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HIGH COURT OF CHHATTISGARH, BILASPUR**WP (C) No. 1665 of 2017**

1. Shri Gangajali Education Society Through I.P. Mishra S/o Late Shri S.P. Mishra, Aged About 75 Years, President, Shri Gangajali Education Society, Sector 6, Bhilai, District Durg (Chhattisgarh)
2. Shri Shankaracharya Institute Of Medical Sciences, Through I.P. Mishra President, Shri Gangajali Education Society, Sector- 6, Bhilai, District Durg (Chhattisgarh)

---- Petitioners**Versus**

1. Union Of India Through Its Secretary, Ministry Of Health And Family Welfare, Govt. Of India, Nirman Bhawan, New Delhi 110 001
2. Medical Council Of India, Through Its Secretary, Pocket No. 14, Sector 8, Dwarka New Delhi 110 077

---- Respondents

For Petitioners	:	Mr.A.P.Shroti and Mr.Suresh Pandey, Advocate
For Respondent No.1	:	Mr.N.K.Vyas, A.S.G.
For Respondent No.2	:	Mr.R.S.Marhas, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****03/08/2017**

1. Learned counsel appearing for the parties would jointly submit that instant lis pending between the parties is squarely covered by recent decision delivered by the Hon'ble Supreme Court on 1st August, 2017 in the matter of Global Medical College and Super Speciality Hospital & Research Centre Vs. Union of India and another in WP (C) No.411 of 2017, in which the Supreme Court has held as

under:-

“22. Though as the records testify, a hearing was provided to the petitioner colleges/institutions through the Hearing Committee constituted by the DGHS (as mentioned in the proceedings dated 23.3.2017) qua the recommendations of the MCI contained in its letter dated 15.01.2017, as noted hereinabove, the proceedings of the Hearing Committee do reflect varying views of the Hearing Committee and the DGHS, the latter recommending various aspects bearing on deficiency to be laid before the OC for an appropriate decision. The Central Government did forward, albeit a pruned version of the proceedings of the Hearing Committee to the Oversight Committee after a time lag of almost six weeks. The reason therefor is however not forthcoming. The Oversight Committee, to reiterate, though on a consideration of all the relevant facts as well as the views of the MCI and the proceedings of the Hearing Committee as laid before it, did cast aside the deficiencies minuted by the MCI and recommended confirmation of the letters of permission of the petitioner colleges/institutions, the impugned decision has been taken by the Central Government which on the face of it does not contain any reference whatsoever of all these developments.

23. As a reasonable opportunity of hearing contained in the proviso to Section 10A(4) is an indispensable pre-condition for disapproval by the Central Government of any scheme for establishment of a medical college, we are of the convinced opinion that having regard to the progression of events and the divergent/irreconcilable views/recommendations of the MCI, the Hearing Committee, the DGHS and the Oversight Committee, the impugned order, if sustained in the singular facts and circumstances, would be in disaccord with the letter and spirit of the prescription of reasonable opportunity of hearing to the petitioner institutions/colleges, as enjoined under Section 10A(4) of the Act. This is more so in the face of the detrimental consequences

with which they would be visited. It cannot be gainsaid that the reasonable opportunity of hearing, as obligated by Section 10A(4) inheres fairness in action to meet the legislative edict. With the existing arrangement in place, the MCI, the Central Government and for that matter, the Hearing Committee, DGHS, as in the present case, the Oversight Committee and the concerned colleges/institutions are integral constituents of the hearing mechanism so much so that severance of any one or more of these, by any measure, would render the process undertaken to be mutilative of the letter and spirit of the mandate of Section 10A(4).

24. Having regard to the fact that the Oversight Committee has been constituted by this Court and is also empowered to oversee all statutory functions under the Act, and further all policy decisions of the MCI would require its approval, its recommendations, to state the least, on the issue of establishment of a medical college, as in this case, can by no means be disregarded or left out of consideration. Noticeably, this Court did also empower the Oversight Committee to issue appropriate remedial directions. In our view, in the overall perspective, the materials on record bearing on the claim of the petitioner institutions/colleges for confirmation of the conditional letters of permission granted to them require a fresh consideration to obviate the possibility of any injustice in the process

25. In the above persuasive premise, the Central Government is hereby ordered to consider afresh the materials on record pertaining to the issue of confirmation or otherwise of the letter of permission granted to the petitioner colleges/institutions. We make it clear that in undertaking this exercise, the Central Government would re-evaluate the recommendations/views of the MCI, Hearing Committee, DGHS and the Oversight Committee, as available on records. It would also afford an opportunity of hearing to the petitioner colleges/institutions to the extent necessary. The process of hearing and final reasoned decision thereon, as ordered, would be completed peremptorily within a period of

10 days from today. The parties would unfailingly co-operate in compliance of this direction to meet the time frame fixed.”

2. Accepting the submissions of learned counsel appearing for the parties, the present writ petition is disposed off in terms of para 22 to 25 of the judgment of the Supreme Court in **Glocal Medical College and Super Speciality Hospital & Research Centre** (supra). No order as to cost(s).

Certified copy today.

Sd/-

(Sanjay K.Agrawal)
Judge

B/-