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भारतीय आयुर्विज्ञान परिषद्  
"MEDICAL COUNCIL OF INDIA"

No. MCI-34(MC)/2013/ 135692

Dated: 21/10/14

The Dean / Principal,  
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Inward No...136/10.....Dt: 27/10/14  
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*Pl. send one  
more list with  
previous letter*  
28/10/14

Sub: Hon'ble Supreme Court Order dated 18.09.2014 and 25.09.2014, passed in W.P. (C) No. 469/2014 - Hind Charitable Trust Shikher Hospital Vs. UOI & Ors.

Sir,

The Hon'ble Supreme Court of India vide its order dated 18.09.2014 passed in W.P. (C) No. 469 of 2014, while hearing the batch of matter relating to the grant of permission/ renewal of permission to various medical colleges, had allowed the medical colleges to admit students who were denied renewal of permission on the ground of persisting deficiencies, subject to the undertaking by President/Chairman and Secretary of the medical colleges within 10 days, that there is no deficiency in the medical college being run by them and if the statement made in the undertaking is found to be incorrect at the time of next inspection their bank guarantee with the MCI, which is around Rs.10 crores, be forfeited as penalty. The Hon'ble Court had also clarified that the college will admit only those students who were sent by Directorate of Medical Education & Research of the State in accordance to their merit.

The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at



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present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him; it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30<sup>th</sup> September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions



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were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18<sup>th</sup> September, 2014.
2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18<sup>th</sup> September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.
3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.
4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.



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5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

In view of the above, you are requested to provide the, list of students which has been forwarded to your medical college by the Director, Medical Education, for the purpose of admission for academic year 2014-15 in accordance with orders dated 18.09.2014 and 25.09.2014 passed by the Hon'ble Supreme Court. Please ensure that the list of student forwarded by the Director, Medical Education, to your college may reach the council within a period of 2 days.

Encl:- As above:

Yours faithfully,

  
(Dr. Reena Nayyar)  
Secretary I/c