

17.02.2026
Sl. No. 20
Ct No. 24
SG

WPA 2509 of 2026

**Santiniketan Medical College
Vs
The Union of India & Ors.**

Mr. Jayanta Kr. Mitra, Sr. Adv.
Mr. Saptangshu Basu, Sr. Adv.
Mr. Gaurav Purkayastha,
Ms. Sushmita Choudhury.

...for the petitioner

Mr. Sunit Kumar Roy.

...for the NMC

Mr. Dhiraj Trivedi, Sr. Adv., DSGI
Mr. Aryak Dutt,
Mr. Avinash Kankani.

...for the UOI

1. The petitioner is a medical college seeking to start several post graduate medical courses. For such purpose the petitioner had taken all steps to engage doctors, equipment and taken all necessary steps to get the requisite permissions.
2. The petitioner was subjected to an inspection by the Medical Assessment and Rating Board (MARB) which is an autonomous body under the National Medical Commission.
3. On the basis of this inspection caused by the MARB, the PGMARB issued a letter of disapproval, holding inter alia, in accordance with the report that the petitioner did not have the requisites in view of a ghost

faculty, fake patients and several other grounds reiterated in the report.

4. It is this letter of disapproval by the PGMARB which was carried in appeal by the petitioner. The first appellate authority by its order dated 09.01.2026 noted the various discrepancies relating to infrastructure and clinical workload as indicated by the MARB in its report and directed that since the observations and remarks of MARB were restricted to only three departments out of a total of 16 departments, MARB would conduct a fresh surprise inspection of all departments and take an appropriate decision for each department on the merits of the individual department.

5. Being aggrieved by the aforestated order, the petitioner preferred a second appeal, which was disposed of on 27.01.2026 by the second appellate authority. The second appellate authority upheld the order of the first appellate authority, stopping short of directing MARB to conduct a fresh inspection, as directed by the first appellate authority.

6. In the present writ petition, it is the order of the second appellate authority of 27.01.2026 which has been assailed and consequential direction on the respondents. The consequential directions are for admission of students through the counselling rounds which is in progress at present.

7. Mr. Mitra, learned Senior Advocate assisted by Mr. Basu, learned Senior Advocate for the petitioner submits that the order under challenge is liable to be set aside principally on the ground of non-application of mind as well as for not considering the parameters set forth in Section 29 of National Medical Commission Act, 2019 (hereinafter 'the said Act').

8. Mr. Roy, appearing for the Commission has made his submission. He submits that the petitioner is guilty of indulging in creating an atmosphere commensurate on the inspection date only. There were no actual patients, absentee faculty, lack of adequate and requisite equipment, which all foster the final conclusion of MARB in its report. He has placed reliance on ***Royal Medical Trust (Registered) & Anr. vs. Union of India & Anr.*** reported in ***(2015) 10 SCC 19***.

9. Mr. Trivedi, learned Deputy Solicitor General appearing for the respondent no. 2 defends the order of the second appellate authority on the ground that the said authority had not only applied its mind but had taken all requisites into consideration before upholding the order of the first appellate authority.

10. I have heard the learned Counsel for the parties and perused the records. Though not as an appellate body, I cannot help but notice that the second appellate authority while passing the order impugned dated

27.01.2026 has not applied its mind in any manner whatsoever. A mere reiteration and a fair degree of “cut copy paste” from the order of the first appellate authority cannot be construed as application of mind by an authority which is discharging the duties of a second appellate authority. The order impugned does not take into consideration the fact that Section 29 of the said Act postulates the following criteria to be fulfilled while approving or disapproving a scheme under Section 28 of the said Act.

*“29. Criteria for approving or disapproving scheme.- While approving or disapproving a scheme under section 28, the Medical Assessment and Rating Board, or the Commission, as the case may be, shall take into consideration the following criteria, namely:-
 (a) adequacy of financial resources;
 (b) whether adequate academic faculty and other necessary facilities have been provided to ensure proper functioning of medical college or would be provided within the time-limit specified in the scheme;
 (c) whether adequate hospital facilities have been provided or would be provided within the time-limit specified in the scheme;
 (d) such other factors as may be prescribed: Provided that, subject to the previous approval of the Central Government, the criteria may be relaxed for the medical colleges which are set up in such areas as may be specified by the regulations.”*

11. There is no satisfaction recorded by the second appellate authority in the order impugned that the inspection caused by the MARB was in consonance with the criteria laid down in Section 29 of the said Act.

12. The order impugned is a mechanical reproduction of certain facts and no consideration whatsoever of the case made out by the petitioner.

13. The inspection report of the MARB has been well and sufficiently explained by the first appellate authority in its order of 09.01.2026, as to why it could not be sustained. Three persons constituting the committee were to make an inspection of 16 post graduate departments/courses. However, all they had done, was inspected three courses of the 16. On the basis of the report of these three courses, the conclusion in respect of 16 cannot be sustained by any stretch of imagination.

14. In the circumstances aforestated, the inspection report submitted by MARB was practically set aside by the first appellate authority. This falls to reason as the first appellate authority had indeed called for a second inspection by the MARB, irrespective of it being a surprise inspection and to file a report in respect thereof.

15. In view of discussions aforestated, the order of the second appellate authority dated 27.01.2026 is set aside.

16. I reinstate the directions of the first appellate authority with the following modifications.

- i) The Assessor will conduct a fresh inspection immediately and comply with the parameters set forth by the Hon'ble Apex Court in the decision of ***Royal Medical Trust (Registered) & Anr.*** (supra) and place it before the MARB;
- ii) The MARB will file the final report with the concerned authority within a period of 10 days

from the report of the Assessor, being placed before it. If any deficiency is found, which requires rectification and/or redressal, the same may be intimated to the petitioner who will rectify the same within a reasonable period of time;

- iii) If no deficiency is found, the MARB's report will immediately be acted upon by the PGMARB and a letter of approval be issued accordingly.

17. With the aforestated directions, the present writ petition is disposed of.

18. There shall be no order as to costs.

19. Let urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Reetobroto Kumar Mitra, J.)