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

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W.P.(C) 8438/2011

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Date of decision : 14th December, 2017

MOHINDER KUMAR

..... Petitioner

Through : Petitioner in person.

versus

BOARD OF GOVERNORS IN SUPER-SESSION OF
MEDICAL COUNCIL OF INDIA

..... Respondent

Through : Mr. T. Singhdev, Ms.
Biakthansangi Das and Ms.
Puja Sarkar, Advs. for R-1.
Mr. Akshay Makhija, CGSC
with Ms. Divya Kapur, Adv. for
UOI.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

GITA MITTAL, ACTING CHIEF JUSTICE

1. This writ petition was filed by the petitioner praying for the following reliefs :

“a. To issue directions to Board of Governors, MCI (Respondent) to implement installation of “Faculty Identification, tracking & Monitoring system Comprising of Software, controller & Biometric Card Reader at all the Medical colleges/institutions in India” (Tag Faculty) approved by the General Body of the Medical Council of India on 18.11.2009 in larger public Interest to track dummy/fake Faculty/ghost Faculty shows in Medical Colleges/Institutions in India for MCI Inspection Purposes.

b. To order cancellation / Disapprove / derecognize illegal appointments of teachers / appointment of teachers contrary to “Minimal Qualification for Teachers in Medical Institution Regulation, 1998 and 2009 (Amendment)” as requested detailed to respondent vide letter dated 1.11.2011 (Annexure P-5 supra)

c. To conduct renewal/Permission inspections of Medical Colleges for year 2012-13 according to new Policy (of not giving 48 hrs prior notice to Medical colleges) to Know real time picture of infrastructure/Number of Patients & medical faculty in larger Public interest.

d. Direct Respondents not to permit any Medical College/institute to admit Medical students for year 2012-13 if they don't install Biometric system or follow teacher eligibility qualification regulation, 1998 or 2009 amended regulation.

e. To allow Writ petition with Cost in favour of Petitioner.

f. Exempt the Petitioner from filing the certified Copies of annexure.

g. Any other Writ, order or Direction that this Honourable High Court deemed fit and proper in the circumstances may be issued.”

2. The issues raised by the petitioner were crystallized by the order dated 18th April, 2012 which are reproduced as under :

“(A) Introducing a system for identification of faculty by issuance of radio identification cards.

(B) The second issue pertains to the maintenance of uniformity in teaching cadres in all the Government Medical Colleges as well as Private Medical Colleges across the

country.”

3. On the 11th of July 2012, ld. counsel for the MCI had placed on record the communication dated 10th July, 2012 addressed by the Medical Council of India (MCI) to its counsel setting out the steps taken by the MCI regarding both the above issues i.e. the monitoring of the online faculty attendance as well as amendments to the regulations regarding prescription of uniform minimum requirements for teacher eligibility to ensure uniformity in medical faculties. The court was informed that the MCI had already approached the Central Government with the draft notification for carrying out the requisite amendments in the Regulations. The court therefore, disposed of the writ petition with liberty to the petitioner to seek revival of the same in case the assured steps are not undertaken within a reasonable time.

4. An application being CM No.4731/2013 has been filed by the petitioner for revival of the present writ petition complaining that the respondents have failed to undertake the requisite steps. This application was allowed by the court on 4th April, 2014.

5. In response to the above, Mr. T. Singhdev, ld. counsel for the respondent no.1 – MCI has drawn our attention to the notification dated 5th June, 2017, published by the Government of India and approved by the Central Government, which has been published by the MCI.

6. It is submitted that as a result, the minimum qualification for teachers in Medical Regulations, 1998 stands amended by the MCI.

7. The writ petitioner, who is present in person, makes a grievance

that this notification is not in terms with the amendment which was proposed by the MCI by its letter dated 24th February, 2012. The petitioner would submit that the action in publishing the notification in variance with the communication placed before this court is contumacious and action deserves to be taken against the MCI.

8. It has been explained by Mr. T. Singhdev, Id. counsel for the respondent no.1 that the proposal of the MCI, as forwarded to the Ministry of Health and Family Welfare under the cover of its letter dated 24th August, 2012, did not find favour with the government which effected the modifications and approved the modified proposal resulting in the notification dated 5th June, 2017 of the amended regulations.

9. The petitioner has a grievance with regard to the essential experience qualification which has been prescribed in the regulation dated 5th of June 2017. It is submitted that the respondents have effectively diluted the requirement of essential experience for eligibility to the post of Assistant Professor.

In our view, this objection has to be the subject matter of an independent challenge and cannot be raised in the present matter.

10. The writ petitioner also disputes the submission made on behalf of the respondents that on-line faculty attendance monitoring system has not been installed in all medical colleges. In this regard, Mr. T. Singhdev, Id. counsel for respondent no.1 has placed before us a letter dated 3rd November, 2017 which has been addressed to the Dean/Principal of all Medical Colleges in India. By this communication, all medical colleges stand notified as follows (*page*

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“With the launch of ‘Go-Live’ activity of DMMP – I project, the attendance of medical faculties will be captured by the 4500 devices installed at convenient locations in the medical colleges. In this regard, you are requested to start the biometric attendance of the faculties in your medical colleges immediately. It is to inform you that w.e.f. 01.12.2017, the biometric attendance shall be considered during the assessment process. No manual attendance shall be considered during the assessment except JR & SR. In case of any issue pertaining to OFAMOS devices, Medical College may raise their complaint either by calling IT helpdesk at number 011-25362032 or online at Council Website under Complaints tab.”

The Medical Council of India shall strictly adhere to the above.

11. We are informed by Mr. T. Singhdev, Id. counsel for the respondent no.1 that pursuant to this directive, 431 devices have been installed all over the country on the said system.

12. In case the petitioner has specific information of any violation by any medical college, he is given liberty to inform the Medical Council of India regarding the same which shall proceed in the matter in terms of its directives contained in the communication dated 3rd November, 2017.

13. This petition is disposed of in the above terms.

ACTING CHIEF JUSTICE

C.HARI SHANKAR, J

DECEMBER 14, 2017/aj