

# SUPREME COURT OF INDIA

Advanced Medical and Educational Society

Vs.

Union of India

WP(Civil)No.935 of 2017

(Dipak Misra,CJI., A.M.Khanwilkar and Dr.D.Y.Chandrachud,JJ.,)

04.10.2017

## JUDGMENT

**A.M.Khanwilkar,J.,**

1. The petitioners made an application for establishment of a new medical college at Bhopal, Madhya Pradesh in the name and style of “Advanced Institute of Medical Sciences” for the academic session 2016-17 to the Ministry. That proposal was duly processed and decision was taken not to issue Letter of Permission (for short, “LOP” ) to the petitioner-institute for the academic session 2016-17. The Oversight Committee (for short, “OC” ), appointed by this Court, however, issued directive and approved the proposal for establishment of new medical college with an annual intake of 150 students for the academic session 2016-17 on certain conditions. Accordingly, the Central Government issued a formal conditional LOP on 12 th September, 2016 for establishment of a medical college for the academic year 2016-17 on conditions imposed by the OC. As per the conditions in the said LOP, an assessment report with regard to verification of compliance submitted by the college was duly considered by the Executive Committee of the MCI in its meeting held on 13 th January, 2017. Noting as many as 26 deficiencies, the MCI decided to make a negative recommendation. Accordingly, the MCI informed the Ministry vide its letter dated 15th January, 2017. The Ministry then gave opportunity of personal hearing to the petitioner-institute on 8th February, 2017 before Director General of Health Services (for short, “DGHS” ). The Hearing Committee concurred with the negative recommendation given by the MCI because of as many as 16 deficiencies noticed by it, which were not satisfactorily explained by the petitioner-institute. The Ministry forwarded the report of Hearing Committee to the OC for guidance. The OC vide its letter dated 14th May, 2017, conveyed its views to the Ministry favouring confirmation of conditional LOP for the academic session 2016-17. However, the Ministry chose to accept the recommendation of the MCI in view of significant deficiencies and vide its letter dated 25th July, 2017, informed the petitioner-institute that it was debarred for two years and authorized the MCI to encash the Bank Guarantee of Rs. 2 Crore.

2. The petitioners challenged that order before the High Court of Madhya Pradesh, Principal seat at Jabalpur, being WP No. 12138 of 2017. The High Court following the decision of this Court directed the Central Government to re-examine the matter and to record reasons. In compliance with the said direction, the Ministry granted hearing to the college on 24th August, 2017. The Hearing Committee after considering the record and submissions of the college submitted its report to the Ministry and noted as under:-

“Acute deficiencies of faculty, residents, clinical material and infrastructure have been pointed out in the MCI assessment. The college could not produce conclusive documentary evidence in support of their assertions. The college claim of 05.01.2017 being a gazetted holiday on account of Guru Govind Singh Jayanti would not hold as the first day of Inspection on which verification of faculty/residents takes place was 04.01.2017. The college could not respond with proof to the objection that though they possess 23 acres of unitary campus, the quarters for teaching faculty are located in the other plot of 2 acres. The copy of order dated 15.05.2017 passed by the Hon’ ble NGT was very clear. However, it does not indicate any relief being granted to the college. In view of the deficiencies as exists, the Committee agrees with the decision of the Ministry vide letter dated 08.06.2017 to debar the college for two years and also permit MCI to encash bank guarantee.”

3. The Central Government accepted the recommendation of the Hearing Committee and vide decision dated 30th August, 2017 reiterated its earlier decision dated 25th July, 2017 to debar the petitioner-institute from admitting students for two academic sessions i.e. 2017-18 and 2018-19 and also authorized MCI to encash the bank guarantee of Rs. 2 crore. This decision has been challenged in this writ petition and for further relief to direct the respondents to allow the petitioner-institute to admit up to 150 students in MBBS course for the academic session 2017-18.

4. We have heard Mr. V. Giri, learned senior counsel appearing for the petitioners, Mr. Vikas Singh, learned senior counsel appearing for the MCI and Mr. Maninder Singh, learned Additional Solicitor General for Union of India.

5. As regards the relief of issuing direction to the respondents to allow the petitioner-institute to admit upto 150 students for the academic session 2017-18, the same will have to be rejected in view of the recent decision of this Court in the case of *Royal Medical Trust & Anr. Vs. Union of India & Anr*<sup>1</sup>.

6. Reverting to the decision dated 30th August, 2017, passed by the Central Government, instead of analyzing the factual matrix culminating with the said decision, we may adopt the course taken in the case of *Annai Medical College & Hospital and Anr. Vs. Union of India and Anr*<sup>2</sup>. That, in our opinion, will subserve the ends of justice. Accordingly, we dispose of the present writ petition in the same terms.

7. Writ petition is disposed of as follows:-

“(i) The respondents are directed to allow the students already admitted in the petitioner-institute on the basis of conditional LOP for the academic session 2016-17, to continue their studies.

(ii) The MCI shall depute its Inspection Team within a period of three months to submit an assessment report regarding the overall performance and efficiency of the petitioner-institute and deficiencies, if any, and give time to the petitioner-institute to remove those deficiencies within the time specified in that regard.

(iii) We direct that the stated inspection by the MCI will be to consider confirmation of LOP of petitioner institute for the academic session 2016-2017.

(iv) The petitioner-institute shall then report its compliance and communicate the removal of deficiencies to MCI, whereafter it will be open to the MCI to verify the position and then submit its recommendation to the Ministry. The Ministry shall then take a final decision within one month of the receipt of the recommendation from the MCI by taking assistance of the Hearing Committee as constituted by the Constitution Bench of this Court in *Amma Chandravati Educational and Charitable Trust & Ors. Vs. Union of India & Anr*<sup>3</sup>, or other directions given in the said decision and in accordance with law.

(v) We direct that until a final decision is taken by the Ministry and communicated to the petitioners, the Bank Guarantee offered by the petitioners in the sum of Rs. Two Crore shall not be encashed by the MCI but the petitioners shall keep the same alive. If it has already been encashed in the meantime, the amount shall be refunded to the petitioner-institute, who shall furnish a fresh Bank Guarantee in the like amount to the MCI within two weeks from the date of receipt of the amount.

(vi) In the event the final decision of the Competent Authority of the Central Government is adverse to the petitioners, it will be open to them to take recourse to such remedies as may be permissible in law.

(vii) We further direct the respondents to treat the renewal application submitted by the petitioner-institute for the academic session 2017-18 as having been made for the academic session 2018-19 and process the same in accordance with law with promptitude.”

8. There shall be no order as to costs.

Judgment Referred.

<sup>1</sup>WP(Civil)No.747 of 2017

<sup>2</sup>WP(Civil)No.525 of 2017

<sup>3</sup>WP(Civil)No.408 of 2017