**Supreme Court**

**Ayurved Shastra Seva Mandal & ANR. Vs. Union of India & Ors.**

**[SLP (C) No. 31892 of 2012] & others**

**Decided by CJI. ALTAMAS KABIR,** **J. ANIL R. DAVE,** **J. VIKRAMAJIT SEN**

**Decided on MARCH 06, 2013**

**Topic: Sections 13A, 13B and 13C** **Indian Medicine Central Council Act, 1970 & 5(1)(d) & 6(1)(e) of** **Medical College Regulations, 2003**

**Facts**

The common issue involved in all the Special Leave Petitions is in regard to the refusal by the Government of India, in its Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy, hereinafter referred to as "AYUSH", to grant permission to the colleges to admit students for the academic year 2011-12, for the BAMS/ Post Graduate courses. Such permission appears to have been refused on account of various deficiencies relating to the infrastructure and teaching staff, which had not been rectified and brought into line with the minimum standard norms.

**Contentions:**

As far as medical institutions are concerned, the procedure relating to the recognition of medical colleges as well as admission therein was governed by the Indian Medicine Central Council Act, 1970, hereinafter referred to as "the 1970 Act", which was amended in 2003, to incorporate Sections 13A, 13B and 13C, which provided the procedure for establishing new colleges and making provision for seeking prior permission of the Central Government in respect of the same.

The amendment also attempted to bring in reforms in the existing colleges by making it mandatory for them to seek permission from the Central Government within a period of three years from their establishment. Having regard to the said amendments, the Central Council of Indian Medicine, with the previous sanction of the Central Government, framed Regulations, in exercise of the powers conferred on it by Section 36 of the 1970 Act. The said Regulations were named as the Establishment of New Medical College, Opening of New or Higher Course of Study or Training and Increase of Admission Capacity by a Medical College Regulations, 2003, hereinafter referred to as "the 2003 Regulations".

Regulation 6(1)(e) of the 2003 Regulations provides for applications to be made by a medical college owning and managing a hospital in Indian medicines containing not less than 100 beds with necessary facilities and infrastructure. The Central Council of Indian Medicine further framed Regulations in 2006 called as the Indian Medicine Central Council (Permission to Existing Medical Colleges) Regulations, 2006, hereinafter referred to as "the 2006 Regulations". Regulation 5(1)(d) of the 2006Regulations provides that the applicant college would have to be owning and managing a minimum of 100 beds for undergraduate courses and 150 beds for post graduate courses, which conforms to the norms relating to minimum bed strength and bed occupancy for In-patients and the number of Out-patients.

When the 2003 Amendment was effected to the 1970 Act, three years' time was given to the existing colleges to remove the deficiencies. The 2006 Regulations provided a further period of two years to remove the deficiencies and even relaxed the minimum standards in that regard. Even after the expiry of two years, the colleges were given further opportunities to remove the shortcomings by granting them conditional permission for their students for the academic years, 2008-09, 2009-10 and 2010-11. It is only obvious that the minimum standards were insisted upon by the Council to ensure that the colleges achieved the minimum standards gradually.**Held:**

**Held**

It is no doubt true, that applications have been filed by a large number of students for admission in the Institutions imparting education in the Indian form of medicine, with the leave of the Court, but it is equally true that such leave was granted without creating any equity in favour of the applicants.

Those who chose to file their applications did so at their own risk and it cannot now be contended that since they have been allowed to file their applications pursuant to orders passed by the Court, they had acquired a right to be admitted in the different Institutions to which they had applied. The privilege granted to the candidates cannot now be transformed into a right to be admitted in the course for which they had applied. Apart from anything else, one has to take a practical view of the matter since more than half the term of the first year is over. Though it has been contended on behalf of the Institutions concerned that extra coaching classes would be given to the new entrants, it is practically impossible for a student to pick up the threads of teaching for the entire first year when half the course had been completed.

It is not for us to judge as to whether a particular Institution fulfilled the necessary criteria for being eligible to conduct classes in the concerned discipline or not. That is for the experts to judge and according to the experts the Institutions were not geared to conduct classes in respect of the year 2011-12. It is also impractical to consider the proposal of the colleges of providing extra classes to the new entrants to bring them up to the level of those who have completed the major part of the course for the first year.

We are not, therefore, inclined to interfere with the orders of the High Court impugned in these Special Leave Petitions and the same are, accordingly, dismissed.