

Court No. - 16

Case :- WRIT - C No. - 11759 of 2023

Petitioner :- Kedar Phaujdar College Of Pharmacy, Guraini Distt. Gazipur, Thru. Its President Surendra Yadav

Respondent :- State Of U.P. Thru. Prin. Secy. Technical Education Lko. And 3 Others

Counsel for Petitioner :- Gopal Pandey

Counsel for Respondent :- C.S.C.,D.K. Singh Chauhan,Ravi Singh

Hon'ble Subhash Vidyarthi,J.

1. The matter has been placed before this specially constituted bench during on going winter vacation under an order passed by the Hon'ble Chief Justice.

2. Heard Sri Gopal Pandey, the learned counsel for the petitioners and Sri Shailendra Singh, the learned Chief Standing Counsel, Sri Anirudh Singh, the learned Standing Counsel for the State respondent and Sri Lakshman Singh, Advocate holding brief of Sir D.K. Singh Chauhan, the learned counsel for the opposite party no. 4- Joint Entrance Examination Counsel (Polytechnic, U.P, Lucknow).

3. By means of the instant writ petition the petitioners, who are institutions imparting education for award of Diploma in Pharmacy, have approached this court seeking issuance of a writ of mandamus, directing the opposite parties to provide affiliation to the petitioners' institutions for running D-Pharma courses for the academic session 2023-24, as approval has already been granted by Pharmacy Council of India, New Delhi.

4. The learned counsel for the petitioners has submitted that the issue involved in the present writ petition has been decided by this court in the judgment dated 27.09.2023 passed by a coordinate bench of this court in a bunch of writ petitions, the leading case being **Writ-C No. 8389 of 2023 in Re: H.M.S**

College of Pharmacy, Bulandshar Thru. President Himanshu Sharma and Another Vs. State of U.P through Additional Chief Secretary, Department of Technical Education, Lucknow and three others, wherein this court has issued a direction to grant affiliations to the institutions, which have fulfilled the criteria fixed by the Pharmacy Council of India (hereinafter referred as 'P.C.I.') and have obtained approval, unless the State Government, on the basis of cogent material, approaches the P.C.I. for revoking the approval in terms of Section 13 of the Pharmacy Council of India Act.

5. The learned counsel for the petitioners has submitted that the petitioners' institutions have already been granted approval by the P.C.I. for the Academic Session 2023-24. He further submitted that on similar facts, Writ-C No. 11751 of 2023 and 11752 of 2023 have also been disposed off by a coordinate bench of this Court by separate orders passed on 23.12.2023.

6. During pendency of this special appeal, another writ petition bearing Writ-C No. 10851 of 2023 titled Vardan Institute Of Pharmacy, Unnao Thru. Manager/Trustee Prasoon Dixit and Another Vs. State of U.P. Thru. Additional Chief Secretary, Department of Technical Education, Lucknow and others was filed in this court and the aforesaid writ petition was disposed of by means of an order dated 14.12.2023 passed by a coordinate bench, providing that:-

" 8. Accordingly, considering the judgment of this Court passed in the case of HMS College of Pharmacy (supra) and also the fact that the matter is now subjudice before the Division Bench of this Court in Special Appeal No.504 of 2023 and the order of Division Bench dated 13.12.2023 passed in the aforesaid special appeal whereby the colleges, if they so desire, were required to take appropriate steps by filing separate petitions

and the instant petition has been filed and further, the respondent no.2 has also granted temporary affiliation to the Institution vide order dated 30.11.2023, the instant petition is disposed of providing that the benefit of the judgment of this Court in the case of HMS College of Pharmacy (supra) shall also be extended to the petitioners as also the benefit of the order dated 30.11.2023 whereby the Institutions have been granted temporary affiliations and also permitted for counselling provisionally, which would obviously be in accordance with law, the rules and the regulations.

9. It goes without saying that the order passed would be subject to the final decision of the Special Appeal No.504 of 2023."

7. The learned Chief Standing Counsel does not dispute the passing of the aforesaid orders and fact that the petitioners' case is also similar to the other cases, which have been decided by this court.

8. Having considered the aforesaid facts and circumstances of the case, as identical writ petitions have already been disposed of by coordinate benches of this Court and the orders of the coordinate benches are binding on this court, the instant writ petition is also ***disposed off*** in terms of the order dated 14.12.2023 passed by this court in Writ-C No. 10851 of 2023, Vardan Institute Of Pharmacy, Unnao Thru. Manager/Trustee Prasoon Dixit and Another Vs. State of U.P. Thru. Additional Chief Secretary, Department of Technical Education, Lucknow.

(Subhash Vidyarthi,J.)

Order Date :- 27.12.2023/Preeti.