

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
I.A.NO.5 IN
WRIT PETITION (CIVIL) NO(s). 385 OF 2011

ICARE INST.OF MED.SCIENCE & RES.& ORS. Petitioner(s)

VERSUS

STATE OF WEST BENGAL & ORS. Respondent(s)

(With appln(s) for permission to file additional documents and office report)

Date: 28/09/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE A.K. PATNAIK

For Petitioner(s) Dr. Rajeev Dhawan, Sr. Adv.
 Mr. R.S. Suri, Sr. Adv.
 Mr. N.L. Ganapathi, Adv.
 Mr. Dharmesh Mishra, Adv.
 Ms. Pallavi Tayal, Adv.

For Respondent(s) Mr. Mukul Rohatgi, Sr. Adv.
(For R 1 & 4) Mr. Kalyan Bandopadhyay, Sr. Adv.
 Mr. Soumitra g. Chaudhuri, Adv.
 Mr. Raja Chatterjee, Adv.
 Mr. Abhijit Sengupta, Adv.

(for Resp.No.5) Mr. A.K. Ganguli, Sr. Adv.
 Mr. Chanchal Kr.Ganguli, Adv.

(for R.6 MCI) Mr. Nidesh Gupta, Sr. Adv.
 Mr. Amit Kumar, Adv.
 Mr. Rekha Bakshi, Adv.
 Mr. Sameer Kumar, Adv.
 Mr. Tarun Satija, Adv.

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

One of the issues raised is whether the

petitioner-Institution has separate campus/
building for Medical College and for Dental
College as per norms. The Pro-Vice-Chancellor
of the West Bengal University of Health
Sciences which gave the affiliation to this
college in the year 2010 and renewed the
affiliation on 18.8.2011 on the basis that
there is a separate campus for Medical College,

has now filed an affidavit stating that at the time of inspection by him before granting affiliation, he went on the basis of certain representations made by the College. Having regard to the fact that the affiliation was granted twice, after inspection by an University team consisting of Prof. (Dr.) Prabir Kumar Sur with others, it is difficult to accept the statement now made by Prof. Prabir Kumar Sur without independent corroboration.

By order dated 27.9.2011 we have already directed MCI to inspect the petitioner Institution and file a report as to whether the Medical college has a separate building and facilities. Mr. Nidhesh Gupta, learned senior counsel appearing for MCI submits that as the issue is whether the buildings and facilities are relatable to Medical College or Dental College, the MCI would prefer to do the inspection jointly with the representatives of Dental Council of India so that the issue can be sorted out.

We, therefore, direct the Dental Council of India(DCI) to be impleaded as respondent No.7. Cause title to be amended today itself and petitioner to serve notice to respondent No.7 - DCI. The petitioner to serve a copy of the petition on Mr. Prashant Kumar, the standing counsel of DCI, in addition to taking steps for service by dasti.

MCI will get in touch with DCI and arrange for a joint inspection after due notice to the University and the College.

MCI and DCI to file a joint inspection

report within two weeks.

By order dated 27.9.2011, we had recorded the statement of Mr. Mukul Rohatgi, learned senior counsel appearing for the State that State is prepared to allot 50% students to the College today or if necessary even allot 100% students. However, after taking instructions, Mr. Mukul Rohatgi, learned senior counsel appearing for the State submits that in view of the uncertainty with reference to the College, the State does not want to jeopardise the careers by sending students from its list and therefore, the State is not willing to send any student to the petitioner college.

In view of the said submission, the Petitioners, if they so desire, are permitted to fill the entire 100% seats subject to the following conditions:

- (a) Any admissions will be subject to final result of this petition.
- (b) Each of the student who is admitted should be intimated in writing about the pendency of this case.
- (c) The College shall take an undertaking from each student admitted that he/she will not claim any equities on the basis of being admitted in pursuance of these orders, if ultimately it is found that they are not entitled to continue.

Affidavit filed by Prof.(Dr.) Prabir Kumar Sur and affidavit filed by the petitioner is taken on record.

List on 12.10.2011.

(O.P. Sharma)
Court Master

(M.S. Negi)
Court Master