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

Date of Decision: 18.09.2019

+ LPA 610/2019

VARUNARJUN TRUST & ANR

..... Appellants

Through: Mr. Abdhesh Chaudhary, Ms. Sakshi Arora, Ms. Aparna Bhardwaj & Mr. Manav Sharma, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Abhay Prakash Sahay, CGSC with Mr. Syed Husain Adil Taqvi, G.P. & Mr. Anshu Kr. Yadav, Adv. for R-1
Mr. Vikas Singh, Sr. Adv. with Mr. T. Singhdev, Ms. Puja Sarkar, Ms. Michelle B. Das, Ms. Arunima Pal, Ms. Sumangla & Ms. Manpreet Kaur Bhasin, Advs. for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.41652 /2019 (*Exemption*)

Allowed, subject to all just exceptions.

Application stands disposed of.

LPA 610/2019

1. This Letters Patent Appeal has been preferred by the original petitioners challenging the judgement and order dated 29th August, 2019

passed by the learned Single Judge in W.P.(C) 6815/2019, wherein the order bearing No.MCI-34(41)(R-81)/2019-Med.120677 of BOG-MCI, dated 31st May, 2019 (Annexure P-14 to the memo of this appeal) was under challenge. The said order was not interfered with by the learned Single Judge and hence, the original petitioner has preferred the present Letters Patent Appeal.

2. Much has been argued by the counsel for appellants (original petitioners) that there is no deficiency with this appellant institution. Several times, the inspection has been carried out by the Medical Council of India. The counsel for appellants has further submitted that initially, when the Medical Council of India inspected this appellant college, on 3rd/4th January, 2019, several deficiencies were pointed out in the report dated 5th February, 2019 (Annexure P-5 to the memo of this appeal), but these deficiencies were either non-existent or were rectified. A communication was sent to these appellants and there was another visit by the respondents on 5th April, 2019, but because of a complaint filed by one person on 2nd May, 2019, inspection was carried out again on 25th May, 2019, though by the Director General of Medical Education and later on, as per Annexure P-7 to the memo of this appeal, there was no deficiency by the appellants. This aspect of the matter has not been appreciated by the learned Single Judge while deciding W.P.(C) 6815/2019 *vide* judgment and order dated 29th August, 2019 and hence, the same deserves to be quashed and set aside. It is also submitted by the counsel for appellants that against the said judgment and order, an SLP (C) being No.21308/2019, was preferred and the same was disposed of by the Hon'ble Supreme Court *vide* order dated 6th September, 2019 and these appellants were permitted to approach this Court, hence, this appeal has been preferred. Therefore, it is contended, the time limit to give admission to

students in their MBBS course can be extended by this Court.

3. We have heard the counsel for respondents, who has submitted that no error has been committed by the learned Single Judge while deciding W.P.(C) 6815/2019 *vide* judgment and order dated 29th August, 2019. Moreover, the deficiencies which are pointed out by the respondents have not been removed by these appellants. It is also submitted by the counsel for respondents that when the inspection team of the Medical Council of India had visited this appellant College on 30th May, 2019, they were not allowed to visit. Counsel for respondents has placed reliance on a decision rendered by the Hon'ble Supreme Court in ***Madha Medical College and Research Institute v. Union of India and Anr. (2017) 15 SCC 791*** and has submitted that it is the duty of the Medical Council of India to visit and inspect, and inspection should have been allowed as many times as the Medical Council of India wants. Moreover, as per the decision rendered by the Hon'ble Supreme Court in ***Ashish Ranjan & Ors. v. Union of India & Ors. (2016) 11 SCC 225***, the cut off date granted for permission is 31st May, 2019, for the Academic Session 2019-2020. Similarly, the last date for grant of admission to students in MBBS is 31st August, 2019, for the Academic Session 2019-2020. Both these dates have passed, hence, this appeal cannot be challenged, and no challenge can be admitted in the Academic Session 2019-2020.

4. Having heard the counsel for both the sides and looking into the facts and circumstances of the case, we see no reason to entertain this appeal, mainly for the following reasons and judicial pronouncements:

- (a) The Medical Council of India initially inspected this appellant college on 3rd/4th January, 2019 and there are several deficiencies, as

pointed out in the letter dated 5th February, 2019 (Annexure P-5 to the memo of this appeal).

- (b) Much has been argued by the counsel for the appellants that these deficiencies have been removed but the respondents have submitted that some of the deficiencies are yet to be removed. It also appears from the facts of the case that on 30th May, 2019, the Medical Council of India had gone to visit the medical college of these appellants. The Hon'ble Supreme Court has held, in para 17 of ***Madha Medical College and Research Institute v. Union of India and Anr. (2017) 15 SCC 791***:

"17. While considering the above submissions, we must make it clear at the outset that we are not impressed with the argument that MCI is prohibited from conducting a second or subsequent inspection. The purpose of inspection by an expert team of assessors is to verify whether a medical college has the requisite infrastructure and facilities including faculty, residents as well as clinical and nonclinical material. The basic purpose of the inspection is to verify whether the college possesses the wherewithal and resources to provide quality legal education consistent with the statutory regulations which hold the field. The powers of MCI cannot be constricted by prohibiting it from carrying out another inspection, even if it were to come close on the heels of an earlier inspection. As an expert statutory body, MCI may have legitimate reasons for seeking a reverification of the observations contained in a prior inspection. There may be reasons to doubt the genuineness of the picture which has been made out by the College during the course of an inspection. MCI may have prima facie reasons to believe that the actual possession of resources and infrastructure is at variance with what was portrayed before its team of assessors. MCI has been conferred with statutory powers to protect the cause of medical education. MCI is a custodian of public interest and acts in trust for the welfare of

society. Access to medical care requires the presence of qualified health professionals. Verification of the conditions which prevail in medical colleges is central to the role discharged by MCI. Hence, it would be manifestly contrary to public interest to restrict the powers of MCI to carry out a fresh inspection even though in its considered decision, such an inspection is necessary. This Court cannot sit in judgment over the wisdom of an expert body and we find no basis to hold in law that there is a prohibition in carrying out a fresh inspection. In the absence of a statutory interdict, the court will not read such a restriction into the powers of MCI. In these circumstances, we find no merit in the submission.”

(Emphasis supplied)

- (c) Moreover, the Hon’ble Supreme Court has held in para 2 of ***Ashish Ranjan and Ors. v. Union of India and Ors. (2016) 11 SCC 225:***

“TIME SCHEDULE FOR RECEIPT OF APPLICATIONS FOR INCREASE OF ADMISSION CAPACITY IN MBBS COURSE/RENEWAL OF PERMISSION FOR INCREASE OF SEATS AND PROCESSING OF THE APPLICATIONS BY THE CENTRAL GOVERNMENT AND THE MEDICAL COUNCIL OF INDIA

<i>Sl. Nos.</i>	<i>Stage of processing</i>	<i>Last date</i>
<i>1.</i>	<i>Receipt of applications by the Central Government.</i>	<i>Between 15th June to 7th July (both days inclusive) of any year</i>
<i>2.</i>	<i>Forwarding application by the Central Government to the Medical Council of India.</i>	<i>By 15th July</i>
<i>3.</i>	<i>Technical scrutiny, assessment and recommendations of letter of permission by the Medical Council of India.</i>	<i>By 15th December</i>

4.	<i>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.</i>	<i>Two months from receipt of recommendation from MCI but not beyond 31st January.</i>
5.	<i>Final recommendations for the letter of permission by the Medical Council of India.</i>	<i>By 30th April</i>
6.	<i>Issue of letter of permission by the Central Government.</i>	<i>By 31st May</i>

Note 1. – In case of renewal of permission, the applicants shall submit the application to the Medical Council of India by 15th July.

***TIME SCHEDULE FOR COMPLETION OF THE
ADMISSION PROCESS FOR FIRST MBBS COURSE***

<i>Sl. Nos.</i>	<i>Schedule for admission</i>	<i>Seats to be filled up by the Central Government through the All India Entrance Examination</i>	<i>Seats to be filled up by the State Government/Institution</i>
1.	<i>Conduct of entrance examination</i>	<i>Between 1st to 7th May</i>	<i>Between 10th to 17th May</i>
2.	<i>Declaration of the result of the qualifying exam/entrance exam</i>	<i>By 1st June</i>	<i>By 1st June</i>
3.	<i>1st round of counselling/admission</i>	<i>To be over by 25th June</i>	<i>Between 6th July to 15th July</i>
4.	<i>Last date for</i>	<i>By 5th July</i>	<i>By 22nd July</i>

	<i>joining the allotted college and the course.</i>		
5.	<i>2nd round of counselling/ admission for vacancies.</i>	<i>Between 23rd July to 30th July</i>	<i>Between 10th to 22nd August</i>
6.	<i>Last date of joining for the 2nd round of counselling/ admission</i>	<i>By 9th August</i>	<i>By 28th August</i>
7.	<i>Commencement of academic session/term</i>	<i>1st of August</i>	<i>1st of August</i>
8.	<i>Last date up to which students can be admitted/ joined against vacancies arising due to any reason</i>		<i>By 31st August</i>

Note 1. – All India quota seats remaining vacant after last date for joining i.e. 9th August will be deemed to be converted into State quota.

2. Institute/college/courses permitted after 31st May will not be considered for admission/allotment of seats for current academic year.

3. In any circumstances, last date of admission/joining will not be extended after 31st August. ”

(Emphasis supplied)

- (d) In the aforesaid decision, it has been held in para 3 thereof:
“3. Regard being had to the prayer in the writ petition,*

nothing remains to be adjudicated. The order passed today be sent to the Chief Secretaries of all the States so that they shall see to it that all the stakeholders follow the schedule in letter and spirit and not make any deviation whatsoever. Needless to say AIIMS and PGI (for the examination held in July) shall also follow the schedule in letter and spirit.”

(Emphasis supplied)

5. In view of the aforesaid decisions, we see no reason to entertain this appeal because the cut off date for admission of students has already elapsed and no relaxation can be granted by this Court in any circumstance whatsoever. Hence, there is no substance in this Letters Patent Appeal.

6. With the aforesaid observations, this Letters Patent Appeal is dismissed.

CM APPL.41651/2019 (Stay)

7. In view of the final order passed in LPA 610/2019, this application is also dismissed.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 18, 2019

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