

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1054 of 2017
In
Civil Writ Jurisdiction Case No. 19129 of 2016

The Dental Council of India & Anr

.... Appellant/s

Versus

Dr. B. R. Ambedkar Institute of Dental Sciences and Hospital & Ors

.... Respondent/s

Appearance :

For the Appellant/s : Mr. S.D. Sanjay, Sr. Advocate
Mr. Alok Kumar Agrawal, Advocate
For the Respondent No.1 : Mr. Y.V. Giri, Sr. Advocate
Mr. Anjani Kumar Jha, Advocate
For Respondent Nos. 2, 3, and 4 : Mr. Abhay Shankar Jha (CGC)

CORAM: HONOURABLE THE CHIEF JUSTICE

and

**HONOURABLE MR. JUSTICE ANIL KUMAR
UPADHYAY**

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

5 07-08-2017

This L.P.A. has been filed by Dental Council of India challenging the order passed by the learned writ Court on 19.05.2017 in C.W.J.C. No.19129 of 2016 under Clause 10 of the Letters Patent. The only short legal question involved in the matter is as to whether before taking a final decision on the recommendation made by the Dental Council of India, the Government of India under Section 16A of the Dentist Act, 1948 has powers to pass any interim order including restraining the admission of students in a particular academic session. Even though this legal issue can be addressed and decided at any point of time, but taking note off, and keeping in view the larger interest



of the students, who have already been admitted to the institute, in question, for the academic Session 2016-17 and finding the question of their career being one of paramount issues, which wants consideration after hearing the learned counsel in detail, we find that after the impugned interim decision was taken, vide communication available on record dated 19.07.2017 issued by the Under Secretary to the Government of India, Ministry of Health and Family Welfare, after the action impugned in the writ petition was passed, based on the recommendation by the Dental Council of India on 29.04.2017 in the matter of initiating process for withdrawal of recommendation of the institute under Section 16A of the Dentist Act, 1948, a personal hearing was afforded to the institute by the Government of India, as per the provisions of Section 10A(4) of the Dentist Act, 1948 and the hearing committee recommended the scheme for review and re-verification by the Dental Council of India.

That being the position that emerges from the document annexed as Annexure-A, dated 19.07.2017 during the pendency of the recommendation and if review and re-verification is conducted by the Dental Council of India and report submitted to the Government of India, the Government of India shall take a



final decision in the matter and that would bring to an end the interim action taken.

In view of the aforesaid factual position, we are of the considered view that the Government of India should be directed to issue necessary instructions to the Dental Council of India to conduct verification/inspection and submit a report to the Government of India along with its recommendation, so that the Government of India take a final decision in the matter. Even though compliance of the aforesaid direction seems to be very simple, but both the learned counsel representing the Dental Council of India and counsel representing the petitioner make serious allegation with regard to attitude of the Dental Council of India and its officials and the Council makes counter allegations with regard to the attitude of the institute in not co-operating in conduct of the inspection and point out act of the institute in the past due to which inspection could not be carried out, the preventive action taken by the institute in obstructing the Dental Council and its official from making inspection. However, we are of the considered view that review and re-verification by the Dental Council of India as directed by the Government of India, should be directed in this case after proper inspection is



conducted.

In the peculiar facts and circumstances of the case, for the purpose of conducting this process, we direct the respondent Government of India to get an inspection done into the matter through the Dental Council of India, obtain its recommendation and thereafter submit a report to this Court as to what final decision by Government of India proposes to take in the matter under Section 16A of the Dentist Act.

Keeping in view the aforesaid aspects of the matter, we issue a direction to the Secretary, Government of India, Ministry of Health and Family Welfare to issue necessary directions to the Dentist Council of India to constitute a team of senior officials to conduct the inspection. The team of officials will intimate the District Magistrate and the Senior Superintendent of Police, Patna with regard to the date and programme for inspection and the District Magistrate and the Senior Superintendent of Police, Patna shall make all facilities available to the team for conducting the inspection of the institute, in question, and after conducting the inspection of the institute, in question, the inspection team shall submit its report along with the recommendation of the Dentist Council of India to the



Government of India and the Government of India shall take its decision and submit its report to this Court with regard to the matter. The Government of India is also granted liberty to direct the inspecting team appointed by the Dentist Council of India to Videograph the entire process of inspection and submit it to the Government of India. We direct the Secretary, Government of India, Ministry of Health and Family Welfare to conduct the aforesaid proceedings and submit the report to us within six weeks from today.

The inspection team shall consist of the experts in the field, in question, and should be as per the requirement, as is contemplated in the law, and the team shall be selected by the Dentist Council of India after due approval of the Secretary, Government of India, Ministry of Health and Family Welfare.

In the meanwhile, the Institute, in question, is free to conduct its admission with a clear notice to the students, who are seeking admission that they are doing so at their own risk, subject to final decision in this appeal, the admission may be cancelled and they would not be entitled to any relief whatsoever. Accordingly, on the students being specifically noticed through proper process that their admission in the institute is subject to



final decision in this appeal the institute may admit student.

Every students coming to seek admission in the institute should be informed before taking admission about this order.

List this appeal on 21.09.2017.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

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