

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 1310 of 2019

Date of decision: 31.07.2019

Sunder Nagar Integrated Rural Development Association

.....Petitioner

Versus

State of Himachal Pradesh & others.

...Respondents

Coram:

The Hon'ble Mr. Justice V. Ramasubramanian, Chief Justice

The Hon'ble Mr. Justice Anoop Chitkara, Judge.

Whether approved for reporting?¹

For the petitioner : Mr. Peeyush Verma, Advocate.

For the respondents: Mr. Ashok Sharma, Advocate General with M/s J.K. Verma, Ritta Goswami, Adarsh Sharma, Nand Lal Thakur & Ashwani Sharma, Additional Advocate Generals, for respondent No. 1.

Mr. Dinesh K. Thakur, Advocate, for respondent No. 2.

Mr. Surender Sharma, Advocate, for respondent No. 3.

Mr. Vijay Kumar Arora, Advocate, for respondent No. 4.

V. Ramasubramanian, Chief Justice *(Oral)*

Aggrieved by the refusal of the Himachal Pradesh Technical University to grant affiliation for starting a B. Pharmacy Course, the Society which runs an Educational Institution, has come up with the above writ petition.

2. Heard Mr. Peeyush Verma, learned Counsel for the petitioner, Ms. Ritta Gaswami, learned Additional Advocate General

¹ ***Whether the reporters of Local Papers may be allowed to see the judgment?***

for the 1st respondent, Mr. Dinesh Kumar Thakur, learned Counsel for the 2nd respondent, Mr. Surender Sharma, learned Counsel for the 3rd respondent and Mr. Vijay Kumar Arora, learned Counsel for the 4th respondent.

3. The case of the petitioner is that they applied for affiliation to the 2nd respondent-University on 10.1.2019, which was well within the cut-off date stipulated both by the Statute of the University and also as per the judgment of the Supreme Court in ***Parshav anath Charitable Trust & others Vs. All India Council for Technical Education & others* {2014 (16) SCC 353}**, but the application for the current academic year was rejected by the order impugned in this writ petition on the short ground that the application for affiliation was made by the petitioner only on 15.05.2019, which happened to be beyond the cut-off date. Aggrieved by the said order, the petitioner is before us.

4. The main plank of the argument of the petitioner is that the petitioner in fact submitted an application for affiliation on 10.01.2019 and that, therefore, the University has proceeded on a factually incorrect basis.

5. But it is seen that a 'No Objection Certificate' from the University is a pre-requisite for an Institution to apply for affiliation. Even according to the petitioner, the 'No Objection Certificate' was issued by the 2nd respondent-University only on 18.02.2019.

Therefore, any application made by the petitioner, even if taken to be true, could not have been a valid application for affiliation in all respects. At the most, the petitioner could have made a valid and proper application in full shape, only after the receipt of the 'No Objection Certificate' dated 18.02.2019.

6. After 18.02.2019, the petitioner has paid the affiliation fee of ₹2,95,000/- only on 14.05.2019. Therefore, the only application that could be taken, to have been validly made by the petitioner was only on or after 14.05.2019. According to the 2nd respondent-University, this application was received on 15.05.2019, which happened to be beyond the last date for receipt of the application.

7. As per the H.P. Technical University Ordinance No. 61, Chapter-IV, Clause 8(a), the last date for submitting an application for affiliation was 10.01.2019. However, an application could have been submitted with the late fee by 20.01.2019.

8. Assuming for a moment that this Ordinance need not be applied, even then the cut-off date prescribed by the judgment of the Supreme Court in *Parshavanath*, was 15.05.2019. If an application was received by the University only on 15.05.2019, it can not be disposed of on the same date by the University, as other formalities had to be carried out.

9. In the light of the above, we see no ground to interfere with the impugned order of rejection. The petitioner has been permitted to apply for affiliation for the next academic session, even by the impugned order. Since the petitioner now has enough time on hand, he may file an application afresh and pursue it in time. If the petitioner has made any admission of students to the B-Pharmacy Course, the admission is without affiliation and the petitioner cannot take the students for a ride. The petitioner should do the needful towards the students.

10. With the above observations, the writ petition is dismissed alongwith pending application(s), if any.

(V. Ramasubramanian)
Chief Justice.

July 31, 2019
(hemlata)

(Anoop Chitkara)
Judge.