

14.09.2018

Item no. (37)

Ddas/sdas

WP 18232 (W) 2018

**State of West Bengal & Ors.
Vs.
Union of India & Ors.**

**Mr. Abhratosh Majumdar, Id. sr. adv., AAG
Mr. T. M. Siddiqui
Mr. Nilotpal Chatterjee
... .. For the petitioners**

**Mr. Indrajeet Dasgupta
... ..For the UOI**

State of West Bengal moves this Court challenging letter dated 31st May, 2018 issued by Ministry of Health & Family Welfare, Government of India to Principal, North Bengal Dental College & Hospital, in which following was said :-

"I am directed to refer to Dental Council of India's letter no.DE-3 (55)/BDS-2018/2264 dated 30.05.2018 (copy enclosed) on the subject cited above and to say that in pursuance of Clause 11A of the DCI (9th Amendment) Regulations, 2017, the Central Government has decided to accept the recommendations of DCI to stop admissions in BDS Course for the year 2018-2019 at North Dental College & Hospital, Siliguri."

Mr. Majumdar, learned senior advocate, Additional Advocate General, appears on behalf of petitioners and files supplementary

affidavit upon leave obtained and copy served in Court. He relies on regulation 11A in Dental Council of India (Establishment of New Dental Colleges. Opening of New or Higher Course of Study or Training and Increase of Admission Capacity in Dental Colleges) Regulations, 2006 which is reproduced below: -

"11A- When, upon report by the Executive Committee or the Visitor it appears to the Council that –

Any recognized Dental institution does not satisfy the requirement of the Council at undergraduate and /or postgraduate level in terms of staff, building, equipment, accommodation, training and other facilities as prescribed in the Dentist's Act, 1948 and Rules & Regulations made thereunder, as amended from time to time it may recommend to the Central Government for withdrawal of recognition of such dental qualification at undergraduate and/or postgraduate level under section 16 A of the Dentists Act and the Central Government may take appropriate action thereon as it may think fit in the facts and circumstances of each case including stoppage of admission at such course(s) of study and training, after an opportunity of hearing is granted to such dental institution."

He submits, impugned letter was made purportedly in exercise of discretion vested on Central Government by regulation 11A as appears on face of the same. Between acceptance of recommendations of

Dental Council of India made by its letter dated 30th May, 2018 and issuance of impugned letter directing the college to stop admissions in BDS course for year 2018-19 there is but one day, impugned letter having been issued the next day, i.e. 31st May, 2018. He submits, it is not necessary to say anything more regarding opportunity of hearing denied to the college in matter of stopping its admission process.

He refers to letter dated 15th June, 2018 issued by Secretary, Health and Family Welfare Department, Government of West Bengal, to Joint Secretary Dental Education, Ministry of Health and Family Welfare, Government of India with regard to impugned letter. Relevant text from said letter is reproduced below :-

*"The inspection of the said college took place on 14.05.2018 and 15.05.2018 which also **coincided with our Panchayat elections** and the Under Secretary informed the Department of the decision of the Ministry on **31.05.2018**. I would like to point out that the Principal of North Bengal Medical College has informed us in writing that he was not informed of the findings of the visiting team and was not given any opportunity to explain and meet up deficiencies, as stipulated under Section (7) of Part VIII of the Dental Council of India Regulations, 1956 clearly states, "Copies of the reports by the Inspectors marked 'Confidential' shall be forwarded to the University of Examining Body concerned as well as the Institution with a request that the authority should furnish to the Executive Committee, within six*

months from the date of dispatch, such observations thereon as it may think necessary.”.

Further, in pursuance of Clause 11A of the DCI (9th Amendment) Regulations, 2017, “...The Central Government may take appropriate action thereon as it may think fit in the facts and circumstances of each case including stoppage of admission at such course(s) of study and training, after an opportunity of hearing is being granted to such dental institution.”

I would like to reiterate that neither was the Institute apprised of the findings nor was it accorded any opportunity of being heard AFTER the inspection and the admissions have been closed with undue haste on the eve of NEET Counselling.

I would also like to state that the said Government college has been running with the recommendations of the DCI for the past 27 years and this sudden unfortunate decision right before the results of NEET shall affect not only the career of many students both inside and outside the State, it will also tarnish reputation of the college.”

He seeks interim intervention against restraint on admission process by mop up counselling scheduled tomorrow to include 50 seats that are there in this college, for admission to be given to counselled candidates.

Mr. Dasgupta, learned advocate appears on behalf of Union of India. He submits, this direction to stop admission did not happen overnight. Deficiencies were noticed as existing in the college since

earlier academic year. Successive hearings were given. The defects persisted. His client being convinced the defects will not or cannot be removed has passed the order in furthering objects of Dentists Act, 1948.

Dental Council of India by its letter dated 17th August, 2017 had reiterated its earlier decision and recommended to Central Government for initiation of process for withdrawal of recognition of the college. It also recommended Central Government to stop admissions from academic session 2017-18 onwards. Among deficiencies pointed out were deficiencies in major equipments and nine teaching faculty were not present on day of inspection as no leave letters were found enclosed in inspection report. Other deficiencies pointed out are not so critical in opinion of this Court. They are medical staff, engineering staff and other administrative staff not provided, which deficiency appears to be omission to furnish particulars. Sharing auditorium with medical college and other documents not furnished are also in this category of deficiencies. It is true Central Government gave opportunity of hearing to the college and it appears recommendation of the Council to stop admission was not acted upon.

Recommendation dated 30th May, 2018 of the Council carries similar deficiencies, as noticed. Major equipment deficiency is there. Absence of dental teaching staff was noticed. Library did not have, inter alia, requisite number of journals. No full time Principal was

available and there are deficiencies regarding teaching staff. It appears, with deficiencies in major equipments the college conducted course study in academic year 2017-18. Council reported there is acting Principal while from said letter dated 15th June, 2018, it appears date of inspection coincided with date on which Panchayat Elections were held. This, State explained, was reason for absence of faculty or some members in it. No separate or other critical deficiency, as was not present for academic year 2017-18, has been pointed out for which Court should overlook Central Government's omission to give hearing and not interfere. Intention of State must be that in offering course study in dentistry same would be conducted in the best interest of youth, the future. In such circumstances, this Court directs no effect be given to impugned letter till disposal of this writ petition.

Mr. Dasgupta prays for stay of operation of this order. Prayer is considered and rejected.

List on **24th September, 2018.**

(Arindam Sinha, J.)