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

+ **W.P.(C) 4773/2016 & C.M.No.19925/2016**

DR. NITIN JOHAR & ORS. Petitioners
Through **Pt. Gaurav Sharma, Advocate.**

versus

UNION OF INDIA & ANR. Respondents
Through **Mr. Vikas Mahajan, CGSC with
Mr.Amit Mehta and Mr.S.S.Rai,
Advocates for R-1/UOI.
Mr. T. Singhdev with Ms. Biakthansangi,
Advocates for R-2/MCI.**

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Date of Decision: 23rd May, 2016

**CORAM:
HON'BLE MR. JUSTICE MANMOHAN**

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present writ petition has been filed seeking a direction to respondent no. 2-MCI to grant recognition to the post-graduate degrees of the petitioners being Masters of Doctorate (M.D.) and Masters of Surgery (M.S.).
2. It has been averred in the writ petition that the present nine petitioners applied for admission to post-graduate courses at National Institute of Medical Sciences & Research, Jaipur-respondent no. 3. It has further been averred that prior to obtaining admission in respondent no.3-College, the petitioners exercised due care, caution and were assured by the respondent no.3-College that seats for post-graduate courses were approved by the respondent no. 2-MCI and that there would be no obstacle in getting

recognition before the outcome of final semester result. It has been further stated in the petition that the application for admission of the petitioners in the post-graduate courses were approved by the respondent no. 2-MCI and the petitioners obtained admission in respondent no. 3-College after clearing the entrance exam and fulfilling all formalities as set out by respondent nos. 2 and 3.

3. Pt.Gaurav Sharma, learned counsel for petitioners states that respondent no. 3-College applied for recognition of seats to respondent no. 2-MCI in the years 2013 to 2015. He, however, states that the application for recognition has been rejected on the ground of alleged deficiencies.

4. Pt.Gaurav Sharma further states that the petitioners had cleared their final exams in 2014 and 2015 and were also issued provisional certificates.

5. Pt.Gaurav Sharma states that the delay caused by respondent no. 2-MCI is creating difficulties for the petitioners and is affecting their right to education, employment, life and liberty enshrined under the Constitution.

6. On the other hand, Mr. T. Singhdev, learned counsel for respondent no. 2-MCI states that the nine petitioners were admitted either in M.D. (Anaesthesia), M.S. (OBG), M.D. (Microbiology), M.D. (Pathology), M.D. (Forensic Medicine) and M.D. (Social & Preventive Medicine). He states that the Post-Graduate Committee of the respondent no. 2-MCI has recommended to the General Body for recognition of seats in the course of M.D. (Social & Preventive Medicine) in the respondent No.3-college. He states that with regard to M.D. (Pathology), the compliance verification inspection has been conducted on 20th May, 2016. He, however, states that with regard to M.S. (Anesthesia), M.S. (OBG), M.D. (Microbiology) and M.D. (Forensic Medicine), certain deficiencies were communicated to respondent no. 3-College on 22nd April, 2016 and 30th April, 2016 and its

response/compliance is still awaited.

7. Having heard learned counsel for parties, this Court is of the opinion that degrees of the students who have taken admission in post-graduate courses in accordance with law should not be unnecessarily withheld on the ground of lack of compliances by respondent no. 3-College.

8. It is pertinent to mention that this Court has disposed of vide order dated 4th March, 2016 an identical matter being ***Dr.Shivendra Kumar Singh & Ors. Vs. Union of India & Ors., W.P.(C) 1854/2016*** with the following observations and directions:-

“7. Having heard learned counsel for parties, this Court is of the opinion that degrees of the students who have taken admission in post-graduate courses in accordance with law should not be unnecessarily withheld on the ground of lack of compliances by respondent no. 3-College.

8. It is pertinent to mention that this Court has disposed of vide order dated 1st February, 2016 an identical matter being Raman Kishore Vs. Union of India & Ors., W.P.(C) 829/2016 with the following observations and directions:-

“Learned counsel for the petitioner also draws this Court’s attention to the orders dated 28th July, 2015, 3rd June, 2015 and 3rd July, 2015 passed by the High Courts of Uttarakhand and Uttar Pradesh which have granted reliefs to similarly placed persons.

Learned counsel for respondent No. 3/MCI states that MCI has now received fresh compliance from respondent No. 5 and is in the process of completing its re-assessment.

Keeping in view the aforesaid facts as well as the aforesaid judgments of the High Courts of Uttarakhand and Uttar Pradesh, this Court directs MCI to complete the reassessment process within a maximum period of four weeks and thereafter the process in accordance with law shall be followed and completed within a further period of four weeks.

With the aforesaid directions, the present writ petition and application stand disposed of.”

9. Consequently, it is directed that respondent no. 3-College shall

submit its compliance report within a period of one week. Respondent no. 2-MCI in turn is directed to complete the re-assessment process within a maximum period of four weeks and thereafter the process, in accordance with law, should be followed and completed within a further period of four weeks.

10. In the opinion of this Court, respondent no. 2-MCI should normally take action against the delinquent college by either withdrawing its permission for the post-graduate courses in the subsequent academic session or by levying penalties in case of non-compliance. However, this is a suggestion which should be considered by respondent no. 2-MCI and if appropriate changes have to be done in the existing regulations, the same should be carried out. With the aforesaid observations and directions, present writ petition and application stand disposed of. Let a copy of this order be communicated to respondent no. 3-College by learned counsel for petitioners forthwith."

9. Consequently, it is directed that respondent no. 3-College shall submit its compliance report within a period of one week. Respondent no. 2-MCI in turn is directed to complete the re-assessment process if required within a maximum period of four weeks and thereafter the process, in accordance with law, should be followed and completed within a further period of four weeks.

10. With the aforesaid observations and directions, present writ petition and application stand disposed of. Let a copy of this order be communicated to respondent no. 3-College by learned counsel for petitioners forthwith.

Order dasti.

MANMOHAN, J

MAY 23, 2016
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