
(2014) 10 MP CK 0015
In the Madhya Pradesh High Court
Case No : W.P. No. 7414/2013

Ramnath Singh Shiksha Prasar Samiti	APPELLANT
Vs	
Pharmacy Council of India	RESPONDENT

Date of Decision : 01-10-2014

Acts Referred:

Citation : (2014) 10 MP CK 0015

Hon'ble Judges : S.K. Palo, J;S.K. Gangele, J

Bench : Division Bench

Advocate : M.P.S. Raghuvanshi and Ajay Bhargama, Advocate for the Appellant;
Ankur Mody, Assistant Solicitor General and Saurabh Jain, Advocate for the Respondent

Final Decision : Dismissed

Judgement

S.K. Gangele, J.—In this petition, the petitioner has challenged the orders/letters dt. 3.7.2013 (Annexure P/1), dt. 11.9.2013 (Annexure P/2) and dt. 26.9.2013 (Annexure P/3).

2. The petitioner was granted recognition to conduct Pharma.D. Course from the academic session 2008-09 with intake of 30 students vide letter dt. 6.10.2008. Jiwaji University also granted affiliation to the petitioner on 8.7.2010. The institution started Pharma.D. Course with 30 students as per the permission. The institution on 7.1.2009 submitted another application for extension of approval of Pharma.D. Course and introduction of Pharma.D (P.B.) course. As per the respondents, alongwith the letter in respect of Pharma.D. Course (P.B.) Course, no letter of consent of affiliation from the examining authority was submitted. In the meanwhile, the respondent received number of complaints against the petitioner institution.

3. Inspection of the petitioner institution was conducted on 6.4.2009 and the inspectors specifically pointed out following deficiencies:-

"a) Staff with M.Pharm (Pharmacy Practice) specialization is yet to join to

college.

b) Pharmacy Practice Department is yet to commence its activities in the hospital and the space for Pharmacy Practice Deptt. in the hospital was inadequate.

c) Deptt. Library in the hospital supporting Drug Information Center was yet to start."

4. The report was sent to the Institution for compliance on 30.4.2009. The institution submitted reply on 16.5.2009 and the same was considered by the Central Council of the PCI in its 83rd Meeting held in May 2009 and the institution had taken a decision to seek explanation from the petitioner that why the permission granted for 2008-09 be not withdrawn on the following grounds:-

"a) complaints received from students.

b) non-compliance of Pharm.D. Regulations regarding appointment of pharmacy practice staff.

c) non-submission of affiliation/consent of the Examining Authority."

5. A show cause notice was issued to the petitioner institution. Reply of the same was submitted. However, as per the respondents the petitioner did not fulfill the requirement.

6. Another complaint was received against the petitioner institution and thereafter a team of four experts conducted surprise inspection of the petitioner institution on 27th and 28th October 2009. The inspecting team submitted report pointing out following deficiencies:-

"a) Regarding consent of the Examining Authority-

The inspection team telephonically contacted the Vice-Chancellor (Dr. P. Trivedi) of Rajiv Gandhi Proudhyogiki Vishwavidyalaya, Airport, Bypass Road, Gandhi Nagar, Bhopal, Madhya Pradesh, who informed that University has decided neither to affiliate nor to conduct any examination for Pharma.D. course. Hence inspecting team stated that till now the authority for the conduct of examination for the 1st batch of student is uncertain.

b) Regarding faculty, impersonation is not ruled out as complained by the students because Staff Declaration Form in respect of Principal was incomplete and Staff Declaration Form in respect of faculty was provided to inspection team just before their scheduled departure from the institution.

c) The actual number of faculty engaged for teaching of Pharma.D. Course could not be ascertained. As per SIF it is 8 during inspection with faculty members it is reduced to 5 while students informed it is 6.

d) The regularity of the attendance of the faculty members could not be ascertained as the attendance register was not found in the room of the Principal.

(e) The faculty retention is very poor. The institute started running in 2003 and the % of staff retained is as follows:-

6 yrs = 0% 5 years = 0% 4 yrs = 0% 3 yrs = 7% 2 yrs = 18% 1 yr = 11%. Out of 27 teachers 17 teachers less than 1 year's experience.

(f) A very weak administrative setup exists in the institution.

(g) The academic activity of the institute is poor. Only few students were found in the institute in classes of B.Pharm. Only 8 students out of 30 admitted students of Pharm.D. course were present.

(h) The academic atmosphere is very bad and does not appear that classes are held regularly and the students are attending classes as per Rules.

(i) The fees charged by the institution is ambiguous as it varies from 5,000 to 25000 and the period for receiving the money is not mentioned in the receipt.

7. The petitioner institution was directed to rectify the deficiencies and the council again in 85th meeting considered the matter and it had taken a decision that the institution should not take admission to D.Pharm & B.Pharm courses from 2010-11 academic session. Thereafter the Council directed the Principal of the petitioner institution to appear before the committee for personal hearing and the committee observed following deficiencies after personal hearing:-

"i) A lot of deficiencies are noticed in the Staff Declaration Form.

ii) Some of the teachers appointed as lectures (also designed as Asstt. Professor) are shown working in the college but they are found pursuing M.Pharm course at the same time.

iii) Principal joined the college on 5.5.2009. 5 teachers were appointed on 18.5.2009 and 3 teachers had joined on 4.5.2009.

iv) Most of the staff have not submitted proper certification i.e. copies of M.Pharm degree.

v) Some of the lectures who joined the institute have not submitted relieving orders from the previous organization.

vi) Many appointment letters do not bear reference number and date.

vii) Salary documents were not produced.

8. The petitioner institution submitted a documentary affiliation from Jiwaji University, Gwalior subject to certain conditions. Another surprise inspection was arranged in December 2010 for verifying the deficiencies and compliance of shortcomings. Thereafter an inspection was arranged by the respondents on 10.12.2010, but the institution did not allow the inspecting team to conduct the inspection. Another inspection was arranged on 4.1.2011, however, the inspecting team was not able to conduct inspection due to non cooperation of the

petitioner institution, hence, the respondent No. 1 passed an order on 6.1.2011. On 11.1.2011 the Principal informed the council that the institution was ready for inspection any time. The council directed the inspectors to carry out the inspection after 14.2.2011 and the respondents informed the institution that the team of inspectors would visit the institution on 1st and 2nd April 2011, however, the Principal of the Institution informed the respondents that the institution was not interested in getting the college inspected, however, the inspecting team visited the institution and carried out the inspection. The team in its inspection report pointed out the following deficiencies:-

a) instead of having MOU with 300 bedded hospital as required under Appendix-B of Pharm.D. Regulations, 2008, the institution tied up with 2 hospitals with 150 beds each (Nursing Home and Hospital) which is not permissible under Pharm.D. Regulations.

b) one more teaching staff with Pharmacy Practice specialization in PG is to be appointed.

c) Pharmacy Practice Department is only identified but not established.

d) facilities should be available for proper training of the students."

9. In view of the above, the respondents had taken a decision to stick to its earlier decision that the institution shall not admit the students from 2009-10 academic session. Thereafter the petitioner institution submitted a letter on 3.7.2011 informing the respondents that it had a MOU with 300 beds hospital and appointment of Pharmacy practice staff. Thereafter a surprise inspection was conducted on 5th & 6th August 2011 and the report was considered by the respondents in its meeting held in August 2011 and following decisions have been taken:-

-It was noted that the Council has granted approval for 2008-2009 academic session for 30 admissions for the conduct of 1st year Pharm.D.course.

-Since the students admitted during 2008-2009 have appeared for examination with Jiwaji University, it was decided to approve the continuation of Pharm.D.course for 2008-2009 admitted batch only.

-It was further noted that institution has MOU with 2 hospitals which is not permissible under Pharm.D.Regulations, 2008. In view of it, it was decided to instruct the institution to submit the MOU with 2 hospitals which is not permissible under Pharm.D. Regulations, 2008 for consideration of continuation of admission for Pharm.D.course from a prospective session."

10. The institution vide letter dt. 1.6.2013 requested the respondents to approve Pharma.D. and Pharma.D (P.B.) course from the academic session 2013-14, however, the petitioner institution did not submit the required documents alongwith it, hence, the respondents sent a letter on 3.7.2013 and following decision was taken in the 93rd meeting in 27th July 2013:-

-The latest information on record was placed.

-It was noted that the following documents for consideration of final approval u/ S. 12 for 2008-2009 admitted batch are yet awaited from the institution.

a) MOU with 300 bedded hospital.

b) Affiliation fee from 2010-2011 to 2013-2014.

-It was also decided to seek affiliation of Examining Authority for 2008-2009 admitted batch and to verify the facilities on receipt of all documents.

-Regarding institution's request for 2013-2014 academic session, the application be processed on receipt as per the prescribed procedure."

11. From the aforesaid facts, it is clear that there were deficiencies in the petitioner institution. There was no proper staff. MOU of 300 bedded hospital was not sent and there were number of complaints against the petitioner institution.

12. Petitioner alongwith the petition filed a copy of the letter dt. 31.05.2013 written by Dean, G.R. Medical College. By the aforesaid letter, it is said that the students of the petitioner institution were permitted for clinical practical in G.R. Medical College, however, the aforesaid letter dt. 31.5.2013 is not an MOU as required under the rules and regulations of the respondents. In such circumstances, the respondents have rightly issued the letters dt. 3.7.2013 (Annexure P/1), dt. 11.9.2013 (Annexure P/2) and dt. 26.9.2013 (Annexure P/3).

13. Consequently, we do not find any merit in this petition. It is hereby dismissed. No order as to costs.