



\$~22 & 23

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2483/2019 & C.M.Nos.11551/2019, 21052/2023**

AMAR JYOTI INSTITUTE OF PHYSIOTHERAPY Petitioner

Through: Mr.Rahul Shukla with Ms.Sayantani
Basak, Advocates.

versus

**THE REGISTRAR DELHI COUNCIL FOR PHYSIOTHERAPY
AND ANR. Respondents**

Through: Mr.Satyakam, ASC for GNCTD.
Mr.Praveen Khattar, Advocate for R-1.

+ **W.P.(C) 2814/2019 & C.M.Nos.13082/2019, 31979/2019**

INDIAN SPINAL INJURIES CENTRE AND ANR. Petitioners

Through: Mr.Preet Pal Singh with Mr.Saurabh
Sharma and Mr.Randhir Mishra,
Advs.

versus

GOVERNMENT OF NCT OF DELHI AND ANR. Respondent

Through: Mr.Anupam Srivastava, ASC with
Mr.Dhairya Gupta, Advocate for R-1.
Mr.Praveen Khattar, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

%

19.07.2023

1. On 16th November, 2022, learned counsel for GNCTD had stated that a Committee under the chairmanship of Special Secretary (Council) had been constituted to look into the matter of revision of Performance Bank



Guarantee required for establishing / continuing of physiotherapy or occupational therapy institution. The Committee was required to submit a report within a period of four weeks from the order dated 15th November, 2022.

2. On 13th January, 2023, learned counsel for GNCTD had sought further time to comply with the order dated 16th November, 2022. At his request, the Court extended the time by six weeks.

3. On 21st March, 2023, this Court was informed that the Committee constituted by the National Capital Territory of Delhi had examined the matter of revision of Performance Bank Guarantee required for establishing/continuing of physiotherapy or occupational therapy institution as per the provisions of Delhi Council for Physiotherapy and Occupational Therapy Rules (DCPTOT Rules) framed in 2014 and submitted its report for approval of the Hon'ble Health Minister and further approval of the Hon'ble Lieutenant Governor.

4. On the said date of hearing, learned counsel for GNCTD had undertaken that the approval of the Hon'ble Health Minister as well as the Hon'ble Lieutenant Governor shall be obtained within four weeks. The order dated 21st March, 2023 is reproduced hereinbelow:-

“The Committee constituted by the National Capital Territory of Delhi has examined the matter of revision of Performance Bank Guarantee required for establishing/continuing of physiotherapy or occupational therapy institution as per the provisions of DCPTOT Rules framed in 2014 and submitted its report for approval of the Hon'ble Health Minister and further approval of the Hon'ble Lieutenant Governor.

Learned counsel for GNCTD state that the approval of the Hon'ble Health Minister as well as the Hon'ble Lieutenant Governor shall be obtained within four weeks. Let a fresh affidavit be filed by the GNCTD within six weeks.



Learned counsel for the petitioners are also directed to obtain instructions with regard to the decision of the Committee dated 06th February, 2023.

List on 19th July, 2023.

Interim orders to continue.”

5. Today in the morning, this Court was informed that the file had not been approved by the Hon’ble Health Minister as well as the Hon’ble Lieutenant Governor.

6. Since approvals had not been obtained within a reasonable time despite an undertaking being given to this Court, the matter was passed over making it clear that in the event the approval is not obtained from the Hon’ble Health Minister today, this Court would have no other option but to proceed ahead with the matter and pass appropriate orders including issuance of show cause notice as the inaction of the authorities interfered with / obstructed the administration of justice and constituted wilful disobedience of an undertaking given to this Court.

7. In the post-lunch session, learned counsel for GNCTD states that the Hon’ble Health Minister has approved the recommendation given by the Committee constituted vide order dated 15th November, 2022 and the same has been forwarded to the Hon’ble Chief Minister with a request to place it before the Hon’ble Lieutenant Governor. A photocopy of the note handed over in Court by the learned counsel for the respondent-GNCTD is reproduced hereinbelow:-

“CD#112711173

-35/N-

139. The instant proposal is for approval of the recommendation given by the Committee constituted vide Order dated 15.11.2022 (placed at 57/C) in pursuant to Order dated 09.09.2022 of Hon’ble High Court of Delhi in W.P.(C) No.2483/2019 regarding validity of Performance Bank Guarantee under Rule 14.15 and 14.204 for undergraduate course of physiotherapy.

Page 3 of 4



140. Hon'ble Chief Minister may kindly approve the recommendations mentioned above and, thereafter, the same may be placed before the Hon'ble Lt. Governor for him to kindly decide whether he would invoke his powers under the proviso to Article 239AA (4) of the Constitution read with Rule 47 (A) of the Transaction of Business of GNCTD (Amendment) Rules, 2021. It is also to mention that a time of 07 working days has been prescribed in the amended Rule 47A of the TBR, 2021 for the Hon'ble LG to record his views."

8. At this stage also, learned counsel for the respondent-GNCTD assures this Court that all approvals shall be obtained within four weeks. However, this Court is of the view that as more than reasonable time has passed, extension of two weeks would be appropriate. Accordingly, the time for obtaining approvals is extended by two weeks.

9. The respondent-GNCTD shall file an affidavit clearly mentioning as to how the file had moved after the expert committee report had been furnished, especially between 21st March, 2022 and till date. The notings made by the various officers shall be clearly mentioned. The original file(s) shall also be produced on the next date of hearing.

10. List on 04th August, 2023.

MANMOHAN, J

MINI PUSHKARNA, J

JULY 19, 2023
KA