

IN THE SUPREME COURT OF INDIA

ORIGINAL WRIT JURISDICTION

WRIT PETITION (C) NO.411 OF 2017

GLOCAL MEDICAL COLLEGE AND SUPER
SPECIALITY HOSPITAL AND RESEARCH CENTRE PETITIONER(S)

VERSUS

UNION OF INDIA & ANR. RESPONDENT(S)

WITH

M.A.NO.985 OF 2017

IN

WRIT PETITION (C) NO.675 OF 2017

O R D E R

WRIT PETITION (C) NO.411 OF 2017

Heard Mr.Kapil Sibal, learned senior counsel along with Mr.S.G.Hasnain, learned senior counsel for the petitioner and Mr.Maninder Singh, learned Additional Solicitor General for the Union of India and Mr.Vikas Singh, learned senior counsel along with Mr.Gaurav Sharma, learned counsel for the Medical Council of India.

In the course of hearing Mr.Kapil Sibal has drawn our attention to the decision passed by the Central Government on 10th August, 2017 reiterating earlier order. Para 16 and 17 of the said order read as follows:

"16. Now, in compliance with the above direction of Hon'ble Supreme Court dated 1.8.2017, the Ministry granted hearing to the college on 4.8.2017. The Hearing Committee after considering

all the record and oral & written submission of the college submitted its reports to the Ministry. The observations of hearing committee are as under:

No credible proof such as Form-16 & individual bank statement for 11 of the 12 faculty who were not accepted. No explanation for 6 faculty of the list of 53 if only 47 were accepted by MCI.

No credible proof for residents. The 12 residents claimed as available by college could not be considered by MCI since they had day off after night duty. The Committee requested for relevant copies of duty roster which the college could not furnish.

The college has submitted list of 203 in-patients as per MRD records which may be accepted. However, the explanation that patients were having lunch outside the ward in open space due to winters is not acceptable. Further, the college could have provided some case sheets of admitted patients which they did not during the hearing.

9 surgeries for the day as per submission of the college could be accepted. However, it was expected of the college to bring relevant case sheets which they did not.

The case of one patient by the name Naziya was shown in the registers of both surgery and ENT Departments with the same IPD No., age and diagnosis. As per MCI norms separate registers as per OTs should be maintained.

The Committee observed that though there were 9 major surgeries on the day, histopathology was done only for two. This suggests that the college is not following the standard clinical protocol in sending the surgery cases (e.g. cholecystectomy, appendisectomy) for histopathology. This may also create doubt on whether the surgeries were performed at all.

The college produced photograph in support of O.T. The Committee desired for copy of sterility clearance for the OTs which it could not provide.

The Committee observed that one of the patients in ICU bed was not admitted in hospital clothes. This is unusual. The submission of the college regarding labour room, dressing room, Blood Bank etc may be accepted.

In view of the deficiencies and findings as above, the Committee agrees with the decision of the Ministry conveyed by letter dated 31.05.2017 to debar the college for 2 years and also permit MCI to encash bank guarantee.

17. Accepting the recommendations of the Hearing Committee, the Ministry reiterates its earlier decision dated 31.05.2017 to debar the college for a period of two years i.e. 2017-18 and 2018-19 and also to authorize MCI to encash the Bank Guarantee of Rs.2 Crore."

It is urged by Mr.Sibal, learned senior counsel that adequate opportunity was not granted by the Hearing Committee and he has annexed all the documents which will show the compliance of all the deficiencies. Mr.Maninder Singh, learned Additional Solicitor General appearing for the Union of India, inter alia, submitted that the institution did not produce the documents before the Hearing Committee. Similar argument is echoed by Mr.Vikas Singh, learned senior counsel appearing for Medical Council of India.

On a perusal of the material brought on record it is evident that the supporting documents were not produced before the Hearing Committee. Submission of Mr.Sibal, learned senior counsel for the petitioner is that they were required to produce some Forms. Per contra, it is urged by

Mr. Vikas Singh, learned senior counsel that all the basic documents as advised were required to be produced.

In view of the aforesaid, we are only inclined to observe that in such a situation the Hearing Committee would have been well advised to call upon the institution to submit the relevant documents within a definite period of time.

Having said that we do not intend to remit the matter to the Hearing Committee as it is not possible on the part of any authority at present to extend the benefit of Letter of Permission for the academic year 2017-2018. However, regard being had to the totality of facts and circumstances, we direct the applications submitted for the academic year 2017-2018 shall be treated as the applications filed for the academic year 2018-2019. The bank guarantee that has been submitted by the petitioner institution in pursuance of the conditional order passed by the Oversight Committee while granting renewal of Letter of Permission for the academic year 2016-2017 shall not be encashed by the Medical Council of India but the same shall be kept alive. Fresh inspection shall be conducted within a span of three months. The students who have been admitted in pursuance of the letter of permission granted for the year 2016-2017 shall be permitted to continue their studies.

Two aspects we would like to clarify. The institution or college appearing before the Hearing Committee shall carry all the documents what it intends to produce to establish its case before the Hearing Committee. The Hearing Committee shall also think of granting adjournment to enable the institution to produce the documents so that no grievance remains to be agitated in a court of law in that regard.

With the aforesaid observation and directions, the writ petition stands disposed of. No order as to costs.

M.A.No.985/2017 in W.P.(C) No.675/2017

Heard.

We do not see any merit in this application which is accordingly dismissed.

.....CJI.
(DIPAK MISRA)

.....J.
(A.M.KHANWILKAR)

.....J.
(DR.D.Y.CHANDRACHUD)

NEW DELHI,
SEPTEMBER 18, 2017.

ITEM NO.76 + 86 COURT NO.1 SECTION X
 S U P R E M E C O U R T O F I N D I A
 RECORD OF PROCEEDINGS

Writ Petition(s) (Civil) No(s).411/2017

GLOCAL MEDICAL COLLEGE AND SUPER
 SPECIALITY HOSPITAL AND RESEARCH CENTRE

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

With

M.A.No.985/2017 in W.P. (C) No.675/2017

Date : 18-09-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
 HON'BLE MR. JUSTICE A.M. KHANWILKAR
 HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s)

Mr.Kapil Sibal, Sr.Adv.
 Mr.Salman Khurshid, Sr.Adv.
 Mr.S.G.Hasnain, Sr.Adv.
 Mr.Mohd. Zahid Hussain, Adv.
 Mr.Nizan Pasha, Adv.
 Ms.Lubna Naaz, Adv.
 Ms.Kunika, Adv.
 Ms.Kamna Singh, Adv.
 Mr.Kamal Mohan Gupta, Adv.
 Mr.Umang Tripathi, Adv.

Mr.Anoop G. Chaudhari, Sr.Adv.
 Mr.Deepak Chandna, Adv.
 Mr.H.D.Mishra, Adv.
 Mr.Mohan Pandey, Adv.
 Mr.Sumeeta Chaudhari, Adv.
 Mr.June Chaudhari, Sr.Adv.

Mr.Rakesh K. Sharma, AOR

Mr.Amit Kumar, AOR

For Respondent(s)

Mr.Maninder Singh, ASG
 Mr.R.K.Rathore, Adv.
 Ms.Vibhu Shanker Mishra, Adv.
 Mr.G.S.Makker, Adv.
 Dr.Nishesh Sharma, Adv.

Mr.Vikas Singh, Sr.Adv.
Mr.Gaurav Sharma, Adv.
Mr.Dhawal Mohan, Adv.
Ms.Amandeep Kaur, Adv.
Mr.Prateek Bhatia, Adv.
Ms.Deepika Kalia, Adv.
Ms.Srishti Banerjee, Adv.
Mr.Kapish Seth, Adv.

Mr.Gurmeet Singh Makker, AOR

UPON hearing the counsel the Court made the following
O R D E R

W.P.(Civil) No.411/2017

The writ petition stands disposed of in terms of the
signed order.

M.A.No.985/2017 in W.P.(C) No.675/2017

M.A.No.985/2017 is dismissed in terms of the signed
order.

(Ashok Raj Singh)

Court Master

(Signed Order is placed in the file)

(Shakti Parkash Sharma)

Asstt. Registrar