

(2002) 09 DEL CK 0059
In the Delhi High Court
Case No : C.W. No. 487 of 1999

Dr. A.M. Mathur

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 01-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 09 DEL CK 0059

Hon'ble Judges : S.K. Mahajan, J

Bench : Single Bench

Advocate : Lajja Ram, for the Appellant; Jayant Bhushan, for respondent 1 and H.K.Puri, for respondent 2 and 3, for the Respondent

Judgement

S.K. Mahajan, J.—The petitioner claims that he is a medical practitioner in Homeopathy and is accredited with the special knowledge and experience in the treatment of Cancer. With the objective to advance the cause of Homeopathy, the petitioner is stated to have established in 1996 a Medical College under the name and style of New Bombay Homoeopathic Medical College and Hospital in Sector 17, Gurgaon. The petitioner is alleged to have spent some amount in the purchase of land, construction of rooms, purchasing of books for library, furniture, etc and for equipment for the laboratory for the said college. The petitioner thereafter applied to the Government of Haryana to grant "No Objection Certificate" to run the College. On 8th August, 1996, the Government of Haryana issued a no-objection certificate to start the College for a period of two years, subject to the petitioner seeking prior approval from the Central Council of Homeopathy. Provisional affiliation was also granted to the petitioner by the Maharishi Dayanand University for the academic year 1996-97. On 24th August, 1996, the petitioner applied with the Central Council of Homeopathy to grant approval for running a Medical College in Gurgaon.

2. By letter dated 13th December 1996, the Central Council of Homeopathy constituted an inspection team to visit the premises of the petitioner. The team

appointed by the Central Council of Homeopathy visited the premises on 22nd February, 1997 and submitted its report to the Central Government for taking appropriate decision in the matter. According to the report of the Council, the teaching staff in the College was insufficient in number and the teaching staff also did not have the requisite teaching experience as per the Central Council's norms. The function of OPD and IPD were also not found to be sufficient. According to the council, the Department of Anatomy, physiology and pharmacy were not housed in sufficient accommodation as well and they did not have sufficient equipment and material for providing teaching and practicals to the students. Even the audited accounts of the College Management were not provided to the Inspection Team, during the course of inspection. The pharmacy Department was situated in a balcony of the bungalow of the size of 12"X8" covered by bamboo sheets and no teaching material was found in the said Department.

3. After this report was submitted to the Central Government, it again appointed a Committee to look into the question as to whether permission could be given to the petitioner to start a medical College. The team appointed by the Central Government visited the so called Institute of the petitioner on 15th May, 1998 and submitted its report. In terms of the report, prepared by the Team, the so called Institute was a private consulting chamber of the petitioner and his associates and as per the minimum standard regulations of the Central Council of Homeopathy, the space and facility available in the premises of the petitioner were not considered suitable to run the Homoeopathic institution. The team was, Therefore, of the opinion that request of the petitioner for opening a Homeopathy college and hospital may be considered only if the basic infrastructure as per the Central Council of Homeopathy were made available to impart the training and teaching to the students. According to the report, the Institution was running as a Homoeopathic College and the number of teaching staff/clinical and non-clinical staff and other facilities were almost Nil.

4. On receipt of these reports, the Central Government by its orders dated 1st May, 1998 informed the petitioner that since the minimum facilities for running an Homeopathy College were not available in the so called Institute of the petitioner, there was no scope for considering the request of the petitioner to start the College and the Government at that stage was not in a position to accord approval to the College. Being aggrieved by the order of the Central Government, refusing to grant approval to the petitioner to open the College, the present petition has been filed by the petitioner.

5. The contention of learned counsel for the petitioner is that necessary infrastructure and facilities are available in the College and the order of the Central Government refusing to accord approval was contrary to facts on record. It is contended that the petitioner had 12 rooms available with him for running the College and necessary staff would be employed only after the students get admission in the College. In my view, there is a basic fallacy in the arguments of

learned counsel for the petitioner in as much as the teaching faculty is not appointed after the students are admitted in the College, but first the teachers are appointed and only thereafter the students get admission in the Institute. Moreover, in terms of the Homeopathy Central Council Act and the Regulations framed there under, it is the Central Council of Homeopathy which is to decide whether necessary infrastructure and teaching facilities are available in the Institute so as to grant its approval to run the College. The expert body constituted under the Act has already given its opinion that the necessary teaching facilities and infrastructure has not been available in the so called Institute. In my opinion, this Court in the exercise of its jurisdiction under Article 226 of the Constitution cannot sit as an Court of Appeal and substitute its own decision in place of the decision of the Central Government. Nothing has shown to this Court that any error of law has been committed by the Central Government or that the principles of mutual justice have been violated. The petition, in my view, is wholly misconceived and deserves no consideration. In case the necessary infrastructure is made available by the petitioner, he can, as observed in the order dated 21st May, 1998, make necessary application for approval to the respondent. No case whatsoever has been made out by the petitioner for interference with the orders of the respondents. Petition is accordingly dismissed.