

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION(S) (C) NO(S). 375/2017

SUBHARTI MEDICAL COLLEGE

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

We have heard the learned counsel for the parties finally having regard to the urgency in the matter.

To recapitulate the facts in brief it is stated that the petitioner-college had moved an application for consideration of increase in Post-Graduate seats in the Departments of Orthopedics and Ophthalmology for the Academic Year 2017-18. At present the petitioner-college is having four seats in Ophthalmology and two seats in Orthopedics. Request for increase in seats was considered by the Medical Council of India after carrying out the due inspection and the facilities etc. available with the petitioner-college and the Executive Committee passed the orders granting permission for increase in the Post-Graduate seats from four to six in MS(Ophthalmology) and two to five in MS(Orthopedics). A letter dated 21.02.2017 to this effect was addressed by the Central Government to the petitioner-college and as per requirement the petitioner-college

was called upon to submit the requisite Bank Guarantee for the aforesaid purpose. According to the petitioner, the said letter was received only 28.02.2017 and within three days i.e. 03.03.2017 the petitioner-college submitted the Bank Guarantee. The respondents did not respond thereto immediately but only on 03.05.2017 the request of the petitioner-college was rejected on the ground that the condition for furnishing the bank-guarantee was not fulfilled by due date i.e. 28.02.2017.

Learned counsel for the petitioner-college, in the aforesaid circumstances, has submitted that the matter was beyond the control of the petitioner-college inasmuch as letter itself was received on 28.02.2017 and that it was not possible to give the bank-guarantee on the same date. It is further submitted that the petitioner-college did not take much time in submitting the Bank Guarantee and needful was done within three days i.e. on 03.03.2017. It is the respondent which took almost two months in giving the reply rejecting the request. The submission is that in the aforesaid circumstances this technical lapse that too when it was beyond the control of the petitioner-college should have been condoned.

We find force in the aforesaid submission of the learned counsel for the petitioner-college. It may be stated that Rule in this case was issued on 26.05.2017 when the counsel for the respondents was also present. Till date no reply has been filed and there is no denial of the averment, which is specifically made in the petition

that letter dated 21.02.2017 was received by the petitioner-college only on 28.02.2017.

In these peculiar circumstances, we allow the present writ petition and direct the respondents to accept the Bank Guarantee, abide by their recommendation(s) dated 20.01.2017 by increasing seats in the manner stated above. The petitioner-college shall deposit the Bank Guarantee today itself on the basis of which letter shall be issued today itself.

.....J.
[A.K. SIKRI]

.....J.
[DEEPAK GUPTA]

NEW DELHI;
MAY 30, 2017.

ITEM NO.04

COURT NO.4

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (C) No(s). 375/2017

SUBHARTI MEDICAL COLLEGE

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR STAY APPLICATION ON IA 41941/2017 FOR EXEMPTION FROM FILING O.T.
ON IA 41943/2017.

Date : 30/05/2017 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K.SIKRI
HON'BLE MR. JUSTICE DEEPAK GUPTA

For Petitioner(s) Mr. Mohil Paul, Adv.
Mr. Amitabh Sinha, Adv.
Mr. Vivek Singh, Adv.

For Respondent(S) Mr. D.N. Goburdhun, Adv.

Mr. Gaurav Sharma, Adv.
Mr. Prateek Bhatia, Adv.
Ms. Amandeep Kaur, Adv.
Ms. Vara Gaur, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The writ petition is allowed in terms of the signed order.

Pending application(s), if any, stands disposed of accordingly.

(ASHWANI THAKUR)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

(Signed order is placed on the file)

