

*Via video conferencing*

\$~16

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

+ W.P.(C) 2254/2022, CM APPL.9697/2022 (additional documents) &  
CM APPL. 6479/2022 (interim directions)

SHRI KRISHNA AYURVEDIC MEDICAL COLLEGE AND  
HOSPITAL ..... Petitioner

Through Mr. Neeraj Jain & Mr.Anupam  
Mishra, Advs.

versus

UNION OF INDIA AND ORS. .... Respondents

Through Mr.Naginder Benipal, SPC,  
Ms.Rupali Kapoor, Mr.Harjeet Singh Sachdeva &  
Ms.Harithi Kambiri, Advs. for R-1  
Ms.Archana Pathak Dave, Adv. for R-2.

**CORAM:**

**HON'BLE MS. JUSTICE REKHA PALLI**

**ORDER**

%

**23.02.2022**

1. The petitioner has approached this Court assailing the order passed by the respondent no.2 on 17.11.2021, whereby it has denied the petitioner permission for admitting 60 students in its UG (BAMS) course for the academic session 2021-22. The petitioner has also assailed the order dated 24.01.2022 whereby its first appeal has been dismissed by the said respondent.
2. On 07.02.2022, when the present petition was taken up for consideration, this Court, while issuing notice in the petition, had granted time to respondent no.1 to decide the petitioner's second appeal.

3. The said appeal has since been rejected on 14.02.2022 by the respondent no.1, and a copy thereof has been placed on record by the petitioner alongwith *CM APPL.9697/2022*, wherein additional grounds have been raised to assail the said order.
4. Learned counsel for the petitioner submits that the order passed by respondent no.1 is not only wholly cryptic but also shows non-application of mind, as the same does not at all deal with any of the grounds raised by the petitioner in its second appeal but merely reiterates the findings in the withdrawal order and the first appeal order.
5. Though learned counsel for the respondent no.1 seeks to defend this order, a perusal of the same leaves no manner of doubt that the respondent no.1 has proceeded to pass the impugned order, without dealing with any of the pleas raised by the petitioner in its second appeal. This manner of dealing with an appeal, by merely reiterating the findings recorded in the order appealed against cannot be appreciated. The Appellate Authority is expected to go not only by what has been held in the order which is appealed against, but is also required to, at least briefly, deal with the grounds raised in the appeal. The order dated 14.02.2022 falls foul of this requirement and is therefore, unsustainable.
6. Even though learned counsel for the respondent no.1 has vehemently urged that, if aggrieved, the petitioner should assail the order dated 14.02.2022 by filing a fresh writ petition, I am of the view that once the appellate order dated 14.02.2022 has been passed under directions passed by this Court, it would not be necessary for the petitioner to file a fresh petition. The petitioner has already preferred an

application in this regard and any further delay in examining the validity of this order, which on the face of it is liable to be set aside, as already noted hereinabove, will cause irreparable loss to the petitioner and will also lead to multiplicity of litigations. The order dated 14.02.2022 passed by the respondent no.1 is therefore, liable to be set aside and is, accordingly, set aside and the matter is remanded back to the respondent no.1 to decide the petitioner's second appeal afresh by passing a reasoned and speaking order, specifically dealing with all the pleas raised by the petitioner. As fairly stated by learned counsel for the respondent no.1 the said order will be passed in three weeks after providing an opportunity of personal hearing to the petitioner. In case any further documents or information is required from the petitioner, the same would be communicated to the petitioner who will then forthwith furnish the same.

7. In the meanwhile, keeping in view the fact that the petitioner is an institution which has been running for the last more than eight years, as also the relaxation policy issued by the respondent no.1 itself on 26.03.2021 for the academic session 2021-22, after realising that on account of the pandemic of Covid-19, some hospitals such as the petitioner, may not have the requisite clinical trial, the petitioner is permitted to participate in the forthcoming counselling for the academic session 2021-2022.
8. It is however clarified that this permission to participate in the counselling, would be subject to the outcome of the present petition. The petitioner will upload a notice on its website informing the general public that its participation in the counselling will be subject

to the outcome of the present writ petition. It is further made clear that no special equities will be created in favour of the petitioner on this ground.

9. CM APPL.9697/2022 & CM APPL. 6479/2022 are accordingly disposed of in the aforesaid terms.

10. List on 19.05.2022.

**REKHA PALLI, J**

**FEBRUARY 23, 2022**

kk