

Royal Medical Trust (Registered)

v.

Union of India & Another

(Supreme Court Of India)

HON'BLE MR. JUSTICE H.L. DATTU HON'BLE MR. JUSTICE SUDHANSU JYOTI
MUKHOPADHAYA

Civil Appeal No. 8054 Of 2013 | 10-09-2013

Leave granted. This appeal by special leave is directed against the judgment and order passed by the High Court of Kerala at Ernakulam in Royal Medical Trust v. Union of India (WA No. 671 of 2013, decided on 27-5-2013 (Ker), dated 27-5-2013. By the impugned judgment and order the High Court has rejected the writ appeal filed by the appellant.

The appellant Trust is the owner of a hospital functioning at Cherpulassery in Palakkad District, Kerala with occupancy of 500 beds and related facilities. The appellant, desirous of establishing a new medical college, approached the State Government for grant of essentiality certificate. The State Government had issued the essentiality certificate valid for making an application to the Central Government for academic years 38646/S2/2006/H&FWD dated 13-9-2010. Thereafter, in order to comply with the requirement of Section 10-A of the Indian Medical Council Act, 1956 (for short "the Act"), the appellant had filed an application before the Kerala University of Health Sciences (for short "KUHS") to obtain affiliation certificate before making an application before the Central Government, dated 6-5-2012.

Besides other communication between KUHS and the appellant, on 14-6-2012 KUHS required the appellant to submit the no-objection certificate (essentiality certificate) from the State Government for the year 2013-14 and a certificate from the Revenue Officials stating that the proposed land area is a single plot.

The appellant furnished the essentiality certificate for the academic years 2013-14 and 2014-15 issued by the State Government dated 16-8-2012 on the event date. However, for reasons best known to KUHS, it did not issue the affiliation certificate well in time i.e. before 31-8-2012. Therefore, the appellant was constrained to submit the application under Section 10-A(2)(a) of the Act to the Central Government without the affiliation certificate on 20-8-2012, which was referred to the Medical Council of India (for short "the Council") – Board of Governors – for the purpose of its remarks and recommendations, on 28-8-2012.

It is pertinent to mention here that after the deadline for application for the academic year 2013-2014, KUHS had issued the affiliation certificate which was sought for by the appellant

on 1-11-2012, whereafter the appellant supplied the same to the Council for its consideration. However, the Council rejected the application for academic year 2013-14 on the ground inter alia that the application filed by the appellant though submitted in time is incomplete application in terms of the various statutory regulations due to non-submission of affiliation certificate on 8-10-2012.

Aggrieved by the action of the Council, the appellant had approached the writ court in WP (C) No. 1549 of 2013 on 14-1-2013. The said writ petition came to be rejected by the writ court on 26-2-2013 (Royal Medical Trust v. Union of India, WP (C) No. 1549 of 2013, decided on 26-2-2013 (Ker). Aggrieved by the same, the appellant had approached this Court in SLP (C) No. 13662 of 2013 which was rejected with the grant of liberty to the appellant to approach appropriate appellate forum to exhaust available alternate remedies before approaching this Court under Article 136 of the Constitution of India by order dated 18-4-2013 (Royal Medical Trust v. Union of India, SLP (C) No. 13662 of 2013, order dated 18-4-2013 (SC) (2014) 14 SCC 675 (F3), wherein it was directed:

“This special leave petition is directed against the orders passed by the learned Single Judge of the High Court of Kerala in Ernakulam in Writ Petition (Civil) No. 1549 of 2013, dated 26-2-2013. In our view, if, for any reason, the petitioner is aggrieved by the aforesaid order, he has to file a writ appeal before the very same High Court. Bypassing that remedy, in our opinion, the petitioner should not have approached this Court. In that view of the matter, we decline to entertain this petition. However, we permit the petitioner to file a writ appeal before the very same High Court within a week’s time from today, if the petitioner is so desired. If such a petition is filed within the time granted by us, we request the High Court to dispose of the appeal as expeditiously as possible. All the contentions of the petitioner are left open. Ordered accordingly.”)

Thereafter, the appellant had filed the writ appeal before the Division Bench of the High Court. The Division Bench dismissed (Royal Medical Trust v. Union of India, WA No. 671 of 2013, decided on 27-5-2013 (Ker) the same being the view that the application filed by the appellant was an incomplete application in terms of statutory regulations and therefore, the Council was justified in not registering the application filed by the appellant. It is the correctness or otherwise of the said order which is called in question by the appellant before this Court.

We have heard the learned counsel for the parties to the lis.

It is neither in dispute nor can it be disputed by the Council that the appellant herein had filed an application before KUHS for grant of affiliation certificate well in time. It is apparent from the record that the said affiliation certificate was not furnished to the appellant in time in spite of sending reminders to KUHS to furnish the affiliation certificate inter alia bringing to its

notice the urgency involved in the matter. For reasons best known to it, as we have already mentioned, KUHS did not furnish the said certificate to the appellant. This prompted the appellant to make an application before the Central Government for registration of its application lest the cut-off dates prescribed by the statutory regulation would have expired and the appellant in that case would have been remediless in light of the dictum of this Court in *Mridul Dhar (5) v. Union of India* (2005) 2 SCC 65 : 2 SCEC 673) and *Priya Gupta v. State of Chhattisgarh* (2012) 7 SCC 433 : (2012) 2 SCC (L&S) 367 : 4 SCEC 555) requiring strict adherence to the said prescribed deadlines.

The directions issued by this Court in *Mridul Dhar (5) v. Union of India* (2005) 2 SCC 65 : 2 SCEC 673) reiterated and reconfirmed by this Court in *Priya Gupta* case (2012) 7 SCC 433 : (2012) 2 SCC (L&S) 367 : 4 SCEC 555) are extracted hereunder: (*Mridul Dhar (5) case* (2005) 2 SCC 65 : 2 SCEC 673), pp. 84-85, para 35)

“35. We issue the following directions:

* * *

(14) Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.

(15) Time schedule provided in the Regulations shall be strictly adhered to by all concerned failing which the defaulting party would be liable to be personally proceeded with.”

In *Priya Gupta v. State of Chhattisgarh* (2012) 7 SCC 433 : (2012) 2 SCC (L&S) 367 : 4 SCEC 555) this Court in context of the rampant flouting of rules and regulations by the institutions and authorities concerned observed as follows: (SCC pp. 450-51, paras 44-45)

“44. The consistent effort of this Court to direct corrective measures and adherence of law is not only being thwarted by motivated action on the part of the authorities concerned, but there has been a manifold increase in arbitrary admissions. Repeated defaults have resulted in generating more and more litigation with the passage of time. This Court, thus, now views this matter with greater emphasis on directions that should be made to curb incidents of disobedience.

45. The maxim *boni iudicis est causas litium dirimere* places an obligation upon the Court to ensure that it resolves the causes of litigation in the country. Thus, the need of the hour is that binding dicta be prescribed and statutory regulations be enforced, so that all concerned are

mandatorily required to implement the time schedule in its true spirit and substance. It is difficult and not even advisable to keep some windows open to meet a particular situation of exception, as it may pose impediments to the smooth implementation of laws and defeat the very object of the scheme. These schedules have been prescribed upon serious consideration by all concerned. They are to be applied *stricto sensu* and cannot be moulded to suit the convenience of some economic or other interest of any institution, especially, in a manner that is bound to result in compromise of the abovestated principles.

In the instant case, the appellant mindful of the aforesaid directions of this Court, had applied in due time adhering to the statutory timelines. Its application in terms of necessary documents was in fact complete but for the affiliation certificate from KUHS which was awaited by the appellant even after several reminders for its issuance to KUHS pressing upon the urgency of the matter. Since the appellant was not at fault but constrained due to the delay on the part of KUHS, the Council was expected to have appropriately considered the facts and circumstances of the case pleaded by the appellant and thereafter, reached a conclusion one way or the other on its merits instead of functioning in such mechanical manner by rejecting the application filed by the appellant and, thereafter, forwarding it to the Central Government with its adverse recommendations. In our considered opinion, this aspect of the matter ought to have been noticed by the writ court in writ petition as well as the writ appeal. Since that has not been done, in our considered view, we cannot sustain the impugned judgment and order (*Royal Medical Trust v. Union of India*, WA No. 671 of 2013, decided on 27-5-2013 (Ker) passed by the High Court).

Accordingly, while allowing the appeal, we direct the Council to register the application for the academic year 2013-2014 and thereafter, proceed with the matter on its merits in accordance with Act and Rules thereto within 15 days' time from today. The higher authority, after receipt of the recommendations made by the Council, will act upon such recommendations and pass appropriate orders in accordance with law as expeditiously as possible, at any rate within a month's time from today.

With these observations and directions, the appeal is disposed of.

Ordered accordingly.