

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND

HARYANA AT CHANDIGARH

CIVIL WRIT PETITION NO. 29876 OF 2024

Baba Hira Das Ji Ayurvedic Medical College and Hospital through its Authorized Representative-cum-Secretary Sh. Gurmehar Singh aged about 37 years S/o Paramjit Singh R/o House no. 387, Badal Mann Road, Badal, Shri Muktsar Sahib, Punjab.

(Aadhar Card no. 6263 7165 7478 Phone No. 73073 00001)

.....Petitioner

Versus

1. Union of India through Secretary to Government of India, Ministry of Health and Family Welfare, Department of Ayush, Ayush Bhawan, B Block, GPO Complex, I.N.A., New Delhi.
2. National Commission for Indian System of Medicine through its secretary having its registered office at Jawahar Lal Nehru Bhartiya Chikitsa Avam Homoeopathy Anusandhan Bhawan, 61-65, Institutional Area, Janakpuri 'D' Block, New Delhi.
3. Medical Assessment and Rating Board for Indian System of Medicine (MARBISM), through its president having its registered office at Jawahar Lal Nehru Bhartiya Chikitsa Avam Homoeopathy Anusandhan Bhawan, 61-65, Institutional Area, Janakpuri 'D' Block, New Delhi.

4. Guru Ravidas Ayurved University, through its Registrar, Una Road, VPO Kharkan, Hoshiarpur, Punjab.

.....Respondents

Place: Chandigarh

Dated: 25.10.2024



(Akshay Bansal)

P-1502/2016 PH-220258 Advocate
Counsel for Petitioner

Civil Writ Petition under Article 226/227 Constitution of India for issuance of a writ in the nature of certiorari for quashing the Impugned letter/order dated 08.08.2024 (P-5) issued by the respondent no. 3, whereby the petitioner-college has been penalized to the tune of Rs. 1,50,00,000/- in respect of appointing physical absent but present only on paper faculty and further quashing the letter/order dated 08.10.2024 (P-14) whereby the penalty has been revised to the tune of Rs. 1,00,00,000/- .

AND/OR

Issuance of a writ in the nature of certiorari for quashing the letter/order dated 24.09.2024 (P-7) passed by the respondent no. 2, on account of non-consideration of the appeal pertaining to the penalty order dated 08.08.2024 (P-5).

AND/OR

Issuance of a writ in the nature of certiorari for quashing the letter/order dated 28.10.2024 (P-13)

passed by the respondent no. 1 dismissing the second appeal solely on the ground that the second appeal which has been filed by the petitioner is time barred as per the provision 24(3) and 9(6) of the NCISM Act, 2020.

AND/OR

Issuance of a writ in the nature of certiorari for quashing the letter/order dated 10.09.2024 (P-8) whereby the conditional permission for the intake of 60 seats in UG (BAMS) Course for the academic session 2024-25 has been denied on account of shortcomings/deficiencies as specified in the hearing notice dated 08.08.2024 (P-3) and same do not exist.

AND/OR

Issuance of writ, order or direction in the nature of mandamus for directing the respondent no.2 to decide the first appeal of the petitioner college dated 22.08.2024 (P-9) wherein the opportunity of being heard was given

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to the petitioner college and same is pending till date.

AND/OR

Issuance of writ, order or direction in the nature of mandamus for directing the respondent no.1 to decide the 2nd appeal which was filed by the petitioner college on 25.09.2024 (P-11) pertaining to the grant of conditional permission for the intake of 60 seats in UG (BAMS) Course for the academic session 2024-25 which is still pending till date.

AND/OR

To pass the orders staying the operations of the Impugned letters/orders dated 08.08.2024 (P-5), 08.10.2024 (P-14) and 10.09.2024 (P-8) and further grant conditional permission to the petitioner college for admitting the 60 students in UG (BAMS) course for the academic session 2024-25 and also allowing the petitioner-college to participate in the 2nd stray vacancy round which is to be commenced from 07.11.2024 as per the Central

Counselling Schedule during the pendency of the present writ petition, in the interest of justice.

AND/OR

Any other appropriate writ order or direction which this Hon'ble Court may deem fit in the facts and circumstances of the present case.

RESPECTFULLY SHOWETH:-

1. That the present petitioner i.e. Baba Hira Das Ji Ayurvedic Medical College & Hospital is filing the present Writ Petition through its Secretary Sh. Gurmehar Singh, who has been authorized to file the same before this Hon'ble court vide Authority letter dated 24.10.2024. The Petitioner college is unaided self-financed Ayurvedic Medical College located in the state of Punjab and is affiliated to Guru Ravidas Ayurved University, Hoshiarpur, Punjab and is therefore entitled to invoke extraordinary jurisdiction of this Hon'ble court under article 226/227 of the constitution of India for the redressal of its grievances.

The petitioner is aggrieved by the illegal and arbitrary acts of respondent no. 2 & 3 wherein conditional permission has been denied to the petitioner college for intake of 60 seats in UG (BAMS) course for the academic session 2024-25 without considering the facts and circumstances.

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Baba Hira Das Ji Ayurvedic Medical College and Hospital
Vs.
Union of India and others

Present : Mr. Gaurav Chopra, Senior Advocate, with
Mr. Akshay Bansal, Advocate,
for the petitioner.

Mr. Vipul Aggarwal, Senior Panel Counsel, UOI,
for respondent No.1.

Mr. Angel Sharma, Advocate,
for respondents No.2 and 3.

* * *

1. It is brought to notice of this Court that the first appeal preferred by the petitioner assailing letter/order dated 10.09.2024 (Annexure P-8) issued by respondent No.3 – President, Medical Assessment and Rating Board for Indian System of Medicine (MARBISM), denying permission to the petitioner – college to admit students, has not yet been decided and continues to be pending at the level of respondent No.2 – National Commission for Indian System of Medicine (NCISM), despite the expiry of fifteen days, prescribed for the same.

2. Even the second appeal dated 25.09.2024 (Annexure P-11) preferred by the petitioner against in-action on the part of respondent No.2 – Commission to decide the first appeal is pending before the Ministry of Ayush, Government of India.

3. Learned senior counsel for the petitioner has drawn attention of this Court to the admission notice for fourth online counselling, which is to end on 06.11.2024.

4. Learned senior counsel for the petitioner has relied upon an interim order dated 10.10.2024 passed by learned Single Bench of the

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Rajasthan High Court in S.B. Civil Writ Petition No. 16114/2024 in respect of a case attended with similar facts and circumstances.

5. In view of the above, this Court directs the respondents to provisionally reflect the petitioner - college's name in the list of eligible institutes/colleges for grant of admission along with seat matrix of 60 students in UG (BAMS) course.

6. It is made clear that intimation about passing of this interim order shall be made known to all the students participating in counselling and the result of counselling in respect of admission in petitioner - college shall not be disclosed and shall be kept in a sealed cover, to be produced before this Court on the next date of hearing.

7. List on 13.11.2024.

8. Passing of this order shall not come in way of the respondents to decide both the appeals.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

November 05, 2024
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