

No. MCI-5(3)/2014-Med.Misc./

MEDICAL COUNCIL OF INDIA
NEW DELHI

EXECUTIVE COMMITTEE

Minutes of the meeting of the Executive Committee held on 27th March, 2015 in the Council Office at Sector 8, Pocket 14, Dwarka, New Delhi.

Present:

Dr. Jayshree Mehta	President Medical Council of India, Former Professor of Surgery, Govt. Medical College, Vadodara, Gujarat.
Dr. C.V. Bhirmanandham	Vice-President, Medical Council of India, Former Vice-Chancellor of Dr. M.G.R. Health University, Tamil Nadu
Dr. Radha Madhab Tripathy	Professor and Head, Department of Community Medicine, MKCG Medical College, Berhampur.
Dr. Anil Mahajan	Professor & HOD, General Medicine, Government Medical College, Jammu, J&K.
Dr. V.N. Jindal	Dean, Goa Medical College, Bombolim-403202, Goa
Dr. Baldev Singh Aulakh	Professor of Urology and Transplant Surgery, Head Transplant Unit, Dayanand Medical College, Ludhiana
Dr. K.K. Gupta	Director General, Medical Education, 10, Gulistan Colony, Lucknow
Dr. G.B. Gupta	Vice-Chancellor, Ayush & Health Sciences University, Raipur, Chhattisgarh.
Dr. Vijay Prakash Singh	Professor & Head, Department Of Gastroenterology, Patna Medical College, Patna, Bihar
Dr. Ravindra H.N.	Deputy Director, Karnataka State AIDS Prevention Society, No. 4-13/1, Crescent Road, High grounds, Bangalore - 560 001

Dr. Reena Nayyar, Secretary I/c

Apology for absence was received from Dr. Venkatesh Kakollu.

1. **Minutes of the Executive Committee Meeting held on 16th March, 2015 – Confirmation of.**

The Executive Committee of the Council confirmed the minutes of the Executive Committee meeting held on 16th March, 2015.

2. **Minutes of the last meeting of the Executive Committee – Action taken thereon.**

The Executive Committee of the Council noted the action taken on the minutes of the Executive Committee meeting held on 16th March, 2015.

3. **Pending Items arising out of the decisions taken by the Executive Committee.**

The Executive Committee of the Council noted the pending items arising out of the decisions taken by the Executive Committee.

4. **Establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-16.**

Read: the matter with regard to establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the matter and observed that both the letters (one letter giving NOC & another giving consent of affiliation) issued in the name of Rani Durgawati Vishwavidyalaya bear the same outward no. – i.e. Aca/2014/3037 and same date – i.e. 01/08/2014. It was also observed by the Executive Committee that the Registrar, Rani Durgawati Vishwavidyalaya vide his letter dt. 10/12/2014 has informed that since M.P. Medical University has been constituted in the state, w.e.f. 17/09/2014 and any further processing would be done by M.P. Medical University. It was also observed that M.P. Medical University has not issued any consent of affiliation till date.

In view of above, the Executive Committee of the Council decided to accept the opinion of the Law Officer of the Council and decided to return the application recommending disapproval of the scheme for establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-16 since there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the Regulations framed therein to keep the application pending in the Council office for the next academic year.

The Executive Committee of the Council further decided to seek a clarification from Rani Durgawati University about the discrepancy of two different letters bearing the same outward number.”

The Committee further observed that vide its submission before the Committee appointed by the Ministry, applicant trust has stated as under:

“We have applied on 29/10/2014 for grant of affiliation for academic year 2015-16 for 150 MBBS student and deposited Rs. 50,30,000.00 as affiliation fees on 28/10/2014 thereafter Madhya Pradesh Medical Science University has informed on 20/11/2014 that our affiliation fees had been accepted and our affiliation is under consideration. Thus we are at a stage above “consent of affiliation” as our affiliation is under consideration with Madhya Pradesh Medical University.”

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

“Recommended for review by MCI”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.”

From the above, it is evident that the applicant trust has not yet received consent of affiliation from affiliating University –i.e. Madhya Pradesh Medical Sciences University w.e.f. 17/09/2014 which is a Qualifying Criterion 3(2)(4) of Establishment of Medical College regulations, 1999.

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	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.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“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.”

In view of above, the Executive Committee of the Council decided to reiterate earlier decision to return the application recommending disapproval of the scheme for establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur , Madhya Pradesh u/s 10A of the IMC

Act, 1956 for the academic year 2015-16 as the qualifying criterion 3(2)(4) of Establishment of Medical College Regulations, 1999 is not fulfilled and since there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the Regulations framed therein to keep the application pending in the Council office for the next academic year.

5. Recognition/approval of Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council noted that at its earlier meeting dt. 02.03.2015, had observed as under:-

1. *Deficiency of faculty is 8.8 % as detailed in the report.*
2. *Shortage of Residents is 18 % as detailed in the report.*
3. *Bed Occupancy was 60 % against requirement of 75 % as per Regulations on day of assessment. There is some discrepancy noted between the data of previous monthly average & that found actually on the day of assessment.*
4. *There was NIL Major & NIL Minor operation for the whole hospital on day of assessment. No patients were seen in Postoperative ward on day of assessment.*
5. *There was only 1 Normal delivery & NIL Caesarean section on day of assessment.*
6. *Radiological & Laboratory Investigation workload is inadequate.*
7. *There was NIL patient in MICU & NICU/PICU and only 1 patient each in ICCU & SICU which is grossly inadequate.*
8. *Radiodiagnosis department: Details of AERB approval are not provided.*
9. *Lecture Theaters: One lecture theater is not fully constructed or furnished. Lecture theater in the hospital is not of gallery type. There is no facility for E class.*
10. *Central Photography Section: No equipment is available. Photographer is not available.*
11. *Students' Hostels: Visitors' room, A.C. study room with computer & Internet, Recreation room are not available.*
12. *Interns' Hostels: They are under construction.*
13. *Residents' Hostel: Accommodation is available for only 60 against requirement of 85 as per Regulations.*
14. *Nurses' Hostel: It is not available.*
15. *Residential Quarters: No quarters are available for non-teaching staff as they are under construction.*
16. *Teaching Beds: Orthopaedics male ward is under construction; resultantly 30 beds in male Orthopaedics ward are not available.*
17. *Central Kitchen is under construction. Dietician is not available.*
18. *Anatomy department: Only 100 specimens are available. There are no MRI/CT films in the museum.*
19. *Physiology department: Audiovisual aids are not available in Demonstration Room.*
20. *Pathology department: Only 3 catalogues are available in the museum.*
21. *Microbiology department: Service laboratories are not fully functional.*
22. *Pharmacology department: Museum facilities are inadequate.*
23. *Community Medicine department: Audiovisual aids are not available in Demonstration Room.*
24. *RHTC: It is under dual control of Govt. of Andhra Pradesh & institute which is not as per Regulations. Messing facilities are not available. There is no record of students being posted at RHTC. Specialists' visits are not*

organized. No records of activities under National Health Programmes are available.

25. UHC: It is in a rented building conjoined with a private practitioner clinic and medical stores. There are no records of posting of students. Specialists' visits are not organized.
26. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Government not to recognise/approve Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 1 month for further consideration of the matter.

Further the Executive Committee of the Council decided to take legal opinion with regard to apply of clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

- (b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

The Executive Committee of the Council further noted that legal opinion on application of Section 8(3)(1)(b) had been received. The Committee perused the opinion of Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999. My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to

grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

The Executive Committee of the Council in view of above mentioned opinion of Additional Solicitor General of India as well as the deficiencies mentioned above decided to recommend to Central Government not to recognise/approve of Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956 and further decided to ask the Institution to submit the compliance within one month.

6. Renewal of permission for MBBS course of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its earlier meeting dt. 13/01/2015 had observed as under:

"The Executive Committee of the Council considered the Council Assessors report (16th & 17th December, 2014) and noted the following:-

1. *Deficiency of faculty is 57 % as detailed in report.*
2. *Shortage of Residents is 99 % as detailed in report.*
3. *OPD attendance was only 210 on day of assessment.*
4. *Bed occupancy was 10.36 % on day of assessment.*
5. *There was NIL major operation and only 1 minor operation on day of assessment.*
6. *ICUs: There was no patient in SICU & NICU/PICU and only 1 patient in ICCU on day of assessment.*
7. *The following faculty have submitted fake telephone bills as proof of residence. After dialing the number mentioned in the bill, recorded message was heard saying "This is Anil Neelakonda Medical College. Please press the extension number."*

Name	Designation	Department
Dr. Gudurusree Latha	Asso. Prof.	Pathology
Dr. C. Madhav Rao	Professor & HOD	Forensic Medicine
Dr. Pradeep Vundavalli	Asst. Prof.	ENT
Dr. Pandula Revathi	Asst. Prof.	O.G.
Dr. Y. Nagatalupula Rao	Asst. Prof.	O.G.
Dr. D.K. Chedrolu	Senior Resident	Ophthalmology

8. No workshop on Medical Education Technology has been conducted by MEU during the year.
9. Pharmaco Vigilance Committee: No meetings have taken place during the year.
10. Lecture Theaters: Hospital lecture hall is not of gallery type.
11. Students' Hostels: There is no AC, Computer & Internet in the study room.
12. Residents' Hostels: Accommodation is available for 120 against requirement of 138. There is no AC, Computer & Internet in the study room.
13. Office of Dean and Medical Superintendent in the hospital are smaller in size than required as per Regulations.
14. Wards: Wards of Tb & Chest, Skin & VD and Psychiatry departments do not have Nursing station, Examination/Treatment room, Pantry, Duty room, Demonstration room. In other departments, demonstration room is common for 2 wards.
15. There was no Caesarean section on day of assessment.
16. Radiological and Laboratory investigation workload was grossly inadequate on day of assessment.
17. Histopathology & Cytopathology workload was NIL on day of assessment.
18. Separate casualty for Obstetrics is not available.
19. O.T.: Facilities in ENT O.T. are inadequate.
20. Anatomy department: Number of specimens are only 70.
21. RHTC: Cold chain equipment is not available.
22. UHC: Cold chain equipment is not available.
23. Other deficiencies as pointed out in the assessment report."

In view of above, it was decided to recommend to the Central Govt. not to renew the permission for admission of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

It was further decided to apply clause 8(3)(1)(b) & clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which read as under:-

"8(3)(1).....

(b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

....

(d) Colleges which are found to have employed teachers with faked/forged documents:

If it is observed during any institute is found to have employed a teacher with faked/forged documents and have submitted the declaration form of such a teacher, such an institute will not be considered for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year and the next academic year also.

In view of above, it was decided not to consider the institute for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017). "

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“Recommended for review by MCI. MCI has barred the college for 2 years on point no. 7. In view of the submission made by college, MCI may reconsider before taking such action .”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if noting is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Committee observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	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.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Establishment of Medical College Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities as has been directed by Hon'ble Supreme Court in Mridul Dhar's case. The operative part of the order of Hon'ble Supreme Court in Mridul Dhar's case is as under:

“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.”

The Executive Committee of the Council perused the opinion of Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

“1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.

2. *Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by

that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate the earlier decision to recommend to the Central Govt. not to renew the permission for admission of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

It was further decided that with regard to Section 8(3)(1)(d) of Establishment of Medical College Regulations, the institute in its compliance has stated as under:

“Some of the telephone connections / numbers have been allotted to the faculty members, who were not having their own telephone connections and are staying in the staff quarters. The copy of letter sent by BSNL authorities to that effect is enclosed herewith.

Due to technical reasons, the calls of those phone numbers landed at our local telephone exchange. Now the technical problem was rectified.”

The Executive Committee of the Council perused the letter dated 06-02-2015 submitted by the college to the Committee constituted by Ministry of Health & FW which reads as under:-

"NRI Institute of Medical Sciences, Sangivalasa, Bheemunipatnam, Visakhapatnam is provided with ISDN PRI having telephone numbers from 0891-2821100 to 2821199 (100 lines)

The above telephone numbers can be allotted for the individuals staying in the campus. The above ISDN PRI (Integrated service digital Network Primary rate intertace) is extended with DID (Direct Inward Dialing facility). With this facility one can make and receive calls directly from anywhere in India."

The Committee further decided that the Institute be asked to submit further clarification from BSNL as under:

(1) *When did the problem in respect of the telephone connections issued in respect of the following doctors begin ?*

<i>Name</i>	<i>Designation</i>	<i>Department</i>
<i>Dr. Gudurusree Latha</i>	<i>Asso. Prof.</i>	<i>Pathology</i>
<i>Dr. C. Madhav Rao</i>	<i>Professor & HOD</i>	<i>Forensic Medicine</i>
<i>Dr. Pradeep Vundavalli</i>	<i>Asst. Prof.</i>	<i>ENT</i>
<i>Dr. Pandula Revathi</i>	<i>Asst. Prof.</i>	<i>O.G.</i>
<i>Dr. Y. Nagatalupula Rao</i>	<i>Asst. Prof.</i>	<i>O.G.</i>
<i>Dr. D.K. Chedrolu</i>	<i>Senior Resident</i>	<i>Ophthalmology</i>

(2) *When the complaint was filed by these Doctors to BSNL?*

(3) *Was the problem limited only to the abovementioned doctors or did it occur with other numbers as well ? If it occurred in other numbers also, a list of those numbers along with names of persons to whom these numbers are allocated may also be furnished.*

(4) *What was the precise nature of the problem ?*

(5) *How was the problem resolved ?*

(6) *When was the problem resolved ?*

(7) *Was the problem resolved only for these numbers or also for those mentioned in (3) above ?*

(8) *What is the present status of these connections ?*

(9) *Where was the precise location of these telephones on day of assessment – i.e. 16th & 17th December 2014 ?*

(10) *Photocopies of bills of November 2014, December 2014 & January 2015 in respect of these connections may also be provided.*

The Executive Committee of the Council further decided that the Dean of the institute may also be asked to provide on affidavit details like in whose custody the instruments with these telephone numbers are lying at present and on the day of assessment, who is utilizing these connections and the locations of these instruments at present.

7. Renewal of permission for MBBS course of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, the Executive Committee had decided as under:

"The Executive Committee of the Council considered the Council Assessors report (31st December, 2014 and 1st January, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 45 % as detailed in report.*
2. *Shortage of Residents is 78 % as detailed in the report.*
3. *Bed occupancy is only 15%.*
4. *OPD attendance was only 318 on day of assessment.*
5. *Dean's office: Area available is 20 sq.m. against requirement of 36 sq.m. as per Regulations*
6. *Examination Hall cum Auditorium: Available area is 1,000 sq.m. against requirement of 1,200 sq.m. as per Regulations*
7. *Lecture Theaters: Facility for E class is not available.*
8. *Students' Hostels: Accommodation is available for 516 students against requirement of 565 as per Regulations. There is no provision for cupboard in the rooms. It has no recreation room, no visitors' room, no notice board & no lift in a 5 storied building.*
9. *Interns' Hostel: it is not available.*
10. *Nurses' Hostel : it is not available.*
11. *Dean's office is not available in the teaching hospital.*
12. *OPD: Registration counters are not separate for males/females or for OPD/IPD. Staff is inadequate.*
13. *Wards: Pantry, Examination room & Doctors' room are common for 2 wards. No lift is available.*
14. *Previous data have not been provided to assessors by the institute.*
15. *Plain X-rays are inadequate.*
16. *Cytopathology workload is NIL on day of assessment.*
17. *MRD: Statistician is not available.*
18. *ICUs: there was no patient in ICCU, SICU on day of assessment.*
19. *Nursing staff: Only 94 Nurses are available against requirement of 277.*
20. *Paramedical staff: Only 35 are available against requirement of 181.*
21. *Anatomy department: Lockers are inadequate. One cold storage is not working. Only 102 specimens are available.*
22. *Dean has refused to sign the report. College authorities and Dean pressurized Assessors to count faculty & Residents who presented on second day of assessment also.*
23. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

It was further observed that in this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

"The inspection was carried out on 31st December and 1st January. Year end and Christmas vacation, particularly, being Christian minority institution. Recommended for review by MCI"

The Committee further observed that the Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the

request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed by the executive committee that the plea that *the inspection was carried out on 31st December and 1st January, Year end and Christmas vacation, particularly, being Christian minority institution* in the recommendation of the Committee appointed by the Ministry of Health & family Welfare does not appear to have been taken by the institute anywhere in compliance submitted by it to the ministry.

It was further observed that the Statutory Regulations are equally applicable to all the institutes and there cannot be any deviation for a Christian Minority institute.

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	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.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

"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."*

The Executive Committee of the Council also perused the opinion of Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

"1. *Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the*

academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.

2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of to recommend to the Central Govt. not to renew the permission for admission of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

8. Renewal of permission for MBBS course for 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016-

Read: the matter with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore,

Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (31st December, 2014 and 1st January, 2015) alongwith a complaint received through email dated 24.11.2014 from Mr. Ramiz K addressed to the Medical Council of India and copy to PMO and others against the said college and noted the following:-

1. *Deficiency of faculty is 8.03 % as detailed in report.*
2. *Shortage of Residents is 25.36 % as detailed in the report.*
3. *Bed occupancy is 34 % on day of assessment.*
4. *There are only 5 major & 6 minor operations on day of assessment.*
5. *There was only 1 Normal delivery & NIL Caesarean section on day of assessment. Average of Caesarean section is 1 / week.*
6. *SICU is not available.*
7. *In wards of General Medicine, General Surgery & Orthopaedics, no patient was put on I.V. solutions & most of the patients could be treated on outpatient basis. In General Surgery wards, surgery related patients are less and in Orthopaedics wards, trauma related patients are very less. Critically ill admitted patients are less.*
8. *Teaching Programme: Integrated teaching programme is not organized. CPC is not held.*
9. *Anatomy department: Cooling chambers are less. Specimens are only 102. Office space is not furnished.*
10. *Physiology department: office space is not furnished.*
11. *Biochemistry department: office space is not furnished. Microscopes are less.*
12. *Forensic Medicine department: Mortuary & Cold storage are non-functional.*
13. *Many equipment are nonfunctional in laboratories of the college.*
14. *Kitchen is messy and unhygienic & needs to be improved urgently.*
15. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

The Executive Committee of the Council further noted that the institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated 18.09.2014 in the name of Shri K. Eralah which state as under:

"1. . The institute undertakes to this Hon'ble Court that the deficiencies pointed out by the Medical Council of India by its communication dt. 12.6.2014 have already been removed and deficiencies, if any, as per Regulation of Medical Council of India shall be rectified within a period of days from the date of the Order of this Hon'ble Court.

2. I say that in the event the Institution, for any reasons whatsoever, does not comply with this solemn undertaking, this Hon'ble Court may, if it so chooses, direct that the Bank Guarantee/Security furnished by this Institution to the Medical Council of India be forfeited.

3. I say that the admissions to the academic year 2014-15 with respect to the seats to be filled will be in accordance with the norms of the Medical Council of India. Candidates will be admitted in accordance with merit from the list of candidates declared eligible for admission to MBBS course on the basis of entrance test conducted by the State Govt./State Authority.

4. I say that the fees to be charges from students admitted through this process in accordance with what is stated hereinabove shall be as per fee fixed by Fee Fixation Committee constituted under the State Act or under the judgment of this Hon'ble Court in P.A. Inamdar Vs. State of Maharashtra (2005) 6 SCC 537.

5. I submit that in the event this Hon'ble Court comes to the conclusion that our institution has in any way failed to comply with the terms of this Undertaking pursuant to the Order of this Hon'ble Court, this Hon'ble Court may, if it so chooses, initiate proceedings for contempt against the Institution."

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman

and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs. 10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (*supra*), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.
2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall

be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.

3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.

4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.

5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities." In view of above, the Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks."

It was further observed that the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

" Recommended for review by MCI. Should have avoided inspection on New Year's Eve and New Year day "

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if noting is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed that the observation of the Committee appointed by the Ministry that "Should have avoided inspection on New Year's Eve and New Year day" is irrelevant and has no bearing as both 31st December & 1st January are full working days and neither of these 2 days have not been declared as Gazetted holidays nor they fall within 3 days' embargo prescribed in the Regulations.

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	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.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February

6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

"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."

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

1. *Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
2. *Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis

subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS

degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations(Amendment),2010(Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate the earlier decision to recommend to the Central Govt. not to renew the permission for admission of 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks.

9. Renewal of permission for MBBS course for 5th batch of 100 seats of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

Read: the matter with regard to renewal of permission for MBBS course for 5th batch of 100 seats of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 16/12/2014, it was decided as under:

“The Executive Committee of the Council considered the Council Assessors report (11th & 12th November 2014) and noted the following:-

1. *Shortage of Residents is 29 % as detailed in the report.*
2. *Bed occupancy is 60 % on day of assessment. There was discrepancy in the ward register & actual number of patients in female Surgical ward. The register showed 21 patients while only 5 could be verified.*
3. *OPD attendance was 680 till 2:30 p.m. on day of assessment Lecture Theaters: Facility for E class is not available.*
4. *Residential quarters: Only 18 quarters are available for teaching faculty against requirement of 23 as per norms.*
5. *OPD: 4 examination rooms are not available for all the departments.*
6. *Separate dressing rooms for male/female patients are not available.*
7. *There were only 9 major operations on day of assessment.*
8. *There was only 1 normal delivery & NIL Caesarean section on day of assessment.*
9. *Radiological investigations: Daily average of special investigations like Ba, IVP is NIL.*
10. *Daily average Histopathological workload is only 4 which is grossly inadequate. On day of assessment, it was only 3.*
11. *Casualty: Resuscitation equipment like Pulse Oxymeter, Crash cart, Ventilator are not available.*
12. *Only 2 mobile X-ray machines are available against requirement of 3 as per Regulations.*
13. *ETO sterilizer is not available.*
14. *Faculty list was not provided by the college till 12:15 p.m. D.F. of faculty & Residents who were not present in the morning were included by the college.*
15. *Adequate staff offices are not provided in the departments.*
16. *Play field is an open undeveloped plot. which cannot be considered.*
17. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th batch (100 seats) of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

“8(3)(1).....

(b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year.”

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“Recommended for review by MCI”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	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.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“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.”

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment),2010(Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision to recommend to the Central Govt. not to renew the permission for admission of 5th batch (100 seats) of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

10. Renewal of permission for MBBS course of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the Council Assessors report (05th & 6th December, 2014) alongwith the letter dated 12.12.2014 received from the college authorities and noted the following:-

1. Shortage of teaching faculty – 17.69% as detailed in report.
2. Shortage of Resident Doctors - 45.32% as detailed in report.
3. Lecture theater in the hospital is not available.
4. Students' Hostels: Accommodation available is for 270 students against requirement of 300 as per Regulations. .
5. Residents' Hostel: Accommodation available is for 56 Residents against requirement of 85 as per Regulations. .
6. Audiometry room is not available. Only space is provided.
7. ICUs: SICU is not available. There were only 2 patients each in ICCU & ICU on day of assessment.
8. Radiodiagnosis department: Only 1 mobile X-ray unit is available against requirement of 2 as per Regulations. Dental X-ray machine cannot be equated with mobile X-ray required under these Regulations. Only 2 static X-ray machines are available against requirement of 3 as per Regulations.
9. Blood bank is not functional.
10. ETO sterilizer is not available.
11. Paramedical & Nonteaching staff: available staff is 154 against requirement of 160.
12. Anatomy department: Mounted specimens are only 50.
13. Pathology department: Mounted specimens are only 40.
14. RHTC is under control of State Govt. & not under Dean.
15. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 which reads as under:-

“8(3)(1).....

Colleges in the stage from III renewal (i.e. Admission of fourth batch)till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year.”

The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated nil in the name of Prabhas Kr. Singh which states as under:

1. *.I say that there is no defect in medical college run by the petitioner trust.*
2. *I say that if the above statement is found to be incorrect at the time of next inspection, the deposit of the trust with MCI shall stand forfeited.”*

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

