

Court No. - 13

Case :- WRIT - C No. - 11478 of 2024

Petitioner :- Dharma Devi Mahavidyalaya, Jaunpur Thru. Manager Vikash Yadav

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

Counsel for Petitioner :- Sunil Kumar Singh

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

Hon'ble Rajeev Singh,J.

1. The matter has been taken up during the vacations on an application for urgency having been made by learned counsel for the petitioner.

2. Learned counsel for the petitioner is permitted to implead the prayer of the present petition forthwith.

3. Heard Sri Sunil Kumar Singh, learned counsel for the petitioner, Sri Rahul Shukla, learned Additional Chief Standing counsel for State - respondent No.s 1 and 2, Sri Shishir Srivastava, Advocate holding brief of Sri Ravi Singh for respondent No.3- Pharmacy Council of India and Sri D. K. Singh Chauhan for respondent No.4- Joint Entrance Examination Council (Polytechnic), Uttar Pradesh Guru Gobind Singh Marg, Lucknow.

4. Petition has been filed challenging orders dated 6th December, 2024, 9th December, 2024 and 10th December, 2024 pertaining to rejection of petitioner institutes' application for the D. Pharma course for the academic session 2024-25 by means of which the approval of the petitioners' institutes have been rejected.

5. Learned counsel for the petitioner has drawn attention to the impugned order itself which indicates the date of meeting of the

executive council of the Pharmacy Council of India as 07th November, 2024. He has thereafter adverted to the minutes of meeting held on 07th November, 2024, particularly paragraph 10.2 (c) thereof, whereby has been indicated that inspection was taking time and around 346 institutions were yet to be inspected as on that date. He has thereafter drawn attention to the list appended to the resolution indicating name of petitioner institution for the D.Pharma course as one of the institutes for which the inspection was yet pending. Learned counsel for the petitioner has also drawn attention to the direction issued by Hon'ble Supreme Court dated 19th November, 2024 passed in proceedings arising out of C.A. 9048 of 2012, Parshavanath Charitable Trust and another vs. All India Council for Technical Education and others, whereby directions have been issued to the Pharmacy Council of India to decide cases where inspection has already been conducted prior to cut off date so that institute can avail itself of an appellate remedy and further for direction to conduct inspections and make a decision before the cut off date where inspection has already been conducted.

6. Sri Shishir Srivastava, Advocate holding brief of Sri Ravi Singh, learned counsel appearing for Pharmacy Council of India (PCI) informs that rejection order dated 28.11.2024 was already uploaded on the website of Pharmacy Council of India but he is unable to produce any documentary evidence that the same was communicated to the petitioner. He also does not dispute this fact that several orders have already been passed by this Court in the matters, in which rejection orders were communicated after some delay.

7. Considering the facts and circumstances of the case, it is evident that the rejection order dated 28.11.2024 was uploaded on the website, but it was not communicated to the petitioner till today, therefore, alternative remedy of appeal could not be filed, which was to be decided before the last date fixed by the Hon'ble Supreme Court i.e.

10.12.2024.

8. Nonetheless, the fact still remains that the petitioner's application for approval was rejected by P.C.I. on 28.11.2024, but the same was not communicated to the petitioner till today. The last date fixed for taking decision on appeal is already lapsed. It is admitted between the parties that after approval is granted by PCI, an institute is required to seek affiliation by the Board of Technical Education whereafter only the institute can participate in the counselling process.

9. It is also admitted that last date fixed for grant of affiliation was also 14.12.2024, which has also in the meantime expired.

10. Learned counsel have adverted to order dated 13.12.2024 passed by Hon'ble Supreme Court in the case of ***Parshavanath Charitable Trust and another versus All India Council for Technical Education and others, Misc. Application bearing Diary No. 55173 of 2024 in Civil Appeal No. 9048 of 2012*** to submit that even after expiry of the last date fixed for purposes of approval by PCI, a letter dated 13.12.2024 issued by PCI praying for permission to convey right decision and rectify and erroneous decision was filed whereafter appropriate directions were also issued by Hon'ble Supreme Court. Such a direction issued by Hon'ble Supreme Court is as follows:-

"1. Learned counsel for the Pharmacy Council of India has placed a letter dated 13.12.2024 praying for permission of this court to convey the right decision and rectify an erroneous decision, which was taken earlier.

2. Permission is granted.

3. Needless to state that the permission granted by the Pharmacy Council of India shall relate back to the date on which the earlier incorrect order was passed.

4. Insofar as the direction to the State Government to permit the applicant(s) to admit the students concerned after the cut off date is

concerned, we direct the applicant(s) to make a representation to the State Government, which would be considered on its own merits, in accordance with law.

5. These applications are accordingly disposed of.

6. Pending applications(s), including application for intervention/ implementation, shall stand disposed of."

11. It has further been pointed out that the matter was listed before the Hon'ble Supreme Court on 20.12.2024 where fresh decision taken by the PCI was informed to the Court and it was submitted by them that they have considered and rectified the decision of all the applicant's colleges except few and further sought permission to rectify and review decision on the applicant's colleges therein. The Hon'ble Supreme Court considering the request made by the PCI permitted them to grant permission in respect to other colleges wherever it has taken a decision to review and rectify earlier order

12. From the aforesaid order, it appears that PCI admitted before Hon'ble Supreme Court that certain erroneous decisions had been taken and a right to rectify such decisions have been sought, which was granted by Hon'ble Supreme Court. It was also indicated in the order that in case such a rectified order is passed, it would relate back to the date on which earlier incorrect order was passed.

13. From the order, however, it is not discernible as to whether the letter dated 13.12.2024 was pertaining to only a single institute or was generally applicable. Learned counsel for PCI also does not have any instructions on that aspect.

14. However, in view of the arguments of learned counsel for PCI, as well as the order passed by Hon'ble Supreme Court dated 13.12.2024 and 20.12.2024, liberty is granted to PCI to re-visit the case of petitioner's institution with regard to grant of approval or otherwise for the Academic Session 2024-25 for conduct of D-Pharma Course in

case petitioner's institution would be covered by order dated 13.12.2024 and 20.12.2024 passed by Hon'ble Supreme Court.

15. Consequential action may be taken by PCI, in accordance with law.

16. In consequence thereto, petitioner's institute would also be at liberty to seek consequential relief as granted by Hon'ble Supreme Court in the order dated 13.12.2024 & 20.12.2024.

17. With the aforesaid directions, petition stands **disposed of**.

Order Date :- 28.12.2024

Gurpreet Singh/VKS