

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No. 18058 of 2018

And

W.M.P.Nos. 21340 to 21342 of 2018

Pondicherry Institute of Medical Sciences,
Represented by its Chairman Dr. K.Jacob,
Kalapet,
Puducherry - 605014. ... Petitioner

Vs.

1. The Government of India
Represented by its Under Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi - 110 001
2. The Medical Council of India,
Represented by its Joint Secretary,
Pocket-14, Sector -8,
Dwarka, Phase I,
New Delhi - 11077
3. Central Admissions committee (CENTAC),
Represented by Chairman/Convenor,
Pondicherry Engineering College Campus,
Puducherry - 605 014 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a WRIT OF CERTIORARIFIED MANDAMUS or any other writ order or direction in the nature of Writ of Certiorarified Mandamus calling for the records of the 1st Respondent in its order dated 01.05.2018 in reference no. U.12012/2018-Me-I [FTS.3150193], quash the same and consequently direct the 1st Respondent to grant renewal of permission to the Petitioner Institution for admission of the 5th batch of MBBS students against increased intake from 100 to 150 seats during the academic year 2018-2019.

For Petitioner : Mr. A.L. Somayaji,
Senior Counsel
M/s.A.Jenasenan

For 1st Respondent : Mr. M. Aravind Kumar
Senior Panel Counsel for
Central Government

For 2nd Respondent : Mr.V.P. Raman

For 3rd Respondent :Mr. C.T. Ramesh

ORDER

This Writ Petition has been filed by Pondicherry Institute of Medical Sciences, Kalapet, Puducherry.

2. Brief facts that are set out in the affidavit filed in support of the Writ Petition are as follows:-

The petitioner Institution has been established by Madras Medical Mission, a society registered under the Tamil Nadu Societies Registration Act 1975. The petitioner has got approval from the Ministry of Health and Family Welfare, Government of India, to conduct MBBS course with an annual intake of 100 students from the year 2001 and subsequently, the intake has been increased to 150 after providing all the infrastructure and facilities.

3. The first respondent has issued orders approving the increase in intake in the petitioner Institution during the academic year 2014-15 and thereafter, for the subsequent years viz., 2015-16, 2016-17 and 2017-18, based on the inspection and recommendation of MCI. After proper inspection and verification of the infrastructure and every other facilities including faculty position the second respondent has recommended and the first respondent has issued orders granting three consecutive renewals for the increase of intake from 100 to 150 seats over all for the petitioner Institution.

4. For the purpose of granting fifth renewal to the petitioner Institution during the academic year 2018-19, an Inspection Team was appointed by the 2nd respondent, who in-turn, inspected the petitioner Institution on 21st and 22nd of August 2017. After the inspection, the second respondent found that the deficiency in teaching faculty is 6.2%. The other deficiencies pointed out are that on the day of inspection work load of contrast is NIL and residential accommodation is not sufficient. When the deficiency was pointed out to the petitioner, he has submitted a letter stating that the

petitioner has appointed one candidate as Associate Professor and that another Senior Resident was promoted as Assistant Professor to bring the deficiency in faculty down to 4.9%, which is within the permissible limits prescribed by the 2nd respondent. Compliances of other two deficiencies was also reported. The first respondent issued a letter dated 15.11.2017 calling upon the principal or Dean of the petitioner Institution to appear on 29.11.2017 in connection with the recommendation submitted by the second respondent. After considering the explanation submitted by the petitioner, the hearing committee of the first respondent has come to the following conclusion that: (i) only marginal deficiency of faculty is noted in the inspection; (ii) since the deficiency pointed out by the Medical Council of India has been rectified, MCI may be asked to review its recommendation. Thus, in the opinion of the Committee, disapproval for renewal during the academic year 2018-2019 was not warranted.

5. Thereafter, the Medical Counsel of India / second respondent has deputed another inspection team to the petitioner Institution on 01.02.2018 for verification of compliance. Based on the report of the Inspection team, the second respondent has sent a letter to the first respondent dated 28.03.2018 with recommendation to the first respondent not to renew permission for increasing the intake in the petitioner Institution as the following deficiencies were noted:

(i) the deficiency of faculty is 13.66% in the Petitioner Institution;

(ii) Bed occupancy at 10.00 am on day of assessment was 49.86%; and

(iii) Deficiency in accommodation remains as it is.

6. Therefore, the second respondent has recommended for taking action under clause 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999. Accordingly, a show cause notice was issued to the petitioner as to why the recommendation for withdrawal of recognition of the courses run by the petitioner Institution should not be made for undergraduate and post graduate courses on 28.03.2018, for which, the petitioner has submitted a detailed reply on 07.04.2018 wherein it was stated that the deficiency stated in the first inspection was rectified and that therefore, the deficiency with faculty is less than 5%. The further explanation offered by the petitioner shows that deficiency pointed out by the inspection team of second respondent pursuant to the second inspection, was without giving an opportunity to the petitioner and that, the inspection was done on a local festival day. After rectification of the

deficiencies pointed out, the petitioner has requested the respondent 1 and 2 to revoke the show cause notice under clause 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 and to renew the permission for admission of fifth batch of MBBS students against the increased intake from 100 to 150 to the petitioner Institution. Thereafter, another inspection was conducted by the team of Medical Council of India on 23.04.2018. However, it is stated that the inspection was confined regarding compliance of rectification of deficiencies to revoke the decision to withdraw recognition and not regarding permission for admission of fifth batch of MBBS students against the increased intake of 100 to 150. Thereafter, the first respondent has passed the impugned order on 01.05.2018 refusing to renew the permission for admission of 5th batch of students against increased intake. Immediately after the impugned order, the petitioner has sent a detailed representation dated 08.05.2018 to the first respondent requesting to reconsider the decision and to renew the permission as against the increased intake for the academic year 2018-19.

7. The learned Senior Counsel appearing for the petitioner has raised the following points:

(A) As per the original inspection conducted by Medical Council of India on 21st and 22nd August 2017, the deficiency found in the petitioner Institution was that the deficiency in faculty is 6.2% and that, the work load of Contrast Radiology is nil and the residential accommodation is not sufficient. The petitioner has submitted his reply and the deficiency was brought down to 4.9%, which is well within the permissible limits. This fact has been admitted by the first respondent when the matter was remitted to MCA for another inspection. However, the rectification of the deficiency noted by the respondents have been ignored by the respondents before passing the impugned order.

(B) The first respondent has passed the impugned order without even considering the explanation given by the petitioner on 07.04.2018. The impugned order is therefore in violation of principles of natural justice. Further, it was pointed out by the learned Senior Counsel that the first respondent has failed to consider the subsequent events well with in the knowledge of respondents 1 and 2 before issuing the impugned order. It is therefore submitted that the impugned order suffers from arbitrariness and non application of mind.

8. The learned Senior Counsel then submitted that the petitioner was never given an opportunity before the second respondent to make his representation pursuant to the inspection

report. Since the recommendations of MCI was based on wrong assumption of deficiencies without considering the explanation or without affording an opportunity to the petitioner the impugned order passed by the first respondent based on the recommendation of MCA is arbitrary and in violation of principles of natural justice. Finally, the learned Senior Counsel submitted that the petitioner Institution has spent enormous amount, time, energy and effort to ensure renewal by providing required infrastructure, faculty and other clinical material as prescribed by the MCI for the intake of 150 seats in the MBBS course. Even the last inspection shows no deficiencies. In such circumstances, it is was contended that if the impugned order is allowed to stand the whole infrastructure, faculty and materials will go to waste and hence the impugned order is liable to be set aside.

9. The first respondent in the writ petition has filed a counter affidavit. After referring to the relevant provisions particularly Section 10 A of the Indian Medical Council Act, 1956, and Section 33 of Indian Medical Council Act, 1956, and clause 8(3)(i)(c) of Establishment of Medical College Regulation 1999, it is stated by the first respondent that the assessors of the council carried out the inspection on 21.08.2017 and 22.08.2017 and noted few deficiencies particularly regarding faculty and clinical material. It is further stated that based on the recommendation of the council not to renew the permission of admission of 5th batch of MBBS students against the increased intake from 100-150 seats of the petitioner's institute the impugned order was passed by the first respondent.

10. Sum and sustance of the first respondent has stated that the order of the first respondent impugned, the writ petition is after considering the recommendation dated 28.03.2018 of the second respondent. It is also stated that the last date for issue of letter of permission/ renewal permission to be granted to any medical college was 31.05.2018, for establishment of new medical college or increase in its admission capacity under Section 10A of Indian Medical Council Act, 1956, and Regulation therein for the year 2018-2019, as per the notified time schedule approved by the Hon'ble Supreme Court in the order dated 18.01.2016 in WP.(C).No.76 of 2015. The second respondent also filed a reply affidavit by placing the following back ground.

11. Pursuant to the assessment report of the council assessors dated 21.08.2018 and 22.08.2018, the following deficiencies were found in the petitioners medical college

- (i) deficiency of faculty is 6.2%
- (ii) work load of Contrast Radiology is nil on the day of

assessment

(iii) Residential accommodation available is insufficient.

12. The deficiency pointed out are fundamental in nature and hence it could not be brushed aside in the larger public interest and also in the interest of student community. Hence, the second respondent decided to recommend to the Central Government not to grant renewal of permission for the admission of the 5th batch of MBBS against increased intake from 100-150 for the academic year 2018-19. The decision of the Medical Council of India was communicated to the first respondent vide letter dated 01.11.2017. The petitioner college was directed to submit its compliance after rectifying the deficiencies within a period of one month. Thereafter the Central Government constituted Hearing Committee to grant personal hearing to all the colleges in respect of which the second respondent (MCI) has given negative recommendations for the academic year 2018-19. The petitioner was also given an opportunity of hearing by the committee constituted by the Central Government on 29.11.2017. Thereafter, the central Government vide letter dated 05.12.2017 forwarded the compliance report dated 14.11.2017 submitted by the petitioner for reconsidering the case of the petitioner's college.

13. The second respondent appointed the Assessors to carry out the assessment of the infrastructure, teaching faculty, residents, clinical material and other physical facilities available at the petitioner's college on 01.02.2018. Based on the assessment report of the assessor of the council dated 01.02.2018, the second respondent after the Executive Committee meeting held on 24.03.2018 found the following deficiency:-

- (i) Deficiency of faculty is 13.66%
- (ii) Bed occupancy 49.86%
- (iii) Accommodation available insufficient and deficiency as per previous report remains as it is.

14. Since, the deficiency found this time has been considerably increased, the Executive Committee of MCI decided to recommend to the Central Government not to grant renewal of permission to the admission of 5th batch of MBBS students against increased intake from 100-150 for the academic year 2018-19. The Executive Committee further decided to invoke the power under Regulation 8(3)(1)(c) of the Establishment of Medical College Regulation, 1999. Such deficiency of faculty was more than 10% and the bed occupancy is less than 70%. Hence, show cause notice dated 28.03.2018 was issued as to why the recommendations for withdrawal of recognition of the courses run by the petitioner medical college should not be made for undergraduate and postgraduate courses which are recognized under Section 11 (2) of the Indian Medical Council Act, 1956. The recommendation of the Medical Council of India vide letter dated 28.03.2015 was also sent to the first respondent. The petitioner medical

college submitted their representation/compliance vide letter dated 07.04.2018 after purportedly rectifying the deficiencies as per the show cause notice dated 28.03.2018 issued by the second respondent.

15. Pursuant to the letter dated 07.04.2018, the Medical Council of India appointed assessors to verify compliance in respect of the show cause notice dated 28.03.2018 in respect of 100 MBBS seats. The assessment report of the council assessors dated 23.04.2018 along with the previous assessment reports were placed before the Executive Committee of the second respondent in its meeting on 26.04.2018 and the second respondent decided to revoke the decision for invoking Regulation 8(3)(1)(c) of the Establishment of Medical College Regulation, 1999, against the petitioner medical college in respect of 100 MBBS seats.

16. The decision of the second respondent withdrawing further action was communicated to the Central Government vide MCI letter dated 07.05.2018. Based on the recommendation of the Medical Council of India dated 01.11.2017 and 28.03.2018, after providing an opportunity of hearing to the petitioner medical college on 29.11.2017 and the approval granted by the Oversight Committee as constituted by the Hon'ble Supreme Court, i.e., deficiency of faculty at 13.66% and bed occupancy of only 49.86% in view of the gross and fundamental deficiencies found in the petitioner medical college, the first respondent decided not to renew the permission of admission of 5th batch of MBBS students against increased intake of 100-150 to the petitioner for the academic year 2018-19. The Assessor's guide provides that the attendance for faculty/residents should be checked before 11.00 a.m. on the 1st day of the assessment and only such faculty/residents who have signed the attendance sheet before 11.00 a.m. would be verified. If the residents were on night duty they could be called at 12 noon since residents are supposed to be on 24X7 duty and are expected to reside within the hospital premises.

17. Apart from the factual aspects, the second respondent also relied upon clause 8(3)(1)(c) of Establishment of Medical College Regulations, 1999, amended as per notification dated 08.05.2016 and submitted that if the deficiency of teaching faculty residents is more than 10% and bed occupancy is less than 70%, compliance or rectification of deficiencies will not be considered for issue of renewal of permission for that academic year. The second respondent referred to the judgment of Larger Bench of Delhi High Court dated 11.09.2015 passed in W.P. (C).No. 7106 of 2015 in Malla Reddy Institute of Medical Sciences & anr. Vs. Union of India & Ans. And W.P.(C)No. 8541 of 2015 in the case of Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India and Anr., wherein it has been held as follows:-

"51. Therefore, we are of the view that it is not open to MCI and/or Central Government to deny an opportunity to the applicant/institute concerned to rectify the deficiencies specified by MCI even in cases which fall within the ambit of the provisos (a) to (d) of Regulation 8(3)(1) of the Regulations. However, it is essential for both MCI and Central Government to observe the time schedule as held in Royal Medical Trust(supra).

52. For the aforesaid reasons, we hold that the provisos (a) to (b) to Regulation 8(3)(1) of the Regulations shall not in any way circumvent the opportunity of being heard/opportunity to rectify the deficiencies provided under sub-Sections (3) and (4) of Section 10-A of the Medical Council Act. However, the same shall be in strict adherence to the time schedule fixed in the Regulations and in conformity with the Schedule as laid down in Royal Medical Trust (supra)."

18. However, it is further stated that the judgment of larger bench of Delhi High Court, above referred to was set aside by the Hon'ble Supreme Court. It is further submitted that if a medical college is found to be deficient beyond the limit prescribed as per the regulation 8(3)(i)(a), 8(3)(i)(b) and 8(3)(i)(c) of the Establishment of Medical College Regulation 1999, neither the Central Government nor the Medical Council of India can grant any further opportunity of rectifying the deficiencies and the application of the concerned medical college shall be rejected in the said academic year. Therefore, it was concluded by the second respondent that the compliance report or inspection report after the issuance of show cause notice to the petitioner institution need not be considered as per Regulations 8(3)(i)(c) of Establishment of Medical College Regulation, 1999 and the second respondent is not obliged to grant any opportunity to the medical college to fulfil/rectify the deficiencies.

19. Before considering the rival submissions of the parties in the present writ petition, it is useful to refer to some of the provisions of Indian Medical Council Act, 1956. Section 10 A of the Indian Medical Council Act is reproduced as under:-

"10 A. Permission for establishment of new medical college, new course of study-(1) Notwithstanding anything contained in this Act or any other law for the time being in force,-

(a) no person shall establish a medical college, or

(b) no medical college shall-

(i) open a new or higher course of study or training (including a postgraduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

(ii) increase its admission capacity in any course of study or training (including a postgraduate course of study or training)

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

(2) (a) Every person or medical college shall, for the purpose of obtaining permission under sub-Section (1), submit to the Central Government a scheme in accordance with the provisions of clause (b) and the Central Government shall refer the scheme to the Council for its recommendations.

(b) The scheme referred to in clause (a) shall be in such form and contain such particulars and be preferred in such manner and be accompanied with such fee as may be prescribed.

(3) On receipt of a scheme by the Council under sub-Section (2) the Council may obtain such other particulars as may be considered necessary by it from the person or the medical college concerned, and thereafter, it may-

(a) if the Scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person or college concerned for making a written representation and it shall be open to such person or medical college to rectify the defects, if any, specified by the Council;

(b) consider the scheme, having regard to the factors referred to in sub-Section (7) and submit the scheme together with its recommendations thereon to the Central Government."

20. Section 33 of Indian Medical Council Act empowers Medical Council of India to make regulations with the previous sanction of the Central Government in relation to the matters enumerated under this Section. The clause 8(3)(i)(c) of the Establishment of Medical College Regulations, 1999 reads as follows:-

"(c) Colleges which are already recognized for

award of M.B.B.S. degree and/or running Postgraduate courses.

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further such an institute will not be considered for processing applications for Postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendations for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted postgraduate courses."

21. From the reading of Section 10 A of the Indian Medical Council Act, it is seen that an opportunity of hearing is provided to the college concerned at every stage. It is to be seen that as per first proviso, sub section 4 of Section 10A no scheme shall be disapproved except after giving college concerned a reasonable opportunity of being heard.

22. Similarly, the Council while making its recommendation under clause b of sub-Section (3) and the Central Government, while passing an order, either approving or disapproving scheme under sub-Section (4) shall have due regard to certain factors. As per Section 10 A (7)(c), the council while making its recommendation shall have due record whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the medical college or conducting the new course or study or training or accommodating the increased admission capacity, have been provided or would be provided within the time limit specified in the scheme.

23. The object and provisions of the Act may be appreciated and intended to set high standard. At the same time, the Central Government as well as Medical Council of India are expected to have a practical approach while considering and processing the applications under the Act. In the case on hand, assessment report of the Council Assessors dated 21.08.2017 and 22.08.2017, reveals the deficiency of faculty in the petitioner institution at 6.2% and there is no deficiency in the bed occupancy. After compliance report was submitted by the petitioner, further inspection was conducted, surprisingly, as per the assessment

report of the Council Assessors dated 01.02.2018, the deficiency of faculty is 13.66% and bed occupancy at 10 a.m., on the day of assessment was 49.86% . It is to be pointed out that the petitioner institution does not admit the deficiency as per the report of Council Assessors.

24. Pursuant to the first inspection of the Council Assessors, the petitioner claimed to have brought down the deficiency in faculty to less than 5% by an appointment and promotion. No other change was reported thereafter. No change was noticed. It is not demonstrated by respondents 1 and 2 that the deficiency in faculty was increased to 13.66% at the time of second inspection because of retirement, resignation or discharge of any faculty members from the petitioner's institution. In the explanation submitted by the petitioner, the deficiency pointed out in the report dated 01.02.2018 is on account of an improper examination. In fact the inspection was on a local festival day in Pondicherry and because of restricted holiday. It was should that the date of inspection is a reason for the abnormal deficiency recorded by Council Assessors. It is not the case of the respondents 1 and 2 that the deficiency of faculty was reduced after the report of Council Assessors dated 01.02.2018. The petitioner in this case questioned the findings in the assessment report of the Council Assessor dated 01.02.2018 regarding the deficiency pointed out in the report. The petitioner stood by his stand even before this Court. Similarly, regarding bed occupancy also some valid explanation was given by the petitioner. Hence, the contention of the second respondent that no opportunity need to be given to the medical college to fulfil/rectify the deficiency is unacceptable.

25. Regulations 8(3)(i)(a) or 8(3)(i)(b) or 8(3)(i)(c) of Establishment of Medical College Regulations, 1999 in this content will not support the stand of respondents 1 and 2 only if the deficiency is admitted to exists and it is shown that the deficiency of teaching faculty/residents is more than 10% and bed occupancy is less than 70%, the respondents need not give any opportunity to the institutions regarding compliance or rectification of deficiency. Hence, Regulation 8(3)(i)(c) is not applicable in this case.

26. The Medical Council of India issued a show cause notice on 28.03.2018 to explain why the Council should not proceed for withdrawal of recognition of the courses run by the petitioner institution. It is not in dispute that the petitioner institution has submitted reply not only to the show cause notice but also to renew the permission of the admission of the 5th batch of MBBS students against the increased intake from the 100 to 150 of the petitioner institution for the academic year

2018-2019. In this reply to show cause notice dated 07.04.2018, the petitioner has explained that the deficiency of teaching faculty has been reduced pursuant to the first inspection and that gross faculty were on leave. Similar explanation was given regarding other deficiencies. On the final inspection, no deficiency is pointed out.

27. However, such inspection was ignored by stating that the inspection was confined only regarding the show cause notice, whether the recognition granted to the petitioner should be withdrawn or not. When the request was made by the petitioner for grant of renewal and compliance report was submitted, the second respondent ought to have conducted an inspection not only regarding the show cause notice but also in connection with the application for renewal of increased intake in the petitioner medical college. The delay of nearly 20 days for making inspection has not been explained by the second respondent.

28. The learned senior counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court in the writ petition in W.P.(C).No.662 of 2018 dated 09.07.2018, in the case of Mata Gujri Memorial Medical College Vs. Union of India wherein similar issue was considered in the following manner:

"5. When the matter was listed on 14.06.2018, we requested Mr. Maninder Singh, learned Additional Solicitor General to ensure that the matter is resolved by the Central Government and the MCI. Mr. Maninder Singh submitted that he requested the concerned authority to approve the decision of the MCI to enhance the intake of the petitioner-College from 60 to 100 seats for the academic year 2018-2019. He submitted that the Union of India is firm on its stand about the competence of the MCI in conducting second inspection after invoking Regulation 8(3)(1)(c) in respect of the Medical Institutions.

6. In view of the facts and circumstances of this case, we are of the considered opinion that without going into the competence of the MCI in conducting second inspection after invoking Regulation 8(3)(1)(c), the petitioner-college is entitled for enhancement of intake from 60 to 100 seats for the fourth batch of MBBS course for the academic year 2018-2019. It is not in dispute that the petitioner-college.

7. We appreciate the efforts made by Mr. Maninder Singh, learned Additional Solicitor General in

finding out the solution to the problem. The first respondent is directed to grant permission to the petitioner-college for enhancement of the intake of students from 60 to 100 for the academic year 2018-2019."

29. It is seen that the benefit of this order was given to five other institutions, which were similarly placed. However, the Hon'ble Supreme Court has observed that the direction given to the Union of India are in the peculiar facts and circumstances of those cases and shall not be treated as a precedent. In this case, this Court has expressed its firm view that the second respondent ought to have conducted an inspection regarding the renewal of increased intake of admission too in view of the peculiar facts in this case.

30. Admittedly, in this case, the problem has arisen only for the fifth renewal after the petitioner was granted initial approval for the increased intake of 150 students. The increased intake from 100-150 seats from the academic year 2014-2015 to 2017-2018 shows the increased strength of the students at present and the matching faculty. This Court is firm in its view that there is no deficiency in faculty and the deficiency in faculty as found in the inspection report to the Council dated 01.02.2018 is a mistake which occurred due to some reasons. The second respondent has admitted that there are no deficiencies when they withdrew the show cause notice issued for taking action for withdrawal of recognition. After the inspection dated 21.08.2017 and 22.08.2017 no event has taken place or reported to account for reducing deficiency in April 2018. Thus, the impugned order passed by the first respondent without giving opportunity to the petitioner to rectify the defects and without conducting inspection regarding the renewal of permission for admission of the 5th batch of MBBS students against increased intake from 100-150 from the petitioner institution as violative of Section 14 and principles of natural justice.

31. The petitioner institution has admitted 150 students from the year 2014-2015. The petitioner institution must have spent huge amounts to provide infrastructure and other facilities for accommodating 150 students every year. The faculty position is marginally increased and the bed occupancy is more than 75%. Other defects pointed out in the earlier report of Medical Council of India is not seen in the latest report. The petitioner has stated to have spent enormous time, energy, money to ensure adequate infrastructure, faculty and other clinical materials as prescribed by the Medical Council of India for intake of 150 seats in the MBBS course. The last inspection conducted by MCI on 22.04.2018 shows that no deficiency in the petitioner institution. Since, the inspection on 22.04.2018 was stated to be in connection with the show cause

notice, this Court put a question to the learned counsel appearing for the respondents whether any deficiency can be pointed out in the institution to admit 150 students this year by way renewal of permission.

32. The learned counsel appearing for the second respondent is not prepared to controvert the assertion of learned counsel for the petitioner that the petitioner institution has no deficiency as on the date of inspection conducted on 23.04.2018. India is a country where doctors population ratio remains very low because of poor strength of doctors when compared to the total population. The petitioner states that the entire admission in the Union Territory of Pondicherry is administered by the third respondent and that the petitioner has no role.

33. In such circumstances, this Court is inclined to allow the Writ Petition, so as to enable the petitioner institution to admit 5th batch of MBBS students against increased intake from 100-150 seats during the academic year 2018-2019.

34. This Writ Petition is allowed. The impugned order of the first respondent dated 01.05.2018 in reference No.U/12012/2018-Mw-1 [FTS. 3150193] is quashed and the first respondent is directed to grant renewal of permission forthwith to the petitioner Institution for admission of the 5th batch of MBBS students against increased intake from 100 to 150 seats during the academic year 2018-2019. The respondents shall do the needful to enable the petitioner to admit the students against increased intake from 100 to 150 seats during this academic year.

35. Since the petitioner has agreed to surrender 17 seats out of 50 seats to the Government, the 3rd respondent is directed to admit students under the Management Quota and Government Quota respectively. Accordingly, this writ petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Kp/ks

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

TO

1. The Under Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi - 110 001
2. The Medical Council of India,
Represented by its Joint Secretary,
Pocket-14, Sector -8,
Dwarka, Phase I,
New Delhi - 11077
3. Central Admissions committee (CENTAC),
Represented by Chairman/Convenor,
Pondicherry Engineering College Campus,
Puducherry - 605 014

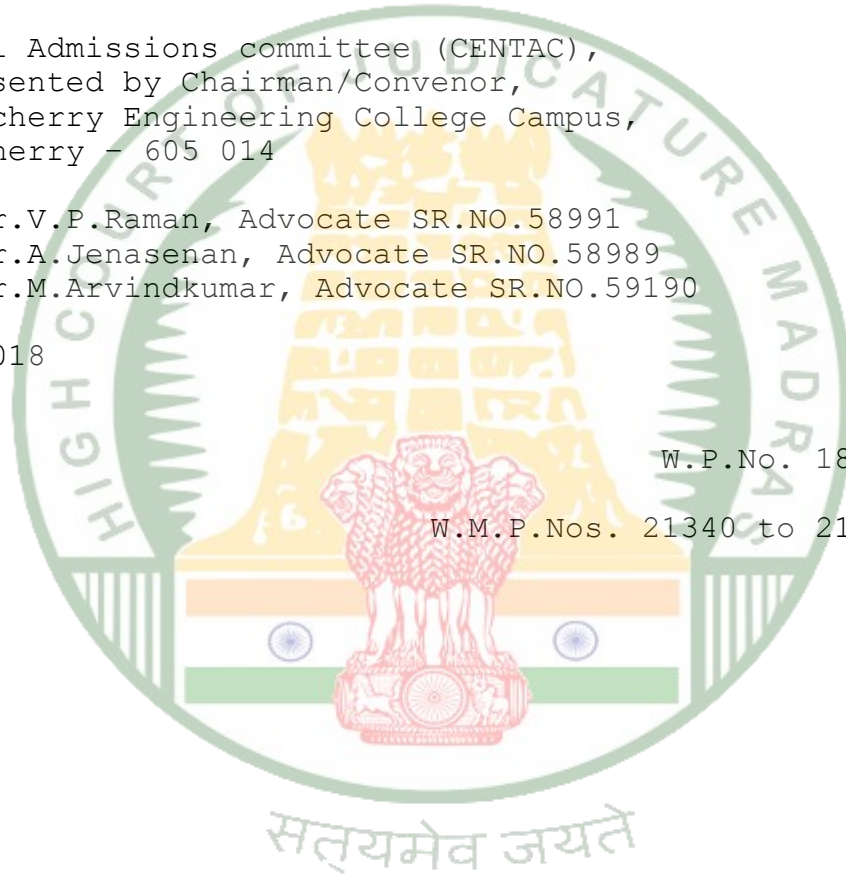
+1cc to Mr.V.P.Raman, Advocate SR.NO.58991
+1cc to Mr.A.Jenasenan, Advocate SR.NO.58989
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