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

+ **W.P.(C) 13339/2024 & CM APPL. 55711/2024**

JAMIA HAMDARD

.....Petitioner

Through: Ms. Vibha Datta Makhija, Senior Advocate with Mr. Mohinder JS Rupal, Dr. Swaroop George, Mr. Hardik Rupal, Mr. Mobashshir Sarwar, Mr. Karan Mamgain, Mr. Praveen Gaur, Mr. Venkateshwaran, Mr. Abhinendan Jain, Mr. Tanmay Cheema, Mr. Takrim Khan, Advocates with Mr. Rajesh Kumar, Jr. Assistant and Dr. M.A. Sikander, Registrar

versus

NATIONAL MEDICAL COMMISSION & ORS.Respondents

Through: Mr. T. Singhdev, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Mr. Anum Hussain, Mr. Aabhaas Sukhramani, Mr. Tanishq Srivastava, Mr. Sourabh Kumar, Mr. Ramanpreet Kaur, Advocates for R-1
Mr. Monika Arora, CGSC with Mr. Subhrodeep Saha, Advocate and Mr. Hardik Bedi, GP for R-2/UOI
Mr. Rajiv Nayar, Senior Advocate with Mr. Saket Sikri, Ms. Devika Mohan, Mr. Vikalp Mudgal, Mr. Prakhar Khanna, Mr. Vignesh Raj, Mr. Priyansh Choudhary, Advocates for HIMSR
Mr. Anshuman Sharma, Mr. Azaz Ahmed, Advocates for R-3



CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
27.09.2024

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1. The Petitioner, Jamia Hamdard, is a deemed University, registered under the Societies Registration Act, 1860. The Petitioner has established its own medical college by the name of Hamdard Institute of Medical Sciences and Research,¹ for which it has also issued Consent of affiliation for MBBS, MD/MS programmes. The Petitioner's grievance is that HIMSR is unauthorisedly accepting admissions for students, and urges the indulgence of this Court to direct Respondent Nos. 1 and 2 to decide the complaint dated 3rd September, 2024 filed by the Petitioner with respect to the aforesaid grievance.

2. Since the prayers in the instant petition are targeted towards the HIMSR, the Court *vide* order dated 23rd September, 2024 had directed the service of an advance copy of the petition on the said party. Accordingly, Mr. Rajiv Nayar, Senior Counsel representing the HIMSR, has filed a short reply, controverting the allegations made by the Petitioner. In light of the above, it is considered appropriate to formally implead HIMSR as Respondent No. 4. Amended memo of parties be filed by either of the parties within a period of one week.

3. Although the petition narrates several facts leading to this petition, it would suffice to take the following essential facts into consideration:

3.1 UGC, through its communication dated 7th November, 2022, had pointed out certain serious deficiencies related to the governance of HIMSR.

¹ ("HIMSR")



The actions of certain employees of HIMSR and private individuals not connected to the affairs of the Jamia Hamdard and third parties such as the Hamdard Education Society,² have caused the University Grants Commission/³ Respondent No. 3, to stop the grants of Jamia Hamdard which has adversely affected the Petitioner.

3.2 In compliance with the UGC directives and subsequent adoption by the Board of Management (now Executive Council), the Petitioner issued a notification on 6th June, 2024 to the prospective students and their parents, seeking admission in the MBBS/MD/MS programmes in HIMSR for the new academic year 2024-25 that all the admission/course fee shall only be deposited in designated bank account. As per the UGC Regulations, 2023, the Petitioner also incorporated crucial information regarding fee deposit as well as reservation of seats in its Admission Prospectus-cum-Bulletin of Information for the year 2024-25, which has been uploaded on their website.

3.3 A suspended faculty member, claiming to be the Dean/Principal of HIMSR, in collusion with a third party, namely Mr. Asad Mueed, Member of the National Foundation⁴ and Vice-President, HES, has brought out an admission brochure for MBBS and MD/MS programmes for 2024-25, wherein the prospective medical students have been asked to deposit the fees with a cloned bank account.

3.4 In view of the aforesaid factual background, the Petitioner has made complaints to Respondents Nos. 1 & 2, including the impugned representation dated 3rd September, 2024.

4. *Per contra*, HIMSR has advanced the following submissions in their

² ("HES")

³ ("UGC")



reply:

4.1 HIMSR is a medical college, situated within the campus of Hamdard Nagar, and approved by the National Medical Commission⁵ (formerly, known Medical Council of India), *i.e.*, Respondent No. 1. The Sponsoring body of both HIMSR & the Petitioner University is the HNF, which is also reflected in the Memorandum of Association of the Petitioner, forming part of the records maintained at the UGC as well as the Registrar of Societies.

4.2 The Hamdard family, with regard to management and control of HNF and its allied institutions entered into a Deed of Family Settlement dated 22nd October, 2019, which was further amended on 21st February, 2020.⁶ In pursuance of the FSD, the assets and liabilities of the HNF are being managed by two independent committees, namely, Hamdard Education and Cultural Aid Committee⁷ and Medical Relief and Education Committee.⁸

4.3 The Petitioner has suppressed from the Court Resolution dated 3rd July, 2021 passed by its highest executive body, *i.e.*, the Board of Management,⁹ giving effect to the Annexure VI of the Family Settlement Deed. The said Annexure stipulates the segregation process of HIMSR from Jamia Hamdard into a stand-alone separate institution under the HES.

4.4 In view of the above, HES opened bank accounts in the name of HIMSR & its attached HAHC Hospital, using the PAN of HES for operating the said institutions. However, the said bank accounts were not used for any transactions till the passing of resolutions by Petitioner University in this

⁴ (“HNF”)

⁵ (“NMC”)

⁶ (“FSD”)

⁷ (“HECA”)

⁸ (“MREC”)

⁹ (“BoM”)



regard. Pursuant to the passing of the said resolutions, HIMSR started the legal process of segregation from the Petitioner University to HES. Accordingly, HIMSR started operating the accounts opened by HES and recording its financial statements under the PAN of HES with effect from 1st April, 2021, as there was no requirement of any No Objection Certificate from the Petitioner University for the same.

4.5 The students of HIMSR have been depositing their fees in the bank accounts of HIMSR under the PAN of HES for past 3 years, a detailed audited account of which is being submitted to the Petitioner University. The practice of payment of fee by HIMSR students in the accounts maintained under HES is well within the knowledge of the Petitioner.

4.6 Disputes have arisen between the executants, with respect to implementation of the FSD, more particularly in relation to issuance and execution of certain documents, mentioned in Annexure VI of the FSD, in respect of segregation of HIMSR from the Petitioner University, and transfer to the HES as a going concern on an 'as is where is' basis. In the ongoing arbitral proceedings, several directions have been issued with respect to the maintenance of the legal status of HIMSR, however the Petitioner University has made constant attempts to alter the status of HIMSR from a '*constituent institution*' under the direct and overall control of the HNF to a '*school/centre*' under the Petitioner University.

5. The Court has heard the submissions of Ms. Makhija and Mr. Nayar as well as Mr. T. Singhdev, Counsel for the NMC. From the facts narrated above, the dispute between the parties appears to be civil in nature involving complex disputed questions of fact. Nonetheless, the Court has understood that the Petitioner's primary grievance in the present proceedings stems



from the non-adjudication of their complaint dated 3rd September, 2024 made to NMC against HIMSR. In view of the above, their limited prayer sought in the present petition is as follows:

“A. Issue an appropriate writ, order or direction in the nature of mandamus directing and commanding the Respondent No. 1 and 2 to decide or to jointly decide the complaint/representation dated 03.09.2024 filed by the Petitioner in a time-bound manner preferably two weeks; and

B. Issue an appropriate writ, order or direction in the nature of mandamus directing and commanding the Respondent No. 1 & 2 to grant an opportunity of personal hearing to Petitioner before deciding complaint dated 03.09.2024 filed by the Petitioner; and

C. Issue an appropriate writ, order or direction in the nature of mandamus directing and commanding the Respondent No. 1 to take a decision with regard to grant of interim measures/relief with regard to the averments made in complaint dated 03.09.2024 filed by the Petitioner on an immediate basis so as to protect the interests of students and prevent any further wrongdoing including by stopping any further intake of students to the petitioner's medical college-HIMSR till the resolution of the complaint;”

6. Mr. T. Singhdev, Counsel for the NMC has pointed out that the issues raised by the Petitioner are beyond the scope and adjudicatory powers of the NMC. According to him the complaint is misconceived.

7. Be that as it may, considering the limited prayers sought in the present petition and both the contesting parties being present before the Court, it is considered appropriate to dispose of the present petition with the following directions:

7.1 HIMSR is permitted to submit their response to the Petitioner's complaint within a period of two weeks from today to NMC.



7.2 NMC is directed to decide the complaint dated 3rd September, 2024, after giving personal hearing to the representatives of both the parties on a date and time to be fixed by the Secretary of NMC.

7.3 NMC is directed to dispose of the said complaint within a period of two weeks thereafter by passing a speaking order, in accordance with law.

8. All rights and contentions of the parties, including the ones pertaining to the issues raised by Mr. Singhdev, are left open. The Court has not examined the merits of the contentions urged by the Petitioner or the response submitted by the HIMSR.

9. With the above directions, the present petition is disposed of.

SANJEEV NARULA, J

SEPTEMBER 27, 2024/ab