

No.MCI-5(3)/2005-Med./

MEDICAL COUNCIL OF INDIA

EXECUTIVE COMMITTEE

Minutes of the meeting of the Executive Committee held on Thursday, the 30th June, 2005 at 11 a.m. in the Council Office, Aiwan-E-Galib Marg, Kotla Road, New Delhi -2 where the members of the Adhoc Committee appointed as per the Hon'ble Supreme Court order dated 20.11.2002, alongwith Special Invitees, were also present.

Present:

Dr.P.C. Kesavankutty Nayar	]President (Acting)]Former Dean,]Govt. Medical College,]Trivandrum
Prof. P.N.Tandon	]Former Prof. & Head of Neuro-]Surgery, A.I.I.M.S, New Delhi and]Member, Adhoc Committee]appointed by the Hon'ble Supreme Court
Dr. (Mrs.) S.Kantha	]Former Vice Chancellor,]Rajiv Gandhi University of Health]Sciences, Karnataka and Member,]Adhoc Committee appointed by]the Hon'ble Supreme Court.
Dr. P.K. Sur	]Director,]I.P.G.M.E.R.,]Kolkatta.
Dr. D.K. Sharma	]Former Prof. & Head,]Deptt. of Paediatrics]LLRM Medical College,]Meerut.
Dr. Mukesh Kr. Sharma	]Deptt. of General Surgery,]S.M.S. Medical College,]Jaipur
Dr. Nitin S. Vora	]Director, Health Services(ESIS),]Govt. of Gujarat.
Dr. B.C. Das	]Director, State Institute of Health]& F.W., Govt. of Orissa.
Dr. G. B. Gupta	]Prof. of Medicine, Pt.JNM Medical]College, Raipur.

Special Invitees :

Dr. Ved Prakash Mishra]Dean, Faculty of Medicine,]Nagpur University and]Chairman, Postgraduate]Medical Education Committee,MCI
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Dr. Indrajit Ray]Dean, B.S. Govt. Medical]College, Bankura, West Bengal]and Chairman, Ethics]Committee, MCI
Dr. C. Bhirmanandam	]Vice Chancellor,]Dr. MGR Medical University,]Chennai and Chairman, Teachers Eligibility Committee, MCI
Dr. K.P. Mathur	]Honorary Physician to the]former Hon'ble Prime Minister]of India and Member of the Council nominated by the Govt. of India
Lt. Col. (Retd.) Dr. A.R.N. Setalvad	]Secretary

Apologies for absence were received from Prof. N. Rangabhaysham, member of the Adhoc Committee, Dr. Sneh Bhargava & Dr. N.B. Singh, Special Invitees and Dr. J.R. Kher, member of the Executive Committee.

1. **News published in English daily Hindustan Times dated 23.06.2005 titled "Medical Council of India Corrupt - Health Minister".**

Read: The news published in English daily Hindustan Times dated 23.06.2005 titled "Medical Council of India Corrupt - Health Minister".

At the commencement of the meeting, the President (Acting) expressed his deep pain and anguish in bringing to the notice of all present in the meeting of a News Item appearing in the daily edition dated 23.06.2005 of Hindustan Times published from New Delhi - bearing caption "Medical Council of India Corrupt - Health Minister". All the members of the Executive Committee and the Special Invitees present in the meeting expressed their concern and shared his feelings.

The members of the Ad-hoc Committee appointed by the Hon'ble Supreme Court sharing the concern and feelings of all the members present in the meeting, informed that they in their capacity as members of the Ad-hoc Committee would also communicate their views on this matter to the Hon'ble Supreme Court through Amicus Curiae.

The matter was discussed and it was unanimously decided that the text as depicted below should be sent by the Secretary, MCI under his signature to the Editor of Hindustan Times, New Delhi for its publication in their newspaper and a copy thereof be also sent to the Minister of Health & F.W., Govt. of India.

"On 23rd of November, 2001 the Hon'ble Delhi High Court had appointed an Administrator in the Medical Council of India. The Administrator, namely, Maj. General (Retd.) S.P. Jhingon had taken over his responsibilities as the Administrator and was at the helm of affairs and remained in that capacity in the MCI from 23rd November, 2001 to 20th November, 2002.

The Hon'ble Supreme Court on 20th November, 2002 appointed a Committee of 4 eminent medical professionals by passing an order. The relevant observations of the Hon'ble Supreme Court in that order are as under:-

“ For enhancing the confidence of the people in the forthcoming of the Medical council of India, which is having wide powers under the Medical Council Act, 1956, we order accordingly. We appoint a Committee of four eminent doctors namely, Dr. N. Rangabhashyam of Chennai, Prof. P.N. Tandon of New Delhi, Dr. S.K. Bhansali of Mumbai & Dr {Mrs.} S. Kantha of Bangalore, as members of ad-hoc committee to assist and monitor the work of Medical Council of India. The ad-hoc committee would work harmoniously and in full cooperation with the Executive Committee of the Council. The committee would associate itself particularly in selection and appointment of inspectors and scrutinize their reports and making recommendations for grant of recognition of medical college.

It would also be open to them to make recommendation how the functioning of the Executive Committee can be made more effective and prompt “

The said Committee appointed by the Hon'ble Supreme Court, in accordance with the order dated 20th November, 2002, has been participating in all the decisions being taken by the MCI in discharge of its functions under its Act till date.

It would also be relevant to mention here that the said Committee appointed by the Hon'ble Supreme Court had perused, at random, the records of the Council for the last 5 years. It has also submitted the 1st report and the subsequent supplementary report to the Hon'ble Supreme Court giving their observations and conclusions of their experience in participating in the decision-making process of the Council.

The 1st report of the Committee appointed by the Hon'ble Supreme Court, by the order of the Hon'ble Supreme Court dated 30.07.2004 was directed to be given to the MCI and the Ministry of Health and Family Welfare, Govt. of India. After the said report of the Committee appointed by the Hon'ble Supreme Court was made available to the Medical Council of India. It was perused by the Council and comments on behalf of the Council with reference to the report of the Committee appointed by the Hon'ble Supreme Court, were sent to the Ministry of Health and Family Welfare, Govt. of India, through MCI letter dt.21.09.2004. A copy of the said letter of the MCI be also sent to the Govt. of India for their reference.

It is thus to be observed that with a view to eliminate any possibility of unwarranted criticism the Committee appointed by the Hon'ble Supreme Court had suggested a list of eminent medical professionals from the various Govt. run medical institutions of the country to act as inspectors of the Council for conducting inspections and submitting reports for further action. All the inspections which have been carried out by the Council are exclusively by taking the assistance of the eminent medical professionals whose names have been included in the panel of inspectors prepared by the Committee appointed by the Hon'ble Supreme Court.

Each inspection report which is prepared by the inspection team comprising of one whole time inspector of the Council and two eminent medical professionals drawn from the list finalised by the Committee appointed by the Hon'ble Supreme Court, are then considered by the Executive Committee of the Council alongwith the members of the Ad-hoc Committee appointed by the Hon'ble Supreme Court.

Thereafter the recommendations of the Executive Committee where members of the Committee appointed by the Hon'ble Supreme Court also participate are sent to the Ministry of Health and Family Welfare, Govt. of India

alongwith the inspection reports enclosed thereto for further necessary action on their part.

Since the calculated, designed campaign for assaulting the credibility of the Council is continuing for the last few years at the behest of vested interests, even the Ministry of Health and Family Welfare, got persuaded in the recent past to verify and authenticate some of the inspection reports which had been furnished to it by the Medical Council of India. However, it is a matter of satisfaction that during the last 2-1/2 years, the Govt. of India has accepted all the recommendations of the Executive Committee.

Being driven by similar baseless allegations by vested interests, the Govt. of India in the year 2003, in case of M.M. Medical College, Mullana, K.M. Shah Medical College, Pipaliya, NRI Medical College, Guntur and Swami Vivekanand Medical College, Walia, where the reports alongwith recommendations of the Executive Committee had been submitted to the Ministry of Health and Family Welfare, Govt. of India, after conducting the inspections of the same institutions through the inspection team constituted by the Ministry of Health and Family Welfare itself, the inspection reports submitted to the Central Govt. by those inspection teams established beyond any doubt that the reports and the recommendations of the MCI could not be faulted on any issue.

Subsequently, in the year 2005, in case of D.Y. Patil Medical College, Mumbai, D.Y. Patil Medical College, Pimpri, Pune, the recommendations made by the Council on the basis of the inspections conducted, were re-looked by the Govt. of India by causing inspections on their behalf and did not find any deviation thereto, thereby agreeing with and accepting the recommendations of the of the Council. This substantiates that the inspection reports and the recommendations thereon of the Council have consistently been found to be credible and in consonance with the governing rules and regulations of the Council by the Govt. of India.

On the other hand, most of the members of the Council who are discharging their duties as such and who are eminent medical professionals drawn from various institutions, services etc. feel that the improved functioning of the Council following the orders of the Hon'ble Supreme Court does not suit the desires of a number of interested parties who are dissatisfied and disgruntled with the decisions made by the Council.

In this regard, you are requested to kindly peruse the observations of the Committee appointed by the Hon'ble Supreme Court as reproduced in the MCI communication 21.09.2004 mentioned above which was sent to the Ministry of Health and Family Welfare, Govt. of India. The Committee appointed by the Hon'ble Supreme Court was at pains to emphasize that no doubt that there is always a scope of improvement, but unwarranted criticism on baseless allegations is also not conducive to the proper functioning of any institution including the expert statutory authority.

It may be reiterated that the Council is taking its decisions with the active and meaningful participation of all its members alongwith the members of the Ad-hoc Committee appointed by the Hon'ble Supreme Court. Alleged corruption in the Council, till date, is without an iota of evidence.

It is not correct to suggest that any inspection report which has been prepared by the eminent medical professionals drawn from the panel prepared by the Committee appointed by the Hon'ble Supreme Court and which are sent to the Central Govt., are changed by anybody in the Medical Council of India. No such case or incidence has ever been reported or brought to the notice of the Council either by the Govt. or any other agency.

Further Govt. of India itself has explained to the Hon'ble Supreme Court in its affidavit that there is no irregularity or failure with regard to the filling up vacancies in the MCI. The relevant part of the statement made by the Ministry of Health & Family Welfare, Govt. of India on affidavit in its Appeal pending before the Hon'ble Supreme Court is as under:-

".....The petitioner-UOI, therefore, respectfully submits that because of scrupulous adherence and enforcement of the abovementioned judgements of the Hon'ble Delhi High Court, vacancies are bound to be there. It is respectfully submitted that when the inevitable result of the enforcement of the abovementioned judgement of the Hon'ble Delhi High Court is arising of vacancies, it cannot be said that there is a defect in the constitution of the council. Neither the Central Govt. and the MCI deserve to be blamed for any inaction on the part of the universities or the respective state governments etc. to conduct their elections as required under various provisions of Section 3(1) of the Act nor it can ever be held that it results into defect in the constitution of the council....."

Thus, it is neither correct nor justified for making allegation that it is 50 or 60 members who run the Council. The primary responsibility to fill up the vacancies under the IMC Act is upon the Central Govt. and all the people who are the members of the Council are elected/nominated in accordance with the rules and regulations framed by the Govt. of India. The primary obligation on the part of the Council is to inform the Central Govt. to undertake and complete the process of the conduct of the election or nomination within a period 3 months before the expiry of the term of the concerned member. This obligation has been consistently discharged by the Council without fail till date and is continuing to do so. This position has been accepted to be so by the Ministry of Health, Govt. of India in its affidavit before the Hon'ble Supreme Court as mentioned above. On the other hand, it is being consistently observed that undue delay takes place in issuing the formal notifications by the Govt. of India in relation to the names of the members elected/nominated and communicated by the MCI to the Govt. of India.

Under the circumstances, it was decided to bring these relevant facts to the notice of the concerned authorities and also to the Editor of Hindustan Times, requesting them to personally look into the conclusions of the report of the Committee appointed by the Hon'ble Supreme Court or kindly consider bringing to our notice any alleged material or information which the said newspaper possesses, enabling us to explain and satisfy the said newspaper that the allegations are either false or are completely misleading and baseless."

It was also decided that an appropriate representation in this regard be also submitted to the Hon'ble President of India and to the Hon'ble Prime Minister of India by the President (Acting) of the Council.

It was further decided that the President Acting be authorised to take further action in this matter, as may be warranted, in consultation with Mr. K.K. Venugopal, Sr. Counsel for the Medical Council of India.

2. Ministry of Health Govt. of India Communication dt. 30.6.2005

Read : The communication dated 30.6.2005 received from the Ministry of Health, Govt. of India.

The members of the Executive Committee and the ad hoc Committee appointed by the Hon'ble Supreme Court perused the letter dt. 30.6.2005 received

from the Ministry of Health and Family Welfare, Govt. of India and reproduced as under : -

“No.V.11017/1/2005- ME (P-1)
Govt. of India
Ministry of Health & Family Welfare
(Department of Health)
New Delhi, dt. The 30th June, 2005

The Secretary,
Medical Council of India,
Kotla Road, New Delhi.

Sir,

I am directed to say that the Medical Council of India had made their recommendations on various proposals referred to it by the Ministry for grant of permission to establish new colleges or increase in intake capacity or for grant of renewal of permission for admission of next batch of students for the academic session 2005-06. On a number of proposals, the MCI have not made positive recommendations. In view of the time frame laid down in the regulations, the MCI in some of the cases have also made recommendations for disapproval of the scheme as the institution did not get the inspection done within the stipulated time. Further, number of colleges have also responded to the observations of the MCI while making negative recommendations claiming that the deficiencies pointed out by the Council have been rectified.

The matter has been examined in the Ministry and it is felt that while it is necessary to adhere to the schedule of giving permission for establishment of new college/renewal of permission by the Government by the stipulated date of 15th July, 2005 for the academic session 2005-06, in the interest of the students and the institutions particularly those which are being established in under-served areas or in the States where number of colleges are very few, the Government is of the view that one more opportunity could be provided to those institutions which are ready for inspection/furnished their responses vis-à-vis the recommendations of the Council. The Council is, therefore, requested to evaluate the responses received from the institutions in response to the recommendations of the Council and also consider those cases where the council could not conduct inspection though the colleges had indicated their readiness for inspection in the month of June, and send their recommendations to the Ministry latest by 11th July, 2005 so as to enable the Ministry to pass final orders by 15th July, 2005, as stipulated in the regulations.

Yours faithfully,
Sd/-
(Aastha S. Khatwani)
Director”

It was observed that in the case of some of the colleges mentioned hereinafter, the MCI in compliance with its time schedule had fixed the dates for inspections for these colleges. However, these colleges sought postponement of the scheduled inspections and asked for the dates of inspections beyond the permissible time limit as per the statutory schedule. It was also observed that in

the event of not passing an order within a period of one year, the provisions of Section 10A(5) leads to an unwarranted claim of a deemed permission in favour of the college and as such the recommendations of the Council for disapproval of the scheme in relation to all such colleges, is completely in accordance with law. These colleges are:-

1. **Karuna Rural Medical College, Vilayodi, Palakkad (Kerala)** : This college by its letter dated 03.06.2005, had requested for postponement of the scheduled inspection fixed by the MCI for 6th & 7th of June to end of June, 2005 on the ground that infrastructure development is still at the finishing stages.
2. **Govt. Mohan Kumaramangalam Medical College, Salem** : This college by its telefax communication dated 27.05.2005, had requested for postponement of the scheduled inspection fixed by the MCI for 1st week of June to end of June, 2005 on the ground that many posts are likely to fall vacant and it may take some time to fill-up the posts.
3. **Kilpauk Medical College & Hospital, Chennai** : This college by its letter dated 25.05.2005, had requested for postponement of the scheduled inspection fixed by the MCI for 30th & 31st of May, 2005 to a later date preferably after 30th June, 2005 on the ground that faculty members in most of the departments are on leave and counselling for Medical Officers in various faculties is being held.

The relevant facts with regard to the abovementioned colleges seeking postponement of the scheduled inspections going beyond the permissible limit of the statutory time schedule, were duly incorporated in the recommendations which have been sent by the Council to the Govt. of India. The photocopies of the letters of the above-mentioned 3 colleges received by the Council for postponement of the scheduled inspections be also sent to the Govt. of India for their ready reference. It would therefore not be in conformity with the records to suggest that in all those cases where there was no request for postponement of the scheduled inspections, the MCI could not conduct inspections even though the colleges had indicated their readiness for inspections in the month of June.

There is not even a single case where any medical college had shown its willingness for the conduct of the inspection by the MCI and the compliance had been submitted by the college authorities to the Council in accordance with the time schedule that the Council could not conduct the inspections. In other words, in all those cases where the college authorities had claimed compliance with the minimum requirement and had indicated their willingness for inspection by the MCI within the time limit as per the statutory time schedule, the MCI carried out the inspections and made suitable recommendations to the Govt. of India.

The judgement of the Hon'ble Supreme Court dated 12.01.2005 in the case of Mridul Dhar Vs. UOI - WP(C) No.306/2004 was also perused. The Hon'ble Supreme Court in para 28 of this judgement observed as under:-

".....28. The time schedule for the receipt of applications for establishment of new medical colleges and processing of the applications by Central Government and the Medical Council of

India is fixed under the schedule to 1999 Regulations. The said schedule is as under-

SCHEDULE FOR RECEIPT OF APPLICATIONS FOR ESTABLISHMENT OF NEW MEDICAL COLLEGES AND PROCESSING OF THE APPLICATIONS BY THE CENTRAL GOVERNMENT AND THE MEDICAL COUNCIL OF INDIA

Stage of Processing	Last date
1. Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2. Receipt of applications by the MCI from Central Govt.	30 th September
3. Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	31st December
4. Issue of Letter of Intent by the Central Government	31st January
5. Receipt of reply from the applicant by the Central Government requesting for Letter of Permission	28th February
6. Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission	15th March
7. Recommendations of Medical Council of India to Central Government for issue of Letter of Permission	15th June
8. Issue of Letter of Permission by the Central Government	15th July

Note: (1) The information given by the applicant in Part-I of the application for setting up a medical college that is information regarding organization, basic infrastructural facilities, managerial and financial capabilities of the applicant shall be scrutinized by the Medical Council of India through an inspection and thereafter the Council may recommend issue of Letter of intent by the Central Government.

(2) Renewal of permission shall not be granted to a medical college if the above schedule for opening a medical college is not adhered to and admissions shall not be made without prior approval of the Central Government."

Thereafter in para 35 the Hon'ble Supreme Court has issued the following directions:-

".....35. *Having regard to the aforesaid, we issue the following directions : -*

1-13.

14. ***Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.***
15. ***Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.***
16. ***Copy of the judgement shall be send to Chief Secretaries of all States/Union Territories for compliance....."***

After the above-mentioned judgement, the Medical Council of India had received a letter dated 15.03.2005 from the Ministry of Health & F.W., Govt. of India. IN this letter dated 15.03.2005, after referring to the directions of the Hon'ble Supreme Court dated 12.01.2005 in Mridul Dhar's case, the Govt. of India had requested the Council in the following terms : -

"..... You are requested to kindly bring the above directions of the Hon'ble Court to the notice of all the medical colleges/institutions and the authorities concerned in the country for strict adherence to the Time schedule prescribed in the Regulations of the Council for admission of students for the Undergraduate courses, and also the Time schedule prescribed for admission in the Postgraduate/Super Specialty courses indicated in this Ministry's letter No.V-11025/1/2003-ME(P.I) dated 14th May, 2003.

The Hon'ble Court has also directed that the Time schedule prescribed in the Regulations for Establishment of new Medical colleges, increase of intake capacity and for Opening of new or higher courses of study has also to be strictly adhered to. Similarly, the process of annual renewal of permissions have also to be completed in accordance with the Time schedule so that the Time schedule prescribed for admission of students is not disrupted. Therefore, as the Council is required to forward its recommendation in this regard to the Ministry and thereafter the Government is required to issue necessary permission/renewal of permission within the time prescribed for the same, the Council is requested to advise all the concerned colleges/institutions to get the inspections done well in time....."

The members of the Executive Committee and of the ad hoc Committee appointed by the Hon'ble Supreme Court, having regard to the contents of the above-mentioned letter dated 15.03.2005 of the Govt. of India and on the careful reading of the abovementioned directions of the Hon'ble Supreme Court dated 12.1.2005 in the case of Mridul Dhar and specifically directions No. 14 and 15, came to the conclusion that the Ministry of Health, Govt. of India be requested to kindly examine its communication dt. 30.6.2005 in the light of the abovementioned directions of the Hon'ble Supreme Court. It is the view of the Committee that when the directions No. 14 and 15 of the judgement of the Hon'ble Supreme Court are read with para 28 of that judgement, there does not appear to be any permissibility to any concerned authority to not to strictly follow the time schedule towards grant of permission/renewal to the medical colleges under Section 10A of the Indian Medical Council Act, 1956 and the regulations made thereunder.

3. Legal Opinion furnished by Additional Solicitor General of India in respect of "term" of a member of the Council.

Read : the legal opinion furnished by Additional Solicitor General of India in respect of "term" of a member of the Council.

At this juncture, President Acting from the Chair expressed his desire to refrain himself from participating in the deliberations on the said item. Thereafter the members present unanimously elected Dr. D.K. Sharma to act as the Chairperson in accordance with Regulation No.42 of Medical Council of India Regulations, 2000.

The members of the Executive Committee and of the Ad hoc Committee appointed by the Hon'ble Supreme Court perused the Opinion dated 29.06.2005 received from the Id. Additional Solicitor General of India wherein, having regard to the judgement of the Hon'ble Supreme Court in the case of Dr. H.R. Prem Sachdeva Vs. UOI & Ors. - (1999) 8 SCC 471, it has been advised that though the Council should always take necessary steps for the filling-up of the vacancies in the Council, however, the members of the Council would be entitled to continue to act in that position after the expiry of the term of 5 years till such time the successor is duly elected/nominated, whichever is longer. The members observed that the primary responsibility for filling-up of the vacancies, as per the provisions of the Act and the rules, rests with the Govt. of India. The Council is obliged to inform the Govt. of India, 3 months prior to the likelihood of any vacancy on the expiry of the term of 5 years of any member enabling the Govt. to initiate the process for nomination/election of the successor.

In view of the opinion of the Id. Additional solicitor General of India it was decided that the earlier decision restricting the term of an elected/nominated member of the Council to be five years and three months or till his successor is elected/nominated, whichever is earlier, is reviewed and altered to the extent that henceforth the term of the elected/nominated member of the Council shall be in terms of Section 7(2) which reads as under : -

"7. Term of office of President, Vice-President and members-

- (1)
- (2) Subject to the provisions of this section, a member shall hold office for a term of five years from the date of his nomination or election or until his successor shall have duly nominated or elected, **whichever is longer....."**

At this point the Secretary was informed telephonically by the Joint Secretary to the Govt. of India that the notification regarding the membership of Dr. P.C.Kesavankutty Nayar as nominee of Govt. of Kerala is being issued by the Govt. of India and a copy whereof is being sent to the Council office by fax.

The Secretary procured the fax received in his office and informed the members that the Central Govt. vide letter dated 29.06.2005 has issued the notification for the membership of Dr. P.C.Kesavankutty Nayar as nominee of Govt. of Kerala.

At this point, Dr. P.C. Kesavankutty Nayar, President Acting joined and again Chaired the meeting.

At this juncture, 3 whole time and 3 regional inspectors of the Council were invited to attend the proceedings. They informed that at no point of time they were ever asked/directed/ forced to alter/modify any inspection report(s) at the instance of any office bearer/official of the Council. They further informed that all the reports are always prepared jointly by all the 3 inspectors and are forwarded with signatures of all the inspectors, to the Council. They further informed that a communication in writing to the above effect has been furnished to the Secretary.

The minutes of this meeting were read and confirmed by the members present in the meeting.

The meeting ended with thanks to the Chair.

(Lt. Col. (Retd.) Dr. A.R.N. Setalvad)
Secretary

New Delhi, dated the
30th June, 2005

APPROVED & CONFIRMED

(DR. P.C.KESAVANKUTTY NAYAR)
PRESIDENT (ACTING)

(DR. D.K. SHARMA)
CHAIRMAN (ACTING)

At this point President (Acting) requested the Secretary to refrain himself from attending the remaining part of the meeting wherein the Secretary left the hall.

The minutes of item No. 4 are kept separately by the President (Acting) in his custody.

Confidential**4. News items "Docs accused MCI Secy of leaking information" in Hindustan Times, New Delhi dated 29.06.2005 and "MCI Official under Govt. Scanner" in Indian Express, Bangalore edition dated 30.06.2005.**

Read : News items "Docs accused MCI Secy of leaking information" in Hindustan Times, New Delhi dated 29.06.2005 and "MCI Official under Govt. Scanner" in Indian Express, Bangalore edition dated 30.06.2005.

President (Acting) informed the members that he has taken cognizance of the news items "Docs accused MCI Secy of leaking information" in Hindustan Times, New Delhi dated 29.06.2005 and "MCI Official under Govt. Scanner" in Indian Express, Bangalore edition dated 30.06.2005.

He further informed the members that he has already served a memorandum asking the Secretary to submit his explanation within 2 weeks to him.

(Dr. P.C.Kesavankutty Nayar)
President (Acting)

New Delhi, dated the
30th June,2005.

A P P R O V E D

(Dr. P.C.Kesavankutty Nayar)
President (Acting)

The Secretary to the Govt. of India,
Ministry of Health & F.W.,
(Department of Health),
Nirman Bhawan,
New Delhi-110 011.

Sub: Ministry of Health Govt. of India Communication dt. 30.6.2005.

Sir,

I am directed to state that the Executive Committee of the Council held its meeting today on 30.6.2005 where members of the ad hoc Committee appointed by the Hon'ble Supreme Court were also present. The decision of the Committee with reference to the abovementioned letter of the Govt. of India is as under:-

"The members of the Executive Committee and the ad hoc Committee appointed by the Hon'ble Supreme Court perused the letter dt. 30.6.2005 received from the Ministry of Health and Family Welfare, Govt. of India and reproduced as under : -

"No.V.11017/1/2005- ME (P-1)
Govt. of India
Ministry of Health & Family Welfare
(Department of Health)
New Delhi, dt. The 30th June, 2005

*The Secretary,
Medical Council of India,
Kotla Road, New Delhi.*

Sir,

I am directed to say that the Medical Council of India had made their recommendations on various proposals referred to it by the Ministry for grant of permission to establish new colleges or increase in intake capacity or for grant of renewal of permission for admission of next batch of students for the academic session 2005-06. On a number of proposals, the MCI have not made positive recommendations. In view of the time frame laid down in the regulations, the MCI in some of the cases have also made recommendations for disapproval of the scheme as the institution did not get the inspection done within the stipulated time. Further, number of colleges have also responded to the observations of the MCI while making negative recommendations claiming that the deficiencies pointed out by the Council have been rectified.

The matter has been examined in the Ministry and it is felt that while it is necessary to adhere to the schedule of

giving permission for establishment of new college/renewal of permission by the Government by the stipulated date of 15th July, 2005 for the academic session 2005-06, in the interest of the students and the institutions particularly those which are being established in under-served areas or in the States where number of colleges are very few, the Government is of the view that one more opportunity could be provided to those institutions which are ready for inspection/furnished their responses vis-à-vis the recommendations of the Council. The Council is, therefore, requested to evaluate the responses received from the institutions in response to the recommendations of the Council and also consider those cases where the council could not conduct inspection though the colleges had indicated their readiness for inspection in the month of June, and send their recommendations to the Ministry latest by 11th July, 2005 so as to enable the Ministry to pass final orders by 15th July, 2005, as stipulated in the regulations.

*Yours faithfully,
Sd/-
(Aastha S. Khatwani)
Director"*

It was observed that in the case of some of the colleges mentioned hereinafter, the MCI in compliance with its time schedule had fixed the dates for inspections for these colleges. However, these colleges sought postponement of the scheduled inspections and asked for the dates of inspections beyond the permissible time limit as per the statutory schedule. It was also observed that in the event of not passing an order within a period of one year, the provisions of Section 10A(5) leads to an unwarranted claim of a deemed permission in favour of the college and as such the recommendations of the Council for disapproval of the scheme in relation to all such colleges, is completely in accordance with law. These colleges are:-

1. **Karuna Rural Medical College, Vilayodi, Palakkad (Kerala)** : This college by its letter dated 03.06.2005, had requested for postponement of the scheduled inspection fixed by the MCI for 6th & 7th of June to end of June, 2005 on the ground that infrastructure development is still at the finishing stages.
2. **Govt. Mohan Kumaramangalam Medical College, Salem** : This college by its telefax communication dated 27.05.2005, had requested for postponement of the scheduled inspection fixed by the MCI for 1st week of June to end of June, 2005 on the ground that many posts are likely to fall vacant and it may take some time to fill-up the posts.
3. **Kilpauk Medical College & Hospital, Chennai** : This college by its letter dated 25.05.2005, had requested for postponement of the scheduled inspection fixed by the MCI for 30th & 31st of May, 2005 to a later date preferably after 30th June, 2005 on the ground that faculty members in most of the departments are on leave and counselling for Medical Officers in various faculties is being held.

The relevant facts with regard to the abovementioned colleges seeking postponement of the scheduled inspections going beyond the permissible limit of the statutory time schedule, were duly incorporated in the recommendations which have been sent by the Council to the Govt. of India. The photocopies of the letters of the above-mentioned 3 colleges received by the Council for postponement of the scheduled inspections be also sent to the Govt. of India for their ready reference. It would therefore not be in conformity with the records to

suggest that in all those cases where there was no request for postponement of the scheduled inspections, the MCI could not conduct inspections even though the colleges had indicated their readiness for inspections in the month of June.

There is not even a single case where any medical college had shown its willingness for the conduct of the inspection by the MCI and the compliance had been submitted by the college authorities to the Council in accordance with the time schedule that the Council could not conduct the inspections. In other words, in all those cases where the college authorities had claimed compliance with the minimum requirement and had indicated their willingness for inspection by the MCI within the time limit as per the statutory time schedule, the MCI carried out the inspections and made suitable recommendations to the Govt. of India.

The judgement of the Hon'ble Supreme Court dated 12.01.2005 in the case of Mridul Dhar Vs. UOI - WP(C) No.306/2004 was also perused. The Hon'ble Supreme Court in para 28 of this judgement observed as under:-

".....28. The time schedule for the receipt of applications for establishment of new medical colleges and processing of the applications by Central Government and the Medical Council of India is fixed under the schedule to 1999 Regulations. The said schedule is as under-

SCHEDULE FOR RECEIPT OF APPLICATIONS FOR ESTABLISHMENT OF NEW MEDICAL COLLEGES AND PROCESSING OF THE APPLICATIONS BY THE CENTRAL GOVERNMENT AND THE MEDICAL COUNCIL OF INDIA

Stage of Processing	Last date
1. Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2. Receipt of applications by the MCI from Central Govt.	30 th September
3. Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	31st December
4. Issue of Letter of Intent by the Central Government	31st January
5. Receipt of reply from the applicant by the Central Government requesting for Letter of Permission	28th February
6. Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission	15th March
7. Recommendations of Medical Council of India to Central Government for issue of Letter of Permission	15th June
8. Issue of Letter of Permission by the Central Government	15th July

- Note: (1) The information given by the applicant in Part-I of the application for setting up a medical college that is information regarding organization, basic infrastructural facilities, managerial and financial capabilities of the applicant shall be scrutinized by the Medical Council of India through an inspection and thereafter the Council may recommend issue of Letter of intent by the Central Government.
- (2) Renewal of permission shall not be granted to a medical college if the above schedule for opening a medical college is not adhered to and admissions shall not be made without prior approval of the Central Government."

Thereafter in para 35 the Hon'ble Supreme Court has issued the following directions:-

".....35. *Having regard to the aforesaid, we issue the following directions : -*

1-13.

14. *Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.*

15. *Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.*

16. *Copy of the judgement shall be send to Chief Secretaries of all States/Union Territories for compliance....."*

After the above-mentioned judgement, the Medical Council of India had received a letter dated 15.03.2005 from the Ministry of Health & F.W., Govt. of India. IN this letter dated 15.03.2005, after referring to the directions of the Hon'ble Supreme Court dated 12.01.2005 in Mridul Dhar's case, the Govt. of India had requested the Council in the following terms : -

"..... You are requested to kindly bring the above directions of the Hon'ble Court to the notice of all the medical colleges/institutions and the authorities concerned in the country for strict adherence to the Time schedule prescribed in the Regulations of the Council for admission of students for the Undergraduate courses, and also the Time schedule prescribed for admission in the Postgraduate/Super Specialty courses indicated in this Ministry's letter No.V-11025/1/2003-ME(P.I) dated 14th May, 2003.

The Hon'ble Court has also directed that the Time schedule prescribed in the Regulations for Establishment of new Medical colleges, increase of intake capacity and for Opening of new or higher courses of study has also to be strictly adhered to. Similarly, the process of annual renewal of permissions have also to be completed in accordance with the Time schedule so that the Time schedule prescribed for admission of students is not disrupted. Therefore, as the Council is required to forward its recommendation in this regard to the Ministry and thereafter the Government is required to issue necessary permission/renewal of permission within the time prescribed for the same, the Council is requested to advise all the concerned colleges/institutions to get the inspections done well in time....."

The members of the Executive Committee and of the ad hoc Committee appointed by the Hon'ble Supreme Court, having regard to the contents of the above-mentioned letter dated 15.03.2005 of the Govt. of India and on the careful reading of the abovementioned directions of the Hon'ble Supreme Court dated 12.1.2005 in the case of Mridul Dhar and specifically directions No. 14 and 15, came to the conclusion that the Ministry of Health, Govt. of India be requested to kindly examine its communication dt. 30.6.2005 in the light of the abovementioned directions of the Hon'ble Supreme Court. It is the view of the Committee that when the directions No. 14 and 15 of the judgement of the Hon'ble Supreme Court are read with para 28 of that judgement, there does not appear to be any permissibility to any concerned authority to not to strictly follow the time schedule towards grant of permission/renewal to the medical colleges under Section 10A of the Indian Medical Council Act, 1956 and the regulations made thereunder....."

Please find enclosed herewith the copies of the letters of the above-mentioned 3 colleges and the Govt. of India's letter dated 15.03.2005.

Yours faithfully,

**Lt.Col.(Retd.) Dr. A.R.N. Setalvad
Secretary**