



In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 2061 of 2024 (O&M)

Reserved On: 01.08.2024
Pronounced On: 22.08.2024

White Medical College and Hospital
... Petitioner(s)

Versus

Union of India and Others
... Respondent(s)

CORAM: Hon'ble Mr. Justice Sheel Nagu, Chief Justice.
Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Chetan Mittal, Senior Advocate and
Mr. Amit Jhanji, Senior Advocate
with Ms. Eliza Gupta, Mr. Himanshu Gupta,
Mr. Ritvik Garg and Mr. Sahil Sehrawat, Advocates
for the petitioner.

Mr. Anil Chawla, Senior Panel Counsel
for respondent No.1-Union of India.

Mr. Ravi Sharma, Advocate
for respondents No.2 and 4.

Mr. Saurav Khurana, Additional Advocate General,
Punjab and Mr. Salil Sabhlok, Senior Deputy Advocate
General, Punjab, for respondent No.3.

Mr. K.S.Dadwal, Advocate
for respondent No. 6-Baba Farid University.

Mr. Gaurav Chopra, Senior Advocate
with Mr. Anurag Chopra and Ms. Himani Jamwal, Advocates
for respondents No. 7 to 76.

Mr. Akshay Bhan, Senior Advocate
with Mr. Akhilesh Barak and Mr. Harsh Vasu Gupta, Advocates
for the students.

Mr. Peeyush Gagneja, Advocate
for respondent No. 77 to 86.

Mr. Mayank Mathur, Advocate
for respondent No. 87 to 95.

Anil Kshetarpal, J.

1. Issue for Determination

1.1 After having heard the learned counsel representing the parties, the following point in issue require adjudication:-

“Whether the Medical Assessment and Rating Board (MARB) constituted under the National Medical Commission Act, 2019 (hereinafter referred to as “the Act 2019”), has the power to order en bloc transfer of MBBS students from one institute to other institutes, if it finds the infrastructure to be wholly inadequate?”

2. Brief Facts of the Case

2.1 This writ petition has been filed by the White Medical College and Hospital which was formally known as “Chintpurni Medical College and Hospital, Village Bungal, Dalhousie Road, Pathankot” *inter-alia* praying for the following substantive reliefs:-

“(i) *Issue a writ in the nature of Certiorari for quashing the impugned order dated 18.01.2024 (Annexure P-30) passed by the Medical Assessment & Rating Board (MARB), Undergraduate Section and the impugned minutes of meeting dated 18.12.2023 (Annexure P-31), whereby the students of the petitioner college of academic year 2021-22 and 2022-23 have been ordered to be transferred to other medical institutes even though their admissions are valid and have been legally done as*

per law, inter-alia on the ground that the same is being done in violation to the provisions of the National Medical Commission Act, 2019, including Section 26 and Section 38 of the National Medical Commission Act, 2019 and further, without conducting any fresh physical inspection for the said academic years, in the interest of justice.

- ii) Issue a writ of Certiorari quashing the impugned letter dated 19.01.2024 (Annexure P-32) issued by the Registrar, Baba Farid University of Health Sciences and letter dated 18.01.2024 (Annexure P-33) sent by Director, Medical Education and Research to the Registrar, Baba Farid University of Health Sciences, in the interest of justice.*
- iii) Issue a writ in the nature of Mandamus directing the respondents to allow the petitioner college to continue with the admissions of the students for the Academic Year 2021-2022 and 2022-23 as the same have been duly made in accordance with law.*
- iv) Issue a writ in the nature of Mandamus directing the respondents not to transfer students from the petitioner's college, during the pendency of the present writ petition.”*

2.2

In order to comprehend the controversy involved in present writ

petition, the relevant facts, in brief, are required to be noticed.

2.3 The first year batch of the year 2011-12 was permitted to be admitted in the newly established medical college. However, due to lack of infrastructure, the students faced various problems and the Medical Council of India (hereinafter referred to as “the MCI”) found several deficiencies after inspecting the college which were not rectified even after affording several opportunities. Hence, the decision was taken not to recommend its renewal for the academic years 2012-13 and 2014-15. The students of the first batch of the academic session of 2011-12 filed a writ petition in the High Court which was disposed of with the certain directions to be considered by the official respondents. However, the directions were not complied with. A contempt petition was filed in which a cost of ₹1,00,000/- was imposed upon the MCI. The matter of shifting of students of the academic session of 2011-12 batch was ultimately resolved by the MCI and the Central Government.

2.4 Subsequently, the college filed an SLP before the Supreme Court against the decision of the government to transfer the students which was dismissed as withdrawn. Thereafter, the College filed a writ petition in the High Court which was dismissed being not maintainable. The college again filed an SLP before the Supreme Court which was dismissed on 01.07.2017. Similarly, the Director of the College has filed a Writ Petition (Civil) No. 273 of 2016 before the Supreme Court which was also dismissed as infructuous on 25.01.2019. For the purpose of granting the renewal permission for the second batch, the MCI, after carrying out inspection, found various deficiencies including the fake faculty. It was found that in

was also shown as an Associate Professor in S.N. Medical College, Agra. Ultimately, the MCI decided not to grant renewal permission to the college for the academic year 2012-13. A writ petition was filed in the High Court challenging such refusal. The High Court directed the MCI to conduct another inspection to assess the deficiencies pointed out earlier, which was upheld in the Letters Patent Appeal. The MCI filed an appeal before the Supreme Court which remained pending but no admissions could be made for the academic session 2012-13.

2.5 With respect to the academic session 2013-14, the MCI granted renewal permission. However, the MCI conducted a routine inspection and found deficiencies. Another surprise inspection was carried out by the MCI on 06.07.2013 to verify the rectification of the deficiencies, but again various gross deficiencies were found and as such the MCI decided to reject the renewal permission granted earlier for the academic session 2013-14. On 15.07.2013, the MCI while referring to the order dated 27.09.2016, passed by the Supreme Court withdrew its rejection order while granting permission to run the college for the academic session 2013-14. The MCI's order granting permission was challenged before the Supreme Court. The earlier rejection order dated 14.07.2013 passed by the MCI was upheld by the Supreme Court vide order dated 12.09.2013. Again for the academic session 2014-15, the MCI after carrying out the inspection, declined to grant permission which was challenged in the Delhi High Court but the same was not only dismissed but serious remarks were made against the petitioner college. However, the Supreme Court granted permission to the petitioner college to admit the students for the academic session 2014-15 subject to

fresh inspection conducted by the MCI and further a bank guarantee of ₹10,00,00,000/- to be furnished by the college. An undertaking was also taken from the President and Secretary of the petitioner-college to the effect that there will be no deficiency in the college in the subsequent inspections and in case the undertaking is found incorrect at the time of next inspection, the amount shall stand forfeited in favour of the MCI by way of penalty. Upon inspection, irregularities were found resulting in forfeiture of the bank guarantee which was subsequently transferred to the Punjab Government for its utilization. The students of the batch 2014-15 filed the writ petitions in the High Court seeking their shifting to the other colleges in which the direction was issued to the State to act in accordance with the Essentiality Certificate. A review application filed by the petitioner college was dismissed and the writ petition filed by the students was allowed on 08.09.2017. The Letters Patent Appeal filed by the college was dismissed. The Supreme Court also disposed of the matter vide order dated 24.04.2018. Since the forfeited amount was not utilized as resolved and further, despite shifting of the students, the petitioner-college failed to return their original degrees and other certificates and as many as seven writ petitions were filed which were disposed of by the Court on 14.12.2022.

2.6 With respect to the academic session 2015-16, after inspection, it was found that there were gross deficiencies in the infrastructure, clinical material, teaching faculty and other physical facilities in the college, resulting in refusal to grant permission to the college.

2.7 With respect to the academic session 2016-17, the MCI, upon

inspection, found gross deficiencies to the extent of 100% in almost every

aspect i.e. teaching faculty, resident doctors, OPD attendance, bed occupancy, admission and discharge, causality attendance, major and minor surgeries, laboratory and radiology investigation, operation theatres, nursing staff, blood bank etc. The Central Government, on the recommendation of the MCI, refused to grant permission. However, on the Oversight Committee Directives, the Ministry obtained the compliance report from the college and forwarded to the MCI which was returned unapproved by the Council citing various reasons. The Oversight Committee granted conditional recognition to the petitioner college for a new batch of academic session 2016-17 while laying down certain conditions with regard to the verification of compliance which upon fresh inspection, were found intact. Hence, the MCI recommended the Ministry to debar the college for the next two academic sessions i.e. 2017-18 and 2018-19 and also to encash the bank guarantee. Ultimately, the decision was taken to debar the college for the next two academic sessions 2017-18 and 2018-19 while authorizing the MCI to encash the bank guarantee of ₹2,00,00,000/-.The State Government withdrew the Essentiality Certificate issued to the petitioner college and consequently, all the 150 students for 2016-17 batch were shifted to the government colleges after taking approval from the MCI and the Central Government.

2.8 With respect to the academic sessions 2017-18 and 2018-19, the college filed the Writ Petition (Civil) No. 423 of 2017 before the Supreme Court in which notice was issued and stay regarding encashment of the bank guarantee was granted. Subsequently, a direction was issued to hear the petitioner college and take assistance of the newly constituted committee

and pass a reasoned order within a period of ten days. A newly constituted Oversight Committee, once again, considered the record and submissions of the petitioner-college. Upon the recommendations of the newly constituted Oversight Committee, the earlier decision regarding debarring the petitioner-college for the academic sessions 2017-18 and 2018-19 was reiterated. Once again, a Writ Petition (Civil) No. 423 of 2017 was filed in the Supreme Court which was dismissed on 10.05.2018. However, it was observed that the petitioner would be entitled to pursue the permission for the academic years 2019-20 and 2020-21.

2.9 The petitioner college once again filed an application before the MCI for granting permission in view of the observations made by the Supreme Court. However, the MCI declined to grant permission by detailing the past negative record while reminding the petitioner-college that previously, on two occasions, the students who were admitted to the petitioner-college had to be transferred to other medical colleges. Again, Writ Petition (Civil) No. 856 of 2019 was filed before the Supreme Court which was withdrawn to approach the High Court. The petitioner college filed Writ Petition (Civil) No. 7918 of 2019 before the Delhi High Court wherein an interim relief was declined. An SLP No. 20871 of 2019 was filed in the Supreme Court which was dismissed on 06.09.2019, The Delhi High Court also dismissed the main writ petition which was again challenged before the Supreme Court by the petitioner college, but was dismissed on 28.01.2021, with an observation that permission for the renewal of recognition for the academic session 2019-20 and 2020-21

the petition, the Supreme Court observed that the petitioner college shall be entitled admissions for the academic session 2021-22 subject to condition that the renewal of conditional recognition granted to the college, which was valid for the period of five years, shall be renewed with further observation that there should be no deficiencies like infrastructures, clinical, teaching faculties or other facilities.

2.10 On the basis of the aforesaid observation of the Supreme Court, the petitioner college once again submitted an application for grant of renewal of recognition and permission to admit the students in the batch 2021-22. A surprise inspection was carried out by the MCI on 07/08.01.2022 and there were no batches of MBBS students who were currently undergoing teaching and training at the petitioner college. Hence, the application for renewal was rejected. Subsequently, on an affidavit filed by the petitioner college, again the matter was considered and the renewal of recognition was refused. Thereafter, an appeal was filed before the Central Government which was forwarded to MARB. On 06.04.2022, a limited renewal of recognition and permission to admit fresh batch for the year 2021-22 was granted. Similar permission was also granted for the academic session 2022-23. However, permission for the academic sessions 2023-24 and 2024-25 has been rejected. The students of the academic sessions 2021-22 and 2022-23 became party to this writ petition complaining that due to lack of infrastructure facilities, teaching faculties, resident doctors, clinical material, OPDs/IPD, deliveries, cesareans, bed occupancy, admissions and discharge, causality attendance, major and minor surgeries, laboratory and radiology investigation, operation theatres, nursing staff, blood bank etc. and

the petitioner college has been indulging in various malpractices like charging excessive fee, hostel charges, mess charges in violation of the Punjab Government's notification while forcing the students to pay hostel charges and buy study material from the petitioner college only. Subsequently, the University conducted a surprise inspection through its committee which found that the complaints of the students and their parents were correct. A shortage of the teaching faculties was found to the extent of 86% whereas the resident doctors were found short by 96% as per the inspection report dated 17.02.2023, which reads as under:-

"In a nut shell it can be said that the College cannot be allowed to jeopardize the career of the MBBS students and a strict action may be initiated against the College so that the career of students can be saved from the clutches of the arrogant management. Despite of time and again directions issued to the College to comply with the directions of University as per Punjab Govt. Notification/norms, not to charge the hefty fee/other charges, but the College is reluctant to pay any heed to the directions of University and also making objectionable / mischievous statements in front of the parents against the University/Punjab Govt. The doctors are playing vital role in building up strong and healthy nation but in this scenario how can we expect that a mentally harassed student who is facing such an ugly situation during the study/learning period in a College can build himself for the betterment of a healthy nation."

2.11 Similarly, on 15.12.2022, the MARB (respondent No.4) conducted the alleged surprise inspection with prior intimation to the college. Even then the gross deficiencies were found. The operative part of the summary assessment reads as under:-

“Summary of Assessment

1. *CHINTPURNI MEDICAL COLLEGE AND HOSPITAL*
[White Medical College] (College Name) is run by Trust/
Society.
2. *The college has got Permission from GOI/MCI with*
intake of 150 seats for the last academic year.
3. *Type of assessment: Renewal of permission for MBBS*
Course for 2nd Batch [1st Renewal]. No. of seats: 150
4. *PG courses: Yes/ No*
5. *Deficiency of teaching staff if any:*
Shortage of teaching faculty is: 38%
6. *Deficiency of resident doctors if any:*
Shortage of resident doctors is: 28%
7. *Deficiency of the infrastructure of college and hospital If*
any: Pl. mention category wise:
8. *Deficiency of clinical material If any: Pl mention*
category wise: Bed Occupancy is 48%. The variety of
patients is lacking. The Blood Bank Licence is under
renewal. Biometric attendance is partially started.
9. *Any other Remarks: Some faculties were not available on*
the inspection day.”

2.12 Ultimately, the National Medical Commission (hereinafter referred to as “the NMC”) has refused approval for admission of the students to the college for the academic session 2023-24.

3. Arguments put forth by the learned counsel representing the parties

3.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance, perused the paper-book along with the documents produced during the course of hearing.

3.2 The petitioner’s counsels have submitted that Section 16 of the 2019 Act envisages the constitution of Autonomous Boards including MARB. Section 26 of the 2019 Act delineates the powers of the Board and the said powers do not include the power to en bloc transfer the students. While elaborating the learned senior counsel contended that MARB has no power to transfer all the students from one college to another and it has not considered the communications dated 11.04.2022 (Annexure P12) and 26.10.2022 (Annexure P13), respectively.

3.3 Per contra, the respondents’ counsel have drawn the attention of this Court to the facts which have already been noticed and the orders passed by the Court(s) from time to time with respect to the petitioner-college. The learned counsel representing the NMC has also opposed the grant of any relief to the petitioner-college.

4. Analysis of the arguments and discussion by the Bench

4.1 Now, the Bench proceeds to analyse the arguments put forth by the learned counsel representing the parties.

4.2 Before proceeding further, it is significant to examine, analyse and interpret Section 26 of the 2019 Act, which reads as under:-

“26. Powers and functions of Medical Assessment and Rating Board.—(1) The Medical Assessment and Rating Board shall perform the following functions, namely:—

(a) determine the procedure for assessing and rating the medical institutions for their compliance with the standards laid down by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in accordance with the regulations made under this Act;

(b) grant permission for establishment of a new medical institution, or to start any postgraduate course or to increase number of seats, in accordance with the provisions of section 28;

(c) carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Medical Assessment and Rating Board may, if it deems necessary, hire and authorise any other third party agency or persons for carrying out inspections of medical institutions for assessing and rating such institutions:

Provided further that where inspection of medical institutions is carried out by such third party agency or

persons authorised by the Medical Assessment and Rating Board, it shall be obligatory on such institutions to provide access to such agency or person;

(d) conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by the regulations;

(e) make available on its website or in public domain the assessment and ratings of medical institutions at regular intervals in accordance with the regulations made under this Act;

(f) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a medical institution for failure to maintain the minimum essential standards specified by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in accordance with the regulations made under this Act.

(2) The Medical Assessment and Rating Board may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.”

4.3 On a careful reading of Section 26(f) of the 2019 Act, it becomes evident that the powers and functions of the MARB are inclusive and not exclusive i.e. the said list is not exhaustive. The expression “take such measures including...” clearly shows the intent of the Statute. While interpreting the statutory provisions, the object sought to be achieved is required to be examined. The words used in the Statute are required to be interpreted precisely and not loosely, reflecting the intention of the legislature with exactness and clarity; leaving no room for ambiguity or misinterpretation. The Statute must be read as a whole while trying to gather its intent. It is evident that the Statute enables the MARB to take such measures against a medical institution for its failure to maintain the minimum essential standards specified in the regulations made under the 2019 Act. The intent of the Statute becomes clear from the use of the word “including” which means that the powers and functions of the MARB enlisted in clause (f) are not exclusive but inclusive. It does not debar the MARB to carry out such measures as may be necessary against a medical institution for its failure to maintain the minimum standards.

4.4 If a statutory provision intentionally incorporates an inclusive provision then it shall not be narrowed down by interpretation. The aforesaid term conveys a wide and extensive meaning. The use of word “inclusive” enlarges the scope of the words or phrases used in the Statute and in such circumstances broad, liberal and wider interpretation is required to be preferred while avoiding a strict interpretation. The word “includes” itself indicates that the enabling powers are not specific but requires a liberal

Biology (2002) 5 SCC 111, the Supreme Court held that an exclusive definition is generally not exhaustive. In *Indian Young Lawyers Association and Others v. The State of Kerala and Others (2019)11 SCC 1*, it was held by the Supreme Court that the use of word “includes” enlarges the meaning of the words and the phrases used. Similarly, in *Ahmedabad Municipal Corporation v. GTL Infrastructure Limited and Others (2017) 3 SCC 545*, the Supreme Court held that a broad, liberal and extensive interpretation is preferred as the meaning of an entry is always inclusive. In *State of Bombay and Others v. The Hospital Mazdoor Sabha and Others AIR 1960 Supreme Court 610*, it was held that the restrictive interpretation shall not be made when the definition is inclusive. Consequently, the argument put forth by the learned senior counsel representing the petitioner-college holds no firm ground and is insubstantial.

4.5 The petitioner relied upon the judgment passed by the Rajasthan High Court in *Geetanjali Medical College and Hospital v. Union of India 2024 SCOnline Rajasthan 209*. On its careful reading, it becomes evident that the MARB had cancelled the admission of the students for the undergraduate and post graduate courses of four private medical colleges which was the subject matter of challenge before the High Court by the students as well as the educational institutions. The Court examined the matter in the context of retrospective cancellation of admission of the students. In that context, the question posed in para 42 of the aforesaid judgment was answered. Hence, the aforesaid judgment, with greatest respect, is not applicable to the present set of facts of the instant writ

4.6 Upon carefully examining the documents (Annexures P12 and P13), it becomes evident that the NMC has granted a letter of limited renewal of recognition and permission to the petitioner-college for the academic session 2021-22 while stipulating the requirement of fulfilling and maintaining the norms including the infrastructure both physical and human resources, teaching faculty and clinical material throughout the academic year subject to the stipulation that false or wrong declaration or fabricated documents used for procuring permission of the MARB shall be viewed seriously and if it is found, during surprise assessment, at any stage during the current academic year, the institution is liable not to be considered for permission of the degree and the permission will be revoked for the current academic year as well. The document (Annexure P13) is again the permission granted for a period of one year i.e. academic year 2022-23, however, as already noticed, the petitioner college failed to maintain the desired norms which are essential for running a medical college. From the assessment of the annual declaration form, while considering the grant of renewal of undergraduate seats for the academic year 2024-25, the NMC has found the following deficiencies:-

- “a) Zero attendance under AEBAAS for the period 01.01.2024 to 29.02.2024.*
- b) College was denied permission to admit students, reopened after court orders.*
- c) OPD attendance inadequate.*
- d) Many faculty members not fulfilling TEQ.*
- e) Cadavers -No data.*

- f) *Clinical material investigations, Operative load: Inadequate in all departments.*
- g) *Births data inadequate.*
- h) *F.A.P. needs understanding and improvement.”*

4.7 Pursuant to the aforesaid communication, a show cause notice was issued to the petitioner-college which was produced during the course of final hearing of the case. In order to grant a fair opportunity, the learned counsel representing the petitioner-college was permitted to produce reply to the show cause notice submitted by the college on 15.06.2024 which has also been examined. The appropriate authority will consider the same at an appropriate stage.

4.8 While expressing anguish on the state of admissions to the medical colleges, the Supreme Court in ***Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS) and Others (Civil Appeal No. 4914 of 2016, decided on 06.05.2016)***, expressed as under:-

“2. This appeal is yet another chapter in the sordid saga of admissions to medical colleges. Undoubtedly, there is something rotten in the state of medical colleges. Unless the concerned Ministries in the Government of India take a far more proactive role in ensuring that medical colleges have all the necessary facilities, clinical materials, teaching faculty, staff, accommodation etc. the health of the people of our country will take a hit in the coming years due to inadequately educated doctors. Quality in medical education is equally important, if not more, than quantity.”

4.9 Although the parties have not annexed the order passed by the Supreme Court on 18.09.2014 in Writ Petition (Civil) No. 469 of 2014, however, this Court has downloaded the same from the official website of Supreme Court wherein a significant number of the medical colleges filed the petitions complaining that the seats available in MBBS are lying vacant, due to the objections raised by the MCI. Faced with the situation when there was no time left for the Supreme Court to direct inspection, the directions were issued to admit the students provided the Presidents/Chairmen and the Secretaries of the Institutions filed an undertaking that all the objections pointed out by the MCI have been removed and the various deficiencies stand cured along with the bank guarantee of ₹10,00,00,000/-. The petitioner college filed an undertaking and furnished the bank guarantee of ₹10,00,00,000/-. Ultimately, while deciding an SLP (Civil) No. 16676 of 2015, the Supreme Court permitted the encashment of bank guarantee vide order dated 11.09.2017. Even with regard to 2014-15 batch, the Supreme Court upheld the observation of the High Court but made passing observation to the effect that there is no impediment in granting permission to the petitioner college to admit students for the academic session 2014-15. These observations were made because the MCI projected that all the deficiencies have already been cured and various objections have been removed. However, the Supreme Court in SLP (Civil) No. 240 of 2012 has set aside the MCI's order dated 15.07.2013 granting permission to the petitioner college to admit students.

Role of NMC

repeated and continuous defaults in fulfilling the required norms. Faced with the aforesaid situation, which forced the Court to impose cost and en bloc shift the students to some other colleges, it was not appropriate on the part of the NMC to grant conditional permission to the petitioner college to admit students for the academic session 2020-21 and 2021-22. On a careful reading of the order (Annexure P12) dated 11.04.2022, it becomes evident that the MARB conducted surprise inspection of the infrastructure, faculty residents, clinical material as well as other physical facilities in the medical college on 07/08.01.2022 for renewal of recognition and permission to admit the fresh batch of MBBS students for the academic session 2021-22. The petitioner college's application for grant of permission was initially disapproved. Thereafter, the petitioner college submitted an affidavit dated 19.02.2022 requesting for grant of recognition and permission. The MARB granted an opportunity of personal hearing to the petitioner college and recommended not to grant renewal of recognition to the petitioner college. However, it is evident that an appeal to the Minister in the Ministry of Health and Family Welfare, Government of India was forwarded to the MARB. On the aforesaid basis, the MARB conducted a virtual hearing on 06.04.2022 and on the verification of the Principal that the faculty, infrastructure and patient load is upto the required norms and his affidavit, limited renewal was granted to admit students in the year 2021-22. This Court is of the view that it was wholly inappropriate on the part of the NMC to grant limited permission for a period of one year, although the conditions laid down while furnishing an undertaking were not fulfilled on previous

vide order (Annexure P13) dated 26.10.2022, the MARB granted the renewal of permission for admission with respect to the 2022-23 academic session without verifying the facts. In the opinion of this Court, time has come for the NMC to thoroughly re-look and introspect the manner in which the limited permissions or provisional recognition and affiliations are being granted. This practice has resulted in putting at risk the career of the innocent students as well as the health of community which would include the experts and their families.

4.11 It is distressing to note that the NMC while filing the interim reply to the writ petition supported the petitioner's cause while adopting a stand that the students cannot be transferred as a matter of practice but only under the exceptional circumstances. However, thereafter, a detailed reply was filed, by adopting a different stand. The members of the expert bodies like NMC or MARB have an immense responsibility to ensure the availability of sound and good doctors who have not only properly studied and passed the examination but possessed deep knowledge of the techniques of diagnosis, treatment of the various diseases while undergoing the practical training under the guidance of the specialists. The public health is the backbone of the developing and developed societies. Ever emerging threats like pandemics, anti-microbial resistance, climate change and natural disasters require the availability of knowledgeable professionals and specialists to the individuals and the communities. Hence, these professional bodies were created by the government in order to face ever emerging and evolving new diseases which pose threat to the health of the communities. It

is for this reason, there is a requirement of nominating only the subject

experts in their respective fields who are the men of character and integrity. On a careful reading of the provisions of the 2019 Act, it becomes evident that these autonomous boards are manned by the professionals of highest repute. A provision has also been made for the appointment of advisory committee of experts for assistance of such autonomous boards. These are the expert bodies where the persons of outstanding ability, proven administrative capacity and integrity are required to be appointed. Hence, a huge responsibility lies on the members of such expert bodies to ensure that the medical colleges are not run like commercial establishments. This Court expresses dissatisfaction in the manner in which the autonomous bodies like NMC has acted irresponsibly. The members of the NMC are expected to introspect and take steps for ensuring restoration of the credibility of such institutions.

4.12 This matter can be examined from yet another perspective. Though this Court has found that the MARB has a power to en bloc order the shifting of the students, however, in any case, the extraordinary writ remedy is discretionary. The Constitutional Courts are expected to exercise the writ jurisdiction to correct the legal errors in exercise of the power of judicial review, if any. However, such writ jurisdiction is not required to be exercised in every case. If the facts established on record show that the exercise of such remedy would add problems rather than resulting in remedial measures, the issuance of writ in the appropriate cases can be refused.

4.13 There is yet another reason to not grant any relief to the petitioner particularly when it is established that it has wholly concealed

significant facts. On a careful reading of the writ petition, it becomes evident that the petitioner has not disclosed the various orders passed by the Courts from time to time while ordering en bloc shifting of the students in the previous batches and the orders passed by the Supreme Court in different writ petitions/cases. Even the students who are likely to be adversely affected were not impleaded as respondents. All these facts have been stated by the students in their written statements who subsequently became party while filing applications. The petitioner has very conveniently started disclosing the facts from the order passed in Writ Petition No. 89 of 2018 which was allowed by the Supreme Court on 03.07.2018. The petitioner has neither disclosed the orders which were passed by the Supreme Court on 27.09.2012, 12.09.2013, 18.09.2014 and 11.09.2017 nor the various orders passed by the High Court from time to time.

4.14 There is an additional dimension to this matter. The scope of interference in exercise of the jurisdiction of judicial review in the decisions of the expert bodies like NMC and MARB is extremely limited; unless the Constitutional Court comes to a conclusion that the order/decision is patently arbitrary or in violation of the statutory provisions which goes to the root of the matter. If the orders passed are not arbitrary or violative of law in any manner, the interference of the Court is not required. This principle upholds the autonomy of authorities in executing their duties, provided their actions are just and lawful. Judicial intervention is warranted only when there is a clear violation of legal norms or an infringement upon rights, ensuring that the Courts safeguard the law.

5. Decision

5.1 Keeping in view the aforesaid facts and discussion, the petitioners are not entitled to any relief. Hence, the present writ petition is dismissed.

5.2 The petitioner herein has intentionally suppressed material facts of the adverse judicial orders passed against petitioner from 2012 to 2017. Petitioner has cleverly revealed only those orders, starting from 2018, which are in his favour. As such, the petitioner suffers from suppression of material facts to mislead this Court, thereby making the petitioner liable for exemplary cost of ₹10,00,000/- (Rupees Ten Lacs), which shall be deposited with the PGIMER Poor Patients Welfare Funds.

5.3 The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

(Sheel Nagu)
Chief Justice

August 22, 2024
“DK”

Whether speaking/reasoned :Yes/No

Whether reportable : Yes/No