



NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.2585 OF 2025**

(@Special Leave Petition (C) No. 20474 OF 2018)

Jagdish Chand Memorial Trust ...Appellant

-Versus-

State of Himachal Pradesh ...Respondent

J U D G M E N T

K. VINOD CHANDRAN, J.

Leave granted.

2. The question arising in the appeal is as to whether the withdrawal of a No Objection Certificate (for brevity, 'NOC') to commence Ayurvedic Medical College and Hospital, in the private sector was proper or not.

3. We have heard Mr. Shiv Prakash Pandey, learned Counsel appearing for the appellant and Ms. Radhika Gautam, learned Counsel appearing for the State.

4. The learned counsel for the appellant pointed out that based on the NOC issued by the Department, the appellant Trust had set up a hospital of 60 beds and on that short ground, the High Court ought not to have sustained the withdrawal. It is also pointed out that the State would only benefit by the establishment of an Ayurvedic College and Hospital and the decision to the contrary, taken by the Government, is arbitrary and goes against the public interest. It is also argued that the appellant having established the hospital, on the basis of the NOC the Government subsequently could not have resiled from the grant, thus putting the appellant to prejudice. The withdrawal was also without hearing the appellant and hence in violation of principles of natural justice.

5. The learned Standing Counsel appearing for the State contended that the NOC

itself was issued by the Department without following the Rules of Business; which required a policy decision to be taken after placing it before the Council of Ministers. In fact, the Chief Minister had placed the matter before the Council of Ministers, which was later withdrawn by the Minister of the concerned department and the NOC issued, based on the Minister's Order, by the Department. The State was well within its power to withdraw the NOC; since the NOC itself was issued without following the Rules of Business.

6. We have gone through the Judgment of the High Court which considered the ground of the grant having created an indefeasible right, not liable to be withdrawn and also those raised on promissory estoppel and violation of principles of natural justice; all of which were rejected after referring to a wealth of precedents of this Court.

7. On facts, suffice it to notice that a proposal was made by the appellant Trust; which was established in the year 2012 with the objective to start and establish educational and

research-oriented institutions in the medical sector, to the Government in the first phase of an investment meet held in the year 2014, to set up an Ayurvedic College and Hospital. The proposal was considered by the Department of Ayurveda and required a project report to be submitted in consonance with the prescriptions of the Central Council of Indian Medicine (for short 'CCIM'), Government of India. A site inspection was also conducted by the Departmental Committee in the year 2015 as is indicated in Annexures P-10 and P-11 documents produced in the writ petition, pursuant to which as is alleged by the appellant, an NOC was issued as produced at Annexure P-1; which is dated 20.02.2017, by the Principal Secretary (Ayurveda). The appellant applied for affiliation and obtained it as per Annexure P-2 on 02.03.2017 from the Himachal Pradesh University but later, on 14.03.2017 as per Annexure P-4, the NOC was withdrawn.

8. The contention of the State Government was that the NOC issued by the Department was not legally valid. Reading of the

Judgment would indicate that on a perusal of the records produced by the learned Advocate General, it was found that the Chief Minister had once placed the matter before the Cabinet, later withdrawn and then again, at the instance of the Minister for Ayurveda placed it before the Cabinet. While the matter was thus pending, the Minister unilaterally called back the files and opined that there is no requirement to place the matter regarding the issuance of NOC before the Council of Ministers and directed the Department to issue the NOC, especially since no financial implication is involved.

9. The Division Bench of the High Court also examined Rules 14 and 16 of the Rules of Business of the Government, both of which were extracted in the Judgment. Rule 14 provided that every matter included in the Schedule shall be brought before the Council and the Chief Minister also was empowered to bring other matters before the Council at his discretion. Insofar as the matters contained in the Schedule, the only discretion available to the Chief Minister, as per Rule 16, was to take a decision by circulation in the Council of

Ministers; that too only if the Council is unanimous. If there is a dissent and also if the Chief Minister opines that there should be a discussion, it had to be placed before the Council of Ministers. As per the Schedule, the High Court found that item no. 17 was regarding an important change of policy or practice having state-wide application, which had to be necessarily placed before the Council of Ministers. We perfectly agree with the Bench of the High Court that there could not have been a NOC issued as per the Rules of Business of the Government without the concurrence of the Council of Ministers; before which the matter was already placed by the Chief Minister, when the NOC was issued on the orders of the Minister for Ayurveda.

10. There can be no indefeasible right claimed on the basis of the grant issued, which is clearly illegal. There is no promise offered by the State or the Government by reason of the invalid order issued by the Department. The impugned Judgment has referred to ***M/s Jit Ram Shiv Kumar v. State of Haryana***¹, to find that when officers of

¹ 1980 SCC OnLine SC 145

the government acts outside the scope of authority, the plea of promissory estoppel would not be available, especially since the doctrine of *ultra vires* comes into operation and the government cannot be held bound by the unauthorised actions of its officers.

11. A plea of promissory estoppel also would not apply, since on the facts herein, there can be no ground raised of the appellant having arranged its affairs, on the grant being issued, in such a manner as to cause prejudice, on the subsequent withdrawal and unable to resume its earlier position. In the present case, the grant, as is evidenced from Annexure P-1 produced in the Memorandum of SLP is on 20.02.2017 and the withdrawal by Annexure P-4 was on 14.03.2017. The appellant as is seen from the impugned Judgment was sanctioned a loan of Rs. 5 Cr. by Baghat Urban Cooperative Bank Ltd. on 03.03.2017 just 11 days before the grant was withdrawn as per Annexure P-3. The sanction of loan was sought to be established by Annexure P-16 produced in the Writ Petition. We cannot accept the contention of

the appellant that based on the grant Annexure P-1, the Hospital was constructed by the appellant in less than a month's time.

12. Insofar as violation of principles of natural justice, in the teeth of the decision of the Council of Ministers, the Department which made the grant, even if affording an opportunity of hearing could have done nothing against the decision of the Council of Ministers. An opportunity granted by the Department would have been an useless formality. We find absolutely no reason to interfere in the well considered Judgment of the High Court. The appeal, hence, stands dismissed.

13. Pending application, if any, shall stand disposed of.

....., J.
[SUDHANSHU DHULIA]

....., J.
[K. VINOD CHANDRAN]

**NEW DELHI;
FEBRUARY 17, 2025.**