

**HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI  
AND  
HON'BLE SRI JUSTICE PULLA KARTHIK**

**W.P.Nos.34241 of 2022 & 34180 of 2022**

**COMMON ORDER:***(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Since the issue in both the writ petitions is one and the same, they are being heard together and disposed of by way of this common order.

Heard Sri D.Prakash Reddy, learned Senior Counsel appearing for the petitioners in W.P.No.34180 of 2022 and Sri S.Ravi, learned Senior Counsel appearing for the petitioners in W.P.No.34241 of 2022 and learned Assistant Solicitor General of India for the Central Government and Ms.Gorantla Sri Ranga Pujita, learned Standing Counsel for National Medical Commission and also Medical Assessment and Ratings Board.

For the sake of convenience, the facts in W.P.No.34180 of 2022 are discussed hereunder.

It has been contended by the learned counsel appearing for the petitioners that Letter of Permission was granted to the petitioner-College on 15.10.2020 for establishing Medical College and later, the Medical and

Rating Board (for short 'MARB') has granted first renewal of permission on 30.09.2021 for the year 2021-22. Thereafter, MARB has conducted surprise inspection on 26.11.2021 and 27.11.2021 and certain deficiencies were pointed out in their show cause notice dated 31.01.2022 and the petitioners have submitted their reply dated 29.03.2022 stating that there were no deficiencies. Thereafter, MARB has conducted surprise inspection once again on 30.03.2022, by which time, the petitioners already admitted first year under graduate medical students on 14.02.2022 itself and based upon the surprise inspection, MARB has withdrawn the permission *vide* order dated 13.04.2022 without giving any opportunity.

Learned counsel for the petitioners had further contended that as per Section 26(f) of National Medical Commission Act, 2019 (for short 'the Act'), MARB has no power to cancel admissions which were already undertaken by the petitioners.

A perusal of Section 26(f) of the Act clearly states that MARB has got power to issue warning, imposition of monetary penalty, reduce intake or stoppage of admissions

and recommending to the Commissioner for withdrawal of recognition. Admittedly, in the instant case, admissions were already over and the action in withdrawing the recognition, power is not available to MARB under Section 25(f) and this aspect was not considered. Aggrieved by the withdrawal of the permission, the petitioners have preferred an appeal to the National Medical Commission and the National Medical Commission, without appreciating any of the contentions raised by the petitioners, has mechanically dismissed the appeal *vide* order dated 15.06.2022. Thereafter, the petitioners have preferred second appeal to the Central Government and the Central Government has also dismissed the second appeal *vide* order dated 05.08.2022.

Learned counsel appearing for the petitioners had further contended that when it came to MNR Medical College, the Central Government passed order on 16.08.2022 by remanding the matter back to the MARB for re-consideration and MARB *vide* order dated 07.09.2022 has stated that the inspection was conducted in the month of August and when there were no deficiencies, MNR

colleges were suitable for admitting students for the academic year 2022-23 and the same report is to be considered for the academic year 2021-22 also. In the facts and circumstances of the present case, MARB has conducted inspections in the months of April and August, 2022 in respect of petitioner-College and has not pointed out any deficiencies. By applying the same analogy, as it was done in MNR Medical College, MARB as well as the second appellate authority i.e., Central Government can reconsider the case of the petitioners on par with MNR Medical College.

Admittedly, MARB has once again inspected the petitioner-College during the months of April and August, 2022, and no deficiencies were pointed out in the said inspection as contained in the earlier inspection report dated 30.03.2022, and by applying the principle as laid down in MNR College, the same principle ought to have been extended by the Central Government as well as MARB to the petitioner-College also. Therefore, appropriate orders be passed in the writ petition by

extending the same relief as was granted in favour of the NMR Colleges by MARB vide order dated 07.09.2022.

Sri S.Ravi, learned Senior Counsel appearing for the petitioner- Mahavir College had contended that in the case of Mahavir College, the second Appellate Authority- Central Government has already heard the arguments, however, not passed any final order. Learned counsel had further contended that let the Central Government take into consideration the order passed in favour of MNR Colleges on 16.08.2022/07-09-2022, the same relief can also be extended in favour of Mahavir Medical College. Since the Central Government has not yet disposed of the second appeal, appropriate orders be passed in the writ petition by directing the Central Government to re-look into the order dated 16.08.2022 as was done in favour of MNR Medical College and same relief can be extended to the Mahavir Medical College also.

Learned Standing Counsel appearing for the National Medical Commission and MARB had contended that since there were certain deficiencies to an extent of 75% in the teaching faculty, the MARB has rightly withdrawn the

permission and since the Central Government has considered the appeal preferred by the MNR Medical College and later the matters were remanded to the MARB so as to enable the MARB to reconsider the case of petitioners on the directions of Central Government and pass appropriate orders in accordance with law.

Learned Standing Counsel appearing for National Medical Council as well as for MARB had further contended that since there was large scale irregularities which were noticed at the time of inspection, the MARB has rightly withdrawn the permission *vide* order dated 13.04.2022 and as per the regulations, MARB is the competent authority to withdraw the permission.

Since the petitioners have drawn the attention of this Court to the order of the Second Appellate Authority in respect of MNR Medical College, this Court is not intended to go into merits of the case since the issue was already adjudicated by the Second Appellate Authority in favour of the MNR Medical College and this Court is of the considered view that why the same treatment should not be

extended to the petitioners' college and on this short point both the writ petitions can be disposed of.

Therefore, without expressing any opinion on the merits of the case, this Court is of the view that both these writ petitions can be disposed of by setting aside the order of rejection of the Central Government dated 05.08.2022 in respect of TRR College and the matter is remanded back to the Second Appellate Authority i.e., Central Government to re-consider the case of the petitioners duly taking into the consideration the orders passed by the Second Appellate Authority which was passed in favour of MNR Medical College on 16.08.2022 and also the order passed on 07.09.2022 and since no orders were passed by the Second Appellate Authority in respect of Mahavir College, the Second Appellate Authority is directed to examine the case of Mahavir Medical College by taking into account the orders passed by Central Government on 16.08.2022 and 07.09.2022 in favour of MNR Medical College and pass appropriate orders within a reasonable period of time, preferably, within a period of two weeks from the date of receipt of this order.

In respect of Miscellaneous Interlocutory Applications filed by the students, this Court cannot entertain the same at this stage. If the students are aggrieved, they are at liberty to file individual cases. All the interlocutory applications wherein the students are trying to get impleaded are rejected and accordingly the interlocutory applications are dismissed. However, it is made it clear that the students, who were re-located from the petitioners' College to the other Colleges will be subject to outcome of the order to be passed by the Second Appellate Authority and also MARB and the students also should not insist for refund of the amount from the petitioners' College till it is adjudicated by the Second Appellate Authority.

It is further made clear that since the students education is paramount importance, the students, if they are likely to be allotted into new colleges, such new colleges also directed not to insist for any fee till the case of the petitioners is adjudicated by the Second Appellate Authority and also the colleges, where the students have already been shifted and admitted, must permit the students to attend the classes without insisting for payment of fee till the

Second Appeal is adjudicated by the Central Government in respect of petitioners' colleges.

With these observations, both the writ petitions are disposed of. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

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**JUSTICE ABHINAND KUMAR SHAVILI**

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**JUSTICE PULLA KARTHIK**

*Date: 16.09.2022*

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