

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO.14838 of 2015

PONNAIYAH RAMAJAYAM INSTITUTE OF
SCIENCE AND TECHNOLOGY TRUST Petitioner(s)

Versus

MEDICAL COUNCIL OF INDIA
AND ANOTHER Respondent(s)

M.Y. Eqbal, J.:

ORDER

We have heard Dr. Rajeev Dhawan, learned senior counsel appearing for the petitioner and Mr. Vikas Singh, learned senior counsel appearing for respondent no.1 – Medical Council of India (MCI).

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.

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.

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 of Tamil Nadu only on 28.8.2014. The said communication was received by the petitioner only in the 1st week of 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 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 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 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 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 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 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 on the ground that the said documents were not submitted 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:

“39. However, when the deficient documents are available with the Central Government as on the date of consideration of the applications for reference to the MCI for their recommendations, it appears to us that nothing precludes the Central Government to consider the applications on merits. Rejection of the applications in such 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.”

7. Prima facie, therefore, we are of the view that in the 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.

JUDGMENT

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.

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

New Delhi
July 15, 2015



.....**J.**
(M.Y. Eqbal)

.....**J.**
(C. Nagappan)

JUDGMENT

SUPREME COURT OF INDIA



JUDGMENT