

PONNAIYAH RAMAJAYAM INSTITUTE OF SCIENCE AND TECHNOLOGY TRUST A

v.

MEDICAL COUNCIL OF INDIA AND ANOTHER
(Special Leave Petition (Civil) No. 14838 of 2015) B

JULY 15, 2015

[M.Y. EQBAL AND C. NAGAPPAN, JJ.]

Medical Council Act, 1956 – s. 10A – Application under, for establishment of new medical college – Issuance of Essentiality Certificate by State – Petitioner receiving the said communication and thereafter, submitting Essentiality Certificate and Certificate of Affiliation – However, after a month, Central Government rejected the application of the petitioner for establishment of new medical college on the ground that Essentiality Certificate was not submitted before the cut-off date – In writ petition, Single Judge directed the respondent-Medical Council of India to consider the case of petitioner – However, Division Bench set aside the said direction – On appeal, held: There was no fault, laches or negligence of the petitioner in submitting the application and other required documents – Although the Essentiality Certificate and Certificate of Affiliation were filed ten days after the cut off date but after a month Central Government rejected the application – Reason given by the Central Government highly unjustified – Respondents did not discharge their duty in accordance with the provisions of the Act and Rules made thereunder rather acted in a biased manner – Respondent-MCI directed to consider the application and make its recommendation. C
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CIVIL APPELLATE JURISDICTION: Special Leave Petition (Civil) No. 14838 of 2015.

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A From the Judgment and Order dated 05.05.2015 in LPA No. 234 of 2015 of the High Court of Delhi at New Delhi.

Rajeev Dhawan, G. Umapathy, R. Mekhala, Rakesh K. Sharma, Aditya Dewan and Chandra Prakash for the
B Petitioner.

Pinky Anand, ASG, Vikas Singh, Gaurav Sharma, Prateek Bhatia, Karan Seth, Rekha Pandey, Ajay Sharma, R.S. Nagar, S.S. Rawat, D.S. Mahra for the Respondents.

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ORDER

The Order of the Court was delivered by

M.Y. EQBAL, J.: 1. We have heard Dr. Rajeev Dhawan,
D learned senior counsel appearing for the petitioner and Mr. Vikas Singh, learned senior counsel app

earing for respondent no.1 – Medical Council of India (MCI).

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2. The challenge in this special leave petition is the impugned judgment passed by the Delhi High Court allowing the writ appeal filed by the respondent MCI whereby the Division Bench of the High Court set aside the judgment passed by the learned Single Judge in the writ petition.

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3. The dispute arose only when the proposal of the petitioner for establishment of new medical college for the academic year 2015-16 was returned on the ground that the same was not submitted before the cut-off date i.e. 31.8.2014.

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4. Indisputably, the petitioner as far back as on 25.8.2014 submitted application as required under Section 10A of the Indian Medical Council Act, 1956 for the establishment of the Institute. The Essentiality Certificate was issued by the State
H of Tamil Nadu only on 28.8.2014. The said communication

was received by the petitioner only in the 1st week of A
September, 2014. Similarly, the Tamil Nadu MGR University
granted Consent of Affiliation for starting of MBBS Degree
course in the new medical college. On receipt of this
communication, the petitioner immediately on 10.9.2014 B
submitted Essentiality Certificate and Certificate of Affiliation.
Curiously enough after about a month, the respondent no.2 –
Central Government rejected the application on the ground that
Essentiality Certificate was not submitted before the cut-off
date i.e. 31.8.2014.

5. Aggrieved by the said rejection of application, the C
petitioner filed writ petition being W.P. No.7424 of 2014. The
learned Single Judge of the High Court by a detailed judgment
and order allowed the writ petition and directed the respondent
no.1 MCI to consider the case of the petitioner. Instead of D
doing so, the respondent no.1 being dissatisfied assailed the
said judgment of the learned Single Judge by filing writ appeal.
The said appeal was heard and disposed of on 5th May, 2015.
The Division Bench, after giving reasons, refused to uphold E
the direction issued by the learned Single Judge for processing
the application of the petitioner and consequently the direction
was set aside.

6. From the aforesaid facts narrated in brief, we do not F
find any fault, laches or negligence from the side of the
petitioner in the matter of submission of application and other
required documents. As noticed above, although the
Essentiality Certificate and Certificate of Affiliation were filed
on 10.9.2014, but after a month application was rejected by G
the Central Government merely on the ground that the same
was not submitted before the cut-off date i.e. 31.8.2014. This
reason given by the Central Government is highly unjustified.
The Division Bench in the impugned judgment also took note
of the fact and held that the rejection of the application merely H
on the ground that the said documents were not submitted

A along with application would not be proper since such pedantic approach serve no purpose. For better appreciation, paragraph 39 of the impugned judgment is quoted hereinbelow:

B “39. However, when the deficient documents are available
C with the Central Government as on the date of
D consideration of the applications for reference to the MCI
E for their recommendations, it appears to us that nothing
F precludes the Central Government to consider the
G applications on merits. Rejection of the applications in such
H circumstances merely on the ground that the said
documents were not submitted along with the applications
may not be proper since such pedantic approach does
not serve any purpose. Therefore, we too agree that the
Central Government in appropriate cases may exercise
the discretion in favour of the applicants and consider the
applications which are complete in all respects by the date
of consideration under Section 10A(2) of the MCI Act.
Such consideration in our considered opinion cannot be
found fault with since the same would not affect the
adherence to the statutory time schedule. However, the
question with which we are concerned in the present case
is whether the failure of the Central Government to
exercise such discretion can be held to be erroneous and
contrary to law and whether a positive direction can be
issued by this court to consider the applications of the
petitioners particularly at the fag end of the statutory time
schedule.”

G 7. Prima facie, therefore, we are of the view that in the
H facts and circumstances of the case, the respondents have
not discharged their duty in accordance with the provisions of
the Act and Rules made thereunder rather acted in a biased
manner.

8. We, therefore, dispose of this application with a direction to the respondent Medical Council of India to consider the application and make its recommendation within a period of three weeks from today. A

9. Let the matter be listed after four weeks to enable the respondents to submit the recommendation in a sealed cover. B

Nidhi Jain

Matter adjourned.