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

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Judgment delivered on: 28.12.2022

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**LPA 753/2022 & C.M.APPL-56729/2022**

**DBM COLLEGE OF PHARMACY**

..... Appellant

versus

**PHARMACY COUNCIL OF INDIA**

..... Respondent

**Advocates who appeared in this case:**

For the Appellant: Mr. Sanjay Sharawat, Mr. Divyank Rana, Mr. Akash Sahraya and Mr. Ashok Kumar, Advocates.

For the Respondent: Mr. Abhishek Singh, Mr. Rana Prashant and Mr. Akshat Choudhary, Advocates.

**CORAM:-**

**HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR JUSTICE SAURABH BANERJEE**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Appellant impugns order dated 22.12.2022, whereby the writ petition of the appellant was adjourned for further hearing to 23.01.2023.

2. Learned counsel for appellant contends that the last date for admission for the academic session 2022-23 is 30.12.2022 and in case the matter is adjourned to 23.01.2023, the petition would become infructuous.

3. Notice in the appeal was issued on 26.12.2022, when, after a detailed hearing and a detailed order, respondents were directed to file an affidavit. Original affidavit has been handed over in Court today

on account of paucity of time. The same is taken on record.

4. Since the time is short, with the consent of parties, the Appeal as well as the Writ Petition is taken up for final disposal by this Court.

5. Appellant had filed the subject writ petition seeking quashing of the decision taken by the respondent in its 381<sup>st</sup> Executive Committee Meeting held on 11.11.2022 and sought a direction to respondents to grant approval to the petitioner for B. Pharm course from academic session 2022-23.

6. Appellant claims to be an unaided and a self-financing institution registered as a society/trust for imparting educational courses. Appellant had applied for approval for conduct of D. Pharm course with an intake of 60 seats from the academic session 2019-20, approval for which has been granted and is running a D. Pharm course since 2019. For the academic session 2022-23, appellant submitted an application seeking extension of the approval already granted and further sought a fresh approval for conduct of B. Pharm course from the academic session 2022-23. Appellant submitted the requisite application for inspection of the institution as also the documents of necessary compliances.

7. In the decision of the 363<sup>rd</sup> Executive Committee Meeting held on 01.06.2022 and 02.06.2022, the Respondent considered the applications submitted by various institutions, post the inspection being carried out by the inspection team. In respect of the appellant,

the following decision was taken:-

*“131.1 **D. Pharm***

*Extend approval upto 2022-23*

*Academic session for 60 admissions*

*Subject to –*

- a) Appointment of qualified Principal and teaching staff as per the statutory provisions of Education Regulations*
- b) Payment of salary of teaching faculty as per norms.*

*131.2 **B. Pharm***

*It was decided to reject the application for B. Pharm course as institution has failed to submit NOC of the State Government.”*

8. Decision was taken by the Executive Committee to extend the approval already granted for D. Pharm course for the academic session 2022-23 also.

9. With regard to the fresh approval sought for the B. Pharm course, the Committee decided to reject the application solely on the ground that the institution had failed to submit the No Objection Certificate (NOC) of the State Government.

10. Pursuant to the decision being uploaded on the website, the appellant immediately on 02.08.2022, protested the rejection stating that the NOC of the State Government had been submitted at the time of inspection by the inspection team on 21.03.2022. NOC received from the State Government dated 30.12.2021 has been annexed and is also stated to have been submitted to the respondent alongwith the letter dated 02.08.2022.

11. Though there is no statutory appeal provided either by the Statute or by the Regulations, the respondents have adopted a mechanism of granting an opportunity of appeal/compliances to the institutes which are aggrieved by the decision of the Executive Committee. The objections that are pointed out in the Executive Committee decision, in the first instance, are permitted to be rectified within the stipulated period by the institutes and the appeals/compliances are placed before the Executive Committee afresh for consideration in terms of the methodology/procedure adopted by the respondents for disposal of such applications.

12. Appellant also filed compliances/appeal and annexed therewith its letter dated 02.08.2022 alongwith the NOC of the State Government dated 30.12.2021. Insofar as the appeal/compliances of the appellant is concerned, the same was placed once again before the Executive Committee and the Executive Committee by its decision dated 11.11.2022 decided to reiterate the earlier decision of rejection with regard to the B. Pharm course. In the minutes, it is recorded as under:-

*“The latest information on record including appeal was placed and considered.*

*It was noted that institution has failed to appoint faculty and facilities are not provided as per statutory provisions of-*

- *Minimum Qualification for Teachers in Pharmacy Institutions Regulations, 2014.*

• *The Bachelor of Pharmacy (B.Pharm) Course Regulations, 2014.*

*In view of it, it was decided to reiterate the Council's earlier decision to reject the application for B. Pharm course.”*

13. It may be noticed that in the earlier rejection by the Executive Committee, the rejection was solely on the ground of non-furnishing of the NOC from the State Government. In respect of non-furnishing of NOC from the State Government, the stand of the appellant was that the NOC had been furnished to the inspecting team and had erroneously not been taken into consideration when the decision was taken. It may be further be noticed that the issue with regard to appointment of faculty was never raised by the Executive Committee in the first instance, when rejection was done in the meeting held on 01.06.2022 and 02.06.2022.

14. Be that as it may, the contention of the appellant is that the appellant satisfies the faculty requirements as prescribed by the Regulations.

15. Reference may be had to the notification issued by the respondent, Pharmacy Council of India dated 11.11.2014, titled “Minimum Qualification of Teachers in Pharmacy Institutions Regulations, 2014”, which *inter alia* in the Schedule prescribes as under:-

*“Every appointing authority, before making an appointment to a teaching post in a pharmacy*

*college or institution, shall observe the following norms –*

*x x x x x x x x*

*(vi) Only those teachers with M.Pharm/Pharm.D or Ph.D qualifications recognized by the Pharmacy Council of India who have undergone B.Pharm course from an institution approved by the Pharmacy Council of India under Section 12 of the Pharmacy Act, 1948 shall be recognised as pharmacy teachers.*

*(vii) Only those teachers who possess at least five years teaching experience obtained in approved/recognized Pharmacy College after passing M.Pharm/Pharm.D course or three years teaching experience after Ph.D shall be recognized by the PCI as post –graduate pharmacy teachers.”*

16. The minimum qualification for teachers for an undergraduate course is M.Pharm/Pharm.D or Ph. D after undergoing a B. Pharm from an institution approved by the respondent under Section 12 of the Pharmacy Act, 1948. However, for a postgraduate teacher, at least five years’ teaching experience in approved/recognized pharmacy college after passing M. Pharm or Pharm. D or three years teaching experience after Ph.D is necessary.

17. The table of minimum requirement of academic qualification for B. Pharma course requires the principal to have at least 15 years teaching experience, a Professor to have 10 years teaching experience and an Associate Professor to have 3 years teaching experience and in



case of a Lecturer, no prior teaching experience is required. However, for being designated as an Assistant Professor, a Lecturer is to have at least 2 years teaching experience.

18. Reference may also be had to the notification dated 10.12.2014, issued by the respondents with regard to the Bachelor of Pharmacy (B. Phar.) Course Regulations, 2014, wherein the teaching staff requirement has been specified. Appendix-(A) mandates that institution applying for approval of courses is to comply with the infrastructural facilities as prescribed by the respondent from time to time. Insofar as teaching staff requirement is concerned, the institute requires one director/principal/head of the institute and the department wise teaching staff stipulated is as under:-

Department /Division	Name of the Post	No. (for 60 admissions)	No. (for 100 admissions)
Department of Pharmaceutics	Professor/Associate Professor	1	1
	Asst. Professor	1	2
	Lecturer	2	3
Department of Pharmaceutical Chemistry (Including Pharmaceutical Analysis)	Professor/Associate Professor	1	1
	Asst. Professor	1	2
	Lecturer	3	3
Department of Pharmacology	Professor/Associate Professor	1	1
	Asst. Professor	1	1
	Lecturer	2	3
Department of Pharmacognosy	Professor/Associate Professor	1	1
	Asst. Professor	1	1
	Lecturer	1	1
Department of Pharmacy Practice & related subjects	Professor/Associate Professor	-	1
	Asst. Professor	1	1
	Lecturer	1	1

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to HMJ Sanjeev Acharya.

19. No doubt, in the five departments/divisions, there are separate requirements mentioned for Professor/Associate Professor, Assistant Professor and Lecturer, however, there is no mandate that in the first year itself there has to be a Professor/Associate Professor. Though there is no regulation which specifies as to what would be the breakup between Professor, Associate Professor, Assistant Professor and Lecturer in the 1<sup>st</sup> to 4<sup>th</sup> year, respectively. However, the standard inspection form, which is to be filled by the inspection team has specified the teaching staff for I B. Pharm i.e., 1<sup>st</sup> year of B. Pharma as under:-

	No. of staff required for I *B. Pharm
Principal	1
Pharmaceutical Chemistry	1
Pharmaceutical Analysis	1
Pharmacology	1
Pharmacognosy	1
pharmaceutics	1
Total	6
Part time Teaching Staff	3
Remarks of the Inspection Team	

20. We notice that in the second year, third year and fourth year of B. Pharm, there is a progressive increase in the number of staff, however, for grant of approval, we are only concerned with the requirement of I B. Pharm i.e., 1<sup>st</sup> year of B. Pharma course. The table does not indicate that the staff required has to be Professor, Associate Professor, Assistant Professor or Lecturer. The standard inspection form, when read with the notification shows that the



requirement of the notification would be satisfied in case there are at least 6 teaching staff of any of the categories appointed by the institution.

21. As noticed hereinabove and as indicated in the affidavit filed by the respondent, the appellant claims to have appointed 11 teaching staff including the Principal. As per the standard inspection form, the requirement of teaching staff is 6 including the Principal, against which the appellant has already appointed 11 teachers. We are of the view that the appellant has satisfied the mandatory requirements of the Regulation for commencement of the teaching course. We may also note that the appellant has also satisfied the requirement in respect of the first and only objection raised by the respondent in its first meeting of the Executive Committee i.e., absence of an NOC. Even if we were to take into account the objection raised in the second meeting i.e., of the teaching faculty, we notice that the appellant has also satisfied the said requirement.

22. An effort was made by learned counsel for respondent to contend that there are discrepancies in the qualification of the Principal in the application form and the information submitted on the online portal by the appellant. To this, learned counsel for the appellant submits that there is a technical error on the site of the respondent and that error reflects different dates and different technical experience, however, he submits that as per the notification the Principal is required to have 15 years teaching experience and the

Principal has 21 years teaching experience.

23. Be that as it may, we notice that the respondents never raised the objection with regard to the technical, educational or teaching qualification of the teaching faculty. The objection was only with regard to non-appointment of Professors/Associate Professors by the appellant in respect of which as noticed above the requirement of the Regulations would be satisfied in case any one of the categories including a Lecture is appointed by the appellant.

24. We are of the view that since the appellant has satisfied both the objections raised by the respondent, the order of the respondent in rejecting the application of the appellant for grant of approval cannot be sustained. Accordingly, the same is set aside.

25. Normally, this Court would have directed the respondents to issue an order of approval, however, keeping in view the fact that the last date of admission notified is 30.12.2022, this Court grants approval to the appellant institute for conduct of B. Pharm course, subject, however, to appellant making other necessary compliances as may be required by the Regulations and pointed out by the respondent from time to time.

26. Another issue which was flagged in the order of 26.12.2022 by this Court requiring respondents to respond was as to whether any approval for current academic year have been processed or were in the pipeline for being processed after 30.11.2022, which was the last date

for grant of approval. In the affidavit filed by the respondents today, they have categorically stated that they have considered certain institutes post 30.11.2022 and granted approvals, however, no further institutes were in pipeline.

27. Keeping in view of the fact that post 30.11.2022, respondents themselves had granted approvals, we accordingly grant approval to the Appellant for B. Pharm course with an intake of 60 seats from the academic session 2022-23. We also permit appellant to conduct counselling and admit students. However, the last date for admission would be 30.12.2022.

28. In view of above, the Appeal and the writ petition is allowed and disposed of in the above terms.

29. Order *Dasti* under signatures of the Court Master.

**SANJEEV SACHDEVA, J.**  
**(VACATION JUDGE)**

**SAURABH BANERJEE, J.**  
**(VACATION JUDGE)**

**DECEMBER 28, 2022/NA**