



\$~62

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

+ **W.P.(C) 11470/2024 and CM APPL. 47556/2024**

**THE MEDICAL DIRECTOR, KANNUR MEDICAL COLLEGE**

.....Petitioner

Through: Mr.Kirti Uppal, Sr. Advocate with  
Mr.R.R. Kumar, Mr. Aditya Raj,  
Ms.Archisha Satyarthi and Ms.Vidhi  
Uppal, Advocates.

versus

**NATIONAL MEDICAL COMMISSION & ANR.**

.....Respondent

Through: Mr.T. Singhdev, Mr.Bhanu,  
Mr.Abhijit, Ms.Ramanpreet,  
Ms.Anum, Mr.Aabhaas, M. Tanishq  
and Mr.Sourabh, Advocates for R-1  
and 2.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**ORDER**

**% 04.10.2024**

1. Learned counsel appearing on behalf of respondent no.1-National Medical Council (*hereinafter referred to as 'NMC'*) raises three-fold objections with respect to maintainability of the instant writ petition. First objection relates to lack of territorial jurisdiction; Second objection relates to suppression of material facts and the last objection relates to availability of alternate efficacious remedy.

2. While elaborating on the aforesaid objections, learned counsel for respondent no.1-NMC submits that the instant writ petition is not



maintainable in view of the fact that the petitioner-institution does not have an affiliation from the concerned university, which is *sine qua non* for the establishment of any new medical institution commencing new medical courses and for increase of seats for existing courses under the Maintenance of Standards of Medical Education Regulations, 2023 and other extant regulations. Learned counsel while reading certain provisions of the Regulations of 2023, indicates that the affiliation letter has to be enclosed, along with an application for seeking permission from the NMC.

3. Learned counsel further explains that there have been past litigations with respect to the petitioner-institution and all the relevant aspects have not been properly disclosed. In addition, he submits that the petitioner-institution has an alternate efficacious remedy available under Section 28(5) and 28 (6) for preferring first appeal and second appeal respectively before the appellate authorities in terms of the provision of National Medical Commission Act, 2019.

4. Learned counsel appearing on behalf of respondent no.1-NMC submits that one of the essential reasons why the petitioner-institution is non-suited for grant of the relief prayed for, is that the petitioner does not have any affiliation as per the NMC Act, 2019.

5. Reverting back to the submissions made by learned counsel for respondent no.1-NMC, learned senior counsel appearing on behalf of the petitioner submits that if respondent no.1-NMC has any objection with respect to non-affiliation of the petitioner-institution, the cause, thereof essentially arises within the territorial jurisdiction of High Court of Kerala and, therefore, he would like to take appropriate recourse before the jurisdictional High Court. He further submits that as far as the alleged



suppression of facts and availability of an alternate remedy is concerned, since the petitioner is willing to take recourse of an appropriate remedy before the jurisdictional High Court, therefore, all other objections can be considered by the concerned High Court. He, however, vehemently asserts that the suppression allegation is completely misconceived and he is even ready to argue the said aspect and prove his *bonafides*.

6. Since the first and fundamental aspect before adverting to any other issue relates to the factum of affiliating and the same issue has substantially arisen outside the territorial jurisdiction of this Court, therefore, the Court deems it appropriate to allow the petitioner-institution to withdraw the instant writ petition with liberty to approach the jurisdictional High Court. Ordered accordingly.

7. All rights and contentions of the parties are left open.

**PURUSHAINDRA KUMAR KAURAV, J**

**OCTOBER 4, 2024**  
**DPA**