

**(2014) 11 KAR CK 0077**

**In the Karnataka High Court**

**Case No : Writ Appeal No. 100887 of 2014 [EDN]**

S.B. Siddalinga Shivacharya

APPELLANT

Vs

The Union of India

RESPONDENT

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**Date of Decision : 18-11-2014**

**Acts Referred:**

Indian Medicine Central Council Act, 1970 — Section 13A

**Citation : (2014) 11 KAR CK 0077**

**Hon'ble Judges : Mohan M. Shantana Goudar, J;K.N. Phaneendra, J**

**Bench : Division Bench**

**Advocate : Uday Holla, Sr. Counsel for G.I. Gachchinamath, Advocate for the Appellant; M.B. Kanavi, CGSC, C.S. Patil, A.G.A., D.L. Ladkhan and Shivakumar S. Badawadagi, Advocate for the Respondent**

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## **Judgement**

Mohan M. Shantana Goudar, J.—The appellant is an Ayurvedic Medial College. It has got an intake of 30 students into Under-Graduate (BAMS) Course. The appellant made an application to increase the intake to 60 seats for the academic session 2013-14. According to the appellant, the same was granted for that academic session. It has also made an application for renewal of affiliation for the academic session 2014-15. Till this day, said representation of the appellant is not considered, as per law by the respondents. Hence, the appellant approached this Court in W.P. No. 109104/2014 [EDN-AD], which came to be dismissed by the learned Single Judge on 28.10.2014. The same is impugned in this writ appeal.

The learned Single Judge has proceeded on the basis that the application for increase in the intake of students for the academic session 2014-15 was on 31.05.2014 and hence, the same is time barred inasmuch as the petitioner/appellant ought to have filed the application within the end of April 2014. The learned Single Judge has also observed that the last date for admission to the Course in question for the academic year 2014-15 is 31.10.2014; As the hearing of the writ petition was on 28.10.2014, the learned Single Judge, having felt that

no useful purpose will be served in directing the respondents to consider the application filed by the petitioner/appellant for enhancement of intake, dismissed the writ petition.

2. It seems, it was not brought to the notice of the learned Single Judge, the letter dated 07.05.2014 issued by the Government of India, Ministry of Health and Family Welfare, Department of AYUSH, wherein it is observed thus:

"4. In view of the aforesaid position, the Central Government has taken a policy decision for extension of last date from 30th April, 2014 to 30th June, 2014 for submission of schemes (applications) under the provisions of the CCIM's Regulations of 2003, entitled "the Establishment of New Medical College, Opening of New of Higher Course of Study or Training and Increase of Admission Capacity by a Medical College Regulations, 2003" read with amendment Regulations of 2013 for obtaining permission of the Central Government under the provisions of Section 13A of the IMCC Act, 1970.

5. Therefore, the Central Council of Indian Medicine is hereby requested to notify immediately the extension of last date from 30th April, 2014 to 30th June, 2014 for submission of schemes (applications) as in para 4 above, as a onetime measure and to circulate it to all concerned colleges, Universities and State Governments and it may also be placed on the Council's website for wider publicity.

6. This issues with the approval of Competent Authority."

From the aforementioned, it is clear that the Central Government has taken a policy decision for extension of last date from 30.04.2014 to 30.06.2014, for submission of Schemes (applications) under the provisions of CCIM's Regulations, 2003.

3. It is further relevant to note that even the cut-off date for admission to Undergraduate and Post-Graduate Courses in the ASU & H Colleges is extended till 30.10.2014 for the academic Session 2014-15 as is clear from the letter dated 28.10.2014, Annexure "H". The said letter of the Central Government (relevant portion) reads thus:-

"4. Therefore, the Central Council of Indian Medicine and Central Council of Homoeopathy is hereby requested to notify immediately the extension of the cut-off date of admissions in UG and PG courses in the ASU & H colleges till 30th November, 2014 for the academic session 2014-15, as a one-time measure and to circulate it to all concerned colleges, Universities and State Governments and it may also be placed on the Council's website for wider publicity.

This issues with the approval of Competent Authority."

4. From the aforementioned, it is clear that the date for submission of applications, praying for increase of seats as well as for extension of cut-off date for admissions to Under-Graduate Courses is extended by the Central

Government.

5. Since, the appellant has made an application seeking increase of intake from "30" to "60" on 31.05.2014, the same is well within the extended period fixed by the Government of India. The date for admissions to Under-Graduate Course of AYUSH for the year 2014-15 is also extended till the end of November 2014. Hence, the Central Government shall consider the prayer" of the appellant as per law, for increasing the intake for Under-Graduate Course in AYUSH.

6. It is needless to observe that the Central Government will take into consideration the recommendations, if any, made by the Central Council of Indian Medicine, etc. before considering the representation. This Court hopes that since 30th November, 2014 is fast approaching, the application filed by the appellant seeking increase of intake from "30" to "60" shall be considered as early as possible, but not later than the outer limit of 25th November 2014.

The impugned order dated 28.10.2014 in W.P. No. 109104/2014 [EDN-AD] passed by the learned Single Judge stands set aside.

The writ appeal is allowed.

In view of urgency of the matter, a copy of the operative portion of this order shall be furnished to the appellant's counsel as well as the advocates appearing on behalf of respondents, today itself.