

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Pronounced on:30.09.2015

+ **LPA NO.654/2015 & CM Nos.21070-71/2015**

VENKATESHWARA UNIVERSITY & ANR. Appellants

Through: Mr.Nidhesh Gupta, Sr.Adv. along
with Mr.J.S. Bhasin, Ms.Rashmi Priya,
Mr.Nishant Shokeen and Mr.Indeerjeet Singh,
Advs.

Versus

MEDICAL COUNCIL OF INDIA & ANR. Respondents

Through: Mr.Vikas Singh, Sr.Adv. along with
Mr.T. Singhdev and Ms.Biakthansangi, Advs. for
R-1.
Mr.Rajesh Gogna, CGSC along with Ms.Nimisha
Kaul, Adv. for R-2.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

J U D G M E N T

: **Ms.G.ROHINI, CHIEF JUSTICE**

1. The unsuccessful petitioners in W.P.(C) No.7672 of 2015 are the appellants in this appeal preferred against the order of the learned Single Judge dated 21.09.2015.

2. The said writ petition was filed by the appellants/writ petitioners impugning the recommendation dated 05.03.2015 of the Medical Council of India (for short 'MCI') for disapproval of the scheme submitted by the appellants for the establishment of a new medical college with intake of 150 students for the Academic Year 2015-16 as well as the order of the

Central Government dated 15.06.2015 disapproving scheme on the basis of the MCI's recommendation dated 05.03.2015.

3. We have heard the learned counsel appearing for both the parties and perused the material available on record.

4. Though the learned Single Judge was of the view that the writ petition is liable to be dismissed on the ground of laches alone, the merits of the case have also been considered and in the light of the MCI's findings of gross misrepresentation on the part of the petitioners in seeking establishment permission, the learned Single Judge concluded that the petitioners are not entitled to any relief. Accordingly, the writ petition was dismissed by the order under appeal.

5. The said order is assailed before us on various grounds including that the learned Single Judge failed to appreciate that the alleged deficiencies are non-existent.

6. Having carefully gone through the material available on record, we do not find any justifiable reason to hold that the conclusions arrived at by the learned Single Judge suffered from any infirmity warranting interference in an intra-Court appeal.

7. However, placing much reliance upon the judgment of this Court dated 26.08.2015 in W.P.(C) No.7424 of 2015 titled ***Rajiv Memorial Academic Welfare Society and Anr. vs. Union of India***, which has been upheld by the Supreme Court in Civil Appeal No.7953 & 7954 of 2015 by order dated 24.09.2015 with a direction to the Government of India to grant permission to the petitioner therein for the Academic Year 2015-2016, it is submitted by the learned Senior Counsel appearing for the

Appellant that since the Appellant herein is also similarly situated, the appeal may be disposed of with similar directions.

8. It may be true that the Appellant herein is a new college. However, his plea that proviso (d) to Regulation 8(3)(1) should not have been invoked in his case has never been adjudicated either by the MCI or by the Central Government. On the other hand, in *Rajiv Memorial Academic Welfare Society (supra)*, a specific order was passed by the Central Government on 14.08.2015 not to apply proviso (d) to Regulation 8(3)(1) to the petitioner therein. We have also observed that the contention that being a new college, proviso (d) to Regulation 8(3)(1) ought not to have been applied to the petitioner/appellant has not been urged either in the writ proceedings or in the appeal before us. Therefore, we are of the view that the Appellant is not entitled to seek any parity with the petitioner in *Rajiv Memorial Academic Welfare Society (supra)*.

9. At any rate, as per the time schedule for the Academic Year 2015-2016, the time for inspection expired long back and there is no grant of permission as of today in favour of the Appellant for the Academic Year 2015-2016 and consequently, there is no possibility of allotment/admission at this stage. Hence, on that ground also, the appeal does not deserve any consideration.

10. Appeal is accordingly dismissed.

CHIEF JUSTICE

SEPTEMBER 30, 2015
pmc

JAYANT NATH, J.