

**IN THE HIGH COURT OF SIKKIM
CIVIL JURISDICTION**

WP (C) No. 30 OF 2015

1. Sikkim Manipal University(SMU),
Through its Registrar,
5th Mile, Tadong,
Gangtoki, East Sikkim.

2. Sikkim Manipal Institute of Medical Sciences (SMIMS),
Through its Dean, 5th Mile, Tadong,
Gangtok, East Sikkim.

Petitioners

Versus

3. Union of India,
Through the Secretary to the Govt.
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi-110 001.

4. Medical Council of India,
Through the Secretary,
Sector-8, Pocket-14,Phase-I,
Dwarika, New Delhi-110 075.

5. The State of Sikkim,
Through The Secretary to the Govt.,
Dept. of Health & Family Welfare Services,
Government of Sikkim,
Secretariat, Tashiling, Gangtok,
East Sikkim.

6. Axis Bank Ltd.,
Through the Branch Manager,
Rangpo Branch,
NH 31 A Rangpo Main Bazaar,
East Sikkim-737132.

Respondents

PETITIONER/
(ADVOCATE(S))

FOR -----

Mr Tashi Raptan Barfungpa, Ms. Dorjee Uden Nadik,
Ms.Reena Rai and Mr. Pema Rinzing Bhutia

RESPONDENT/
(ADVOCATE(S))

FOR -----

Case No.

Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	26.05.2015	WP(C) No. 30 of 2015 Sikkim Manipal University & Anr. vs Union of India And Ors. <u>BEFORE</u> HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE Present: Mr. Gopal Subramaniam and Mr. Anmol Prasad, Senior Advocates with Mr. Tashi Rapden Barfungpa, Mr. A. Alhuwalia, Ms. Reena Rai and Ms. Dorjee Uden Nadik, Advocates for the Petitioners. Ms. Yangchen D. Gyatso, Advocate for the Respondent No.2. ----- Ms. Yangchen D. Gyatso, Advocate appearing on behalf of the Respondent No.2-MCI, submits that she has no instructions to make any submissions except for seeking 2 (two) weeks' time. Issue notice upon the Respondents returnable in 4 (four) weeks. Let requisites be filed within 2 (two) days as undertaken by Mr. Tashi Rapden Barfungpa, Learned Counsel for the Petitioners. List on 15-07-2015.  Judge 26-05-2015 Index : Yes/No Internet : Yes/No

ds/to

SGPG- 4/Comp 4/High Court / 5000 Nos /14.03.2014

**IN THE HIGH COURT OF SIKKIM
CIVIL JURISDICTION**

CM Appl. No. 128 OF 2015
(In WP(C) No. 30 /2015)

1. Sikkim Manipal University(SMU),
Through its Registrar,
5th Mile, Tadong,
Gangtoki, East Sikkim.
 2. Sikkim Manipal Institute of Medical Sciences (SMIMS),
Through its Dean, 5th Mile, Tadong,
Gangtok, East Sikkim.
- Petitioners

Versus

1. Union of India,
Through the Secretary to the Govt.
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi-110 001.
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Through the Secretary,
Sector-8, Pocket-14, Phase-I,
Dwarika, New Delhi-110 075.
3. The State of Sikkim,
Through The Secretary to the Govt.,
Dept. of Health & Family Welfare Services,
Government of Sikkim,
Secretariat, Tashiling, Gangtok,
East Sikkim.
4. Axis Bank Ltd.,
Through the Branch Manager,
Rangpo Branch,
NH 31-A Rangpo Main Bazaar,
East Sikkim-737132.

Respondents

PETITIONER/
(ADVOCATE(S))

FOR -----

Mr Tashi Raptan Barfungpa, Ms. Dorjee Uden Nadik,
Ms. Recna Rai and Mr. Pema Rinzing Bhutia

RESPONDENT/
(ADVOCATE(S))

FOR -----

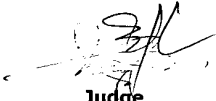
Serial No.	Date	Order (s) with Signature (s)
1	2	3
01.	26.05.2015	BEFORE HON'BLE MR. JUSTICE S. P. WANGDI, JUDGE Present : Mr. Gopal Subramaniam and Mr. Anmole Prasad, Senior Advocates with Mr. A. Ahluwalia, Mr. Tashi Raptden Barfungpa, Ms. Reena Rai and Ms. Dorjee Uden Nadik, Advocates for the Petitioners. Ms. Yangchen D. Gyatso, Advocate for Respondent No.2. ----- Heard. By filing this application, the Petitioner-College seeks for stay of the impugned communications dated 30-03-2015 and 14-05-2015 which it has sought to quash in WP(C) No.30 of 2015 out of which this application arises. In the impugned communications dated 30-03-2015 and 14-05-2015 it has, <i>inter alia</i>, recommended to the Respondent No.1 to ask the Petitioner to show cause as to why recognition already granted for 50 MBBS seats ought not be revoked/withdrawn and also conveying the decision of the Respondent No.2 to invoke/ forfeit the Bank guarantee submitted while making admissions to MBBS course for the year 2014-15 as the deficiencies from that year was said to be persisting. Upon hearing the Learned Senior Counsel for the Petitioner and on examination of the pleadings and the documents filed therewith, the aforesaid recommendations of the Respondent No.2 <i>prima facie</i> appears to be clearly inconsistent with the decisions of the Respondent No.1 for the years preceding 2014-15 when the present arrangement with the STNM Hospital and the facilities available both in that hospital and the Petitioner-College were found to be adequate. Similarly, it also <i>prima facie</i> reveals arbitrariness on the part of the Respondent No.2 as neither the Petitioner nor the State

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		of Sikkim nor the STNM Hospital, appear to have been put to notice about the deficiencies said to exist in the STNM Hospital notwithstanding the fact that the facilities available in the STNM Hospital earlier had not been found to be deficient. Considering the decisiveness and finality in the tone and tenor of the language used in the impugned communications, compliance to the requirement in the last paragraph of the communication dated 14-05-2015 also appear to be an empty formality as the outcome of such seems to be a foregone conclusion. For the reasons aforesaid, an <i>ad interim ex parte</i> order is hereby issued - (i) staying the impugned communications dated 30-03-2015 and 14-05-2015 and restraining the Respondent No.1 from taking any steps or passing any orders or issuing any communication in pursuance of the recommendation of the Respondent No.2 vide the impugned communications; (ii) restraining the Respondent No.4 from taking any steps towards invocation of the Bank guarantee dated 08-07-2010 in pursuance of the demand letter dated 07-04-2015 and subsequent reminders issued to it by the Respondent No.2; and (iii) permitting the Petitioner-College to initiate the admissions for all 100 MBBS students for the academic year 2015-16. It is made abundantly clear that the above shall be subject to what will transpire later in the proceedings.

Sikkim Manipal University
vs.
Union of India and Others

CM Appl No.128 of 2015
In
WP(C) No.30 of 2015

Case No.....

Serial No.	Date	Order (s) with Signature (s)
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		The Respondents are directed to show cause on or before the next date as to why this order shall not be made absolute. List on 15-07-2015 along with WP(C) No.30 of 2015.  Judge 16-07-2015 Index : Yes/No Internet : Yes/No

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