

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No. 155 of 2021

Chintpurni Medical College and Hospital & Anr.

.... Appellant(s)

Versus

Union of India & Anr.

.... Respondent (s)

J U D G M E N T

L. NAGESWARA RAO, J.

1. The Appellants requested the Medical Council of India for permission to admit 150 students in MBBS course for the academic year 2019-2020. The Board of Governors in supersession of Medical Council of India rejected the request on 21.05.2019. The Appellants filed a Writ Petition in the High Court of Delhi questioning the correctness of the proceeding dated 21.05.2019. The High Court dismissed the Writ Petition by its judgment dated 09.12.2020. This Appeal is filed challenging the said judgment.

2. The first Respondent granted letter of permission to the first Appellant-College on 30.06.2011 for intake of 150 students in the MBBS course for the academic year 2011-

2012. As the inspections carried out by the assessors of the Medical Council of India revealed gross deficiencies of the teaching faculty, clinical material and the other physical facilities in the medical college, the Board of Governors recommended that the renewal of permission should not be granted to the first Appellant-College for the academic years 2012-2013 and 2013-2014. The Writ Petition filed by the first Appellant-College was dismissed by the Punjab and Haryana High Court pursuant to which no admission could be made for the academic years 2012-2013 and 2013-2014.

3. The first Appellant-College sought renewal of permission for the academic year 2014-2015. In view of the deficiencies in teaching faculty, clinical material and the other physical facilities in the college, recommendation was made by the Executive Committee of the Medical Council of India not to renew the permission for the academic year 2014-2015 which was accepted by the first Respondent. The first Respondent informed the Appellant-College on 15.07.2014 that the request for renewal of permission for admitting 150 medical students for the academic year 2014-2015 was rejected.

4. Orders were issued by this Court on 18.09.2014 and 20.09.2014 in Writ Petition (C) No.469 of 2014 titled as

“Hind Charitable Trust Shekhar Hospital Private Limited v. Union of India & Ors.” by which private medical colleges whose application for renewal of permission was disapproved were permitted to make admissions, subject to the undertaking by the President/Chairman and Secretary of the Medical College that there is no deficiency existing in the medical college. This Court held that if the undertaking was found to be incorrect at the time of next physical inspection of the medical college, the bank guarantee of Rupees Ten Crores, furnished by the medical college shall be forfeited by way of penalty. The second Appellant-College submitted an undertaking on 28.09.2014 that there is no deficiency existing in the facilities and that in the event of any deficiency being found in the inspection, the bank guarantee of Rs.9.5 Crores shall be forfeited. Consequent upon the undertaking, the first Appellant-College was permitted to admit students for the academic year 2014-2015.

5. Renewal of permission for admission of 150 students for the academic year 2015-2016 was rejected after an inspection was conducted and it was found that there were gross deficiencies of infrastructure, clinical material, teaching faculty and other physical facilities. The first Respondent

accepted the recommendations of the Medical Council of India and rejected the request of the Appellant College to grant renewal of permission for admissions for the academic year 2015-2016 by its letter dated 15.06.2015.

6. On 16.12.2015 physical assessment for grant of recognition was carried out. Another physical assessment was held on 25/26th February, 2016 as there were allegations against the first Appellant-College relating to arranging fake faculty doctors, residents, patients etc. only for the purpose of Medical Council of India's assessment. It was decided by the Medical Council of India to conduct another surprise physical inspection. In the surprise inspection which was conducted on 16.03.2016, deficiencies were found on the basis of which the Medical Council of India recommended to the Central Government not to grant recognition to the Appellant College under Section 11 (2) of the Indian Medical Council Act, 1956. The first Respondent accepted the recommendations made by the Medical Council of India and decided not to renew the permission for admission for the academic year 2016-2017.

7. The Over-Sight Committee recommended grant of conditional recognitions to private medical colleges which was accepted by the first Respondent by a notification dated

26.09.2016. Conditional recognition was granted to the MBBS degree awarded to the students admitted in the first Appellant College on the following two conditions:

- I. *“An undertaking on affidavit from the Dean/Principal and the Chairman of the Trust affirming that the deficiencies pointed out by the assessors of the Council in the compliance verification assessment stands rectified;*
- II. *A bank guarantee for a sum of Rs.2 crores in favour of the Council which shall be valid for a period of one year or till such time the first renewal inspection takes place, whichever is later.”*

8. A verification assessment was held on 07.03.2017 to verify the claims of the first Appellant College that they have all the minimum requirements necessary for recognition. In the verification, the following deficiencies were found:

- I. *“Deficiency of faculty is 87.12% as detailed in the report.*
- II. *Shortage of Residents is 82.35% as detailed in the report.*
- III. *OPD attendance was 401 at 2 p.m. on day of assessment against requirement of 1,200. Very few patients were seen in OPD at the time of visit.*
- IV. *Bed Occupancy was NIL on day of assessment. There was NIL admitted patient seen during the round.*

- V. *There was only 1 Major & NIL Minor Operation on day of assessment.*
- VI. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
- VII. *CT Scan workload is NIL on day of assessment.*
- VIII. *Histopathology workload is NIL on day of assessment.*
- IX. *ICUs: Except 1 patient in SICU, there was NIL patient in ICCU, MICU, PICU, NICU.*
- X. *Labor Room: There was no woman in Labour Room. It appears that data in the Register is falsified.*
- XI. *Data of Number of Admissions & Discharge, Radiological & Laboratory investigations as provided by institute are grossly inflated.*
- XII. *Casualty: There was NIL patient at time of round".*
- XIII. *Speech Therapist is not available. Only space is provided for Speech Therapy.*
- XIV. *Nursing Staff: Very few Nurses were seen in the hospital during the round.*
- XV. *Paramedical Staff: Very few paramedical staff were seen during the round.*
- XVI. *Orthopaedics ward was locked during the round.*
- XVII. *O.T.s : Some O.Ts were locked during the round. Some are not properly equipped.*
- XVIII. *Examination Halls: These are temporary structures without light & fan. Deficiency remains as it is.*
- XIX. *Central Library: It is not air-conditioned. Capacity of Students' reading Room (Outside) is only 32 against requirement of 150. Available Internet Nodes are 32 against requirement of 40. Deficiency remains as it is.*

- XX. *Students' Hostels: Available accommodation is for 453 students against requirement of 565. Ancillary facilities are inadequate as detailed in the report.*
- XXI. *Interns' Hostel: Available accommodation is for 42 Interns against requirement of 150.*
- XXII. *Residents' Hostel: Total 40 rooms are available against requirement of 85. They are partially furnished. Deficiency remains as it is.*
- XXIII. *Residential Quarters: Only 5 quarters are available for faculty against requirement of 26. NIL quarters are available for Non-teaching staff."*

9. The Medical Council of India recommended to the Central Government that the first Appellant-College should be debarred for two years *i.e.* 2017-2018 and 2018-2019 from admitting students and to encash the bank guarantee furnished. A decision was also taken not to consider the first Appellant for processing applications for Postgraduate courses for the academic year 2017-2018. There was also a recommendation to initiate proceedings for withdrawal of the recognition of the courses pursuant to which a show cause notice was given to the college on 24.03.2017. The first Respondent accepted the recommendations of the Medical Council of India and debarred the first Appellant-College from making admissions to MBBS course for the academic years 2017-2018 and 2018-2019. The first Respondent also

permitted the Medical Council of India to encash the bank guarantee.

10. Pursuant to a direction given by this Court by its order dated 01.08.2017 the status of ratification of deficiencies in the first Appellant-College was reconsidered and a decision was taken by the Executive Committee of the Medical Council of India not to recognise/approve the first Appellant-College for the award of MBBS degree granted by Baba Farid University of Health Sciences.

11. In the meanwhile, students who were admitted in the first Appellant-College during the years 2011-2012, 2014-2015 and 2016-2017 were shifted to other colleges.

12. Thereafter, the first Appellant requested the Medical Council of India to permit admission of 150 students in the MBBS course for the academic year 2019-2020. The Medical Council of India rejected the request of the first Appellant-College. According to the Medical Council of India, the conditional recognition granted to the first Appellant-College has become invalid in view of the failure of the first Appellant-College to comply with the conditions stipulated therein. It was mentioned in the letter dated 21.05.2019 that proceedings pursuant to the show cause notice dated 24.03.2017 are underway. The first Appellant-College was

advised to make an application/scheme under Section 10 (A) of the Indian Medical Council Act, 1956 for grant of permission to admit students for the academic year 2020-2021. Aggrieved by the order dated 21.05.2019, the Appellant filed a Writ Petition in the High Court of Delhi which was dismissed.

13. The High Court held that there is no merit in the contention of the Appellants that admissions for the academic year 2019-2020 should be considered without any further inspection as the debarment by the notification dated 26.09.2016 was only for a period of two years. As the relief claimed by the Appellants for the year 2019-2020 cannot be granted, the High Court rightly considered whether any relief can be granted to the Appellants for the academic year 2020-2021. The High Court took note of the fact that there are admittedly no students in the first Appellant-College as those admitted for the academic years 2011-2012, 2014-2015 and 2016-2017 have been shifted to the other colleges. The request made by the Appellants that there should be a direction for inspection was refused by the High Court as the last date for granting permission for the academic year 2020-2021 was 31.08.2020. As the recognition of the college has

not been cancelled, the Appellants were given liberty to make an application for renewal of recognition.

14. We have heard Mr. Dhruv Mehta, learned Senior Counsel for the Appellant, Ms. Aishwarya Bhati, learned Additional Solicitor General for the first Respondent and Mr. T. Singhdev learned counsel for the second Respondent. The contention of the Appellants that the ban for admitting students imposed by the first Respondent on 26.09.2016 is only for a period of two years i.e. 2017-2018 and 2018-2019 was rightly rejected by the High Court on the ground that they were not entitled to make admissions for the academic years 2019-2020 and 2020-2021 without any inspection. Reliance placed by the Appellants on the order dated 10.05.2018 passed by this Court in Writ Petition (C) No.423 of 2017 is misplaced. In the said Writ Petition, request of the Appellants that they should be permitted to make admission for the years 2017-2018 and 2018-2019 was rejected. While dismissing the Writ Petition, an observation was made that the Appellants would be entitled to pursue their request for permission for the academic years 2019-2020 and 2020-2021. It does not mean that the Appellants are entitled to admit students for the academic year 2019-2020 without an inspection. A bare look of the inspections conducted from

the years 2011-2012 makes it clear that the Appellants have not utilized the opportunities given to them to rectify the deficiencies in the past. The Medical Council of India has even recommended cancellation of the recognition granted to the Appellants in view of lack of infrastructure, clinical, teaching faculty and other facilities.

15. We find no merit in the contention of the Appellants that the Medical Council of India committed an error in not permitting admission of students for the academic year 2019-2020. Having found that the request made by the Appellants for permitting MBBS course for the academic year 2019-2020 had become infructuous, the High Court rightly considered the entitlement of the Appellant-College for the academic year 2020-2021. In accordance with the time schedule fixed in respect of permissions to be granted to the medical colleges for admission to students, the last date for granting permission for the academic year 2020-2021 was 31.08.2020. As per the schedule an application for renewal of permission should have been made by the Appellants on 07.07.2020. We find no fault committed by the High Court in refusing permission to the Appellant-College for making admissions for the academic year 2020-2021.

16. We are in agreement with the High Court that the Appellant-College is a recognised College and that it is open to the second Respondent to take appropriate steps under Section 19 of the Indian Medical Council Act. As the recognition was for a period of five years which ends in the year 2021, it is open to the Appellants to apply for renewal of the recognition. Any application preferred by the Appellants shall be considered in accordance with law by the second Respondent. We make it clear that the Appellant-College shall be entitled for admissions for the academic year 2021-2022 only if renewal of the recognition is granted to the first Appellant-College and it is found that there are no deficiencies like infrastructure, clinical, teaching faculty and other facilities.

17. For the above-mentioned reasons, we see no merit in the Appeal and the same is accordingly dismissed.

.....J.
[L. NAGESWARA RAO]

.....J.
[S. ABDUL NAZEER]

.....J.
[INDU MALHOTRA]

**New Delhi,
January 28, 2021.**