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

+ W.P.(C) 3588/2017 & CM Nos.15742-43/2017

NATIONAL INSTITUTE OF MEDICAL SCIENCES &

RESEARCH JAIPUR

..... Petitioner

Through : Mr. Sandeep Sethi, Sr. Adv. and Mr.
Nishit Agrawal, Adv.

Versus

MEDICAL COUNCIL OF INDIA AND ORS Respondents

Through : Mr. T. Singhdev, Ms. Biakthansanghi,
Ms. Puja Sarkar and Mr. Tarun
Verma, Advs. for R-1.

Mr. Vikas Mahajan, CGSC and Mr.
S. S. Rai, Adv. for R-2.

Mr. Shiv Mangal Sharma and Mr.
Shrey Kapoor, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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26.04.2017

Main challenge in this writ petition is to the rejection of the request of petitioner for increasing the seats in thirteen post graduate courses by the Ministry of Health and Family Welfare, that is, respondent no.2, vide its letter dated 28th February, 2017 (Annexure P-51), which reads as under:-

“To,

The Dean/Principal,

NIMS

Shobya Nagar, Delhi-Jaipur Highway (NH-11C)

Jaipur-3012, Rajasthan.

Subject:- Increase/starting of various postgraduate degree courses at NIMS Jaipur, Rajasthan-Permission of Central Govt. – Regarding.

Sir/Madam,

This is with reference to your scheme (s) for starting/increase of seats in various postgraduate degree courses from the academic session 2017-18. The Medical Council of India vide its recommendations dated 29.12.2016 (copy enclosed) had recommended to the Central Government to disapprove your scheme(s) as under:-

Increase:-

1. MD General Medicine
 2. MD TB & Respiratory Disease
 3. MD DVL
 4. MD Psychiatry
 5. MD Paediatrics
 6. MD Radio Diagnosis
 7. MD Anaesthesia
 8. MD Pathology
 9. MD General Surgery
 10. MD Orthopaedics
 11. MD Ophthalmology
 12. MS ENT.
 13. MS Obst. & Gynecology.
2. Further, in view of the provision to section 10(A)(4) of IMC Act, 1956, your institution has also been given opportunity of personal hearing by the committee constituted for this purpose in the Ministry of Health & Family Welfare.
3. After considering the recommendations of MCI and the hearing committee, the Central Government has decided to accept the recommendations of MCI and hereby disapproves your above noted scheme(s) for the academic session 2017-18. However, you are free to apply afresh for next academic session strictly as per the provisions of IMC Act, 1956 and regulations framed thereunder.

Yours faithfully,

Sd/-

(DVK Rao)

Under Secretary to the Govt. of India”

Petitioner had requested for the increase of seats in the academic session 2017-18. During the course of hearing, learned counsel for

respondent no.1 has pointed out that the academic session 2017-18 has already commenced and the last date for issuance of letter of permission by the Central Government being 28th February, 2017, has already expired. Case of petitioner for increase of seats for the academic session 2017-18 cannot be considered in view of the judgment dated 18th January, 2016 passed by Supreme Court in Ashish Ranjan & Ors. Vs. Union of India & Ors. 2016(4) SCALE 370. It is further pointed out that a Bench of coordinate jurisdiction has rejected a group of five writ petitions being W.P.(C) Nos.1845/2016, 1855/2016, 1857/2016, 2422/2016 & 2460/2016, in the similar facts, by following the Supreme Court judgments. Relevant paras of the judgment passed by the learned Single Judge read as under:-

“6. On the other hand, Mr.T.Singhdev, learned counsel for respondent no.2-MCI states that the present writ petitions are not maintainable as the last date for issuance of letter of permission by the Central Government was 28th February, 2016.

7. In support of his contention, he has referred to the judgment and order dated 18th January, 2016 passed by the Apex Court in Ashish Ranjan & Ors. Vs. Union of India & Ors. in W.P.(C) No.76/2015.

8. The time schedule incorporated in the said order is reproduced hereinbelow:-

“TIME SCHEDULE FOR RECEIPT OF THE APPLICATIONS OF POST GRADUATE (BORAD SPECIALITY) COURSES/INCREASE OF ADMISSION CAPACITY AND PROCESSING OF THE APPLICATIONS BY THE CENTRAL GOVERNMENT AND MEDICAL COUNCIL OF INDIA.

S. No	State of processing	Last Date
1.	Receipt of applications by the Central	Between 15th March to

	Government.	7th April (both days inclusive of any year)
2.	Forwarding application by the Central Government to Medical Council of India.	By 15th April
3.	Technical scrutiny, assessment and By 30th W.P.(C) 2422 & 2460 of 2016 Page 4 of 4 Recommendations of Letter of Permission by the Medical Council of India.	September
4.	Receipt of reply/compliance from the applicant by the Central Government and for personal hearing thereto, if any and forwarding of compliance by the Central Government to the Medical Council of India.	Two months from receipt of recommendation from MCI but not beyond 15th November
5.	Final recommendations for the Letter of Permission by the Medical Council of India.	By 31st January
6.	Issue of Letter of Permission by the Central Government.	By 28th February

9. Keeping in view the aforesaid time schedule, it is apparent that the last date of issuance of letter of permission by the Central Government has expired on 28th February, 2016.

10. Consequently, this Court is of the view that no relief can be granted to the petitioners in the present batch of petitions. Accordingly the present writ petitions along with the applications are dismissed, but no order as to costs.”

It is also noted that petitioner had earlier filed W.P.(C) No.897/2017 wherein prayer nos. (a) to (d) were the same, as have been made in the present writ petition. The said writ petition was withdrawn for awaiting the decision of respondent no.2. The final order has been passed on 28th February, 2017, which has been assailed in this writ petition. It is also noted that Medical Council of India has also recommended the withdrawal of permission already granted to petitioner for MBBS course vide Annexure P-

39.

For the foregoing reasons, I am not inclined to entertain this writ petition and the same is dismissed.

Miscellaneous applications are disposed of as infructuous.

A.K. PATHAK, J.

APRIL 26, 2017/dk