

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

Writ Petition (C) No. 779 of 2018

TIRUMALA MEDICAL ACADEMY EDUCATIONAL SOCIETY AND ANR.

.....PETITIONER (S)

Versus

UNION OF INDIA AND ORS.

.....RESPONDENT (S)

J U D G M E N T

L. NAGESWARA RAO, J.

1. This Writ Petition is filed challenging the letter dated 27.04.2018 of the Dental Council of India-Respondent No.2 herein to the Union of India-Respondent No.1 recommending that the first Petitioner-Tirumala Medical Academy Educational Society is not entitled for establishment of a dental college for the academic session 2018-2019. The order dated 26.06.2018 passed by Respondent No.1 accepting the recommendations of Respondent No.2 and disapproving the application of the first Petitioner for establishment of a dental college is also assailed in the Writ Petition. The Petitioners seek a further direction to Respondent No.1 to issue appropriate orders granting letter of

permission for establishing a new dental college for the academic year 2018-2019.

2. Tirumala Medical Academy Educational Society, the first Petitioner submitted an application for establishment of a dental college in Nizamabad, Telangana for the academic session 2018-2019. The Executive Committee of the second Respondent considered the proposal in its meeting held on 21.12.2017. The Executive Committee by its letter dated 29.12.2017 recommended to the Central Government not to approve the scheme of the first Petitioner for establishment of dental college for the academic session 2018-2019. It was mentioned therein that in spite of several opportunities given to the first Petitioner, the land use certificate was not furnished and that certificate relating to the completion of the buildings was also not given. The Executive Committee was also not satisfied with the attachment of the proposed dental college with the Government Medical College and Hospital as the certificate issued by the Principal Secretary to Government of Andhra Pradesh was issued four years back in which it was stated that the arrangement may be revoked in the future. The first Petitioner was informed that an opportunity of being heard shall be afforded to him on 17.01.2018 to make his

submissions regarding the recommendations made by the second Respondent for not approving the proposal of the first Petitioner to start a new dental college. A personal hearing was given on 17.01.2018 in respect of the deficiencies communicated to the first Petitioner. Certain documents were submitted by the first Petitioner in support of its contention that the said deficiencies have been rectified. After considering the said documents the Hearing Committee recommended to the first Respondent that the second Respondent should review their recommendation of disapproval. By a letter dated 24.01.2018, the first Respondent informed the first Petitioner that the scheme submitted by it for starting a dental college had been sent back to the second Respondent for a review on the basis of the recommendations of the Hearing Committee.

3. Pursuant to the direction by the first Respondent to review the scheme, the second Respondent appointed a Committee to conduct inspection of the dental college. The inspection was carried out on 22nd and 23rd March, 2018. It is relevant to state that there was a dispute between the first Petitioner and Vels Education Society which was running Meghna Institute of Dental Sciences at Nizamabad regarding

the affiliation to the Government Hospital, Nizamabad. Vels Education Society filed a Writ Petition in the High Court of Telangana and Andhra Pradesh seeking a direction to the second Respondent not to approve the scheme of the first Petitioner for starting a dental college. An interim order was passed by the High Court on 17.04.2018 in I.A. No.1 of 2018 in Writ Petition No.11172 of 2018 that the proposal of the first Petitioner may be considered, if permissible under the regulations having regard to the peculiar facts of the case.

4. By a letter dated 27.04.2018, the Executive Committee of the second Respondent recommended to the first Respondent to disapprove the application/scheme of the first Petitioner for establishment of a dental college. Relying upon the relevant regulations, the request of the first Petitioner regarding the clinical attachment with the Government Hospital, Nizamabad was rejected as only one dental college can be attached to a Government Hospital. Meghna Institute of Dental Sciences, Nizamabad was already having clinical attachment to the Government Hospital. Apart from the said deficiency, several others were pointed out in the letter dated 27.04.2018 which are as follows:

2. The college has four specialties clinics in Prothodontics, Pedodontics, Operative and Periodontics in one clinic hall.
3. The oral Surgery clinics are in next hall.
4. There is no biometrics for staff attendance.
5. There was shortage of clinical material.
6. There was no record of work done in Register/ log book of lab/ Ceramic work.
7. Many staff have residential address of Hyderabad city (160 km from college).
8. 15 affidavits are incomplete, despite requests to complete them and give proofs of degrees, registration etc.
9. The list of medical college staff (teachers + non teaching) was not provided in the inspection hence, no verification could be done of medical teachers teaching the dental students.
10. Some Professors have no IT Returns after 2014.
11. The library had no journals, back journals only a few e- journals.
12. No staff lives in the dental college premises.
13. The information of annexures No. 7, 8 are to be provided by the dental college directly to the council, as it was not provided during inspection.
14. Medical Teaching Staff information not given.
15. DCI cards not available.
16. Information about university approval of appointment of teachers not available.
17. Attached Medical College details are as under:-

Department	Required	Allotted	Occupancy	
			During last 6 months	On the day of Inspection
General Ward-Medical including allied specialties	30		Information not given to the Inspectors	
General Ward-Surgical including allied specialties	30			
Private Ward (A/c & Non A/c)	9			
Maternity Ward	15			
Pediatric Ward	6			
Intensive Care Services (4% of bed strength)	4			

Critical Care Services (6% of bed strength)				
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18. Area Requirement (As per Bureau of Indian Standards):-

	Required	Available
Covered Area	20 sq.m./bed	Information not given
Inpatient Services	40%	
Outpatient Services	35%	
Department and supportive Services	25%	

19. There are following information of Man Power Requirement in various departments not given by the college authority during Inspection:-

Medical Staff: - General Surgery-2, General Medicine-2, Obstetrics & Gynaecology-2, ENT-2, Paediatrics-2, Anaesthesia-2, Orthopaedics-2, Pharmacologist-1, Radiologist-1, GDMO-1, Community Medicine-1, Hospital Administration-1. Nursing Staff: Matron-1, Sister Incharge-6, O.T. Nurses-6, General Nurses-20, Labour Room Nurses-4.
Health Staff: Female Health Assistant-1, Extension Educator Paramedical Staff-1, Lab Technician/ Blood Bank Tech-4, ECG Technician-1, Pharmacist-4, Sr. Radiographer-1, CSSD-2, Medical Records-1.
Engineering Staff: Civil-2, Mechanical-2, Electrical-2, Engineering Aid-4.
Other Staff: Drivers-2, Carpenter-1, Cooks-2, Barber-1, Class IV including chowdikers-55.
Administrative Staff: Office Superintendent-1, Head Clerk-1, Cashier-1, Stenographer-1, UDC-2, LDC-4.

20. Non-Teaching Staff/ Ministerial Staff: (Annexure10), Manager-4, Assistants-7, D.S.A. (Chair side attendant)-12, Dent. Tech. (Dental Mechanic)-6, Dent.Hygst.-2, Radiographer-3, Photographer-1, Artist-1, Physical Direction-1, Electricians-4, Plumber-2, Carpenter-1, Meson-1, A.C. Tech-1, Helpers Electrical-3, Sweepers & Scavengers-9, Attenders-18, Security Personal-5, Dept. Secretaries-5, Driver-1, Nurses-2, Lab. Technicians-4.

21. Central Library: not available any journal.
Indian Journals: No
International Journals: No

Back Volumes: No
Journal Room: No separate room (one big hall only)
Computer/ Internet Room: No
Room for librarian: No

22. There are following deficiencies of Major Equipments in various departments:
- Prosthodontics and Crown & Bridge: Extra oral/ Intra oral trace-2, Preheating furnace-1, Surveying unit-1, Deflasking unit-4, Hydraulic press-2, Vacuum mixing machining-1, Curing pressure pot-1, Porcelain Furnace-1, Vibrator-2, Sand blasting unit-1, Model Trimmer-1, Geyser-2, H.P. Grinder with suction-1, Heavy duty lathe-2, Phantom Heads-50, Pre-clinical working tables-100.
- Ceramic and Cast Partial Laboratory: Pindex System-1, Circular saw-1, Model Trimmer with Carborandum disc-1, Model Trimmer with Diamond disc-1, Induction casting machine-1, Programmable porcelain furnace with vacuum pump with instrument kit and material kit-1, Vacuum mixing machining-1, Spindle Grinder 24,000 RPM with vacuum suction-1, Curing pressure pot-1, Milling machine-1, Palatal trimmer-1, Micro surveyor-1, Pre-clinical Prosthetics Laboratory (Work table preferably complete stainless steel fitted with light, Bunsen burner, air blower, working stool)-60 (deficient), Adequate number of lab micro motor with attached hand piece-20, Plaster room for Pre-Clinical Work: Vibrator-2, Model Trimmer-1, Carborandum Disc-1, Diamond disc-1.
- Conservative Dentistry and Endodontics: Dental Chairs and Unit-33, Glass bead sterilizers-4, Vibrator-2, Intra-oral X-ray Unit-Radiation safety not there, injectable gutta percha-1, Phantom Lab Unit-60.
- Chemical Laboratory: Model Trimmer Carborandum disc-1, Model Trimmer Diamond disc-1, Spindle Grinder-1, Vibrator-2, Burnout furnace-1, Porcelain furnace-1, Sand blasting machine-1, Lab Airrotor-1, Pindex System-1, Circular Saw-1, Vacuum mixer-1, Pneumatic chisel-1.

23. Staff Quarters (Separate from Hostel): Principal Bungalow- not occupied and Quarters for staff not occupied.

No. of equipped common rooms: None
No. of messes: only one

24. Boys Hostel:- 4 seater boys hostel.

25. As per Hospital Attachment only clinical facility provided to the proposed dental college.”

5. The recommendation for disapproval of the scheme by the second Respondent was accepted by the first Respondent on 30.05.2018. The first Petitioner approached the High Court of Andhra Pradesh and Telangana seeking a direction to Respondent No.1 and 2 herein to consider his representation dated 28.05.2018 for grant of permission to establish a new dental college. By an order dated 07.06.2018, the High Court directed the first Respondent to consider the representation dated 28.05.2018 in accordance with law. The first Respondent reconsidered the matter as per the directions of the High Court and reiterated that the first Petitioner is not entitled to start a new dental college for the year 2018-2019 by an order dated 26.06.2018.

6. We have heard Mr. Shyam Divan, learned Senior Counsel appearing for the Petitioners, Ms. Pinky Anand, learned Additional Solicitor General for the Union of India and Mr. Gaurav Sharma, learned Advocate for the Dental Council of India. Mr. Divan submitted that the recommendation by the second Respondent for disapproval of the scheme of the first Petitioner to start a dental college and the acceptance of the

said recommendation by the first Respondent are in flagrant violation of Section 10 A (3) (a) and 10 (4) of the Indian Medical Council Act, 1956. He contended that no opportunity was given to the Petitioners to rectify the deficiencies pointed out in the inspection conducted on 22nd and 23rd March, 2018. He also urged that the first Respondent failed to provide a hearing to the first Petitioner before disapproval of the scheme for starting a new dental college. He relied upon a judgment of this Court in ***Royal Medical Trust v. Union of India, (2015) 10 SCC 19*** in support of his contention. Mr. Divan urged that the dispute pertaining to the affiliation to a Government Hospital has been settled and Vels Education Society has withdrawn the Writ Petition filed by it in the High Court of Telangana and Andhra Pradesh. According to him, there is no dispute about the Petitioner No.1 being the only college affiliated to the Government Medical Hospital, Nizamabad at present. He further submitted that all the deficiencies pointed out in the inspection have been rectified and he requested for a direction to Respondent No.2 to conduct another inspection to verify whether the deficiencies still exist. He also submitted that huge investment has been

made on the dental college and the Petitioners would suffer immense hardship unless permission is granted to start the dental college for the academic session 2018-2019.

7. The learned Additional Solicitor General submitted that the Hearing Committee of the Union of India fairly considered the representation of the Petitioners and sent the matter back to the second Respondent for review in January, 2018. As gross deficiencies have been pointed out by the second Respondent on the basis of inspection conducted on 22nd and 23rd March, 2018, the recommendation for disapproval of the scheme of the first Petitioner was accepted by the first Respondent. She stated that there was no requirement of giving an opportunity at every stage and in view of the personal hearing given to the first Petitioner in January, 2018, there was no necessity of another opportunity to be given by the first Respondent before passing a final order. She further submitted that there are time lines fixed in the schedule which cannot be violated as per the judgments of this Court. According to her, the first Petitioner is not entitled for any relief as the last date for grant of approval by the Union of India was 31.05.2018. Mr.Gaurav Sharma urged that the Writ Petition warrants dismissal as the Petitioners are not entitled

for the relief claimed for. He stated that the deficiencies pointed out have not been cured. By referring to the material placed on record by the Petitioners, he submitted that there is large scale shortage of clinical material. He also contended that the settlement arrived at between the first Petitioner and Vels Education Society was only last week. At the time of consideration of his proposal by the Respondents, the first Petitioner was not entitled for permission to start a dental college as it was not the only college affiliated to Government Hospital. He supported the Additional Solicitor General by stating that the first Petitioner was not entitled for an opportunity after the inspection was held in view of the fact that an oral hearing was given by the Union of India before sending the matter back to the Dental Council of India in January, 2018.

8. Section 10 (A) of the Indian Medical Council Act, 1956 and the relevant Regulations framed under Section 33 of the Act were considered by this Court in ***Royal Medical Trust*** (supra) in which it was held as follows:

“30. In the light of the aforesaid facets, namely, that the scheme under Section 10-A may itself contemplate stage-wise achievement of annual targets and the requirements of reasonable opportunity to be afforded not only at the

initial stage but also in cases of subsequent renewal and further that the opportunity must be afforded at both the stages, namely, by MCI as well as by the Central Government, the Schedule under the Regulations must accommodate and provide for adequate time-limits to take care of such eventualities. The Schedule which was brought in force by way of an amendment dated 21-9-2012 unfortunately does not provide for such stage-wise consideration. It simply gives four stages without indicating any time-limits to ensure grant of such reasonable opportunity in case the decisions of disapproval are taken against the applicants. It also does not speak of any compliance verification. The pattern that emerges in the present cases is common and consistent in that the inspections were undertaken in and around April/May 2014 and the letters of disapproval were sent by the Central Government on or about 15-7-2014. Though the compliance was reported, no verification in that behalf was undertaken.

31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students community but at the same time caused loss to the society in terms of less number of doctors being available. MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such

as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned.

11. The recommendation of the first Respondent for disapproval of the scheme of the first Petitioner by its letter dated 29.12.2017 to the second Respondent pertained to the initial assessment of the application at the first level. Having

been satisfied with the explanation of the first Petitioner during the hearing held on 17.01.2018, the first Respondent directed the second Respondent to review the proposal of the first Petitioner for starting a new dental college for the academic session 2018-2019. It is relevant to mention that no inspection of the college was done at that stage. The only inspection that was done was on 22nd and 23rd March, 2018. The first Petitioner was entitled for an opportunity to report compliance after the deficiencies were communicated to it. Admittedly, no such opportunity was afforded by the second Respondent. Consequently, the Dental Council of India did not also call for compliance verification. No opportunity was given by the first Respondent to the first Petitioner before disapproving the scheme of the first Petitioner. We do not see any substance in the submissions made on behalf of the Respondents that there was no requirement of an opportunity to be given to the first Petitioner. The only inspection that was conducted in this case was on 22nd and 23rd March, 2018 and according to the judgment of this Court in ***Royal Medical Trust*** (supra), the first Petitioner was entitled for an opportunity to rectify the deficiencies pointed out in the

inspection and a further hearing before a final order was passed by the first Respondent.

12. Having held that the letter dated 27.04.2018 of the first Respondent recommending disapproval of the scheme of first Petitioner to start a dental college and the order dated 28.06.2018 of the first Respondent are in flagrant violation of Section 10 of the Indian Medical Council Act, 1956, it is necessary to decide as to whether the first Petitioner is entitled for a direction for re-inspection to enable it to make admissions for the academic session 2018-2019.

13. The time schedule for the receipt of the applications for establishment of new dental colleges and processing them by the Central Government is as follows:

Sl. No.	State of processing	Last Date
1.	Receipt of applications by the Central Government	Between 15 th June to 7 th July (both days inclusive) of any year
2.	Forwarding of applications by the Central Government to Dental Council of India	By 31 st July
3.	Technical Scrutiny, Assessment and Recommendations by the Dental Council of India	By 31 st December
4.	Receipt of reply/ compliance from the applicant by the Central Government and for personal hearing thereto, if any and forwarding of compliance by the Central Government to the Dental Council of India	Two months from receipt of recommendation from DCI but not after 31 st January.
5.	Final recommendation by the Dental Council of India	By 30 th April
6.	Issue of Letter of Permission by the	By 31 st May

	Central Government	
7.	Commencement of academic session/ term	1 st of August
8.	Last date upto which students can be admitted/ Joined against stray vacancies arising due to any reason	By 15 th September

14. The time schedule for receipt of application for opening of higher courses of study/increase of post graduate seats/renewal of permission and processing of the applications by the Central Government and the Dental Council of India is as follows:

Sl. No.	Stage of proceeding	Last Date
1.	Receipt of applications by the Central Government.	Between 15 th March to 7 th April (both days inclusive of any year)
2.	Forwarding of applications by the Central Government to Dental Council of India.	By 30 th April
3.	Technical Scrutiny, Assessment and Recommendations by the Dental Council of India.	By 15 th October
4.	Receipt of reply/compliance from the applicant by the Central Government and for personal hearing thereto, if any and forwarding of compliance by the Central Government to the Dental Council of India.	Two months from receipt of recommendation from DCI but not after 15 th November
5.	Final recommendations by the Dental Council of India.	By 31 st January
6.	Issue of letter of permission by the Central Government.	By 28 th February
7.	Commencement of academic session/ term.	1 st May
8.	Last date up to which students can be admitted/Joined against stray vacancies arising due to any reason.	By 31 st May

15. The last date for grant of permission by the Central Government was 31.05.2018 and commencement of academic session is 01.08.2018. A time schedule for completion of the admission process for first BDS Course for the academic session 2018-2019 was issued by a notification of the second Respondent on 11.06.2018. According to the schedule, the first round of State Counselling was scheduled to be held between 25th June to 5th July and the second counselling is to be held between 15th July to 26th July.

16. The notification issued by the Dental Council of India with previous sanction of the Central Government prescribing the time schedule for receipt of applications for establishment of new medical colleges and processing the applications was approved by this Court in ***Ashish Ranjan v. Union of India (2016)11 SCC 225.***

17. After holding that the Respondents acted in violation of Section 10 A (3) (a) and Section 4 by not affording an opportunity to the Petitioner No.1, we proceed to examine whether the Petitioners are entitled for the relief claimed in this Writ Petition. The final order relating to the relief may be different and not a natural consequence of the ratio decidendi of the judgment. This may happen either on account of a

subsequent event or the need to mould the relief to do the complete justice in the matter. See: ***Sanjay Singh v. U.P. Public Service Commission (2007) 3 SCC 720*** and ***U.P. Public Service Commission v. Manoj Kumar Yadav & Anr. (2018) 3 SCC 706***.

It has been repeatedly held by this Court that the schedule prescribed by the Dental Council of India is binding on all concerned and should not be ordinarily relaxed. Any direction given by us in this case would necessarily involve relaxation of the time lines mentioned in the schedule. We are not inclined to do that in this case as the Petitioners are also responsible for the delay caused in consideration of their proposal to start a new dental college. Initially, they did not furnish the required information sought by the second Respondent regarding the land and buildings which resulted in the recommendation of disapproval of the scheme proposed by them. If they complied with the direction for submission of the relevant documents sought by the Respondent No.2, the inspection of the college would have been conducted as scheduled in December, 2017 itself. Further delay was caused due to the order passed in the Writ Petition filed by the Petitioners in the High Court of Telangana

and Andhra Pradesh by which Respondent No.1 was directed to consider the representation made on 28.05.2018. Further, the settlement between the Petitioners and Vels Education Society regarding the affiliation to the Government Medical College and Hospital was reached only last week. In the facts and circumstances mentioned above, we are not inclined to give any direction to the Respondents to consider the proposal of the Petitioner No.1 to start a new dental college for this academic session by relaxing the schedule issued by the Dental Council of India.

18. For the aforementioned reasons, the Writ Petition is disposed of.

.....J.
[S.A. BOBDE]

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

**New Delhi,
August 21, 2018.**