

Court No. - 16

Case :- WRIT - C No. - 11762 of 2023

Petitioner :- Shri Sundar Lal College Of Pharmacy Baraanki
Thru. Its Secy Rakesh Kumar Dixit And 2 Others

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, Sri Shailendra Kumar Singh, the learned Chief Standing Counsel assisted by Sri Anirudh Singh, the learned Standing Counsel for opposite party nos. 1 & 3-State of U.P. and Board of Technical Education, U.P., Sri Ravi Singh, the learned counsel for opposite party no. 2-Pharmacy Council of India and Sri D.K. Singh Chauhan, the learned counsel for the opposite party no. 4-Joint Entrance Examination Council, U.P.

3. By means of the instant writ petition the petitioners, who are institutions established for imparting education for award of Diploma in Pharmacy have approached this Court seeking issuance of a writ of mandamus, directing the opposite party no. 3-Board of Technical Education, U.P. to provide affiliation to the petitioners' institutions for running D-Pharma courses for the academic session 2023-24 and also to direct the opposite party no. 4-Joint Entrance Examination Council, U.P., to allow the petitioners' institutions to participate in counseling for making admissions to Diploma in Pharmacy courses for the academic session 2023-24.

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 counsel for the opposite parties have opposed the writ petition and they have submitted that several writ petitions have been filed with similar prayers and in furtherance of direction issued by this Court, on 21.12.2023, a notice was to be published for conducting additional/ special counseling for admission by students to institutions which had filed writ petitions in this Court. The schedule of Additional/Special counseling mentions that the counseling was to be conducted

between 22.12.2023 to 29.12.2023. A copy of the schedule of counseling has been produced for perusal of the Court, which mentions that the candidates had filled up their choices for admission between 22.12.2023 to 25.12.2023 and seat allotment was to be made on 26.12.2023 up to 01:00 p.m. The petition has been filed on 28.12.2023, after the period for filling of choices of the candidates and seat allotment had already got over. As per the order dated 06.09.2023 passed by the Hon'ble Supreme Court in Misc. Application No. 1927 of 2023 in Civil Appeal N. 9048 of 2012, Parshwa Nath Charitable Trust v. All India Council for Technical Education and others, the counseling has to be completed by 30.12.2023.

8. The learned counsel for the respondents have submitted that in case the counseling schedule is disturbed at this stage and counseling is ordered for admissions to the petitioners' institutions, it will be in violation of the aforesaid order passed by the Hon'ble Supreme Court.

9. Having considered the aforesaid facts and circumstances of the case, it appears that the petitioner colleges have been granted approval by the Pharmacy Council of India. There is already an order passed by this Court directing the Board of Technical Education, U.P. to grant affiliation to all the institutions which have received approval by the Pharmacy Council of India, which include the petitioner institutions also. The learned counsel for the opposite parties do not dispute this position.

10. In view of the above facts and circumstances of the case, a direction is issued to the opposite party no. 3-Board of Technical Education, U.P. to take a decision regarding provisional affiliation of the petitioner institutions in accordance with law and communicate the same to the petitioners' institutions within a period of ten days from today.

11. With the aforesaid observations, the writ petition stands ***disposed of***.

Order Date :- 29.12.2023

Pradeep/-