By Speed Post/E-mail
Conditional Permission
in compliance of Hon'ble Court Order

संख्या/No.L.-14014/23/2020-EP-1

भारत सरकार

Government of India

आयुर्वेद, योग व प्राकृतिकचिकित्सा, यूनानी, सिद्ध एवं होम्योपैथी मंत्रालय(आयुष)

Ministry of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH)

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"आयुषभवन"/"AYUSH BHAWAN"
"बी" ब्लाक, जी.पी.ओ. काम्प्लेक्स,/'B' Block, GPO Complex,
आई.एन.ए., नईदिल्ली-110 023/INA, New Delhi-110 023

दिनांक/Dated: 17.03.2021

To

The Principal,
SKS Ayurvedic Medical College & Hospital,
NH-2, Village-Chaumuhan, Distt-Chhata,
Mathura-281406, Uttar Pradesh
Email- sksayurvedic@gmail.com

Sub: Grant of Conditional Permission to "SKS Ayurvedic Medical College & Hospital, NH-2, Village-Chaumuhan, Distt-Chhata, Mathura-281406, Uttar Pradesh" with 30 seats (instead of 100 seats) in UG (BAMS) Course for the academic session 2020-21 under Section 13A/13C of the IMCC Act, 1970 in compliance of Order passed by Hon'ble High Court of Delhi in W.P. (C) 1539/2021 dated 04.03.2021 & in W. P. (C) 3516/2021 dated 17.03.2021 - reg.

Sir/Madam,

I am directed to refer to the Ministry's letter No.L-14014/23/2020-EP (1) dated 02.02.2021, conveying denial of Permission to the said college with **100** seats in **(UG) BAMS** course for the academic session 2020-21 as the said college was not fulfilling the notified and approved criteria for Teaching faculty (22 eligible teachers are available against the minimum requirement of 45 eligible teachers for 100 UG seats as per IMCC RMS, 2016).

2. Further, the said college has filed a Writ Petition at Hon'ble High Court of Delhi at Delhi in 2110/2021 & connected matters with W.P. (C) 1539/2021. As per the order dated 01.03.2021 and 04.03.2021, passed by Hon'ble High Court of Delhi at Delhi in the said Writ petition, the case has been examined and it has been observed that college under reference is established in the academic year 2017-18 and hence doesn't come under the category of the colleges that have continuously received permission from Ministry of AYUSH for the preceding 5 (five) academic years.

3. In view of the Court order dated 01/03/2021 in 2110/2021 & connected matters, if a college has not received permission continuously from Ministry of AYUSH for the preceding 5 (five) academic years, a fresh show cause notice has to be issued to the said college. Accordingly, a fresh show cause notice has been issued to the college vide Ministry's letter dated 09.03.2021 clarifying the deficiencies mentioned in the earlier show cause/hearing notice and denial letter dated 08/01/2021 and 02/02/2021 respectively, to present the case through virtual mode.

4. The observations of hearing committee based on submission made by the college representatives during hearing and recommendations & assessment report of the CCIM dt. 25/11/2020 and the council's letter dated 30.12.2020, vide which revised status of the teachers

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have been conveyed, have been carefully examined in terms of Regulation 3 of the "Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016", provisions under the IMCC Act, 1970, relevant regulations made thereunder and it is observed that the college has not rectified the deficiencies, particularly related to teaching faculty, as communicated vide show cause notice dated 09.03.2021. Therefore, it is found that the institution has failed to establish that their faculty members have complied with the requirement of Regulation 26 of the Practitioners of Indian Medicine (Standards of Professional Conduct, Etiquette and Code of Ethics) Regulations, 1982. The college also failed to produce Valid Registration certificates of the teaching faculties for the State in which the faculty member is presently employed and who were earlier not certified by CCIM. Therefore, the said college is not fulfilling following shortcoming as notified and approved criterion for granting Conditional Permission for 100 seats in UG (BAMS) course.

i. **Teaching Staff:-45** teachers (100%) for 100 UG seats are required, however, for granting conditional permission 40 teachers are required as per RMS, 2016. Whereas, **22** eligible teachers are available in the said college. Therefore, the College is not fulfilling the criterion for granting conditional permission for 100 seats in UG (BAMS) course.

ii. **Higher Faculty (HF):- 28** HF (1Professor + 1Reader) in 14 departments (100%) for 100 UG seats are required, however, for granting conditional permission **19 HF in 14** departments are required as per RMS, 2016. Whereas, **06 HF in 05** departments are available in the said college. Therefore, the College is not fulfilling the criterion for granting conditional permission for 100 seats in UG (BAMS) course.

iii. The following teaching faculty have not been considered:

S.No.	Teachers Name	Reason for not considering as teaching faculty
1	2	5
1.	Dr. Satya Pal Sharma	College representatives did not submit the documents required in terms of Regulation 26 of the Practitioner of India Medicine (Standards of Professional Conduct, Etiquette and Code of Ethics) Regulations, 1982; as by show cause/Hearing notice dated 09.03.2021. College representatives also did not submit valid registration certificate as on 31st Dec, 2019 in the state where they are employed, as solicited by show cause/Hearing notice dated 09.03.2021.
2.	Dr. Anil Vjya Deshmukh	
3.	Dr. Raghabendra Ramesh Bhat	
4.	Dr. Seemantini Dundappa Yalagudri	
5.	Dr. Sunil Purushottam Changle	
6.	Dr Kishor Sego Hatimare	
7.	Dr. Pravin Ramarao Deshmukh	
8.	Dr. Ajay Bhaladhare	
9.	Dr. Kailash Bhavala Patil	
10.	Dr. Hemant Bharat Patil	
11.	Dr. Pradip Onkarrao Pandao	
12.	Dr. Chhaya Mehere	

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13.	Dr. Kuntal milind Walunjkar	
14.	Dr. Ankita Vashist	
15.	Dr. Govardhan	
16.	Dr. Anil Kumar singh Bhadoria	
17.	Dr Harsh Gupta	
18.	Dr. Kshama Omprakash Gupta	
19.	Dr. Chandra Bhanu Sharma	
20.	Dr Aditya Nath Jha	
21.	Dr Chandra Prabha Sahu	
22.	Dr. Shashi Kant Chaturvedi	

5. As detailed in above paras, though the said college is not fulfilling the notified and approved criteria for grant of 100 seats in UG (BAMS) course for the A.Y. 2020-21. However, in view of COVID-19 pandemic situation, Ministry of AYUSH, in order to provide support to ASU&H colleges, formulated policies exclusively relaxed for A.Y. 2020-21, for UG courses. Accordingly, the college has been examined in terms of approved criteria and is found eligible for 30 UG seats (instead of 100 seats) in UG (BAMS) course for the A.Y. 2020-21 (considering the relaxation for deficiency in teaching faculty as per the relaxed criteria i.e., minimum requirement of 21 eligible teachers).

6. Therefore, it has been decided by the Central Government **to grant Conditional Permission to SKS Ayurvedic Medical College & Hospital, NH-2, Village-Chaumuhan, Distt-Chhata, Mathura-281406, Uttar Pradesh with 30 seats instead of 100 seats in UG (BAMS) course** (considering the relaxation for deficiency in teaching faculty as per the relaxed criteria i.e., minimum requirement of 21 eligible teachers) for the academic session 2020-21 under Section 13C/13A of the IMCC Act, 1970, subject to the following:

i. The fulfillment of conditions as specified in the Undertaking/Indemnity bond submitted by the college.

ii. The college shall submit an undertaking in form of affidavit duly notarized within one month explaining the details of providing EPF and ESI facilities to the teaching, non-teaching staff of the Colleges/Hospitals and regularly paying the same as per the provisions of Employees' Provident Funds and Miscellaneous Provident Act, 1952 & ESI Act, 1948 and relevant Rules and Regulations.

iii. College needs to submit their compliance report to CCIM regarding fulfilling the required criteria for its actual permitted intake capacity for UG & PG as per IMCC, MSR, 2016 regulations except for Higher faculty for UG criteria only i.e., relaxation for Higher faculty will be considered if two Lower faculty are appointed in place of 1 Higher faculty of the concerned subject. The compliance report is to be submitted to CCIM within three months from date of issue of permission letter.

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iv. CCTV system along with live streaming to be installed in, one each at one of the classroom (lecture theatre), Pathology lab, OPD Registration with waiting area and the place where Biometric attendance is taken, with access to CCIM (as communicated vide Ministry's OM dated 02.03.2020 to all ASU colleges).

v. Implementation of Geo fencing for ensuring physical presence of Teaching faculty, Students and Hospital staff in the respective ASU College /hospital which is an up gradation of existing required criteria of Biometric Attendance as per 9(3) regulation of IMCC, MSR, 2016. (CCIM will issue detailed instructions in this regard)

vi. Maintenance of Web based computerized central registration system for maintaining the records of patients as per regulation 3 of IMCC, MSR, 2016. (CCIM will issue detailed instructions in this regard)

7. It is further informed that minimum 15% of undergraduate seats of the permitted intake capacity of 30 UG (BAMS) seats shall be treated as all India quota. The counseling for seats under all India quota shall be conducted by respective counseling authority of State/UT Government as designated by Central Government vide letter F.No.L.11011/02/2020-EP (1) dated 26.10.2020 for A.Y. 2020-21 and counseling for the remaining 85% seats or as the case may be, shall be conducted by the concerned Counseling Authority of that State/UT. **The permission of the college stands withdrawn if the college fails to comply with the aforesaid direction of the Central Government for all India quota or the students admitted thereunder.**

8. Admissions made in violation of the above conditions will be treated as invalid and action will be initiated under IMCC Act & Regulations made thereunder.

9. Discrepancies, if any, may be immediately brought to the notice of Board of Governors, CCIM and the Central Government.

10. As per clause 3(1)(a) of IMCC, MSR Regulations, 2016 the following requirements, which are required to be fulfilled by the college by 31st December, 2020, will be examined for considering the permission for session 2021-22:

(i) all the Requirements of Minimum Standard of infrastructure and teaching & training facilities as specified in Regulation 3 of the "Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016;

(ii) all the requirements of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2016 (for Ayurveda); and

(iii) all the requirements under the provisions of the IMCC Act, 1970 and relevant Regulations made thereunder should be fulfilled *in toto*

11. The fulfillment of the conditions given above may be made within the time period specified and compliance report should be submitted by the college to CCIM under intimation to this Ministry. The CCIM will verify that the conditions have been fulfilled by means of an inspection and submit a report along with its assessment in this matter to the Ministry of AYUSH for considering the permission matter from the academic session 2021-22.

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12. This relaxation of granting, 30 seats instead of 100 seats in UG (BAMS) course is applicable only for A.Y. 2020-21.

13. In this regard, grievance, if any, may be communicated to the Grievance Redressal Committee/Appellate body which has been constituted as special one-time measure for A.Y. 2020-21 in compliance of Hon'ble High Court of Delhi order dated 01.03.2021, details are available in public domain at https://main.ayush.gov.in/event/constitution-grievance-redressal-committee-appellate-body-special-one-time-measure-ay-2020-21

14. This issues with the approval of Competent Authority.

Yours faithfully,

Shiela Tirkey

(Shiela Tirkey)
Under Secretary to Government of India
Ph. No.: 011-24651976

Copy to:

i. The Board of Governors, CCIM, 61-65 Institutional Area, Opp. 'D' Block, Janakpuri, Delhi-110 058 for information and necessary action for the next academic session.

ii. The Principal Secretary (Medical Education and AYUSH Section-1), Department of Medical Education, Secretariat of Government of Uttar Pradesh, 3rd floor, Vikas Bhawan, Janpath Market, Vidhan Sabha Road, Hajrat Ganj, Lucknow-226001, Uttar Pradesh for information and necessary action.

iii. The Registrar, Dr. Bhim Rao Ambedkar University, Paliwal Park, Agra-282004, Uttar Pradesh for information and necessary action.

Shiela Tirkey
17.3.21

(Shiela Tirkey)
Under Secretary to Government of India

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$~50, 51, 53, 76-80, 87 & 88

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

\+ **W.P.(C) 1539/2021**

SKS AYURVEDIC MEDICAL COLLEGE AND HOSPITAL THROUGH ITS SECRETARY ..... Petitioner

versus

UNION OF INDIA, MINISTRY OF AYUSH THROUGH SECRETARY & ANR. ..... Respondents

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\+ **W.P.(C) 1543/2021**

PT. SHIVSHAKTILAL SHARMA AYURVED MEDICAL COLLEGE AND HOSPITAL ..... Petitioner

versus

UNION OF INDIA & ORS. ..... Respondents

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\+ **W.P.(C) 1556/2021**

PRAKASH INSTITUTE OF AYURVEDIC MEDICAL SCIENCES RESEARCH AND OTHERS ..... Petitioners

versus

UNION OF INDIA AND OTHERS ..... Respondents

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\+ **W.P.(C) 1616/2021**

SHREE SATYA AYURVEDIC MEDICAL COLLEGE AND HOSPITAL ..... Petitioner

versus

UNION OF INDIA AND OTHERS ..... Respondents

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\+ **W.P.(C) 1619/2021**

WTM AYURVEDIC MEDICAL COLLEGE AND HOSPITAL ..... Petitioner

versus

UNION OF INDIA AND OTHERS ..... Respondents

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\+ **W.P.(C) 1620/2021**

BHARAT AYURVED MEDICAL COLLEGE AND HOSPITAL AND RESEARCH CENTRE ..... Petitioner

versus

UNION OF INDIA AND OTHERS ..... Respondents

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\+ **W.P.(C) 1621/2021**

SHIVALIK AYURVEDIC MEDICAL COLLEGE AND HOSPITAL ..... Petitioner

versus

UNION OF INDIA AND OTHERS ..... Respondents

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\+ **W.P.(C) 1622/2021**

PREM RAGHU AYURVEDIC MEDICAL COLLEGE AND HOSPITAL ..... Petitioner

versus

UNION OF INDIA AND OTHERS ..... Respondents

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\+ **W.P.(C) 1644/2021**

M D AYURVEDIC COLLEGEA HOSPITAL AND ..... Petitioner

versus

UNION OF INDIA AND OTHERS & ORS. ..... Respondents

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\+ **W.P.(C) 1649/2021**

MAHAVEER AYURVEDIC MEDICAL COLLEGE AND HOSPITAL ..... Petitioner

versus

UNION OF INDIA AND OTHERS ..... Respondents

Present: Present: Mr Sandeep Sethi, Sr Adv. with Ms. Anuradha Arputham and Mr. Avneesh Arputham, Advocates for petitioners in item Nos. 50, 53, 76, 77, 78, 79, 80 and 88.

Mr.Animesh Kumar & Mr.Nishant Kumar, Advocates for the petitioner in item no. 51.

Ms.Aparajita Singh, Sr. Advocate with Ms.Mukti Chowdhary, Adv. for the petitioner in item no. 87.

Mr.Vikrant N Goyal, Adv. with Ms.Anirudh Shukla, Adv. for R1/UOI in item No. 50.

Mr.Vivekanand Mishra, Sr. Panel Counsel with Mr.Vinod Tiwari, GP for R-1/UOI in item no. 51.

Mr. Prakash Kumar Central Govt. Sr. Counsel for the Respondent No.1/UOI in item no.53.

Ms.Suman Chauhan & Mr.Lakshya Verma, Advs. for R-

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1/UOI in Item no. 76.
Ms. Arti Bansal, Advocate for R- 1 /UOI in item no.78
Mr.Niraj Kumar, Sr. CGSC with Mr.Anshuman Singh, GP for R-1/UOI in item no. 79.
Mr. Virender Pratap Singh Charak, Advocate with Mr. Shubhra Parashar, Mr. Pushpender Singh Charak, Mr. Kapil Gaur, Mr. Vaishnav Kirti Singh, Mr.Virender Pratap Singh Charak, Mr.Shubra Prashar, Mr. Shubham Ahuja, Mr. Sanjay Singh, Advocates with Mr.Kavindra Gill, GP for R-1/UOI in item no. 80.
Mr.Siddharth Khatana with Mr.Himanshu Pathak, Advocates for R-1/UOI in item no. 87.
Mr. Sanjeev Sabharwal, Senior Govt. Counsel for UOI with Mr. Hem Kumar, Adv. for R-1/UOI in item no.88
Ms.Archana Pathak Dave, Ms.Vanya Gupta & Mr.Pramod Kumar Vishnoi, Advocates for R-2/CCIM in item nos. 50, 51, 53, 76-80, 87-88.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% 08.02.2021

The proceedings in the matter have been conducted through video conferencing.

CM APPL. 4416-4417/2021 *(exemptions)* **in W.P.(C) 1539/2021**
CM APPL. 4422/2021 *(exemption)* **in W.P.(C) 1543/2021**
CM APPL. 4452/2021 *(exemption)* **in W.P.(C) 1556/2021**
CM APPL. 4653/2021 *(exemption)* **in W.P.(C) 1616/2021**
CM APPL. 4659/2021 *(exemption)* **in W.P.(C) 1619/2021**
CM APPL. 4661/2021 *(exemption)* **in W.P.(C) 1620/2021**
CM APPL. 4663/2021 *(exemption)* **in W.P.(C) 1621/2021**
CM APPL. 4665/2021 *(exemption)* **in W.P.(C) 1622/2021**
CM APPL. 4701/2021 *(exemption)* **in W.P.(C) 1644/2021**
CM APPL. 4715/2021 *(exemption)* **in W.P.(C) 1649/2021**

Exemptions allowed, subject to all just exceptions.

The applications are disposed of.

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W.P.(C) 1539/2021 & CM APPL. 4415/2021 *(ex parte ad interim stay)*
W.P.(C) 1543/2021 with CM APPL. 4421/2021 *(ex parte ad interim stay),* **CM APPL. 4449/2021** *(to bring on record additional facts)* **& CM APPL. 4804/2021**
W.P.(C) 1556/2021 & CM APPL. 4451/2021 *(ex parte ad interim stay)*
W.P.(C) 1616/2021 & CM APPL. 4652/2021 *(ex parte ad interim stay)*
W.P.(C) 1619/2021 & CM APPL. 4658/2021 *(ex parte ad interim stay)*
W.P.(C) 1620/2021 & CM APPL. 4660/2021 *(ex parte ad interim stay)*
W.P.(C) 1621/2021 & CM APPL. 4662/2021 *(ex parte ad interim stay)*
W.P.(C) 1622/2021 & CM APPL. 4664/2021 *(ex parte ad interim stay)*
W.P.(C) 1644/2021 & CM APPL. 4700/2021 *(ex parte ad interim stay)*
W.P.(C) 1649/2021 & CM APPL. 4714/2021 *(ex parte ad interim stay)*

1. Issue notice. Notice is accepted on behalf of the Union of India by Mr. Vikrant N. Goyal, learned counsel, in W.P.(C) 1539/2021, Mr. Vivekanand Mishra, learned counsel, in W.P.(C)1543/2021, Mr. Prakash Kumar, learned counsel, in W.P.(C) 1556/2021, Ms. Suman Chauhan, learned counsel, in W.P.(C) 1616/2021, Ms. Arti Bansal, learned counsel, in W.P.(C) 1620/2021, Mr. Niraj Kumar, learned counsel, in W.P.(C) 1621/2021, Mr. Virender Pratap Singh Charak, learned counsel, in W.P.(C) 1622/2021, Mr. Siddharth Khatana, learned counsel, in W.P.(C) 1644/2021, and Mr. Sanjeev Sabharwal, learned counsel, in W.P.(C) 1649/2021. Ms. Archana Pathak Dave, learned counsel, accepts notice on behalf of respondent no. 2/Central Council for Indian Medicine ("CCIM") in all the petitions. Notice be served on unserved respondents by all permissible modes, *dasti*, in addition, returnable for 07.04.2021.

2. This Court has recently been faced with a spate of litigation regarding permission for conducting courses in Homeopathy and Ayurveda Colleges for the academic year 2020-2021. The petitions fall broadly into two categories - at the first stage, petitions have been filed

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during the pendency of the institutions' applications for recognition with the Union of India [hereinafter, "the Union"], seeking permission to participate in counselling. The second category of petitions seeks to challenge denial of permission, after the Union has disposed of the petitioners' applications. The present batch of cases is of the second category.

3. In the first category of cases, the applications remained pending with the Union after it had issued notices to the institutions signifying certain deficiencies in the infrastructure and faculty, and requiring the institutions to appear for a personal hearing. The petitions were occasioned by the fact that several State governments had, in the meantime, commenced the process of counselling for admissions for the academic year 2020-21. The petitioners were excluded from the counselling for want of permission. During the pendency of the petitions, this Court passed time-bound directions for disposal of the applications by the Union, and granted limited interim relief permitting the petitioner institutions to participate in the ongoing counselling notified by various States. The Union was directed to dispose of the applications of the institutions before allocation of students to the concerned colleges would be made under the respective counselling schedules.

4. As far as the second category of cases is concerned – where the Union had already declined permission to conduct the courses in the year 2020-2021 – the first of these petitions to come up before this Court was W.P.(C) 1265/2021, which concerned a homeopathy college. This Court declined *ad interim* relief by an order dated 01.02.2021, the relevant portion whereof reads as follows:

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"4. In my view, ad interim relief of this nature is not appropriate in the facts and circumstances of the case. The validity of the grounds given by the respondents in the impugned order cannot be decided without calling for their affidavits. Keeping in mind the interests of prospective students also, the balance of convenience is not in favour of such an order. If the petitioner is permitted to participate in counselling and offer admission to prospective candidates, it would be difficult to accommodate those students in the event the writ petition ultimately fails.

5. Mr. Gupta's reliance upon the order dated 14.01.2021 is also misplaced. At that stage, the petitioner's application for recognition was pending, and directions were also given for a time bound decision on the said application, so that students would not be finally admitted prior to the petitioner's status becoming clear. In contrast, there is now an order denying recognition to the petitioner, and the counselling is also at an advanced stage.

6. For the reasons aforesaid, ad interim orders are declined."

5. Against the aforesaid order, the petitioner therein approached the Division Bench in LPA 49/2021. By an *ad interim* order dated 04.02.2021, the Division Bench has stayed the order dated 01.02.2021, and granted interim relief. The relevant extracts of the order dated 04.02.2021, passed by the Division Bench, are as follows:

"6. We have perused the deficiencies/objections pointed out in the show cause notice dated 06.11.2021 as also the order dated 25.01.2021 passed by respondent No. 1, after granting hearing to the appellant.

7. Prima facie, we are of the opinion that there is a deviation in the grounds mentioned in the final order dated 25.01.2021 from the objections/deficiencies mentioned in the show cause notice dated 06.11.2020 and also that one of the grounds, namely, mismatch of signatures of three teachers,

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mentioned in the final order was not even an allegation in the show cause notice and as rightly pointed out by learned senior counsel, the appellant did not even have the chance to meet the same.

8. We also prima facie find merit in the contention of the petitioner that the respondents have in ignorance of the provisions of Regulation 9(2) of the Homeopathic Central Council (Minimum Standards Requirement of Homeopathic Colleges and attached Hospitals) Regulations, 2013 (hereinafter referred to as the Regulation 2013), which requires that teachers or consultants of modern medicines like Pathologist, Radiologist, Physician, Dentist etc. may be appointed on contract basis or part time or on call basis come to a conclusion that the appellant does not fulfil the requirement of the minimum faculty required proportionate to the strength of the students.

9. In view of the above, we are of the considered opinion that the appellant has made out a prima facie case in its favour for grant of interim relief. Balance of convenience is also in favour of the appellant. If the appellant is not permitted by way of interim relief to participate in the ongoing counselling, irreparable harm and injury shall be caused to the appellant.

10. We, therefore, stay the operation, implementation and execution of the order of the learned Single Judge dated 01.02.2021 passed in WP(C) No.1265/2021, till the next date of hearing.

11. We hereby direct that the appellant shall be permitted to participate in the counselling process which is ongoing in the State of Madhya Pradesh as pointed out by the learned senior counsel for the appellant."

6. It is evident from the above that the Division Bench has considered the *prima facie* case in favour of the appellant therein, and further held that the appellant had made out a case for grant of interim orders on the

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grounds of balance of convenience and irreparable harm and injury as well. Following the approach laid down by the Division Bench, I proceed to examine the question of *prima facie* case in the present petitions.

7. All the cases in this batch concern challenges to the denial of permission for offering courses in Ayurveda in the academic year 2020-2021. The petitioners applied for renewal of permission, having been granted conditional permission in previous years. In each of the cases, the Union issued a show cause notice to the petitioners, relying upon a report of the CCIM, which pointed out certain deficiencies. The petitioners responded to the show cause notices, and appeared for hearings as directed by the Union. The relevant dates will be apparent from the following table: -

Writ Petition No.	Date of CCIM recommendation	Date of show cause notice	Date of hearing	Date of final order
W.P.(C)1539/2021	24.11.2020	08.01.2021	14.01.2021	02.02.2021
W.P.(C)1543/2021	15.12.2020	11.01.2021	18.01.2021	25.01.2021
W.P.(C)1556/2021	15.12.2020	06.01.2021	11.01.2021	02.02.2021
W.P.(C)1616/2021	15.12.2020	06.01.2021	12.01.2021	03.02.2021
W.P.(C)1619/2021	15.12.2020	08.01.2021	15.01.2021	04.02.2021
W.P.(C)1620/2021	04.12.2020	11.01.2021	18.01.2021	04.02.2021
W.P.(C)1621/2021	04.12.2020	06.01.2021	11.01.2021	02.02.2021
W.P.(C)1622/2021	24.11.2020	07.01.2021	13.01.2021	02.02.2021
W.P.(C)1644/2021	25.11.2020	13.01.2021	18.01.2021	03.02.2021
W.P.(C)1649/2021	25.11.2020	11.01.2021	18.01.2021	02.02.2021

8. Although there is some variation in the exact terms of the show cause notices and orders in each of the cases, the principal issue raised concerns shortage of faculty in the petitioner/institutions. In all the show cause notices, relying upon the respective recommendations of the CCIM,

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the Union has identified the shortage of faculty in the institutions with respect to the requirements in the Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurveda Colleges and attached Hospitals) Regulations, 2016 [hereinafter "the 2016 Regulations"]. In the final orders, the Union has noted the submissions of the institutions regarding the faculty employed by them in each discipline, but has come to a conclusion against the institution, again relying on the CCIM recommendations. It may be noted that, in several cases, the Union has relied upon the finding of the CCIM that the faculty is not actually in existence in the colleges, and is 'on paper' only. The Union has therefore denied permission to the institutions to take admissions in the academic year 2020-2021.

9. I have heard Mr. Sandeep Sethi, learned Senior Counsel, who appears for the petitioners in several of these petitions, Ms. Aparajita Singh, learned Senior Counsel for the petitioner in W.P.(C) 1644/2021, and Mr. Animesh Kumar, learned counsel for the petitioner in W.P.(C) 1543/2021. They assail the orders of the Union on the basis that findings have been returned with respect to the existence, presence and status of particular members of the faculty of the institutions, which were never put to the institutions in any manner whatsoever. It is submitted that the recommendations of the CCIM were not forwarded to the institutions, and that the orders of the Union do not reveal any independent consideration of the material. The show cause notices in question do not refer to non-certification of any of the faculty, but only to the lack of available faculty.

10. Ms. Archana Pathak Dave, learned counsel for the CCIM, submits

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that the CCIM has been engaged in the process of verification of faculty in various Ayurveda colleges for over one year. Several notices have been issued to teachers in Ayurveda colleges as well as to the colleges themselves with regard to this process of verification. She submits that the CCIM has taken this action on the basis of complaints received from students that the faculty members being shown in various colleges were not actually present but were practicing elsewhere. Ms. Dave has taken me to the Practitioners of Indian Medicine (Standards of Professional Conduct, Etiquette and Code of Ethics) Regulations, 1982 to submit that the individual members/practitioners of the faculty are required to update the State Board Register as well as update their contact details, current address, employment status, place of practice, etc. on the CCIM portal. According to her, the CCIM noticed large scale discrepancies in the information furnished by the practitioners in their respective entries and the location of the colleges where they claimed to be teaching. The CCIM, therefore, recommended to the Union, in the case of such colleges, to decline permission for the academic year 2020-2021.

11. Ms. Dave and Ms. Suman Chauhan, learned counsel for the Union in W.P.(C) 1616/2021, have also submitted that the permission having been declined to the colleges in question, this Court ought not to revisit the decisions of the expert regulator. It is further contended that *ad interim* orders ought not to be granted to enable admission in colleges for which recognition has not been granted. Learned counsel have cited the judgments of the Supreme Court in *Medical Council of India vs. Kalinga Institute of Medical Sciences (KIMS) & Ors.,* (2016) 11 SCC 530 (paragraphs 22, 23, 24 & 27), *Medical Council of India vs. Chairman,*

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S.R. Educational and Charitable Trust 2018 (14) SCALE 614 [Civil Appeal No. 10372/2018, decided on 29.10.2018] (paragraphs 23, 25, 26 and 31), and *Tamil Nadu Dr. MGR Medical University vs. SVS Educational and Social Trust* (2019) 12 SCC 613 (paragraph 12), in support of these contentions. Relying upon the aforesaid judgments, learned counsel submit that the Supreme Court has cautioned against grant of interim orders which enable institutions to admit students despite denial of recognition.

12. Having heard learned counsel for the parties and perused the record, I find that, although the show cause notices and the final orders are not identical in all of these cases, the principal issue is undisputedly regarding the recognition/registration of the faculty members employed in the petitioner/institutions. Learned counsel for the petitioners have drawn my attention to the fact that the show cause notices in each of these cases indicated generic deficiencies in the numbers of faculty members in various departments, but did not point to any specific issue or objection with regard to any member of the petitioners' faculty.

13. The show cause notice dated 08.01.2021 in the case of SKS Ayurvedic Medical College and Hospital [the petitioner in W.P.(C) 1539/2021], may be taken as a case in point. In the said show cause notice, the deficiencies to which the institution was asked to respond were as follows: -

> *"2. On examining the same in terms of the Indian Medicine Central Council (Requirements of Minimum Standard for under-graduate Ayurved Colleges and attached Hospitals) Regulations, 2016, provisions under the IMCC Act, 1970, relevant regulations made there under, it*

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appears that, the college is not fulfilling following requirements:

i. No faculty available in Shalaya Tantra against the Minimum requirement of 03 faculty (2HF +1LF) as per RMS, 2016.

ii. No Higher Faculty is available in Ayurveda Samhita & Siddhant, Rachana Sharir, Rog Nican evam Vikriti Vigyan, Swasthavritta & Yoga, Prasuti Tantra evam Stri Roga, Kaumarbhritya, Panchkarma, and Shalakya Tantra against the minimum requirement of 02 as per RMS, 2016.

iii. 01 Higher Faculty is available in Kriya Sharir, Dravyaguna Vigyan, Rasa Shastra evam Bhaishajya Kalpana, and Kayachikitsa against the minimum requirement of 02 as per RMS, 2016.

iv. No Lower faculty is available in Dravyaguna Vigyan against the minimum requirement of 01 as per RMS, 2016.

v. College website is not available as specified in sub-regulation (2) of regulation 9 of RMS, 2016."

In the final order dated 02.02.2021, however, the Union has recorded in detail the submissions of the petitioner regarding the available faculty, and the observations of the CCIM Hearing Committee, and come to a conclusion against the petitioner. The Union has, in fact, accepted the CCIM's recommendations by referring to specific faculty members, whose status was found to be 'on paper', or who were otherwise considered by CCIM to be ineligible.

14. It is not disputed that the cases of the other institutions are similar. In all cases, the show cause notices point to deficiencies in faculty in terms of shortage of numbers in various departments, whereas the final orders deal with specific cases of recognition/certification of faculty

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members. In many of the cases, for example, it has been recorded in the final orders that the CCIM recommendation has considered these teachers 'on paper'. On the basis of these recommendations and the observations of the Hearing Committee, the Union has observed that the required number of faculty is not available in the concerned discipline, and that the criteria specified in the 2016 Regulations therefore remains unfulfilled.

15. While the exact terminology used in the orders is not identical, what is common to all these cases is that none of the show cause notices issued to the petitioners specified the members of the faculty in respect of whom the CCIM or the Union objected to their status as active faculty in the institution. Learned counsel for the petitioners have specifically contended that prior to the passing of the final orders, the contention regarding non-certification of individual faculty members and the identification of the faculty members affected by such non-certification was not known to them during the process of recognition. Learned counsel for the respondents have not controverted this position in any of these cases. The Union has also proceeded in all these cases to rely upon the CCIM recommendation with regard to the status of the faculty. In the circumstances that the CCIM recommendation report was admittedly never communicated to the petitioners, it is evident that the petitioners did not have an opportunity to meet the allegations with regard to the named members of their faculty. The non-certification of particular members of the faculty was not a part of the show cause notice at all, but forms the foundation of the final orders declining permission.

16. While Ms. Dave may be right in submitting that this process has been going on for over a year and, according to her, the colleges can be

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presumed to know the status of their faculty members, I am of the view that a drastic consequence of denial of recognition cannot be founded upon such a presumption, in the face of an incomplete or generic show cause notice of the sort served upon the petitioners in these cases.

17. In one of the writ petitions, i.e., W.P.(C) 1644/2021, Ms. Aprajita Singh, learned Senior Counsel, points out that an additional ground has been taken by the Union to decline permission, which is that the institution in the said case does not have any faculty in certain subjects which are part of the third year and fourth year courses in Ayurveda. On this point, Ms. Singh submits that the institution in question has given admission to only two batches so far, and only the first batch has yet taken the first year exam – that too, only in October, 2020. She states that, due to the delay in conduct of examinations by the affiliating university, the institution will not have any students in the third year, even in the year 2020-2021. She cites Regulation 10 of the 2016 Regulations, which provides year-wise requirement of faculty, and the judgment of a Coordinate Bench in *Dhanwantri Ayurvedic Medical College and Research Centre and Anr vs. Union of India and Anr*. 2012 SCC Online Del 5290 [W.P.(C) 5506/2012, decided on 09.10.2012] (paragraphs 15 & 16) to submit that, in such circumstances, the institution is not required to have the requisite faculty in place for teaching the third and fourth year courses. Having regard to the provisions of Regulation 10 of the 2016 Regulations, and the judgment cited by Ms. Singh, on this point also, the petitioner has made out a *prima facie* case for grant of interim relief.

18. Ms. Dave refers to an additional ground which appears in many of these orders, with regard to the websites of the petitioner/institutions not

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being updated in terms of Regulation 9(2) of the 2016 Regulations. Regulation 9(2) requires monthly updating of the petitioners' websites with regard to various points of information, including faculty strength, names of the faculty, the monthly report regarding the students, etc. I am of the *prima facie* view that this is a remediable requirement and the denial of recognition to the petitioner/institutions on the ground of non-updation of their websites is a disproportionate consequence. The CCIM can certainly require all institutions to update their websites regularly, and prescribe certain consequences of default, but standing alone, the said deficiency appears *prima facie* to be insufficient to warrant denial of permission altogether.

19. The judgments cited by learned counsel for the respondents, with regard to deference to the wisdom of the regulatory bodies in the matters of this nature, are well taken. I do not intend to suggest at this stage that the recommendations of the CCIM were unfounded or wrong or unmerited. The question, however, is whether those recommendations were put to the institutions prior to denying them the recognition for which they had applied. On this point, I am of the view that the petitioners have made out a strong *prima facie* case for grant of an interim order.

20. On the question of balance of convenience, I am bound by the order of the Division Bench dated 04.02.2021 in LPA 49/2021, which clearly holds that balance of convenience in such a case is in favour of the petitioner/institution. There is practically no distinction between the position of the petitioner in that case, and the present petitioners. Upon a finding of a *prima facie* case in favour of the institutions concerned, an

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interim order therefore ought to follow.

21. In view of the aforesaid, and following the order of the Division Bench dated 04.02.2021, the petitioner/institutions are, by way of this *ad interim order,* permitted to participate in the ongoing counselling process for the year 2020-2021.

22. As this is an *ad interim* order in favour of the petitioner/institutions, it is naturally subject to the result of the writ petitions, and the petitioners are directed to inform prospective candidates accordingly.

23. Ms. Suman Chauhan, appearing for the Union in W.P.(C)1616/2021, submits that the Union may be permitted to issue fresh show cause notices to the petitioners detailing the allegations in sufficient particulars. I am of the view that this does not require the Court to pass any order. If the Union wishes to take steps afresh, it is for the Union to consider the modalities for such an exercise in accordance with law. However, in view of the fact that counselling in various States is already under way, and that the Union itself has directed the counselling and admission process in Ayurveda colleges to be completed by 28.02.2021, it is not possible to defer these petitions to enable the Union to retrace its steps.

24. Counter affidavits be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

25. List on 07.04.2021.

PRATEEK JALAN, J

FEBRUARY 8, 2021/
'hkaur/j'

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