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

+ W.P.(C) 9968/2019 & CM Nos.41272-73/2019

L. N. AYURVED COLLEGE AND HOSPITAL Petitioner

Through : Mr. Sunil Gupta, Sr. Adv. with
Mr.Jasbir Singh Malik, Adv.

versus

UNION OF INDIA AND ORS. Respondents

Through : Mr. Sidharth Khatana and Mr.Jitendra
Kumar Tripathi, Advs. for R-1.
Ms. Archana Pathak Dave and
Mr.Kumar Prashant, Advs. for
R-2/CCIM.
Mr. Aditya Ranjan, Standing Counsel
for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **17.09.2019**

CM No.41273/2019

1. Allowed, subject to just exceptions.

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2. On the previous date i.e. 16.09.2019, I had indicated to learned counsel for respondent no.2 i.e. CCIM as to whether a fresh inspection could be conducted *qua* petitioner's college. The reason I had passed such a direction was in the context of the following brief facts and assertions made by learned counsel for the petitioner.

3. It is not in dispute that an inspection of the petitioner-institute was carried out on 22nd – 23rd March 2019. It is also not in dispute that this was a surprise inspection. However, what is admitted and *qua* which there is no dispute that CCIM in this inspection, found no deficiency in respect of the petitioner-institute.

3.1 In a report generated by CCIM *vis-à-vis* the March 2019 inspection, it *inter alia* observed that the necessary teaching staff as per RMS, 2016 for the under-graduate course was available. For this purpose, that is, on the date of inspection, the teaching staff was physically accounted for and the attendance register was also checked.

4. It appears that thereafter another surprise inspection was conducted by CCIM, *albeit*, on 27th – 28th May 2019. Pursuant to this inspection, a report was also generated in which several deficiencies were adverted to including the deficiency concerning the engagement of eligible teaching staff. This report is dated 20.06.2019.

4.1 Thus based on the report dated 20.06.2019, the impugned order came to be passed by respondent no.1 i.e. Union of India *via* Ministry of Ayush.

4.2 The result was that the petitioner's request for being granted permission to admit students against 100 seats *qua* undergraduate (BAMS) course for the academic session 2019-20 stood rejected.

5. Mr. Sunil Gupta, learned senior counsel, who appears on behalf of the petitioner, says that there are several flaws in the impugned order dated 30.08.2019. It is Mr. Gupta's submission that the second inspection was conducted on a day when the petitioner-institute was closed for summer vacations. Therefore, according to Mr. Gupta, out of 33 faculty members,

around 17 faculty members were only available.

5.1 Insofar as the other deficiencies which are said to have been noted in the report dated 20.06.2019 are concerned, Mr. Gupta says that the petitioner has necessary answers available with it. According to Mr. Gupta, the respondent no.1 – Union of India has not independently applied its mind to the contents of the report dated 20.06.2019 submitted by CCIM. It is learned senior counsel's submission that based on the observations which are in the nature of a charge, the respondent no.1 – Union of India has reached its conclusion.

5.2 In other words, Mr. Gupta says that there are no reasons furnished as to why respondent No.1 - Union of India agrees with the observations and/or recommendation of the CCIM. Besides this, Mr. Gupta has also argued that the observations of "Hearing Committee" which have been placed in court today by CCIM's counsel in the form of a report were not furnished to the petitioner.

5.3 Besides this, Mr. Gupta submits that there has been a breach of principles of natural justice on many counts including on the ground that the hearing was granted by one set of persons while the impugned order dated 30.08.2019 has been passed by another person i.e. the Under Secretary to the Government of India.

6. On the other hand, Ms. Archana Pathak Dave, Advocate, who appears on behalf of the CCIM and Mr. Sidharth Khatana, Advocate, who appears on behalf of respondent no.1 –Union of India, have sought to defend their position by relying upon the impugned order dated 30.08.2019.

6.1 Ms. Dave, in addition, as indicated above sought to rely upon a compilation which contained in the observations of the “Hearing Committee”.

7. Having heard learned counsel for the parties for quite some time, I am of the view that given the fact that the report generated pursuant to the inspection carried out between 22nd – 23rd March 2019 found no deficiencies *qua* the petitioner-institute, (a position which suffered a reversal only in June 2019), it appears to be appropriate, in this case, to order a fresh inspection to get clarity in the matter.

7.1 Accordingly CCIM is directed to conduct a fresh inspection on the date and time of its own choosing. The report, which will be generated in that behalf will be shared both with the petitioner as well as with this court.

7.2 Since the dates for counselling are available, I am told, only today and tomorrow, the petitioner institute is permitted to conduct the counselling subject to the outcome of the writ petition.

7.3 The petitioner will, however, not claim any equity on account of the aforementioned direction being issued since it is a *protem* arrangement to enable the petitioner to conduct the counselling.

7.4 In the meanwhile, the respondents will also file their counter affidavits. The same will be placed on record within four weeks from today. Rejoinder thereto, if any, be filed before the next date of hearing.

7.5 It is made clear that the petitioner will not grant any admission till further orders of this court.

8. Renotify the matter on 25.11.2019.

RAJIV SHAKDHER, J

SEPTEMBER 17, 2019/aj