

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

**M.A. Nos. 2867-2868 of 2018**  
**IN**  
**Civil Appeal No(s). 10023-10024 of 2018**

**THE SECRETARY, GOVERNMENT OF INDIA, MINISTRY OF  
HEALTH & FAMILY WELFARE, DEPARTMENT OF AYUSH.**

**.... Appellant**

***Versus***

**A.T.S.V.S. SIDDHA MEDICAL COLLEGE & HOSPITAL AND  
ANR.**

**....Respondents**

**J U D G M E N T**

**L. NAGESWARA RAO, J.**

**1.** The above Civil Appeals were filed by the Government of India, represented by the Secretary, Ministry of Health and Family Welfare, Department of AYUSH against the judgment of the High Court of Madras in Writ Appeal No.1175 of 2016 and Writ Petition No.2260 of 2017 dated 27.04.2017. By the said judgment, the High Court of Madras directed the Appellant to approve the admission of the students over and above the approved intake of 40 seats for the academic year 2015-2016. There was a

further direction to the Respondents to announce the results of the examinations of all the students including those who have been admitted over and above the approved intake.

**2.** After hearing both sides, this Court directed the results of the students who were admitted to the course of Bachelor of Siddha Medicine and Surgery (hereinafter referred to as '*BSMS Course*') for the year 2015-2016 and 2016-2017 be declared, subject to the result of an inspection to be conducted in order to evaluate the existence of requisite infrastructure and facility in the Hospital and College.

**3.** M.A. Nos. 2867-2868 of 2018 were filed by the Respondent-College for a direction to the Central Council of Indian Medicine (hereinafter referred to as '*CCIM*') to conduct the inspection. A further direction was sought to the fourth Respondent University to publish the results of the second year BSMS examinations of 18 students belonging to the 2015-2016 batch and the first year BSMS examinations of 39 students belonging to the 2016-2017 batch, subject to the final outcome of the inspection to be conducted by the CCIM. The first Respondent-College also sought a direction to the University to conduct special

examinations for 18 students for the 2015-2016 batch for the third year BSMS course and 39 students of the 2016-2017 batch for the second year BSMS course.

**4.** An inspection was conducted by CCIM on 2<sup>nd</sup> and 3<sup>rd</sup> November, 2018. The inspection reports were forwarded to the Central Government under Section 13 (4) of the Indian Medicine Central Council Act, 1970. After considering the inspection report, the Appellant decided that the first Respondent-College was not entitled for issuance of permission for the academic year 2015-2016 and 2016-2017. Permission was not granted on the ground that assessment of the availability of infrastructure and other requirements for the years 2015-2016 and 2016-2017 could not be made by the CCIM on the basis of the inspection conducted on 2<sup>nd</sup> and 3<sup>rd</sup> November, 2018.

**5.** A perusal of the material on record would make it clear that the first Respondent-College was granted permission to admit only 40 students and not 60 seats, as requested. Pursuant to an interim order passed by the High Court, the College admitted 58 students which means that 18 students were admitted in excess of the sanctioned intake. For the year 2016-2017 no permission was granted to the first Respondent-College to make any admission

since, according to the Union of India, the College did not permit an inspection to be conducted. However, the first Respondent College made admissions to 39 seats on the basis of an interim order passed by the High Court. The dispute pertains to the future of those students who were admitted without any permission by the Appellant. There is no ambiguity in the order dated 27<sup>th</sup> September, 2018 passed by this Court in the above Civil Appeals; the students who were admitted in excess of the sanctioned intake were to be permitted to take examinations and the results to be announced on the basis of the inspection to be conducted by the competent authority i.e. CCIM.

**6.** The refusal by the Union of India to grant permission approving the admission of 18 students for 2015-2016 and 39 students for 2016-2017 who were admitted in excess of the sanctioned strength, is contrary to the direction issued by this Court in Civil Appeals No.10023-10024 of 2018. The inspection that was to be conducted pursuant to the order of this Court was for assessing the existing infrastructure and other facilities. The report of the CCIM which indicated that assessment for the year 2015-2016 and 2016-2017 cannot be made on the basis of the inspection conducted in November, 2018, is in violation of

the direction issued by this Court. The continuance of the students who were admitted beyond the sanctioned strength was made contingent on said inspection. The judgment of the High Court in favour of such students was upheld subject to the outcome of the inspection that was directed. To say that assessment of the facilities in 2015-16 and 2016-17 cannot be done by inspection in 2018 and refuse permission is in blatant violation of the order of this Court dated 27<sup>th</sup> September, 2018.

**7.** We were taken through the inspection report by Mr. Jayant Bhushan, learned Senior Counsel appearing for the first Respondent-College to show that the College has all the facilities that are required in accordance with the Regulations. The learned Additional Solicitor General appearing for the Appellant disputed the said submission to state that certain deficiencies still exist.

**8.** A perusal of the inspection report shows that there are no serious deficiencies. The refusal by the Union of India to truthfully carry out the orders passed by this Court in the Civil Appeal Nos.10023-10024 of 2018 prompts us to direct the approval of admissions of the 18 students in excess of the sanctioned intake of 40 seats for the year 2015-2016 and the 39 students for the year 2016-2017.

The said students shall be permitted to take the examinations and the results may be announced. We do not approve the conduct of the first Respondent-College in making admissions without the requisite permission and not permitting inspection. The Appellant is at liberty to take suitable action in case the first Respondent does not fulfill the requirements as per the Regulations. This order shall not be treated as a precedent as it is passed in the peculiar facts of the case.

**9.** M.A. Nos. 2867-2868 of 2018 in Civil Appeal No(s). 10023-10024 of 2018 are disposed of.

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

.....J.  
**[SANJAY KISHAN KAUL]**

**New Delhi,  
February 08, 2019.**