

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 24<sup>TH</sup> DAY OF NOVEMBER, 2009

BEFORE

THE HON'BLE MR.JUSTICE MOHAN SHANTANAGOUDAR

WRIT PETITION NO.11687/2008(EDN-REG-P)

**BETWEEN:**

TMAES Ayurveda Medical College  
Nidige Post, Bhadravathi  
Shimoga-577 222  
Rep by its Principla  
Dr. B.S.R.L.N. Shastry  
Aged about 33 years.

..Petitioner

(By Sri M.M. Swamy, Adv.,)

**AND :**

1. The Union of India  
Ministry of Health &  
Family Welfare  
New Delhi  
Rep by its Secretary.
2. The Under Secretary  
Ministry of Health & Family  
Welfare, Department of Ayurveda,  
Yoga & Naturopathy, Unani  
Siddha and Homeopathy (Ayush)  
IRCS Building, No.1 Red Cross  
Road, New Delhi.

3. The Secretary  
Central Council of India Medicine  
61-65, Institutional Area  
Janakpuri, New Delhi-110 058.
4. The Secretary  
Ministry of Health & Family  
Welfare, No.109, M.S. Building  
Bangalore-560 001.
5. The Registrar  
Rajiv Gandhi University of  
Health Science, 4<sup>th</sup> T Block  
Jayanagar, Bangalore-41. ..Respondents

(By Sri C. Shashikantha, CGSC., for R1, R2 & R4;  
Sri Mahesh R. Uppin, Adv., for R3;  
Sri N.K. Ramesh, Adv., for R5)

This writ petition is filed under Articles 226 and 227 of the Constitution of India, praying to quash the order passed in No.R.17011/56/06 EP by the R1, dated 18-8-2008 vide Annexure-H.

This writ petition coming on for preliminary hearing in B-Group, this day the Court made the following:-

**ORDER**

By the impugned order at Annexure-H, dated 18.8.2008, the first respondent has decided not to grant permission for admission of the students to undergraduate Course being conducted in the petitioner's institution for the academic year 2008-09.

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2. Learned counsel appearing on behalf of the petitioner submits that the petitioner has got all the necessary infrastructure for being recognized and consequently the impugned order by which the petitioner is not granted permission to admit the students to the undergraduates Course is bad in the eye of law. According to him, the first respondent has not visited the college and has not taken into consideration the fact situation.

Per contra, it is contended on behalf of the respondents that the Central Council of Indian Medicine visited the college and has submitted the recommendation to the Central Government, in which several shortcomings and deficiencies relating to eligibility conditions and standards laid down in Indian Medicine Central Council (IMCC) and the Regulations found thereunder, were found.

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3. The impugned order is self-explanatory. It assigns adequate reasons as to why the petitioner's institution is not granted permission to admit the students to undergraduate Course. The major deficiency found by the third respondent-CCIM is that adequate teachers are not available, and there are only 11 eligible teachers as against the requirement of 35. The non-teaching staffs are also not sufficient. The books available in the library are not adequate. Certain other deficiencies and shortcomings are noted in the impugned order.

4. The report of CCIM was furnished to the petitioner by its comments. The petitioner has filed its statement. After considering the statement filed by the petitioner and after giving opportunity of being heard under the provisions of IMCC Act, 1970, the impugned order is passed. The Central Government has found that the teaching staff is not available as per CCIM

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Norms, and there is no adequate non-teaching staff. The occupancy in Out-patient Department was also on the lower side. Under such circumstances, the Central Government has decided not to grant permission to the petitioner to admit the under graduate students in the petitioner's institution for the year 2008-09. Since the authorities concerned have applied their mind based on the fact situation, it is not a fit case to interfere with the decision of the Central Government as the same is based on fact situation. This Court cannot act as an appellate Court in such matters for directing the concerned authorities to decide the matter in a particular manner. Hence, this Court declines to interfere with the impugned order as the same is just and proper under the facts and circumstances of the case.

5. It is brought to the notice of the Court by the learned counsel on both the sides that even for the next



academic year i.e., 2009-10, permission is not accorded to the petitioner's institution as the defects are not rectified. The non-availability of the teaching staff in the petitioner's institution is the major deficiency. It is open for the petitioner to apply for permission after complying with the deficiencies and shortcomings for getting the permission for future years. If such an application is filed, after curing the defects, the same shall be considered by respondent No.1, in accordance with law, at the earliest.

Petition is **dismissed** with the aforesaid observations.

Sd/-  
JUDGE

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