter referred to as “NCISM”) rejecting permission for the petitioner to induct sixty students in UG (BAMS) course for the academic year 2021-22.



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5. That order was challenged before this Court by way of W.P.(C) 3742/2022. In those proceedings, by order dated 4 March 2022, the petitioner was permitted to participate in the counselling exercise for admission to sixty students of UG (BAMS) course for the academic year 2021-22 subject, however, to the outcome of the said writ petition W.P. (C) 3742/2022.

6. While W.P. (C) 3742/2022 was pending, the impugned order dated 24 March 2022 came to be passed by the Ministry of AYUSH, resulting in the institution of the present writ petition by the petitioner challenging the said decision.

7. This fact came to be noted by a subsequent order dated 25 April 2022, in W.P. (C) 3742/2022, which disposed of the writ petition as having become infructuous in view of the subsequent order dated 24 March 2022 of the Ministry of AYUSH, which was separately challenged by the petitioner before this Court by means of the present writ petition.

8. The Order dated 25 April 2022 passed by this Court, disposing of W.P. (C) 3742/2022, reads as under:

“1. Learned senior counsel for the petitioner submits that now that the respondent no. 1 has already passed a final order, which has been assailed by way of W.P.(C) 6499/2022, nothing further survives for adjudication in the present petition, but, prays that the interim protection granted to the petitioner in the present petition be extended.

2. In the light of the aforesaid, while disposing of the writ petition having been rendered infructuous, it is made clear that the interim protection given to the petitioner on 04.03.2022, will continue till disposal of W.P.(C) 6499/2022.”



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9. As a result, the interim protection granted by order dated 4 March 2022 passed in W.P. (C) 3742/2022 continues to remain in operation during the currency of these proceedings.

10. Mr. Mariarputham, learned senior counsel for the petitioner submits that, pursuant to the liberty granted by this Court to the petitioner to participate in the counselling exercise for 60 UG (BAMS) seats for the academic year 2021-22, only five students could be admitted.

11. For subsequent years, Mr. Mariarputham submits that the deficiencies found in the petitioner's college were rectified and college was permitted an intake of sixty students in the UG (BAMS) course in the next year. This position is not disputed by learned counsel for the respondents.

12. Moreover, by order dated 26 June 2023 passed by this Court, the Mahayogi Guru Gorakhnath AYUSH University (Respondent 6), to which the petitioner is affiliated, was directed to permit five students who had joined the UG (BAMS) course of the petitioner for the year 2021-22 to undertake the upcoming examinations. The said students have thereafter participated in said examinations.

13. Mr. Mariarputham submits that, in similar circumstances, the coordinate Bench of this Court has, *vide* order dated 15 March 2023 in W.P. (C) 10959/2018 (*Beehive Ayurvedic Medical College and*



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Hospital v. U.O.I.), regularised the admission of the students who joined pursuant to the interim order passed by the Court.

14. The dispute in question is only with respect to five students who had joined the UG (BAMS) course provided by the petitioner for the academic session 2021-22 pursuant to the interim order granted by this Court. As has been noted in *Beehive Ayurvedic Medical College and Hospital*, there is no dispute of the basic eligibility to pursue the course. The eligibility that was in dispute was with respect to the eligibility of the petitioner college to conduct the UG (BAMS) course with an intake of sixty students for the academic session 2021-22. Ultimately, only five students have been admitted for that year. For subsequent years, the deficiencies which were pointed out have been rectified and the college has also been permitted intake of sixty students in the UG (BAMS) course.

15. In these circumstances, following the view of the coordinate Bench in *Beehive Ayurvedic Medical College and Hospital*, this petition is disposed of by regularising the admissions of the five students who joined the UG (BAMS) course of the petitioner for the year 2021-22.

16. No costs.

C. HARI SHANKAR, J.

MARCH 12, 2024

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