

\$~20

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

+ **CONT.CAS(C) 1071/2016 & C.M.No.13177/2017**

DR JAYA PATEL & ORS.

..... Petitioners

Through

Pt.Gaurav Sharma with Mr.Mukesh
Sharma, Advocates.

versus

BHANU PRATAP & ORS

..... Respondents

Through

Mr.T.Singhdev with Ms.Biakthan
Sangi, Ms.Puja Sarkar and Mr.Tarun
Verma, Advocates for MCI.
Mr.Prashant Kumar with Mr.Saurabh
Suman, Ms.Charu Ambani and
Mr.Anirudh Singh, Advocates for R-
3.
Mr.Vikas Mahajan, CGSC with
Mr.S.S.Rai, Advocate for UOI.

%

Date of Decision: 28th April, 2017

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present contempt petition has been filed alleging wilful disobedience of the order dated 04th March, 2016 in W.P.(C) No.1854/2016, whereby the College-National Institute of Medical Sciences was directed to submit its compliance report with regard to the deficiencies within a period of one week and further, the

respondent-MCI was directed to complete the re-assessment process within a maximum period of four weeks.

2. In the present contempt petition, it has been averred that though the stipulated time granted by this Court had lapsed, yet the respondents had not taken any action.

3. Today T.Singhdev, learned counsel for MCI has handed over the photocopies of two letters dated 14th April, 2017 written to the Central Government in respect of MD (Microbiology) and MD/MS (OBG) at National Institute of Medical Sciences, Jaipur. The relevant portions of the said letters are reproduced hereinbelow:-

Letter in respect of MD (Microbiology)

“I am to state that the General Body of this Council at its meeting held on 29/03/2017 considered the Compliance Verification Assessment Report (20.06.2016) along with the Council Assessor’s Report (June, 2015 & 21.03.2016) and compliance dated 13.10.2016 submitted by the college authorities on the physical and other teaching facilities available at National Institute of Medical Science & Research, Jaipur for the award of MD (Microbiology) qualification for 02 seat under NIMS University (Deemed University), Jaipur. The Council approved the following recommendations of the Postgraduate Medical Education Committee, which I am directed to convey herewith for your information and necessary action:-

“The Postgraduate Medical Education Committee considered the Compliance Verification Assessment Report (20.06.2016) along with the Council Assessor’s Report (June, 2015 & 21.03.2016) and compliance dated 13.10.2016 submitted by the college authorities and decided to recommend to the Central Government that MD(Microbiology) qualification for 01 seat granted by NIMS University, Jaipur in respect of students being

trained at National Institute of Medical Science & Research, Jaipur be recognized and included in the 1st Schedule to the I.M.C. Act, 1956.

The Postgraduate Medical Education Committee further decided that the recognition so granted shall be for a maximum period of 5 years from the date of Notification upon which the Institute shall have to apply for renewal of recognition. Failure to seek timely renewal of recognition as required shall invariably result in stoppage of admission to the Postgraduate Course.”

Letter in respect of MD/MS (OBG)

“I am to state that the General Body of this Council at its meeting held on 29/03/2017 considered the Compliance Verification Assessment Report (20.06.2016) along with the Council Assessor’s Report (June, 2014 for 01 seat and June, 2015 (01 to 03) seats & 18.1.2015) and compliance dated 13.10.2016 submitted by the college authorities on the physical and other teaching facilities available at National Institute of Medical Science & Research, Jaipur for the award of MD/MS (OBG) qualification for 03 seats under NIMS University (Deemed University), Jaipur. The Council approved the following recommendations of the Postgraduate Medical Education Committee, which I am directed to convey herewith for your information and necessary action.

xxx

xxx

xxx

Accordingly, the Postgraduate Committee Medical Education decides as under:-

- (I) All admissions that have been made on or after the examination of first batch in 2014 in the National Institute of Medical Sciences, Jaipur are in gross violation of Regulation 6(2) and (3) of the Postgraduate Medical Education Regulation, 2000. Therefore, the College was not entitled in law to make any admission for batches from academic year*

2014-15 onwards. Keeping in view that the provisions of MCI Regulations are mandatory and binding the National Institute of Medical Sciences, Jaipur was not entitled to admit students in MD/MS (OBG) course from the academic year 2014-15. Therefore, any admission that have been made in violation of Regulation 6 (2) and (3) of the Postgraduate Medical Education Regulations, 2000 by the National Institute of Medical Sciences are illegal.

(II) The National Institute of Medical Sciences, Jaipur is restrained from making any application for starting the MD/MS (OBG) course for a period of 05 years.”

You are therefore requested to notify the above qualification in respect of students admitted for the academic year 2011-12; 2012-13 and 2013-14 at the earliest.”

4. While learned counsel for respondent no.3 denies any wrong doing on the part of National Institute of Medical Sciences, learned counsel for the petitioners states that he should be given liberty to file appropriate proceedings seeking damages from the respondents.

5. Since in the present proceedings, it is not possible to determine as to which of the respondents is responsible for the delay, this Court gives liberty to the petitioners to file appropriate legal proceedings claiming damages/compensation. However, this Court clarifies that it has not expressed any opinion on the merits of the controversy. The rights and contentions of all the parties are left open.

6. Before parting with this case, this Court once again reiterates that it is not understood as to why the petitioners-students who had completed their specialisation/post-graduate courses were not allowed

to take benefit of their new degrees/qualifications for a considerable period of time. If, as according to the MCI, the respondent no.3 was not rectifying the deficiencies, then the Institute had to be penalised and not the students. By depriving the petitioners-students of their post-graduate degrees and/or by not allowing them to appear in the Super Specialisation Examination, injustice has been perpetrated upon the petitioners-students who are blameless and who had taken admission through open competitive examination on the strength of letter of permission granted by the MCI/UOI to the Specialisation/post-graduate courses.

7. This Court suggests that in the event the medical institute does not remove the deficiencies within a reasonable period of time, then it should be saddled with exemplary costs and its recognition for other courses also be withdrawn. But as the penalty for non-compliance has to be stipulated by MCI/UOI, this Court leaves the final decision to be taken by the MCI/UOI.

With the aforesaid observations and liberty, present contempt petition is closed.

MANMOHAN, J

APRIL 28, 2017
KA