

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

MEDICAL COUNCIL OF INDIA

EXECUTIVE COMMITTEE

Minutes of the meeting of the Executive Committee held on Monday, the 18th Feb.,2002 at 11.30 a.m. in the Council office, New Delhi, based on the earlier decision taken on 31.1.2002 that the next Executive Committee meeting is to be held on or before 18.2.2002.

Present:

Dr. P.C. Kesavankutty Nair
Dr. K. Ananda Kannan
Dr. P.M. Jadhav
Dr. S.K. Sinha
Dr. C. Das
Dr.(Mrs.) Usha Sharma

Dr. K.K. Arora, Joint Secretary.

Dr. K.S. Chugh expressed his leave of absence due to some unavoidable circumstances but has sent his observations on the minutes of the last meeting held on 31.1.2002.

The Executive Committee members requested the Administrator to preside over the meeting so that the remaining agenda could be considered as per the orders of the Hon'ble Supreme Court as well as their observations on the minutes of the meeting jointly. On his refusal to preside over the meeting the members requested Dr. P.C. Kesavankutty Nair to chair the meeting. The Administrator was kind enough to provide the secretarial assistance and the audio cassettes. The Secretary of the Council informed that Administrator has deputed Dr. K.K. Arora, Joint Secretary in her place to be present at the time of Executive Committee meeting.

The Executive Committee at its meeting held on 31.1.2002 besides various other decisions had passed the following resolution and directed the Secretary of the Council to take necessary action.

1. “The Executive Committee resolves and directs the office of the Council shall continue to engage Mr. Harish Salve, Learned Solicitor General of India, Mr. Mukul Rohtagi, Learned Additional Solicitor General of India, Mr. Kirit Rawal, Learned Additional Solicitor General of India and Shri Navin Prakash, Advocate, Shri Maninder Singh, Advocate and Mr. A. Mariarputham, Advocate for the conduct of its legal cases and for defending the rules and regulations of the MCI by putting all efforts. Whenever the office of the Council needs a legal opinion for any issue, Mr. Harish Salve, Learned Solicitor General of India, Mr. Mukul Rohtagi or Mr. Kirit Rawal, Learned Additional Solicitor General of India should be approached for their valuable opinion.”

2. “The Executive Committee further resolves that since a serious issue regarding the decisions taken by the General Body of the Council in its meeting held on 21st and 22nd June,2001 is pending before the Hon’ble Supreme Court where, on the recommendations of the Council, the Central Government had taken decisions in relation to certain colleges. The Hon’ble Uttranchal High Court had passed an order for reversing this position when it has been advised that the Hon’ble Uttranchal High Court had no territorial jurisdiction to pass any order against the Central Government or the MCI in such matters. Mr. Harish Salve, Learned Solicitor General of India is appearing for the Central Government in those appeals against the orders of the Hon’ble Uttranchal High Court and Mr. Mukul Rohtagi, Learned Additional Solicitor General of India has been appearing on behalf of the MCI. The office of the Council is directed that Mr. Mukul Rohtagi, Learned Additional Solicitor General of India should be approached well in time for contesting these litigations on behalf of the MCI.

It was decided by the Executive Committee that the members who have filed the SLP before the Hon’ble Supreme Court will bear their own legal expenses. Similarly the Executive Committee unanimously decided that the lawyers who were appointed by the Administrator will not be paid by the Council and will be paid by the Administrator. It was decided that the next meeting of the Executive Committee shall be on or before 18.2.2002.

The Executive Committee is obliged to consider and make suitable recommendations to the Central Govt. in relation to all the colleges whose cases were deferred for consideration in the last meeting in accordance with the orders of the Hon'ble Supreme Court. Since the Administrator decided not to preside over the meeting, the members of the Executive Committee requested Dr. Kesavankutty Nair to chair the meeting.

1. **Minutes of the last meeting of the Executive Committee – Confirmation of.**

This item was taken up for the confirmation of the minutes of the Executive Committee meeting held on 31.1.2002. All the members of the Committee have unanimously expressed their dismay and shock after listening the audio tapes provided by the Administrator on the incorrect and distortion of recording of the minutes of the meeting. The decisions which had been taken by the Executive Committee unanimously and the directions which had been issued to the office to comply with have not been included in the minutes of the meeting circulated to the members. On the other hand certain portion of the minutes of the meeting which have been circulated were such events which never took place in the meeting of the Executive Committee held on 31.1.2002. There are certain portion in the minutes purporting as if as those issues were discussed and decided in that meeting when no such thing ever came up for consideration before the Committee. The following are the distortions and incorrect statements which have been included in the recording of the minutes of the meeting which the members point out unanimously after listening the audio tapes:-

- (a) It is absolutely false to suggest in the minutes that the members of the Executive Committee were violent in requiring various staff members of the Council not to remain present in the meeting hall when the proceedings of the Executive Committee had to begin. Not only the rules do not permit anyone other than the Secretary of the Council to be part and partial of the Committee meeting, it is the consistent practice of the Council that no other staff member of the Council is present in the meeting of the Executive Committee.
- (b) Item No. 8 : The minutes have presented the distorted version of the issue. The real issue discussed was the change in the procedure of appointment of inspectors and the decision of the Administrator

debarring the Council members from being appointed as Inspectors. It was brought out that the appointment of Dr. Dinesh Chandra was not according to rules and regulations of the Council since the authority of appointing inspectors lies only with the Executive Committee which was repeatedly insisted and accepted by the Administrator. Since the Executive Committee is very much in existence the appointment of Dr. Dinesh Chandra is unauthorised. It was well brought out that the Administrator had over stepped his position and tried to change the rules and regulations of appointment of members of the inspection team which was disapproved by the EC. Further the Committee had unanimously decided and directed the Secretary of the Council to withdraw the letter dated 21.1.2002 addressed to members of the inspection team which were suppose to accompany the Whole-time Inspectors or alone in accordance with the rules and regulations.

The Executive Committee had also decided to withdraw the powers which were earlier given to the President and reiterated that in future inspection teams shall be appointed by the EC as per the rules and regulations of the Council.

- (c) Item No. 34: The Executive Committee had considered the case of Dr. C.A. Desai, Zonal Inspector of the Council appointed by the EC. In the absence of any allegation against him as accepted by the Administrator his services ought to have been utilised when he is being paid by the Council. This is not being clearly reflected in the minutes.

The issue of payment of legal fees to the lawyers of the Council was discussed in detail. It was brought out by some members that the Administrator had appointed a lawyer on his on behalf who was going to charge an exhorbitant sum of Rs.1.25 lakhs for a single appearance and his clerk was to be paid Rs. 12,500/-. This lawyer had raised severe allegation against the Council. The members strongly opposed this payment and felt that since this lawyer was going to represent only the Administrator and not the Council, the payment should be made by the Administrator as was being done by other members who had filed their appeals before the Hon'ble Supreme Court and shall be paying their fees at their own levels.

- (d) Item No. 16: The note under this item clearly establishes the distort and incorrect recording of the minutes of the meeting. The availability of 99 years of lease deed was not available before the EC in the meeting on 31.1.2002. Similarly the indication that there was some clarification by some Inspector regarding 300 beds as per the MCI norms was also not available before the EC meeting. However, the note added under the above item gives some additional information which was not provided to the members and it is un-understandable how the Administrator approved the minutes of the Committee meeting held on 31.1.2002 itself prepared by the Secretary on the same day and certain fact as mentioned in the above note. So the members felt that this information does not represent the true recording of the minutes of the meeting and should be deleted and brought before the Committee only in the next meeting. The minutes recorded under this item are totally confusing. As per the rules and regulations of the Council every application u/s 10A of the Act is to be considered firstly for the purpose of grant of Letter of Intent. The second phase of consideration of Letter of Permission. In the case of application of Luxmi Memorial Trust, Mangalore u/s 10A of the Act, the EC had never recommended to the Central Govt. that this college can be considered for Letter of Intent. Thus there was never any issue before the EC in the meeting for considering this college for grant of Letter of Permission. As a matter of fact, the EC had decided to recommend to the Central Govt. not to issue Letter of Intent to this college. It is un-understandable to note as to how the minutes of the meeting in relation to this application talk of any recommendation by the EC either to grant or not to grant Letter of Permission to this college. Further there was no discussion ever for another inspection of this college for grant of Letter of Permission. However, the minutes of the meeting indicate as if the EC had decided to direct inspection of this college the consideration for grant or not to grant Letter of Permission to this college when as stated above grant of Letter of Permission is not issued to the College. However, the note under this item again asks to bring back Letter of Intent and said to have decided not to grant Letter of Permission as stated above. This shows the recording of the minutes of the meeting were not truthful and lawful.
- (e) Item No. 25 : On the day of the meeting of the EC it was decided to recommend to the Central Govt. not to issue Letter of Intent for

establishing the medical college at Karakonam because of deficiency of beds in the department of Paediatrics and Obst. & Gynae. There is a note incorporated on the existence of beds in the above departments. How the note be incorporated in the minutes of the meeting prepared on 31.1.2002 to indicate that the office records have confirmed the existence of beds in these departments and to verify this position the Administrator further decided to take along with him Dr. J.K. Tandon (who has already retired) for inspection. In the minutes of the meeting the Secretary of the Council should not include incorrect statements leaving out various decisions that were taken unanimously by the EC including the Administrator and to add something as minutes of the meeting that a note of the Administrator which have never happened before. The Hon'ble High Court had laid down that the Administrator is to act as the President of the Council who is only one of the members of the EC. The President being one of the members of the EC he is also obliged to faithfully implement and carry out all the decisions of the EC and when all the decisions on 31.1.2002 were unanimous without any objection or dissent from any member including the Administrator. There is no question of any member including the Administrator act as President under the orders of the Hon'ble Court to over rule the decisions taken by the Executive Committee unanimously by suggesting that these were objections of the EC. Such deliberate distorting of facts proper perversity compelling a serious view in accordance with the rules and regulations of the Council. Needless to say that no one is above the law much less the Administrator who has the duty caused upon him by the Hon'ble High Court to act as the President of the Council being one of the members of the EC. It is therefore clear that the Administrator who had assured that he will act only in accordance with the orders of the Hon'ble Court and in accordance with the rules and regulations of the Council cannot even desire to put such a note in the minutes of the meeting which is totally contrary to the directions of the Hon'ble High Court and in clear violation of the rules and regulations of the Council. Besides, the fact, that a so called note can never be part of the minutes of the meeting. It is clear that by inclusion of such a note in the minutes of the meeting is an act of gross indiscipline, disaffiance and violation of the rules and regulations of the Council. It is therefore an eminent necessity that the office of the Council and its Secretary faithfully report compliance with the unanimous decision of the EC in relation to appointment of

members of the Council as Inspector. A necessary letter to Law Office and other lawyers of the Council to continue to provide their professional services, not to make any payment to the lawyers engaged by the Administrator for defending himself and to continue to pursue the appeal filed by the MCI against the judgement of the Hon'ble High Court in the case of Dr. Harish Bhalla. The Council should continue to take work from the Zonal Inspector Dr. C.A. Desai. The Secretary is duty bound as per the rules and regulations of the Council to ensure faithful and complete compliance with the action taken report of the decisions of the EC in its meeting held on 31.1.2002 and report the same to the members of the EC immediately.

(f) Note by the Administrator:

The last part of the minutes circulated by the Secretary and issued by the Administrator only makes a mockery of the rules and regulations which ought to have been adhered to for the normal functioning of the Council. The Administrator has termed the unanimous decision of the EC as "Objection" and has over ruled several of the decisions taken by the EC. The Administrator during the discussions had indicated that the member of the Council should not accompany the inspection teams and the reasons for that was that they would be required to sit over the judgement on their own inspection report. However, in the case of CSI Trust Medical College, Kerala, he has decided to go himself for inspection of the college where he would also be required to preside over the meeting while taking a decision on his own inspection report. The rules and regulations of the Council insisted upon that no person who is not having 5 years experience as a teacher in any medical college and who does not have any experience of teaching can be an Inspector of any inspecting team of the college. It is not understood as to it has been indicated in the minutes of the meeting that wherever the Administrator has gone for inspection the decision of the EC shall be by circulation and where he has not gone as member of the inspection team and even when the inspection could not have been required on issues which could have been satisfied by the documents. The Administrator has desired to place these matters again before the EC.

For the reasons mentioned above, the Executive Committee disapproves the circulated minutes of 31st Jan.,2002 meeting. The Executive

Committee also expresses deep anguish and dissatisfaction the manner in which the Secretary of the Council has acted in not complying with the decisions and directions given by the EC in its meeting held on 31.1.2002. The Secretary of the Council is once again directed to immediately comply with the decisions of the EC taken in its earlier meeting held on 31.1.2002 and do the following:-

1. To ensure that all the inspection of the colleges are carried out in accordance with the rules and regulations of the Council and as per the decision of the EC that the Inspectors shall be appointed by the EC as per the rules and regulations which also lay down the qualification for Inspector of the Council. It was decided that along with permanent inspector of the Council, members of the Council would also be appointed as part of the inspection team as per the MCI rules and regulations. It was also decided by the EC unanimously that the EC shall approve a panel of inspectors from time to time for carrying out the inspection of the colleges and the inspection team shall be appointed by the EC only.
2. It was unanimously decided and reiterated that it is only the EC who is empowered as per the rules and regulations of the Council and shall constitute the Committee functioning in the Council like Finance Committee, Building Committee etc. and no other member including the Administrator shall have any power to appoint such Committee on its own.
3. The Secretary to immediately as per the directions of the EC given on 31.1.2002 should send necessary communication to all the members of the Council who were appointed as Inspectors for inspection of the colleges to make it possible to accompany the inspection team.
4. The Secretary to report compliance of the decisions that the lawyers who had appeared for the Administrator are not paid any fee by the Council.
5. The Secretary to report compliance no extension is given to Shri R. Srinivasan as Consultant to the Council.
6. The Secretary to immediately send to all the 6 lawyers of the Council namely Mr. Harish Salve, Solicitor General of India; Mr. Kirit Rawal,

Additional Solicitor General of India; Mr. Mukul Rohtagi, Additional Solicitor General of India; Mr. A. Mariarputham, Advocate; Mr. Navin Prakash and Mr. Maninder Singh, Advocate requesting and informing them that shall continue to provide their professional services for upholding the rules and regulations of the Council for defending the legal cases on behalf of the Council and to give their opinion in legal matters as and when required by the Council. Mr. A. Mariarputham, Advocate be requested to continue and conduct the appeal filed by MCI against the judgement of the Hon'ble High Court in the case of Dr. Harish Bhalla.

Items No. 36 & 37 which were not considered on 31.1.2002

36. **Era Lucknow Medical College, Lucknow – Renewal of permission for admission of 2nd batch of students.**

Read : The Council Inspectors report (10th & 11th January,2002) carried out for renewal of permission for admission of 2nd batch of students at Era Lucknow Medical College, Lucknow.

The Executive Committee considered the Council Inspectors report (10th & 11th Jan.,2002) and decided to recommend to the Central Govt. to renew the permission for admission of 2nd batch of students at Era Lucknow Medical College, Lucknow.

37. **Subharati Medical College, Meerut – Renewal of permission for admission of 2nd batch of students.**

Read : The Council Inspectors report (7th & 8th January,2002) carried out for renewal of permission for admission of 2nd batch of students at Subharati Medical College, Meerut.

The Executive Committee considered the Council Inspectors report (7th & 8th Jan.,2002) and decided to recommend to the Central Govt. to renew the permission for admission of 2nd batch of students at Subharati Medical College, Meerut.

38. **Any other Item with permission of the Chair.**

The Executive Committee decided to hold its next meeting on 4th March,2002 at 11.00 a.m. in the Council office.

The Executive Committee placed on record its sincere thanks to the Administrator for having provided the audio tapes and the secretarial assistance for this meeting.

(Dr. K.K. Arora)
Joint Secretary.

New Delhi, dated
The 18th Feb.,2002.