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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 12090/2018 & CM APPLs. 46826/2018, 46827/2018

DEV BHOOMI MEDICAL COLLEGE OF
AYURVEDA AND HOSPITAL AND ANR Petitioners
Through: Mr. Sanjeev Puri, Sr. Adv. with
Mr. Aditya Chhibber, Adv.

versus

UNION OF INDIA AND ORS. Respondents
Through: Ms. Suparna Srivastava, CGSC
with Ms. Nehul Sharma, Adv. for R-1 and 2

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

% **12.11.2018**

CM APPL. 46827/2018 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 12090/2018 & CM APPL. 46826/2018 (stay)

1. On 18th September, 2017, the petitioner was granted permission, by respondent no.1, to establish its College with 60 seats, in the UG (BAMS) course for the academic session 2016-2017.
2. On 7th November, 2016, the earlier regulations were superseded, by the Government of India, by the Indian Medicine Central Council (Requirements of Minimum Standard for under graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016. Pursuant thereto, the writ petition asserts that, on 6th February, 2018, the College was

for  Court Master
Delhi High Court
New Delhi.

inspected by Respondent No.2 following which an inspection report was issued, expressing satisfaction of the inspection team regarding the fulfilment, by the petitioner, of all requisites for admitting 60 students in its BAMS Course.

3. This was followed by a second visit on 24th May, 2018.

4. On 16th August, 2018, the petitioner received a communication, from Respondent No.1, pointing out eight alleged deficiencies.

5. It was subsequently granted an opportunity of hearing under Section 13A (5) of Indian Medicine Central Council Act, 1970, on which occasion an explanation was submitted in writing, pointing out that the deficiencies stood cured.

6. Despite this, the writ petition submits, on 31st August, 2018, the impugned order was passed, again listing out the above mentioned alleged deficiencies, but without considering the explanation submitted by the petitioner thereto.

7. The impugned order denies the petitioner college permission to grant admission to students for the BAMS (UG) Course, for the academic session 2018-2019.

8. The writ petition points out that the last date for admission now stands fixed by 15th November, 2018 and that there is one more round of counselling to be done.

9. Reliance has been placed, by the petitioner, on orders passed by various High Courts, including orders passed by this Court, which are annexed at Annexures- P-20, P-25 and P-26.

10. The order at Annexure P-20, which was passed on 11th October, 2018 in W.P.(C)10959/2018 i.e. ***Beehive Ayurved Medical College And Hospital v. Union of India***, may, for ready reference be

for 
Court Master
Delhi High Court
New Delhi.

reproduced thus:

“W.P.(C) 10959/2018 & CM No.42690/2018 (for stay)

3. This petition, though not on the Roster of this Bench has been received at about 1215 hours in terms of General Direction dated 9th October, 2018 of Hon'ble the Chief Justice, owing to the Roster Bench Judge being on leave.

4. The senior counsel for the petitioners has been heard.

5. It is the contention of the senior counsel for the petitioners that vide the impugned communication dated 29th September, 2018, permission to the petitioners to make admissions to BAMS course for the academic year 2018-2019 has been denied on the ground of deficiencies allegedly found during the inspection carried out. It is argued, that pursuant to said inspection an opportunity was given and in which hearing the petitioners, as recorded in the minutes of hearing at page 143 of the paper book, had furnished proof of deficiencies pointed out not existing/having been made up. It is further argued, that permission has been denied without considering the same as well as the minutes of hearing. Attention is also drawn to the order of the Rajasthan High Court at page 156 of the paper book and to the public notice issued by the respondent No. 1 of 15th September, 2018, permitting the Colleges who had approached the High Court of Allahabad, to make admissions subject to final orders in the writ petitions.

6. On enquiry, it is informed that the last date for admission is 31st October, 2018, but prior thereto several steps have to be taken.

7. The counsel for the respondent no. 1 appearing on advance notice states that he has no instructions and seeks time till Monday i.e. 15th October, 2018.

8. None appears for respondent No. 2 Central Council of Indian Medicine, in spite of advance copy stated to have been given.

9. The counsel for the respondent No. 1, on enquiry states that he will take instructions qua appearing for the respondent No.2 as well.

for And
Court Master
Delhi High Court
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10. Issue notice.
11. Notice is accepted by the counsel for the respondent No.1.
12. The petitioners to serve the respondent No.2 electronically on the letter head of the counsel for the petitioners himself, along with the copy of the paper book.
13. List before the Roster Bench on 15th October, 2018.
14. Till further orders, the petitioners may proceed with the admissions in terms of the public notice dated 15th September, 2018 aforesaid.

A copy of this order be given *dasti* under the signatures of the Court Master.”

11. In the circumstances, issue notice on the writ petition as well as on the stay application, to the respondents, to show cause as to why rule *nisi* be not issued, returnable on 14th February, 2019.
12. Till further orders, the petitioner is permitted to proceed with admissions in term of the public notice dated 15th September, 2018. This shall, of course, remain subject to the outcome of the writ petition.
13. The respondents are also directed to upload/include the name of the petitioner college on its portal i.e. www.uau.ac.in.
14. A copy of this order be given *dasti* under the signatures of the Court Master.

NOVEMBER 12, 2018

dsn

C. HARI SHANKAR, J


Court Master
Delhi High Court
w Delhi.