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

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W.P.(C) 5005/2022, CM APPL. 14857/2022 (stay) & CM APPL. 18353/2022 (additional documents).

**SHRI DHANWANTRI AYURVEDIC MEDICAL COLLEGE AND RESEARCH CENTRE** ..... Petitioner

Through: Mr.Sandeep Sethi, Sr. Adv. with  
Mr.Avneesh Arputham, Adv.

versus

**UNION OF INDIA AND OTHERS**

..... Respondents

Through: Mr.Bibhash Kumar & Mr.Vivek  
Goyal, Advs. for R-1  
Mr.Pramod Kumar Vishnoi & Ms.Archana Pathak  
Dave, Advs. for R-2

**CORAM:**

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

**ORDER**

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**22.04.2022**

**CM APPL. 18354/2022**

1. Exemption allowed, subject to all just exceptions.
2. The application is disposed of.

**W.P.(C) 5005/2022 & CM APPL. 14857/2022 (stay)**

3. The petitioner has approached this Court being aggrieved by the order dated 23.03.2022, whereby its second appeal against the denial order dated 17.12.2021 for admission to 100 seats in the UG BAMS course for the academic session 2021-2022, has been rejected by the respondent no.1.
4. The primary contention of learned senior counsel for the petitioner is that the impugned order has been passed on the premise that there are

existing deficiencies in the petitioner institute on three counts. He submits that that all these deficiencies stand rectified, which fact would have been evident if the respondent no.1 had considered the documents filed by the petitioner along with its appeal. By drawing my attention to para. II (C) and III (C) of the impugned order, he submits that the respondent no.1 has not even noted the submissions of the petitioner. He therefore prays that the impugned order which has been admittedly passed without granting any opportunity of hearing, be set aside.

5. Learned counsel for the respondent no.1 defends the impugned order by stating that the same has been passed after considering all the contentions of the petitioner. He is, however, not in a position to dispute the fact that the order doesn't even refer to the petitioner's submissions qua deficiency no. II and III.
6. Having considered the submissions of the parties and perused the record, I find merit in the petitioner's plea that the impugned order does not even prima facie note the contentions raised by the petitioner in its appeal. Even though as urged by the learned counsel for respondent no.1, an opportunity of hearing may not be a mandatory requirement for disposal of the second appeal by respondent no.1, the fact remains that the impugned order does not even reflect a prima facie consideration of the petitioner's detailed submissions in respect of deficiency no. II and III.
7. The petitioner has also stated that even though it has 53 teachers, it still meets the requirement for teaching faculty for 100 seats in UG BAMS course; this aspect has also been simply overlooked by the

respondent no.1 and therefore, even the finding in the impugned order qua deficiency no. I suffers from non-application of mind. The second appeal preferred by the Ayurveda College to the respondent no.1 is very important statutory remedy available to the colleges. The respondent no.1 is therefore expected to deal with all the submissions raised by the parties. In the present case, unfortunately the impugned order reflects complete non-application of mind and can therefore not be sustained.

8. The impugned order dated 23.03.2022 is, accordingly set aside and the matter is remanded back to the respondent no.1 for reconsideration of the petitioner's appeal by following the laid down procedure. While passing a fresh order, the respondent no.1 will specifically deal with all the detailed submissions made by the petitioner in its second appeal.
9. Keeping in view the fact that the petitioner is a college running for the last more than 9 years as also the fact that our country has, after the outbreak of the covid-19 pandemic, been staunchly promoting the Ayurvedic system of medicine, prejudice would be caused not only to the petitioner institute but also to the prospective students if the petitioner institute is not allowed to participate in the ongoing counselling. It would, therefore, be in the interest of justice to permit the petitioner to participate in the counselling, till the petitioner's second appeal is reconsidered by the respondent no.1 in terms of this order. The petitioner, will, however publish a notice on its web portal informing the general public that this permission being granted to it, to participate in the ongoing counselling, will be subject to the

outcome of the petitioner's second appeal.

10. Needless to state, this order will not create any special equities in favour of the petitioner and in case, the petitioner is aggrieved by any order which may be passed by respondent no.1, it will be open for the petitioner to seek legal recourse as permissible in law.

**REKHA PALLI, J**

**APRIL 22, 2022**

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