

No. MCI-5(3)/2001-Med./

MEDICAL COUNCIL OF INDIA

EXECUTIVE COMMITTEE

MINUTES OF THE SPECIAL MEETING OF THE EXECUTIVE COMMITTEE OF THE COUNCIL HELD ON TUESDAY, THE 12TH JUNE, 2001 AT 10.00 A.M. IN THE COUNCIL OFFICE, AIWAN-E-GALIB MARG, KOTLA ROAD, NEW DELHI-2 REQUISITIONED THROUGH THE NOTICE DATED 04.06.2001

Present:

Dr. Ketan Desai - President
Dr. B.C. Chhapparwal
Dr. K.S. Chugh
Dr. S.K. Sinha
Dr. Mukesh Kr. Sharma
Dr. C. Das
Dr. P.M. Jadhav
Dr. Indrajit Ray
Dr.(Mrs.) Usha Sharma
Dr. K. Ananda Kannan

Special Invitee:

Dr. B.Ray Chaudhuri
Dr. G. Sham Sunder
Dr. S.C. Shetty

Dr. M. Sachdeva - Secretary.

- 1. To consider and take decision on certain issues relating to the orders which have been passed by the Hon'ble Delhi High Court in Writ Petition No.7746/2000 filed by Dr. Harish Bhalla and in the appeal filed by the Govt. of India and Dr. Ketan Desai and also office orders issued by Vice-President of the Council from the date of his coming to the office on 29.05.2001 and letters of the Secretary, MCI to Ministry of Health & F.W. -----.**

Read : The matter In relation to certain issues which had arisen after the passing of the order dated 28.05.2001 by the Ld. Single Judge of the Hon'ble Delhi High Court in CWP No.7746/2000 and the order dated 04.06.2001 passed by the Ld.

Division Bench of the Hon'ble Delhi High Court staying the operation of the order dated 28.05.2001, the above-mentioned members of the Executive Committee of the Council along with co-opted members met in the office of the Council on 12.06.2001.

The Executive Committee perused various documents enclosed along with the agenda item setting out in chronological order the detailed facts after passing of the order dated 28.05.2001 by the Hon'ble Delhi High Court. After detailed deliberations on the facts, and the documents placed before it, President, MCI, at the outset invited the members to give their observations/comments/clarifications on the various issues which have been reported in the agenda item.

All the members present, except Dr. Chhapparwal, felt that the actions taken during this period caused serious damage to image of MCI as well as violated the rules and regulations of the Council in relation to elections of President and Vice-President.

The Committee noted that the people concerned with filing of the writ petition i.e. Dr. Harish Bhalla, Dr. P.S. Jain and Dr. A.K. Gupta are in no way connected now with the functioning of the MCI. They are neither the members of the Council nor the issue of their membership is under consideration with the Central Govt. In fact, Dr. P.S. Jain, Ex-Secretary, MCI, was still trying to intermeddle with the affairs of the Council.

As regards Dr. B.C. Chhapparwal assuming the charge as President of the Council in light of the Hon'ble Delhi High Court's order dated 28.05.2001, the Executive Committee was of the opinion that Dr. Chhapparwal before assuming the charge should have approached the same court seeking clarifications regarding his appointment, as his membership u/s 3(1)(a) of the Act which had commenced on 8.5.1996 came to an end on 7.5.2001 and accordingly he also

ceased to be the Vice-President of the Council when the order dated 28.05.2001 was passed by the Ld. Single Judge and he did not fall within the four corners of the regulations 35 of the Regulations,2000. The Committee also felt that the actions taken by Dr. Chhapparwal after assuming the charge of President, were hasty and uncalled for particularly directing the office and the Council Advocate not to defend the case and accordingly not to appear on behalf of the MCI on any matter pertaining to CW 7746/2000 and CM 11944/2000 and other related matters – Dr. Harish Bhalla vs Union of India & Ors, before the Hon'ble Delhi High Court and Supreme Court of India and also appointment of Dr. Prem Aggarwal as Returning Officer for the elections for the President and Vice-President to be held on 21.6.2001 which was in total violation of the notified election rules and regulations.

Dr. Chhapparwal however, defended his action on the plea that whatever actions he had undertaken were within the rules and regulations of the Council and were carried out with proper application of his mind. The members, however, did not agree with this argument and were of the opinion that the appeal filed by the office of the Council on the advise of Ld. Additional Solicitor General before the Ld. Single Judge of the Delhi High Court should have been pursued to protect the Council interest by Dr. Chhapparwal rather than directing the office to withdraw the application. The Committee further felt that operation of the judgement as such would have led to instability in the functioning of the Council by frequent elections of President and Vice-President . It was essential to file an appeal by the Council before the double bench as well, in support of the appeal filed by the Central Govt. to which view Dr. Chhapparwal agreed ultimately.

The Executive Committee was further of the opinion that the office order dated 29.05.2001 of Dr. B.C.Chhapparwal informing the officials of the Council that he would take strict disciplinary action against them if any action was

conducted without his notice was uncalled for as the office was only trying to work according to the rules and regulations.

The Executive Committee unanimously also decided to annul the following orders passed by Dr. B.C. Chhapparwal as these were totally in conflict with the statutory regulations and the opinion rendered by the Ld. ASG of India:-

- (1) Office order dated 29.05.2001 marked to Mr. A.S. Rahi, Deputy Secretary directing him to withdraw the application immediately which was filed along with his affidavit for seeking appropriate orders from the Ld. Single Judge and which application was filed in accordance with the opinion of the Ld. ASG.
- (2) Office order dated 29.05.2001 marked to the Secretary of the Council wherein the Vice-President has expressed his shock that he was not consulted before the application was filed by the Advocate of the Council as per the advice of the Ld. ASG. The Secretary was directed to withdraw the application immediately and to take necessary clearances from him before taking any legal action on behalf of the Council.
- (3) Letters dated 29.05.2001 and 30.05.2001 addressed by the Vice-President to the Advocate of the Council requesting him not to appear on behalf of the MCI on any matter pertaining to the writ petition of Dr. Harish Bhalla before the Delhi High Court as well as the Supreme Court. The Advocate of the Council was further requested by him not to file or pursue any application on behalf of the Council in that matter.
- (4) Letter dated 30.05.2001 addressed by the Vice-President to one Mr. Rajeshwar Kumar Gupta, Advocate, requesting him to be the Advocate for Medical Council of India in the case of Dr. Harish Bhalla.

- (5) Office order dated 31.05.2001 by the Vice-President directing that all inspections fixed at undergraduate and postgraduate level be postponed and fresh dates shall be intimated after scrutinising the files.
- (6) Office order dated 01.06.2001 issued by the Vice-President to the following effect : -
 - (1) To prepare, scrutinise and update of the electoral college/roll.
 - (2) To take necessary action in filling-up the vacancies in various categories.
 - (3) To streamline the election process as per notified Rules and Regulations of the Council.
 - (4) Dr. K.K. Arora, Joint Secretary, Mr. Bhagwan Das, Superintendent and Mrs. Prem Lata, P.A. shall assist the Returning Officer in his day to day working.
 - (5) All other officers and staff of the Council shall assist the Returning Officer in smooth execution of the election.
 - (6) The Returning Officer shall function from the chamber presently designated for the Vice-President.
- (7) Office note dated 01.06.2001 issued by Dr. Prem Aggarwal purported to having been appointed as the Returning Officer by the Vice-President.
- (8) Office order dated 01.06.2001 issued by the Vice-President that one Mr. D.K. Bagga will work as P.S. to him at the Camp Office of the President at Indore with immediate effect.
- (9) Communication dated nil signed by Dr. Prem Aggarwal purporting to act as the Returning Officer for addressing it to all the members of the Council informing them that he has been appointed as the Returning Officer as per the notified rules and regulations and he shall conduct the elections to the

post of President, Vice-President and one post for the Executive Committee of the Council.

The Executive Committee unanimously also approved the following communications by the Secretary and Deputy Secretary of the MCI.

- (i) The communication dated 01.06.2001 from the Secretary of the MCI to the Secretary, Ministry of Health & Family Welfare, Government of India.
- (ii) The letter dated 04.06.2001 addressed by the Deputy Secretary of the MCI on the direction of the Secretary to the MCI to Shri R.K. Gupta, Advocate, requesting him not to appear in any matter on behalf of MCI and that the only one Vakalatnama issued in his favour stands withdrawn and cancelled.

Office of the Council should also inform the Advocate of the Council that the communications dated 29.05.2001 and 30.05.2001 addressed to him by the Vice-President requesting him not to appear in any case pertaining to CWP No.7746/ 2000 – Dr. Harish Bhalla Vs. UOI & Ors. either before the Hon'ble Delhi High Court or before the Hon'ble Supreme Court etc. have been ordered to be annulled and should be deemed to having been withdrawn. He be further requested to continue to defend the MCI in these and all in other matters where the office of the Council engages him on behalf of the Medical Council of India. The Executive Committee also resolved that Mr. Maninder Singh, Advocate for the Council shall be engaged by the office of the Council in all such matters where the MCI is required to be defended in any court of law. He be also requested to immediately file an appeal on behalf of the MCI against the order dated 28.05.2001 passed by the Ld. Single Judge of the Hon'ble Delhi High Court in CWP No.7746/2000 – Dr. Harish Bhalla Vs. UOI & Ors.

The office of the Council is also directed to address a communication to the SHO, Police Station : I.P. Estate, New Delhi, informing him that Dr. B.C. Chhapparwal is no more the President of the Council and his complaint dated 31.05.2001, addressed to him, should be treated as only an individual complaint in his personal capacity. He should also be informed that the communication dated 31.05.2001 received by him in the name of Mr. Ranvir Singh, Administrative Officer of the MCI stands withdrawn.

The Secretary of the Council is directed that she, in accordance with Regulation 3 of the MCI Election Regulations of 1998 and the opinion rendered by the Ld. ASG dated 01.06.2001, shall place an updated list of the members in the General Body meeting for the conduct of the election to the post of President and Vice-President which shall form the electoral rolls for the purposes of election on 21.06.2001 by the Returning Officer who shall be appointed by the General Body of the Council on 21.06.2001.

(Dr. M. Sachdeva)
Secretary.

New Delhi, dated
12.06.2001.