
(2000) 07 DEL CK 0075

In the Delhi High Court

Case No : L.P.A. No. 576 of 1999 And C.M. No's. 3983/99 and 72 of 2000

Dental Council of India

APPELLANT

Vs

Integrated Education Development Organisation and Others

RESPONDENT

Date of Decision : 13-07-2000

Acts Referred:

Citation : (2000) 56 DRJ 283

Hon'ble Judges : Dr. M.K. Sharma, J;A.D. Singh, J

Bench : Division Bench

Advocate : Mr. H.L. Raina, for the Appellant; Mr. Ajay Veer Singh, Mr. Pankaj Gupta and Mr. Jayant Bhushan, for the Respondent

Judgement

Anil Dev Singh, J.—Admit.

2. The first respondent filed a writ petition seeking direction to the Dental Council of India and the Central Government to grant Statutory permission to the first respondent to start a new Dental College and Hospital at Ghaziabad under the name of Bhagwan Mahavir Dental College and Hospital. The learned Single Judge before whom the matter came up directed the appellant, Dental Council of India, to allow the first respondent to admit sixty students for the academic year 2000 and grant permission to start the college within a period of six weeks. The Dental Council of India aggrieved by the order of the learned Single Judge has filed the instant letters patent appeal.

3. There is no dispute that after the scheme by the first respondent to open a new dental college was referred to the Dental Council of India, inspectors were deputed by it to inspect the college and pursuant thereto a report was submitted by the Inspectors. As per the report, the college did not fulfill the norms laid down in that regard. The Dental Council of India, thereafter had a second inspection done by a fresh set of inspectors. The inspectors gave their report on December 30, 1997. As per that report the college was found to have complied with the requisite criteria. It appears that the Dental Council of India was not

satisfied with the second report and, Therefore, it wanted a fact finding committee to inspect the college. According to the affidavit filed by the Dental Council of India before the learned Single Judge, the College did not permit the fact finding committee to inspect the infrastructural facilities which the college claimed to have set up. At the same time, the first respondent filed the above mentioned writ petition in this Court.

4. During the course of the proceedings, the learned Single Judge appointed two more experts, namely: Mrs. Tulika Tripathi, Prof. of orthodontics Dental Wing, Maulana Azad Medical College, New Delhi, and Mr. R. Pradhan, Prof. and Head, Department of Oral and Maxillofacial Surgery, Faculty of Dental Sciences, K.G.M.C., Lucknow, to inspect the College. As a sequel to the orders of the learned Single Judge, an inspection of the college was conducted by the experts who gave the following report :-

"With reference to the aforesaid inspection the undersigned went to the present and future sites of Bhagwan Mahavir Dental College , Ghaziabad. It was noted that :

1. The present site of the college building is not owned by the management (Integrated Educational Development Organisation, Delhi), but is on lease to them up to 31.7.2001 (Annexure 1).
2. The present site is approximately 2 acres of land (Annexure 2).
3. The total built up area available at the present site is 19,180 sq.ft. as per the certified blue prints provided by the management. An area of 1800 sq. ft. made only out of tin sheds and brick walls shown as animal house, workshop and generator room (Annexure 3).
4. Two lecture halls are available out of which the bigger hall cannot accommodate 100 students and the smaller cannot accommo date more than 30 students.
5. The lapse seen were for Physiology, Histology and Dental Materials and were big enough only to accommodate 25 students. However, there was no provision for a Prosthodontic lab.
6. The anatomy dissection hall was present with four tables and sitting 440 students only. Cadaver tank was also present. Few museum specimens were also present.
7. The labs had equipments sufficient only for 25 students. Even though physically present, there were no relevant records regard- ing their purchase and their entry in the stock register, etc.
8. Regarding Library facilities: (a) The room was small and would accommodate only about 15 students. Few books (Medical and Dental) were present but there was no documentary evidence regarding their purchase and maintenance in the stock register and putting them in proper Serial numbering.

9. There was no playground at the present site.

10. Regarding hostel : A block of Type D, GDA Flats (24 in number) were requested to Indirapuram Scheme, Ghaziabad, on 9.9.97 for 10 more flats. However, no documentary evidence regarding the allotment/possession was available.

11. There was no area earmarked or provision for Central Stores.

12. Regarding the Staff following are the observations:

(a) There is no Principal.

(b) Out of twelve teaching staff members shown only five are on actual pay roll as stated by the management, i.e. S. No. ,3,4,7 and 8. All the rest are on the retainer basis. However, no documentary evidence was available and shown to us to confirm the salary drawn, neither were the personal files of the employees available (Annexure 4).

As per the technical and office staff, all of them as shown in the list are on pay rolls as stated by the management. However, it could not be verified because no personal files or financial statement regarding their salary drawn was available (Annexure 5).

13. Regarding attachment with a 100 bedded hospital the management claims to have obtained permission from one Yasoda Hospital, Ghaziabad. However, it could not be verified because the documentary proof provided for the same did not have any date or dispatch number (Annexure 6).

14. Then the team of Court Commissioners visited the proposed site of the Dental College at Abupur near Modinagar (about 30 kms from the present Dental College building). At present it is an agricultural land 0.5 km off the main highway of Meerut and is being used for crop cultivation."

5. It is not denied that as per the aforesaid report the institution does t meet the requirements laid down for according permission to start the dental college. In spite of the aforesaid report of the experts, the learned Single Judge appointed a Local Commissioner, Mr. Vivek Singh, Advocate, to inspect the college in order to see whether the college fulfills the relevant norms for granting permission to start the dental college. Mr. Vivek Singh submitted his report on August 11, 1999. The learned Single Judge thereafter heard the learned counsel for the parties and directed as follows:-

"Therefore, I direct respondent No. 2 to allow the petitioner to admit sixty students from the next academic year and grant permission thereof within a period of eight weeks. The petitioner is, however, directed to take further steps in order to have required number of the teaching staff as per paragraph 11 of the affidavit filed by respondent No. 2 dated 8.9.1999 within eight weeks, so that before the ensuing academic session, the required teaching staff is available in the college."

6. It seems to us that the learned Single Judge was not right in directing the Dental Council of India to allow the petitioner to admit 60 students and to grant permission to start the college. The question whether or not a technical college should be granted permission to admit students and to start classes has to be left to the concerned authority constituted for such purpose and the High Court sitting in extra-ordinary jurisdiction under Article 226 of the Constitution normally ought not to interfere as such a matter does not lie in the province of the Court. It is well settled that in academic matters, a writ court should be loathe to interfere unless that decision of the academic body suffers from mala fides and arbitrariness and is unjust, unfair or unreasonable.

7. The Supreme Court in *Baba Mungipa Medical College and Research center Students Guardian Forums and another Vs. Government of Tripura and others*, , held as follows:-

"We are of the view that until and unless the defects pointed out by the Medical Council are removed, there cannot be any question of granting recognition to the college. The college authorities ll be entitled to cure the defects pointed out in the report. After curing the defects, they may apply to the Medical Council for a further inspection. It is for the Medical Council of India to decide whether the college had all the facilities for impart- ing proper medical education. But on the facts brought out in the report, no direction can be given to the Medical Council of India or the Union of India to take any steps for granting recognition to the college. Admission of first year students to the college even before grant of the recognition by the Medical Council of India or affiliation by the University was a very irresponsible step. The college is directed not to admit any student till it obtains proper recognition."

8. In view of the aforesaid discussion, the impugned judgment and order of the learned Single Judge cannot be sustained and is accordingly set aside. The Dental Council of India is directed to act in accordance with relevant provisions of section 10A of the Dentists Act, and while doing so consider all the reports of the expert committees referred heretofore except the report of Shri Vivek Singh, Advocate, who was not an expert in the filed, and make its recommendation to the Central Government. We also direct the Central Government to consider the recommendations of the Dental Council of India and the aforesaid three reports of the experts and the factors specified in sub-section (7) of Section 10A of the Dentists Act, 1948 and take a decision according to law, either approving or disapproving the scheme submitted by the first respondent within a period of six weeks from the date of receipt of the recommendations of the Dental Council of India as to whether or not permission is to be granted to the first respondent to start the dental college.

9. Interim order dated December 24, 1999 stands vacated. No costs.