
(2015) 09 RAJ CK 0010

In the Rajasthan High Court

Case No : Civil Interlocutory Application No. 3364/15 in Civil Writ Petition No. 13792/13

Arawali Veterinary College

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 11-09-2015

Acts Referred:

Citation : (2015) 09 RAJ CK 0010

Hon'ble Judges : Sangeet Lodha, J

Bench : Single Bench

Advocate : Sachin Acharya, for the Appellant; D.S. Rajvi, Ravi Bhansali, B.P. Bohra, Pankaj Sharma and Aakash Kukkar, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sangeet Lodha, J—The matter comes up on an application preferred by the petitioner seeking directions to the respondents to permit the petitioner college to give admission to the students in B.V. Sc & A.H. Programme, during the academic session 2015-16.

2. It is to be noticed that vide order dated 3.7.13 passed by this court in S.B.C. Writ Petition No. 7953/11 preferred by the petitioner herein and other connected writ petitions, this court issued directions to the VCI to reconsider the matter with regard to grant of approval for admission to the veterinary colleges run by various charitable trust/societies, in the following terms:--

"Accordingly, the writ petitions are disposed of with the directions to the Council to reconsider the matter with regard to grant of approval for admission of the students to the veterinary colleges run by the petitioners and recognition of the veterinary qualification to be awarded by the respondent-University to the students pursuing their B.V. Sc. & A.H. degree course in the said colleges objectively, after due consideration of the submissions to be made by the petitioners and the comments on inspection report already submitted by the

respondent-University, within a period of one month from the date of receipt of certified copy of this order. The Council shall be at liberty to direct inspection of the petitioners' colleges afresh so as to ascertain whether the said colleges fulfill the minimum standards of veterinary education prescribed by the Regulations. Needless to say that if the colleges run by the petitioners are found to be fulfilling the requirement, the admission already made in any of the petitioners' colleges during the Academic Session 2011-12 and 2012-13 shall be regularized and they shall be permitted to admit the students in the next Academic Session 2013-14. Further, the matter with regard to the recognition of the veterinary qualification to be awarded by the respondent-University to the students already admitted in the colleges run by the petitioners pursuant to the approval granted by the Council, shall be considered by the Council/Central Government objectively, keeping in view the future of the students pursuing the course and shall ensure that they are not made to suffer for no fault on their part."

3. Pursuant to the directions issued as aforesaid, the inspecting team of VCI inspected the petitioner college on 26th August to 28th August, 2013 and prepared the inspection report. After consideration of the report of the inspecting team, the Executive Committee as also the General Body of the VCI in their meeting held on 15.10.13 and 18.10.13 respectively, keeping in view major deficiencies existing in the petitioner college, decided not to allow the admission of the students in the petitioner college during the academic session 2013-14 and keeping in view the persisting deficiencies, the admissions made by the petitioner college during the academic session 2011-12 and 2012-13 were refused to be regularised. In these circumstances, the petitioner preferred the present writ petition before this court.

4. After hearing the parties and perusal of the material on record, this court vide order dated 14.5.14 constituted a Committee for inspection of the petitioner college. After inspection, the inspection report prepared by the inspecting committee pointing out the deficiencies was made available to the petitioner college. Thereafter, on the petitioner college reporting to the inspecting committee that all the deficiencies pointed out in the inspection report have been made up, the inspecting committee re-inspected the petitioner college and submitted the report. After perusal of both the reports placed on record, vide order dated 16.9.14 this court issued directions in the following terms:

"Accordingly, it is directed that the matter with regard to grant of recognition to the petitioner-college may be considered by the Executive Committee and thereafter, by VCI in its meeting scheduled to be held on 18.9.14 and 24.9.14 respectively. The VCI shall consider the inspection reports submitted by the Committee constituted by this court objectively and shall pass a speaking order. The Secretary of the VCI against whom serious allegations of mala fides are levelled, shall not participate in the proceedings before the VCI in respect of grant of recognition to the petitioner-college. Needless to say that if deficiencies pointed out by the Inspection Committee stand substantially removed by the

petitioner-college, the recognition applied for, shall not be refused by the VCI, on account of any trivial or insignificant deficiencies, which could be removed by the petitioner-college within the time frame to be fixed by the VCI. The decision of the VCI shall be placed on record of this court before the next date of hearing."

5. Obviously, in terms of order passed as aforesaid, the VCI was required to ascertain as to whether the deficiencies pointed out by the inspecting committee constituted by this court, stands substantially removed by the petitioner college or not. However, the VCI in its meeting held on 24.9.14 while noticing the major deficiencies, decided to give another opportunity to the petitioner college towards the fulfillment of minimum requirement as laid down in the VCI Regulations, 2008 and proposed to send a Visitor Team for authentication of the facts as mentioned in the final report of the inspecting committee constituted by this court for taking appropriate decision by the Executive Committee and thereafter by the Council.

6. While refusing the permission to the petitioner college to admit the students, the VCI in its 49th meeting held on 24.9.14 accorded permission to number of private colleges to admit the students on the basis of the commitment made by them to remove the deficiencies pointed out in time frame of six months, subject to fulfillment of the other conditions specified.

7. Thus, taking into consideration totality of the facts and circumstances, on 28.11.14, while considering the prayer of the petitioner college for permitting it to admit the students during the academic session 2014-15, this court observed:

"As noticed above, in terms of the directions issued by this court, the VCI was required to consider the report of the inspecting committee constituted by this court and take a decision but, going beyond the directions of this court, the VCI decided to appoint a Visitor Team for authentication of the facts as mentioned in the report of the said committee, without even seeking directions from this court, in this regard. There is no justifiable reason emerging from the record as to why the petitioner-college has been denied conditional permission to admit the students when the other private colleges having major deficiencies, have been accorded conditional permission to admit the students during the academic session 2014-15."

8. Accordingly, the court passed an order permitting the petitioner college to admit students during the academic session 2014-15 as per its sanctioned intake capacity, subject to following conditions:

"(i) The college management shall submit an undertaking before the Deputy Registrar (Judicial) of this court, expressing its commitment to fulfill the deficiencies within a period of six months i.e. by 31.5.15.

(ii) The petitioner-college shall ensure that the faculty shall be engaged on the regular basis as per the VCI Regulations and as per the maximum age limit as prescribed in the Regulations;

(iii) The college management shall submit a bank guarantee in favour of the VCI amounting to Rs. 5 crores for a period of five years. However, in case of non fulfillment of the minimum standards of the Regulations within the time frame, the VCI shall not be entitled to invoke the bank guarantee without permission of this court.

(iv) The admissions to be granted to the aspirant candidates as per the norms laid down during the academic session 2014-15, shall not create any right or equity in their favour and same shall be subject to decision of the present writ petitions."

9. Now, the grievance of the petitioner is that for academic session 2015-16, an advertisement is issued by the Rajasthan University of Veterinary & Animal Sciences, Bikaner, for admission to B.V. Sc. & A.H. Degree Course in the constituent colleges of the University pursuant to Rajasthan Pre-Veterinary Test-2015 (RPVT-2015), wherein the name of the petitioner college has not been included.

10. The petitioner college made a representation dated 26.6.15 to the VCI stating that since they have already complied with the conditions enumerated in order dated 28.11.14 passed by this court, the permission may be accorded to the college for admission of students during the academic session 2015-16, but to no avail. Hence, this application.

11. The respondent VCI by way of reply to the application has taken the stand that the request of the petitioner college for permission to admit the students during academic session 2015-16 and increase of total annual admission to 100 seats was considered by the VCI in its 52nd Meeting held on 5.6.15. The copy of the minutes of the Meeting of VCI dated 5.6.15 is placed on record. The resolution adopted by the VCI after consideration of the request made on behalf of the petitioner college reads as under:

"The Council considered the Letter No. 1391/Aastha/Sikar/2015 and 1390/Aastha/Sikar/2015 dated 25.5.2015 received from President, Aastha Society, Sikar together with Email letter dated 30th May, 2015 received from Dean, Arawali Veterinary College, Sikar, Rajasthan regarding submission of Bank Guarantee with a request for permission for admission during 2015-16 and increase in the total annual admission to 100 seats and information on maximum age for teaching faculty together with the decision of the Executive Committee held on 3.6.2015.

The issue was discussed at length in the Council and it was decided that the College may be advised to submit the Bank Guarantee of Rs. 5 crores with the validity of five years as per the decision taken earlier in case of other private Colleges.

It was also desired that the information may be sought from the College that have they submitted the undertaking before Deputy Registrar (Judicial)

expressing commitment to fulfil the deficiencies within a period of six months i.e. by 31.5.2015 and status of fulfilment of the deficiencies. Whether any inspection has been commissioned by Hon"ble Court & if so when. Further, regarding the maximum age limit prescribed for the recruitment of faculty shall be as prescribed under the norms prescribed by affiliated University i.e. Rajasthan University of Veterinary and Animal Sciences, Bikaner as there is no prescribed maximum age limit mentioned under the MSVE Regulations and VCI follows the University guidelines to respective College is affiliated."

12. It is submitted on behalf of the VCI that vide letter dated 15.6.15, the petitioner informed the VCI that undertaking has been submitted before the court in terms of fulfilment of the deficiencies and copy thereof has been provided to the VCI. It is submitted that pursuant to the order of this court, the petitioner college should have approached the Council immediately for Bank Guarantee of Rs. 5 crores and copy of the undertaking as submitted by it to this court for admission during the academic session 2014-15. It is submitted that the petitioner college approached the Council on 28.5.15 when the academic session 2014-15 was about to complete. It is submitted that in terms of the order passed by this court, the college need to show the compliance of fulfilment of the deficiencies as per undertaking given, which could only be verified after physical inspection of the petitioner college and therefore, the VCI may be permitted for physical verification of fulfilment of VCI Minimum Standard of Veterinary Education Regulations, 2008 at the petitioner college through its inspector or this court may appoint inspecting team for such verification and only thereafter, the Council can take appropriate decision in the matter of allowing the admission/recognition of the qualification in respect of the petitioner college.

13. By way of additional affidavit, the petitioner college has attempted to show that the respondent VCI is discriminating between the petitioner college and other similarly situated veterinary colleges outside the State of Rajasthan inasmuch as, the number of colleges, who have been taken into Schedule I of VCI Act are having deficiencies either more than the petitioner college or may be almost same nature, which have been given permission to grant admission to the students in B.V. Sc. & A.H. Course. In this regard, the details of some of the colleges having similar deficiencies are set out in the additional affidavit. It is submitted that in the first inspection conducted by the committee constituted by this court, certain deficiencies were pointed out which have been removed by the petitioner college and thereafter, the findings have been recorded by the Inspection Committee in its Second Report. Regarding the teaching faculty, it is submitted that majority of the posts have already been filled up by the petitioner college, however, on account of high attrition rate in the field of veterinary science at one point of time requisite number of teachers are available whereas, on other point of time, the requisite teachers are not available. It is submitted that all the equipments except 2 Deep Freezer (-70 C) in respect whereof the order is already placed have already been procured and installed by the petitioner college.

14. By way of a counter to the additional affidavit, the VCI while controverting the allegations levelled regarding the discrimination practised has averred that the College of Veterinary & Animal Science, Udgir and College of Veterinary & Animal Science, Parbhani are old colleges and were included in the First Schedule at the time of coming into force of IVC Act and thus, are recognized colleges as have been mentioned in the First Schedule whereas the petitioner college has not found the place so far in the First Schedule. Regarding the Veterinary Colleges, Junagarh, Prodattur & Korutla, it is stated that they are Government Colleges and stand included in the First Schedule attached to the IVC Act. It is submitted that the Government always provide sufficient budget allocation alongwith appointment of teachers on permanent basis/regular basis. It is submitted that there is probability that faculty may not be complete for shorter duration but commitment/assurance given by the Government on fulfilment of standards as per MSVE Regulations are always high and is being fulfilled. It is submitted that regarding College of Veterinary Science & Animal Husbandry, Junagarh which is a constituent college of Junagarh Agriculture University, Junagarh, the Chief Secretary, Government of Gujarat and the Vice Chancellor of the University have submitted their joint undertaking/commitment in format prescribed by the Council to the effect that the minimum requirement shall be fulfilled in time bound manner by 31st March, 2015. Similarly, as per the VCI, other Government Colleges have also been permitted to admit the students on Chief Secretary and the concerned University submitting the undertaking/commitment in the format prescribed. Regarding Khalsa College of Veterinary & Animal Sciences, Amritsar, the Council has given the detail regarding the availability of the teaching staff during the period of inspection from 08-10 July, 2015.

15. Learned counsel appearing for the petitioner contended that in compliance of the directions issued by this court, the petitioner has already furnished bank guarantee of Rs. 5 crores for a period of five years and undertaking has also been filed before the Deputy Registrar (Judicial) of this court expressing commitment to fulfill the deficiencies within a period of six months. Learned counsel submitted that all major deficiencies except with regard to the engagement of the faculty on regular basis have already been removed by the petitioner and in this regard, the petitioner has already filed an affidavit before this court. Learned counsel would submit that only the petitioner college has been picked up by the respondent VCI for a different treatment being given else, many other private institutions having deficiencies more than the petitioner including the deficiency in respect of faculty have been permitted to run the institutions on furnishing the guarantee. Learned counsel would submit that the colleges run by the State have been permitted to run the institution notwithstanding the major deficiencies on the Chief Secretary or the Vice Chancellor of the University, furnishing the undertaking expressing the commitment to remove the deficiencies and therefore, there is absolutely no reason, why the petitioner college which has removed the major deficiencies, should be picked up for different treatment being given. Learned counsel would

submit that this court may direct the inspection of the petitioner college by the Committee constituted by this court to ascertain the removal of the deficiencies as pointed out by the petitioner college but then, till the inspection is carried out and appropriate decision is taken regarding the grant of sanction, the petitioner college deserves to be permitted to admit the students during the academic session 2015-16. Learned counsel would submit that the process for admission of the students has already commenced and the entire process of admission shall stand completed by 30.9.15 and therefore, if the permission prayed for is not granted the petitioner college is bound to suffer irreparable loss.

16. On the other hand, the counsel appearing for VCI reiterating the stand taken in reply to the application and additional affidavit filed, submitted that the petitioner was required to remove the deficiencies within a period of six months i.e. by 31.5.15, however, admittedly, all the deficiencies as pointed out by the Inspection Committee constituted by this court, have not been removed. Learned counsel would submit that for verification of the statement made by the petitioner before this court, it is absolutely necessary that the fresh inspection is carried out either by the Inspection Committee constituted by this court or the Inspector of the VCI. Learned counsel would submit that as per the VCI-Minimum Standards of Veterinary Education-Degree Course (B.V. Sc. & A.H.) Regulations, 2008, the admission in First Semester during the academic year should commence preferably in July or August every year but not later than 31.10.15 and therefore, it would be appropriate that before permitting the petitioner college to admit the students during academic session 2015-16, the inspection of the college to verify the removal of the deficiencies as claimed by the petitioner, is carried out. Learned counsel would submit that defying the directions of this court, in the first instance, the petitioner has submitted bank guarantee of Rs. 5 crores in the month of May, 2015, for a period of one year and later, on being pointed out regarding the court order requiring furnishing of the bank guarantee for a period of five years, the period of bank guarantee was got extended for a period of five years. Learned counsel would submit that pursuant to the order dated 28.11.14 passed by this court, the petitioner approached the VCI in the month of May, 2015 whereas, he was knowing fully well that the process for admission has been initiated by the State Government on 9.3.15 and thus, the petitioner college, which is guilty of not taking the appropriate proceedings in compliance of the directions of this court with utmost expedition, is not entitled for any indulgence by this court. Learned counsel submitted that the inspection was not carried out by the VCI inasmuch as, the matter is sub judice before this court. Learned counsel submitted that admittedly the petitioner has engaged the faculty of the age beyond the maximum age limit prescribed for the recruitment of the faculty and many teachers are engaged on contract basis and thus, the specific directions issued by this court in this regard have not been complied with. Learned counsel would submit that the VCI has already clarified that maximum age limit prescribed for the recruitment of the faculty shall be as prescribed under the norms prescribed by the affiliated

University i.e. Rajasthan University of Veterinary & Animal Sciences, Bikaner as there is no prescribed maximum age limit mentioned under MSVE Regulations and VCI follows the Guidelines of the University to which respective college is affiliated.

17. I have considered the rival submissions and perused the material on record.

18. Undoubtedly, in terms of the directions issued by this court, the petitioner was required to remove the deficiencies pointed out by the Inspection Committee constituted by this court after second inspection carried out on 19th to 20th July, 2014, latest by 31.5.2015. The stand of the petitioner is that all major deficiencies barring a few specified in the affidavit filed, stand removed. It is not disputed before this court that the deficiency in respect of the faculty has not been fully removed, however, the petitioner has pointed out instances of many Veterinary Colleges wherein the deficiency regarding the faculty are much more than the petitioner have been permitted by the VCI to admit students during the academic session 2015-16. The specific allegations made by the petitioner regarding the deficiencies in the various colleges including private colleges, which have been permitted to admit the students are not controverted by the VCI in the counter affidavit filed specifically. It is not the stand of the VCI before this court that no college having deficiencies, has been permitted to admit the students during the academic session 2015-16. Moreover, it is the specific stand taken by the VCI that the Government Colleges have been permitted to admit the students notwithstanding the deficiencies on the Chief Secretary of the Government and the Vice Chancellor of the University filing joint undertaking/commitment in the format prescribed by the Council to the effect that the minimum requirement shall be fulfilled in the time bound manner. It is pertinent to note that though as per the VCI Regulations, the First Semester in the respective academic year of B.V. Sc. & A.H. classes should commence latest by 31st October but then, it is not in dispute that the admission process initiated by the University of Veterinary and Animal Sciences, Bikaner pursuant to RPVT-2015, is scheduled to be completed by 30th of September, 2015 and therefore, if the petitioner college is not included in the process of counseling for allotting the students, it shall stand deprived from admitting the students during the academic session 2015-16. Thus, taking into consideration the totality of the facts and circumstances of the case, this court consider it appropriate to permit the petitioner college to admit the students provisionally and direct the Inspection Committee constituted by this court vide order dated 14.5.14 to carry out the inspection of the petitioner college within the time frame.

19. In view of the discussion above, the application preferred by the petitioner is disposed of with the directions that the petitioner college shall be provisionally permitted to admit the students during the academic session 2015-16 as per its intake capacity duly sanctioned. The permission to admit the students provisionally granted by this court as aforesaid, shall not create any right or equity in favour of the petitioner college or the students to be admitted to B.V.

Sc. & A.H. Course during the academic session 2015-16. The petitioner college shall deposit the inspection charges with the VCI as per the norms laid down within a period of two weeks. On the petitioner depositing the inspection charges, the Inspection Committee constituted by this court vide order dated 14.5.14 shall carry out the inspection of the petitioner college. After inspection, the Inspection Committee shall submit the report regarding the status of fulfilment of deficiencies by the petitioner college, before this court within a period of six weeks.

The matter shall be listed before the court for further consideration on 28.10.15.