

HIGH COURT OF MADHYA PRADESH AT JABALPUR
WRIT PETITION NO.9736/2015

PETITIONER : **MAHARANA PRATAP COLLEGE OF
DENTISTRY & RESEARCH CENTRE**

Vs.

RESPONDENTS : **THE UNION OF INDIA &
OTHERS**

For the petitioner : Shri R. N. Singh, learned Senior
Counsel with Shri Akshay Pawar,
Advocate.

For respondent no.1 : Shri Vikram Singh, Advocate.

For respondent no.2 : Shri Tabrej Sheikh, Advocate.

For respondent no.3. Shri Mohan Sausarkar, Advocate.

For respondent no.4. Shri Tapan Kr. Trivedi, Advocate.

**Present : Hon'ble Shri Justice R.S. Jha,
Hon'ble Justice Smt. Nandita Dubey, JJ.**

Whether approved for reporting: YES

Law Laid down : -

Significant paragraph numbers :

ORDER
(09/11/2017)

Per R. S. Jha, J:-

The petitioner has filed this petition being aggrieved by order dated 15.6.2015 passed by the respondent Govt. of India, Ministry of Health & Family Welfare, whereby the application filed by the petitioner for grant of renewal of permission for MDS Course in eight specialities for the Session 2015-16 has been rejected.

2. The learned Senior Counsel for the petitioner submits that the petitioner-institution has been running B.D.S Courses since the last several years. It is submitted that in the year 2014 the petitioner-institution was granted permission to start 5 MDS Courses with a total intake of 12 students from the academic session 2012-13. Subsequently, the petitioner, while obtaining renewal of permission in respect of 5 MDS Courses also obtained permission for starting a new MDS Course in the speciality of Paedodontics and Preventive Dentistry for which permission was granted to the petitioner on 8.4.2013. It is stated that for the session 2013-14 the Jiwaji University, Gwalior granted affiliation to the petitioner-institution for the aforesaid 6 MDS Courses for which permission had been granted by the Govt. of India.

3. It is submitted by the learned Senior Counsel for the petitioner that while applying for renewal of permission for the aforesaid 6 MDS Courses for the session 2014-15, the petitioner applied for and was granted permission for starting 2 new MDS Courses from the academic session 2014-15 in the specialities of Conservative Dentistry and Endodontics and Oral and Maxillofacial Surgery.

4. The learned Senior Counsel for the petitioner submits that when the petitioner thereafter applied for permission to the Govt. of India and the Dental Council of India for granting permission for the academic session 2015-16 for the aforesaid 8 MDS Courses, the same was rejected by the respondent authorities by order dated 31.3.2015 in view of the negative recommendation dated 28.2.2015 given by the Dental Council of India on account of the fact that the petitioner-institution had not obtained affiliation for the aforesaid 8 MDS Courses for the session 2014-15.

5. The petitioner being aggrieved filed two petitions before the Gwalior Bench of this Court which were registered as W.P Nos.2068/2015 and 2436/2015. These two petitions were ultimately disposed of by two separate identical orders on 25.5.2015 taking into consideration the fact that the petitioners made a statement before the Court to the effect that the Medical University, respondent no.2, had ultimately granted affiliation to the petitioners for the academic session 2014-15 by order dated 18.2.2015 and that in an identical petition the Gwalior Bench of this Court had remitted the matter for reconsideration before the

authorities. The petitions were disposed of with the following directions:-

“13. Without entering into the merits of the contentions of the rival parties and as to whether the letter of affiliation of the respondent university Annexure P/12 dated 18.02.2015 is genuine or not, this Court disposes of this petition with the following directions:

1. The impugned orders Annexure P/1 and Annexure P/2 passed by the respondents No. 1 and 3 respectively are set aside.
2. The respondent No. 1 is directed to reconsider the case of the petitioner institute for renewal of permission to BDS courses mentioned in the order of affiliation dated 18.02.2015 afresh after hearing both the parties and after verifying the authenticity of Annexure P/12 the order of affiliation dated 18.02.2015 allegedly issued by the respondent University at Jabalpur.
3. In case the letter of affiliation Annexure P/12 dated 18.02.2015 is found to be genuine and the case of the petitioner for renewal of permission in the BDS courses be considered and necessary order be passed as expeditiously as possible preferably before 30.05.2015, provided doing so does not violate any law or verdict of the Supreme Court on the subject matter involved.”

6. Pursuant to the directions issued by the Gwalior Bench of this Court, the matter has been reconsidered by the respondent Govt. of India and has again been

rejected by the impugned order dated 15.6.2015, hence this petition.

7. The learned Senior Counsel for the petitioner submits that the impugned order passed by the respondent authorities is in absolute derogation of the directions issued by the Gwalior Bench of this Court in W.P. Nos.2068/2015 and 2436/2015 inasmuch as the authorities who were in fact directed to examine the authenticity of the letter/order of affiliation dated 18.2.2015 have not applied their mind to the aforesaid aspect and without doing so have rejected the request of the petitioner for grant of permission for the session 2015-16.

8. It is submitted that the Gwalior Bench of this Court, while disposing of the petitions, had limited the enquiry to be conducted by the respondent authorities only to the extent of examining the authenticity of the order of affiliation dated 18.2.2015 whereas the respondent authorities have gone beyond the aforesaid limited scope of enquiry and rejected the application seeking permission on certain other grounds which were beyond their power and authority to examine or consider in view

of the limited directions issued by the Gwalior Bench of this Court in W.P Nos.2068/2015 and 2436/2015.

9. The learned counsel for the respondent Govt. of India; Dental Council of India as well as the Medical University submit that, as is evident from the directions issued by the Gwalior Bench of this Court in W.P Nos.2068/2015 and 2436/2015 that this Court, apart from directing the authorities to examine the authenticity of the order of affiliation dated 18.2.2015 had observed that orders be passed by the Govt. of India specifically keeping in mind the fact that any such order passed by them does not violate any law or verdict of the Supreme Court on the subject matter involved.

10. It is submitted that the Govt. of India, while examining the matter found that the last date prescribed in the time schedule for granting permission and undertaking the process for admission as prescribed by the Medical Council of India Regulations, had already lapsed and in view of the Supreme Court judgment in the case of **Priya Gupta vs. State of Chattisgarh and others**, (2012) 7 SCC 433, as well as in various other judgments, strict compliance of the time schedule was made mandatory, therefore, it was not possible to make

any changes to the disapproval already conveyed to the petitioner on the previous occasion and the same was accordingly affirmed and the application has been rejected.

11. It is submitted that the impugned order has in fact been passed by the Govt. of India in compliance of and in line of the directions issued by the Supreme Court in a series of decisions and in such circumstances does not warrant any interference by this Court.

12. Having heard the learned counsel for the parties at length and having examined the record of the case, it is observed and is in fact an undisputed fact that the Supreme Court in the case of **Priya Gupta** (supra), **Mridul Dhar (Minor) and Another vs. Union of India and others**, (2005) 2 SCC 65, **Medical Council of India vs. Madhu Singh and Others**, (2002) 7 SCC 258 as well as in the case of **Ashish Ranjan & Others vs. Union of India & Others**, (2016) 11 SCC 225, has clearly held that the time schedule for obtaining permission and for granting admissions has to be strictly adhered to by the Central Council, the Colleges, the State authorities and all other stake holders and that this

direction of the Supreme Court is binding on all concerned.

13. Quite apart from the above, the time schedule has also been notified by the MCI and has, therefore, acquired the status of a binding statutory provision. It is also an admitted and undisputed fact that as per the time schedule notified, an institution concerned is required to submit the document relating to affiliation with the university latest by 30th of June, 2014 and that 28th of February, 2015 was the last date for making recommendation by the Dental Council of India to the Govt. of India and the last date for Govt. of India to either approve or disapprove the case was 31.03.2015.

14. From a perusal of the impugned order, it is apparent that the Govt. of India on reconsideration of the matter as per the direction of the Gwalior Bench of this Court in W.P. Nos. 2068/2015 and 2436/2015 has taken this aspect into consideration and has decided that any order either granting or disapproving the permission sought by the petitioner after the lapse of the cut-off date prescribed and as approved by the Supreme Court would amount to violating the verdict of the Supreme Court as well as the directions issued by the Gwalior Bench of this

Court wherein it has specifically been observed that a decision in the matter be taken “provided doing so does not violate the Verdict of the Supreme Court in the subject matter involved” and has, therefore, rejected the application.

15. The facts on record further establish that for obtaining affiliation for the academic session 2014-15, which was necessary to be produced by the petitioner for obtaining permission from the Central Government for the session 2015-16, the petitioner was required to apply for affiliation before the Jiwaji University, Gwalior in the year 2013 whereas admittedly and apparently, as is evident from the documents filed by the respondent Jiwaji University, the petitioner, for the first time, applied after the last cut-off date in the year 2014 for obtaining affiliation from the Jiwaji University for the session 2014-15.

16. It is alleged by the petitioner that this application for affiliation for the session 2014-15 filed by the petitioner much after the cut-off date prescribed by the M.C.I., got delayed on account of establishment of the Medical University at Jabalpur, for which the petitioner should not be held responsible or penalized.

17. Apparently, when the petitioner had itself applied for affiliation in the year 2014 instead of 2013, much after the cut-off date, the petitioner cannot be heard to blame the respondent University or to claim any benefit on account of the delay caused by the Universities in processing the petitioner's application.

18. In the circumstances, the contention of the petitioner that the petitioner was made to suffer on account of delay by the University is factually incorrect and legally misconceived as the delay has in fact occurred on the part of the petitioner itself as it has applied for affiliation in the year 2014 whereas it should have done so in the year 2013.

19. The facts on record also establish that this application, for obtaining affiliation for 8 MDS programmes for the session 2014-15 was filed by the petitioner in the year 2014 much after the cut-off date, was actually considered and partly allowed by the order of the respondent Medical University dated 18.2.2015 whereby instead of granting affiliation for 8 MDS programmes, the respondent Medical University has granted affiliation only for 6 MDS programmes for the year 2014-15.

20. The facts brought on record clearly establishes that the affiliation granted by the respondent Medical University dated 18.2.2015, on the basis of which the matter was remanded back to the Central Government by the Gwalior Bench, only related to 6 MDS programmes whereas the petitioner was seeking permission for 8 MDS programmes and that admittedly the order granting affiliation dated 18.2.2015 was neither brought to the notice of or placed before the Central Government by the petitioner at the time when the matter was initially considered by the Central Government and rejected.

21. It is also an undisputed fact that ultimately when the matter was again reconsidered by the Central Government after remand by the Gwalior Bench, the last cut-off date for considering the same had lapsed and that even on that date the petitioner did not possess affiliation for 2 MDS programmes for which the petitioner was seeking to obtain permission from the Central Government.

22. We are of the considered opinion that no fault can be found with the impugned order or the ground on which the application for permission filed by the petitioner has been rejected in view of the admitted and undisputed fact that processing of the application after or passing any

order thereon after the cut-off date prescribed and approved by the Supreme Court would have violated the verdict of the Supreme Court on the subject matter and in such circumstances the permission sought for by the petitioner for the academic session 2015-16 has rightly been rejected by the Govt. of India by the impugned order.

23. Pursuant to the interim order passed by this Court on 08.07.2015 this Court had asked the petitioner as well the respondent to file affidavits giving details of the students admitted by the petitioner-institution, the date on which such admissions have been made and the speciality in which the admission has been granted.

24. Pursuant to the directions issued by this Court though the petitioner has filed two affidavits one on 08.09.2017 and the other by I.A. No.11392/2017, the learned Senior Counsel for the petitioner submits that the petitioner be permitted to withdraw I.A. No.11392/2017. At the same time, the respondent DCI has filed a detailed affidavit giving facts relating to the admissions made by the petitioner pursuant to the direction issued by this Court on 08.09.2017.

25. From a perusal of the aforesaid affidavits, it is apparent that in the session 2015-16 admissions to the

Post Graduate courses had to be completed latest by 10.06.2015 which was extended by the Supreme Court in the case of **Ashish Ranjan** (supra) to 30.06.2015 and that no admissions after the aforesaid cut-off date of 30.06.2015 could have been made either by the authorities or by the institution concerned.

26. From the facts on record, it is also apparent that the interim order in the instant case was passed by this Court on 08.07.2015 much after the last date for making admissions was over. It is also an undisputed fact that no counselling was undertaken by any of the respondents or any other authorities after 08.07.2015.

27. It is apparent as well as is evident from the affidavit of the petitioner, I.A No.11392/2017, that the petitioner-institution has admitted the fact that, after issuance of the interim order by this Court on 08.07.2015, it has granted admission to certain students on the strength of the interim order on its own at the college level itself without the knowledge of the State and without participating in any counselling process as the same was already over and did not take place after passing of the interim order and have, therefore, done so in gross violation of the mandatory procedure prescribed by the Regulations and Rules. The

admissions granted by the petitioner are absolutely illegal. It is also apparent that on the strength of the interim order, the petitioner-institution has again taken up proceedings for admission against which proceedings have been taken by the DCI which is pending as is evident from the affidavits.

28. In view of the aforesaid facts and circumstances and in view of the law laid down by the Supreme Court in the cases of **Priya Gupta** (supra), **Mridul Dhar** (supra), **Madhu Singh** (supra) and **Ashish Ranjan** (supra), the petition filed by the petitioner is dismissed. It is also observed that any admission made by the petitioner on their own de hors the Rules, after the cut-off date and without following the procedure of law, being illegal, would be treated as such and no rights in relation to declaration of result, etc. would accrue to such students except to claim compensation from the petitioners, if so entitled, in accordance with the procedure prescribed in common law.

29. The petition filed by the petitioner being meritless is accordingly dismissed.

(R. S. JHA)
J U D G E

(NANDITA DUBEY)
J U D G E

mms/-