

(2017) 10 UK CK 0006
In the Uttarakhand High Court
Case No : 2504 of 2017

Haridwar Ayurvedic College & Research Centre & another	APPELLANT
Vs	
Union of India & others	RESPONDENT

Date of Decision : 07-10-2017

Acts Referred:

[Indian Medicine Central Council Act, 1970](#), Section 13A(5), Section 13A(4)(a)

Citation : (2017) 10 UK CK 0006

Hon'ble Judges : Sudhanshu Dhulia

Bench : Single Bench

Advocate : T.A. Khan, Vipul Sharma, Sanjay Bhatt, N.S. Pundir, Paresh Tripathi, Mamta Joshi

Final Decision : Dismissed

Judgement

1. Petitioner no. 1 is an Ayurvedic Medical College which is being run by petitioner no. 2 which is a charitable society known as Hasnu Ahmad Memorial Education and Charitable Society.

2. According to the petitioners, an approval was granted by the respondent authorities to run the Ayurvedic Medical College in favour of petitioner no. 1 with intake of 60 seats in Bachelor of Ayurveda, Medicine and Surgery (in short "BAMS") Under Graduate Course for the academic session of 2016-17. Thereafter, an inspection was made in the college premises, wherein it was found that there were certain deficiencies in the college, inasmuch as, the college must have at least five higher faculties in five departments, whereas the petitioner no. 1 was having only three higher faculties in three departments. The petitioners have admitted this deficiency and gave a reason that when the inspection was being done on 28/29.04.2017, only a few days prior to that, two of the higher faculty members had

resigned but on inspection, the Committee found this assertion to be incorrect as even for the existing three members i.e. Dr. Rakhi Kulkarni, Dr. Shubhangi and

Dr. Shailesh Deshmukh, the petitioners could not give any document (neither originals nor photocopies) in support of these faculty members. There were certain shortcomings pointed out, such as, in the library and in other cases. Moreover, certain deficiencies were also found out in the payment of many of these higher faculty members which was being done from another Medical College being run by the petitioners and not from the petitioners' college. Consequently, the inspection report, which was adverse to the petitioners, was forwarded to Union of India and Union of India took a decision on 18.09.2017. The recognition granted for the year 2017-18 has been denied to the petitioners for taking any fresh admission for the academic year 2017-18. Petitioners have further been directed that whatsoever the shortcomings are that should be removed by 31.12.2017 so that an approval can be granted for the next academic session. This order is being challenged by the petitioners before this Court by means of the present writ petition on various grounds, including that an opportunity of hearing was not given to the petitioners.

3. Petitioners have pointed out sub-section (4) (a) of Section 13A of the Indian Medicine Central Council Act, 1970 and would argue that before the disapproval, the petitioners should have been given an opportunity to remove the defects.

4. In view of this Court, however, it is not a case where the petitioners have not been given an opportunity to remove the defects as such an opportunity has already been given to the petitioners to remove the defects till 31.12.2017 but only in the interest of students as well as for the betterment of education for the present year i.e.

2017-18, this permission has been denied and rightly so because the petitioners do not have the minimum teaching faculty which could have imparted such an education to the students. The impugned order dated 18.09.2017 itself says that as and when these deficiencies are removed, the approval would be granted.

5. As far as CCIM is concerned, the opportunity of hearing has to be given by the Committee and it is not the case of the petitioners that the Committee which is the Visiting Committee or the Inspection Committee has not given an opportunity of hearing to the petitioners. The impugned order clearly states as to what were the deficiencies and thereafter as to what was the reply of the petitioners as to such deficiencies, and thereafter the decision was taken by the Committee on such deficiencies, which is adverse to the petitioners. Therefore, it cannot be the case of the petitioners that the Committee has not given an opportunity of hearing to the petitioners. As far as the opportunity to be given by the Central Government is concerned, in fact, this is not even an allegation of the petitioners that such an opportunity was not given under sub-section (5) of Section 13A of the Indian Medicine Central Council Act, 1970.

6. In view of the above observations, no interference is called for by this Court.

7. The writ petition has no merit and the same is hereby dismissed in limine.

8. Let a certified copy of this order be issued today itself on payment of usual charges.