A BIHAR STATE COUNCIL OF AYURVEDIC AND UNANI MEDICINE

v.

STATE OF BIHAR AND ORS.

B NOVEMBER 1, 2007

[B.N. AGRAWAL AND P.P. NAOLEKAR, JJ.]

Bihar Development of Ayurvedic and Unani Systems of Medicine
C *Act, 1951/Indian Medicine Central Council Act, 1970 with Amending Act of 2003; Ss.2(e), 2(f), 13(A), 13(B) & 13(C) and Schedule-II/Bihar Indigenous Medical Educational Institution (Regulation & Control) Act, 1982; Ss.3, 5, 9, 11 & 13:*

D *Graduate of Ayurvedic Medicine & Surgery (GAMS) Degree—Consideration for the purpose of admission to higher course of study/employment—Degree conferred by State University/Institution in terms of 1951 Act prior to introduction of S.13(A), (B) & (C) by way of amendment in 1970 Act and also before enforcing of 1982 Act*
E *without obtaining permission to continue in terms of provisions thereunder—Legality of—Held: 1951 Act is a complete code for recognizing and granting affiliation to indigenous medical Institution by State Faculty of Ayurvedic and Unani Medicines—No provision found in 1982 Act which takes away the degree already conferred by the Faculty under 1951 Act and also accepted to be recognized degree*
F *under 1970 Act—Hence, the degree so granted will not be ipso facto illegal merely on ground that no permission sought for by the College/Institution—Following the principles of interpretation, on reasonable construction of various provisions under 1970 Act, the provisions whereby medical qualification granted to any student by the College/*
G *Institution without obtaining permission to continue would not be deemed to be a recognized qualification, would not apply—The degree legally conferred prior to commencement of Amending Act shall be treated as recognized degree—Hence, GAMS degree conferred on appellant shall be treated as a recognized degree for the purpose of*
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admission to higher course of study and for employment— Interpretation of Statutes.

Interpretation of Statutes:

General construction of words used in the provisions under the Act—Causing palpable injustice—Jurisdiction of Court to place reasonable limitation—Discussed.

The questions which arose for determination before this Court in these appeals were as to whether with the introduction of the Bihar Indigenous Medical Educational Institution (Regulation and Control) Act, 1982, the students who had studied in the colleges which were not recognized under the provisions of 1982 Act could be conferred with Graduate of Ayurvedic Medicines & Surgery (GAMS) degree by the State Faculty of Ayurvedic & Unani Medicines, and if such degrees were conferred what shall be the fate of the degrees; and what would be the effect of Sections 13(A), 13(B) and 13(C) introduced by way of Amendment Act, 2003 in the Indian Medicines Central Council 1970 Act, on the degrees conferred on the students who had studied in these colleges/Institutions which did not seek for or had not been given permission to continue these Colleges/ Institutions in terms of provisions under Section 13(C) of the 1970 Act.

Appellants contended that the colleges which are affiliated to the Faculty under the Bihar Development of Ayurvedic and Unani System of Medicines Act, 1951 do not require any approval from the State Government to start or to continue the educational institution or to run the courses of study in indigenous system of medicine leading to the degree, diploma etc., as included in Second Schedule of the 1970 Act, as the 1951 Act is a self-contained code.

Respondents submitted that after Bihar Indigenous Medical Educational Institution (Regulation & Control) Act, 1982 came into force, all colleges which were affiliated to the Faculty or which have to be opened, require permission of the State Government for opening or continuing them for imparting education in indigenous system of medicine; that in case, any college or the educational

A institutions continues the educational facility, imparting education in indigenous system of medicine without granting permission in terms of the provisions of 1982 Act, would run the risk to their students of not being conferred with a recognized degree and penalties as provided under the 1982 Act; that after the introduction B of 1982 Act the power of the Faculty to grant affiliation is circumscribed by the requirement of the State Government's permission to open the college imparting education in Ayurvedic and Unani systems of medicine; that after coming into force of the Indian Medicine Central Council (Amendment) Act, 2003, if any medical C college established on or before the commencement of the Amending Act does not seek permission of the Central Government within the period of three years from its commencement, the medical qualification granted to any student of such medical college shall not be deemed to be a recognized medical qualification for the purposes D of the 1970 Act; and that the colleges from where the appellant-students were educated having not sought permission from the Central Government under the 1970 Act, the GAMS degree conferred on them shall not be a recognized medical qualification for the purposes of the 1970 Act, as a result whereof they are not E eligible for admission for higher course of study or for employment on the basis of the GAMS degree conferred on them.

Allowing the appeals, the Court

HELD:1.1. Bihar Development of Ayurvedic and Unani System F of Medicines Act, 1951 has not been repealed by Indian Medicine Central Council Act, 1970, the Central Act, nor it is the submission of counsels appearing for respective parties that the provisions of the 1951 Act, in regard to conferment of Graduate of Ayurvedic Medicines & Surgery (GAMS) degree, are repugnant to the G provisions of the 1970 Act. The Second Schedule in the 1970 Act itself recognizes GAMS degree given by the State Faculty of Ayurvedic and Unani Medicines, Patna, Bihar from 1953 onwards and thus it cannot be said that the course prescribed by the Faculty for conferment of a degree of GAMS is de-recognised under the 1970 Act. The 1970 Act read with regulations made thereunder H

prescribes course for conferment of a degree of Bachelor of Ayurvedic Medicine and Surgery (BAMS) by a University, whereas the 1951 Act prescribes course for conferment of a GAMS degree by State Faculty. Degree conferred by a university and degree conferred by a faculty are different for which separate courses have been prescribed. The 1951 Act having not been repealed by the 1970 Act, or till the Second Schedule is not amended de-recognising the degree of GAMS, the degree of GAMS given by the State Faculty will remain intact. [Para 11] [839-D, E, F, G; 840-A]

1.2. The 1951 Act with its rules and regulations, is a complete code for recognizing and granting affiliation to indigenous medical institutions by the Faculty, provide the course of study in the institutions, and regulate the functioning of the institutions affiliated to the Faculty. The Faculty while exercising its powers has to abide by the conditions laid down in the rules and regulations. [Para 11] [840-A, B]

1.3. The 1951 State Act is consistent with the 1970 Central Act in regard to granting of the GAMS degree, as the degree granted under the 1951 State Act is still recognized under the 1970 Act, the Central Act. The 1951 State Act and the 1970 Central Act are complementary to each other. The Faculty comes under the definition of `medical institution' under Section 2(f) of the 1970 Central Act and GAMS degree awarded by the Faculty is a recognised medical qualification under Section 14 of the 1970 Central Act. The Second Schedule of the 1970 Act grants authority to the Faculty to grant GAMS degree. The High Court has, therefore, clearly committed an error in holding that after the BAMS degree has been introduced, GAMS degree issued by the Faculty was de-recognised in operation after the 1970 Act came into force. [Para 12] [840-C, D, E]

1.4. The State Faculty of Ayurvedic and Unani Medicines (Faculty) under the provisions of 1951 Act has been empowered with the power to affiliate institutions which are imparting education in Ayurvedic and Unani systems of medicine. [Para 15] [842-B]

2.1. It is apparent from the provisions under the Bihar

A **Indigenous Medical Educational Institution (Regulation and Control) Ordinance, 1981 and Bihar Indigenous Medical Educational Institution (Regulation and Control) Act, 1982, that Governing Body or the Organizing Committee or any body or institution intending to start any course of study in indigenous system of medicine is required**
B **to seek permission of the State Government to open a private medical college or medical institution for admitting the students to be conferred with a degree, diploma, etc., as included in the Second Schedule of the 1970 Act. It is only the Governing Body or the Organising Committee or any body or institution which has been**
C **permanently affiliated to any University in the State of Bihar which is exempted from the provisions of the 1981 Ordinance or the 1982 Act. Institutions already imparting education in indigenous system of medicine are required to take permission after coming into force of the 1982 Act. [Para 18] [844-B, C, D]**

D **2.2. It is also apparent that the 1982 Act is supplementary to the 1951 Act. The 1951 Act although provides for the inspection of the institutions which have to be affiliated to the Faculty, does not lay down that the conditions laid down by the Central Council of Indian Medicine (CCIM) are to be followed and adhered to. That has been**
E **provided under the 1982 Act. So the colleges or the institutions which want to impart education in the indigenous system of medicine have not only to follow the conditions laid down by the Faculty or the Council under the 1951 Act, but also under the 1982 Act. The college or the institution after the Act came into force cannot continue without the**
F **permission of the State Government as contemplated in the 1982 Act. [Para 19] [845-A, B]**

2.3. No provision is found in the 1982 Act which takes away the degree already granted to the students conferred by the Faculty,
G **recognized under the 1951 Act, and is being accepted to be a recognized degree under the 1970 Act. Therefore, by virtue of introduction of the 1982 Act, it cannot be said that the degrees conferred on the students who have studied in the colleges which have not been granted permission by the State Government as**
H **required under the 1982 Act, will be *ipso facto* illegal and could not**

be given effect to. However, it is clarified that any body, agency, college or institution which has not sought permission from the State Government would not be granted affiliation by the Faculty under the 1951 Act and the State Government shall take appropriate steps under the 1982 Act if any such body, agency, college or institution is/are functioning without the permission of the State Government as required under the 1982 Act. [Para 20] [845-D, E, F]

3.1. From the provisions u/s. 13A, (B) & (C) of the 1970 Act as introduced by the Amending Act, 2003, it is apparent that an application seeking permission for opening a medical college has to be moved by a person which also includes the university or a trust or a medical college or those which are already running the medical college when the Amending Act came into force. Section 13A nowhere provides that the students who have studied in the medical colleges would be eligible to seek permission of the Central Government under that Section. Section 13A or Section 13B or Section 13C nowhere contemplates moving of an application by the students to take steps under Section 13A of the Act.

[Para 22] [849-F, G; 850-A]

3.2. The provisions of Sections 13A, 13B and 13C of the 1970 Act, if given retrospective operation, the medical qualification acquired from the study in the medical colleges which have been opened prior to the commencement of the Amending Act of 2003 and conferred medical qualification on the students who studied in such medical colleges, the degrees so conferred in the absence of the permission of the Central Government would be *non est* though there is no fault on the part of the students who have studied in the institutions which are recognized and affiliated to the Faculty under the 1951 Act. [Para 23] [850-E, F]

4.1. Where the legislature has used words in an Act which if generally construed, must lead to palpable injustice and consequences revolting to the mind of any reasonable man, the Court will always endeavour to place on such words a reasonable limitation, on the ground that the legislature could not have intended such consequence to ensue, unless the express language in the Act

A **or binding authority prevents such limitation being interpolated into the Act. In construing an Act, a construction ought not be put that would work injustice, or even hardship or inconvenience, unless it is clear that such was the intention of the legislature. [Para 24]**

B **4.2. It is also settled law that where the language of the legislature admits of two constructions and if construction in one way would lead to obvious injustice, the Courts act upon the view that such a result could not have been intended, unless the intention had been manifested in express words. Out of the two interpretations, that language of the statute should be preferred to that interpretation** C **which would frustrate it. It is a cardinal rule governing the interpretation of the statutes that when the language of the legislature admits of two constructions, the court should not adopt the construction which would lead to an absurdity or obvious injustice. [Para 24] [850-G; 851-A]**

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4.3. It is equally well settled that within two constructions that alternative is to be chosen which would be consistent with the smooth working of the system which the statute purported to be regulating and that alternative is to be rejected which will introduce uncertainty, E **friction or confusion with the working of the system. [Para 24] [851-A, B]**

Collector of Customs **v.** *Digvijaysinhji Spinning & Weaving Mills Ltd.,* **[1962] 1 SCR 896 and** *His Holiness Kesvananda Bharati* **v.** *State of Kerala,* **AIR (1973) SC 1461, relied on.**

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4.4. The Court must always lean to the interpretation which is a reasonable one, and discard the literal interpretation which does not fit in with the scheme of the Act under consideration. [Para 25] [851-C]

G *Narashimaha Murthy* **v.** *Susheelabai,* **[1996] 3 SCC 644;** *American Home Products Corporation* **v.** *Mac Laboratories Pvt. Ltd. and Anr.,* **AIR (1986) SC 137 and** *State of Punjab* **v.** *Sat Ram Das,* **AIR (1959) Punj. 497, referred to.**

H **5.1. The amendment brought about in the 1970 Act in 2003 by**

introduction of Sections 13A, 13B and 13C are the provisions for continuance of the institution which has not obtained prior permission of the Central Government and, therefore, time limit of three years has been provided under Section 13C to regularize the institution's affairs as required under the Act by seeking permission of the Central Government. Insertion of Section 13A in the 1970 Central Act has regulated the opening of an indigenous medical college. The *non-obstante* clause clearly indicates that a medical institution cannot be established except with the prior permission of the Central Government. Under Section 13B, any medical qualification granted by the colleges established without the prior permission of the Central Government is not a recognized medical qualification. The reasonable reading of Section 13C(1) puts the existing colleges at par with the new colleges as both of them are required to seek permission within three years from the commencement of the Amending Act. The phrase 'on or before' has made it clear that the existing colleges are also required to seek permission and there is no exemption. [Para 27] [852-A, B, C, D]

5.2. Section 13C(2) of 1970 Act, however, does not say that the effect of non-permission by the Central Government to the existing colleges after the Amending Act came into force would render the medical qualifications already granted by the existing colleges before the insertion of Sections 13A, 13B and 13C in 2003, un-recognised. The whole spectrum of the amendment brought about by introducing Sections 13A, 13B and 13C indicates that it has an application from the date they have been introduced by an amendment in the 1970 Central Act. [Para 27] [852-F, G]

5.3. The effect of the amendment brought about is clear that all the medical colleges which are in existence or the medical colleges which have to be established should compulsorily seek permission of the Central Government within the period provided and on failure to get the permission of the Central Government the medical qualification granted to any student of such medical college shall not be a recognized medical qualification for the purposes of the 1970 Act. The established colleges are also required to seek

permission of the Central Government for the medical qualification to be recognized medical qualification but it would not mean that the already conferred medical qualification of the students studied in such previously established medical colleges would not be a recognised medical qualification under the 1970 Act. [Para 27]

5.4. On a reasonable construction of provisions under various Sections of 1970 Act, it is held that the provisions of Section 13B whereby the qualification granted to any student of a medical college would not be deemed to be a recognized medical qualification would not apply. When a degree has been legally conferred on the students prior to the commencement of the Amending Act of 2003, it shall be treated as a recognized degree although the medical college has not sought permission of the Central Government within a period of three years from the commencement of the Amending Act of 2003. The GAMS degree conferred on the appellant-students shall be treated as a recognized degree for the purposes of taking admission to the higher courses of study and also for the purposes of employment. [Paras 28 and 29] [853-B, C, D, E]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4643 of 2003.

From the final Order and Judgment dated 12.12.2001 of the High Court of Judicature at Patna in L.P.A. No. 463 of 2000.

WITH

C.A. Nos. 4644-4645 and 4646 of 2003.

S.B. Sanyal, Akhilesh Kumar Pandey, Sudhanshu Saran, Ranjana Narayan, Shefali Jain, Ranjan Mukherjee, S.C. Ghosh, M. Qamaruddin, M. Qamaruddin, Ambar Qamaruddin, Anukul Raj, Gopal Singh, Rituraj Biswas, Shrish Kumar Misra and Navin Prakash for the appearing parties.

The Judgment of the Court was delivered by

P.P. NAOLEKAR, J. 1. The brief facts of the case are that six petitioners in CWJC No. 7253 of 1998 before the Patna High Court who had obtained GAMS (Graduate of Ayurvedic Medicine and Surgery)

degree from the State Faculty of Ayurvedic and Unani Medicines (for short "the Faculty") established under Section 17 of the Bihar Development of Ayurvedic and Unani Systems of Medicine Act, 1951 (for short "the 1951 Act") were not permitted to appear in the examination for admission in Post Graduate Course in Ayurved leading to award of Degree of Doctor of Medicine in Ayurved. It was the case of the petitioners that they had passed the GAMS examination conducted by the Faculty under the 1951 Act and were conferred GAMS degree by the Faculty and, thus, they were qualified to appear in the examination for obtaining the Degree of Doctor of Medicine in Ayurved. After service of notice, the respondents entered appearance and the State filed reply wherein the stand taken by the State was that GAMS Degree obtained by the petitioners in 1997 was not valid and recognized degree because according to the letter dated 4.7.1998 sent by the Secretary, Central Council of Indian Medicine (for short "CCIM"), GAMS course was no longer recognized by the CCIM. The respondent-CCIM alleged that in accordance with the requirements of the Indian Medicine Central Council Act, 1970 (for short "the 1970 Act"), CCIM had prescribed regulations providing for BAMS (Bachelor of Ayurvedic Medicine and Surgery) course at graduate level and MD(Ay.) course at post-graduate level, and only the course prescribed by CCIM is to be conducted by the universities and the prescribed degree can only be awarded by them as per the 1970 Act. It was also the case of the respondents that after the Bihar Indigenous Medical Educational Institution (Regulation and Control) Act, 1982 (for short "the 1982 Act"), the GAMS degree could only be recognized if it is conferred on the students who had studied from the colleges recognized under the 1982 Act.

2. On the pleadings of the parties, the High Court considered the case on the aspect whether the Faculty under the 1951 Act has unqualified right to grant affiliation to such institutions or colleges which are not following the BAMS course prescribed by CCIM through regulations under the 1970 Act and further whether the provisions of the 1982 Act which seek to regulate institutions imparting training in Ayurvedic and Unani Systems of Medicine shall cover and regulate even those institutions which have been granted affiliation by the Faculty. The High Court held that the system of course for GAMS had come to an end for quite some

A time and BAMS course has been followed as per the regulations of CCIM; hence, only on the basis of a continued entry in the Second Schedule of the 1970 Act which recognized GAMS degree, which is in the view of the High Court is archaic, no right can be found in the person or institution to ignore the course validly prescribed by the competent authority-CCIM. B The High Court further held that the 1982 Act aims at curing a rampant evil in concerned colleges in the State of Bihar and hence the State Government was given control in the matter of making queries into the standard of educational institutions teaching Indian system of medicine, and thereafter proceeding for recognition of the institution under the 1982 C Act. It was held that when the petitioners who obtained GAMS degrees had studied in the educational institutions which have not followed course prescribed by CCIM, the statutory central authority, and further when such institutions have been run in total contravention and violation of the 1982 Act, they are not entitled to for issuance of any writ from the court.

D 3. Another writ petition being CWJC No. 825 of 1998 filed by Pramila Kumari & Ors. in the Patna High Court challenged the order whereby they had not been allowed to compete in the selection for appointment to the post of Ayurvedic Medical Officer on the basis that they were the holders of GAMS degree from the Bihar State Faculty, E which was claimed to be a recognized degree by the CCIM. The petitioners sought relief that they be permitted to fill up the forms and to take part in the examination and further for declaration that GAMS degree granted by the Faculty was equivalent to BAMS degree granted by a recognized University of the State.

F 4. The learned Single Judge differed with the view taken by the court in CWJC No. 7253 of 1998 and held that Faculty has been created under the 1951 Act, much prior to the promulgation of the 1982 Act, the powers under the 1951 Act of granting GAMS degree by the Faculty is also G recognized under the 1970 Central Act as per Second Schedule thereof. The court was also concerned with the fate of the students who had been conferred GAMS degree by a body created under the 1951 Act and the degree has been saved by recognizing it under the 1970 Central Act. In this view, the matter was directed to be placed before a Division Bench after necessary orders of Hon'ble the Chief Justice.

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5. The judgment of the learned Single Judge in CWJC No. 7253 of 1998 was challenged by filing LPA No. 451 of 2000 by only one petitioner, namely, Dr. Sudhir Kumar Singh and other petitioners were impleaded in the case as respondents. Also the Bihar State Council of Ayurvedic and Unani Medicine aggrieved by the judgment in CWJC No. 7253 of 1998, filed another letters patent appeal which was registered as LPA No. 463 of 2000. CWJC No. 825 of 1998 was placed along with the LPAs before the Division Bench for decision. The writ petitioners re-asserted their submissions before the Division Bench that they had completed the course of GAMS degree and passed examination conducted by the Faculty under the 1951 Act. As per Second Schedule of the 1970 Act, a central Act, which contains State-wise entries, entries Nos. 6 to 9A relate to the institutions/universities of Bihar which recognize GAMS degree under entry No. 6 from 1953 onwards. It was submitted that as the degree conferred on the writ petitioners is a recognized degree on the basis of the said entry in the 1970 Act, they were entitled to appear for entrance test to the post-graduate course and also for consideration for appointment to the post of Ayurvedic Medical Officers on the basis of GAMS degree which they were holding.

6. The Division Bench agreed with the reasoning adopted by the learned Single Judge in CWJC No 7253 of 1990 and held that under the scheme of the 1970 Act as well as the Bihar Indigenous Medical Educational Institution (Regulation and Control) Ordinance, 1981 which was replaced by Bihar Act 20 of 1982, the CCIM was authorised to prescribe the course of studies in the system of medicine so that the Indian system of medicine may maintain uniformity and standard of teaching all over the country, which has been sought to be achieved by the regulations framed under the 1970 Act. The Division Bench also agreed with the learned Single Judge that the course of study of GAMS had come to an end and had been replaced by BAMS course, much before the writ petitioners acquired their GAMS degree. The Court approved the decision of the learned Single Judge whereby he had come to the conclusion that the 1982 Act has been enacted to regulate the indiscriminate opening of indigenous medical institutions in the State by persons of bodies registered under the Societies Registration Act, 1960 and had in fact commercialized the system of education in indigenous medicine; therefore, the institutions

A which are not recognized by the State under the 1982 Act could not impart the study in Ayurvedic medicine. It was held that the State authorities under the 1982 Act have rightly taken the follow-up action. On these findings being arrived at by the Division Bench, no merit was found in the LPAs and the writ petition, which were dismissed by the B Division Bench. Aggrieved by the order dated 12.12.2001 passed by the Division Bench in the LPAs and the WP, the appellants, namely, Bihar State Council of Ayurvedic and Unani Medicine (in Civil Appeal No.4643/ 2003), Dr. Sudhir Kumar Singh & Ors. (in Civil Appeal Nos. 4644-46 of 2003) and Ashok Kumar Singh & Ors. (in Civil Appeal No. 4646 of C 2003) are before us by special leave.

7. It is an admitted fact before us that the writ petitioners have studied from Ramjee Prasad, Ram Kumari Devi @ Marni Devi Ayurvedic Medical College & Hospital, Fatuha and Shrihari Shakuntalayam Ayurvedic Medical College, Muzaffarpur, Bihar. The said colleges were granted D affiliation by the Faculty on 19.8.1995 with retrospective effect from the session commenced in 1992 and they are recognized under the 1951 Act.

8. The Bihar Development of Ayurvedic and Unani Systems of Medicine Act, 1951 received the assent of the President on 12.9.1951 E and the assent was first published in the Bihar Gazette, Extraordinary, dated 17.10.1951. This Act was enacted to provide for the development of the ayurvedic and Unani systems of medicine, to regulate their teaching and practice, and to control the sale of indigenous medicinal herbs and drugs in the State of Bihar. In exercise of powers under Section 3, the F State Government shall, by notification, constitute a Council to be called the Bihar State Council of Ayurvedic and Unani Medicines, which shall consist of a President and the Members mentioned in clauses (a) to (n) of Section 3 (1). Under Section 17 of this Act, the Council shall establish a State Faculty of Ayurvedic and Unani Medicines for the purposes of G the Act which shall consist of a Chairman and the Members enumerated in clauses (a) to (d) of Section 17 (1). Under clause (d) of sub-section (2) of Section 17, it shall be the duty of the Faculty to recognize educational or instructional institutions of the Ayurvedic and Unani systems of medicine for purposes of affiliation. Under clause (b) of Section 17(2), the Faculty is authorized to hold examination and grant certificates to, and H

confer degrees or diplomas on, persons who shall have pursued a course of study in the institutions affiliated to the Faculty. Section 37 of this Act authorizes the Council to establish educational institutions, prescribe courses of study, etc. subject to the rules as may be prescribed by the State Government in this behalf. Section 37 clothes the Council with power to establish its own educational or instructional institutions for the purpose of conducting courses of Ayurvedic and Unani systems of medicine. Under Section 54, the Council is authorized to make regulations subject to the provisions of the Act and the rules made by the State Government.

9. Looking into the aforesaid provisions, it is clear to us that the Council constituted by the State Government under the 1951 Act shall establish a State Faculty under Section 17 which shall have the authority to recognize educational or instructional institutions of Ayurvedic and Unani systems of medicine, to conduct examinations of the persons studying in such affiliated institutions, and to grant certificates and confer degrees or diplomas.

10. Under Section 54 of the 1951 Act, the Council has framed regulations called the Bihar Development of Ayurvedic and Unani Systems of Medicines Regulations, 1959. Regulation 16 thereof provides for courses of study for the Degree (Graduate of Ayurvedic Medicine and Surgery) (GAMS). Thus, the Faculty established by the Council under the 1951 Act has been authorized to recognize the educational institutions or instructional institutions of Ayurvedic and Unani Systems of Medicine and affiliate them to the Faculty. The Faculty is also authorized to conduct examinations and confer degree of GAMS.

11. The Indian Medicine Central Council Act, 1970 (Central Act) provides for constitution of a Central Council of Indian Medicine (CCIM) and the maintenance of a Central Register of Indian Medicine and for matters connected therewith. This Act was enacted by the Parliament and came into force on 21.12.1970. Introduction to this Act reads as under:

> "To consider problems relating to the Indian system of medicine and Homoeopathy a number of Committees were appointed by the Government of India, which had recommended that a statutory Central Council on the lines of the Medicinal Council of India for

A modern system of medicine should be established for the proper development of these systems of medicine (Ayurveda, Siddha and Unani). In June, 1966 the Central Council of Health at its 13th meeting, while discussing the policy on Ayurvedic education, recommended the setting up of a Central Council for Indian system B of medicine to lay down and regulate standards of education and examinations, qualifications and practice in these systems. On the basis of the above recommendations the Indian Medicine Central Council Bill was introduced in the Parliament."

C Sections 13A, 13B and 13C with their sub-sections have been substituted by the Indian Medicine Central Council (Amendment) Act, 2003 (No. 58 of 2003) w.e.f. 7.11.2003, which prescribe for the permission for establishment of new medical colleges, new courses of study, etc.; non-recognition of medical qualifications in certain cases; and time for seeking permission of the Central Government for certain existing or new medical D colleges. We shall deal with these Sections in detail when we take up the submissions of the counsel of the effect of these Sections on the GAMS degree conferred on the students prior to coming into force of Amending Act 58 of 2003. Section 14 falling in Chapter III of the 1970 Central Act provides for recognition of the medical qualifications granted by any E university, board or other medical institution in India which are included in the Second Schedule. The Second Schedule provides for the recognized medical qualifications, i.e. degrees/diplomas, awarded by the States/ Boards/Faculties/Universities before the constitution of the Central Council of Indian Medicine. Under the 1970 Act, the CCIM is competent to F prescribe the minimum standard of education including curriculam and syllabi as well as other requirements like hospital, library, students hostel, staff for college, staff for hospital, library, herbal garden, requirements of various departments of colleges, etc. The Second Schedule prescribes the institutions/colleges and the medical qualifications which are recognized G under the Act for the different States. For the State of Bihar, item No. 6 of the Second Schedule reads as under:

A GAMS given by the State Faculty is de-recognised under the 1970 Act. The 1951 State Act with its rules and regulations, is a complete code for recognizing and granting affiliation to indigenous medical institutions by the Faculty, provide the course of study in the institutions, and regulate the functioning of the institutions affiliated to the Faculty. The Faculty while B exercising its powers has to abide by the conditions laid down in the rules and regulations.

12. The 1951 State Act is consistent with the 1970 Central Act in regard to granting of the GAMS degree, as the degree granted under the C 1951 State Act is still recognized under the 1970 Central Act. The 1951 State Act and the 1970 Central Act are complementary to each other. The Faculty comes under the definition of 'medical institution' under Section 2 (f) of the 1970 Central Act and GAMS degree awarded by the Faculty is a recognised medical qualification under Section 14 of the D 1970 Central Act. The Second Schedule of the 1970 Act grants authority to the Faculty to grant GAMS degree. The High Court has, therefore, clearly committed an error in holding that after the BAMS degree has been introduced, GAMS degree issued by the Faculty was de-recognised or not in operation after the 1970 Act came into force.

E 13. The question, however, is whether with the introduction of the Bihar Indigenous Medical Educational Institution (Regulation and Control) Act, 1982, the students who have studied in the colleges which were not recognized under the said 1982 Act could be conferred with GAMS degree by the Faculty, and if such degrees are conferred what shall be F the fate of the degrees conferred on such students? We would also be required to consider the effect of the Indian Medicine Central Council (Amendment) Act, 2003, particularly Sections 13A, 13B and 13C which have been substituted by way of amendment in the 1970 Act and came into force on 7.11.2003, on the degrees conferred on the students who G have studied in the colleges which have not sought or have not been given permission as required under Section 13C of the 1970 Act to open the college or continue the college, by the Central Government.

14. It is urged by the learned counsel for the appellants that the

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"Name of Universities, Board or Medical Institution	Recognised Medical Qualifications	Abbreviation for Registration	Remarks
xxx	xxx		xxx
Bihar			
6. State Faculty of Ayurvedic and Unani Medicines, Patna, Bihar.	Graduate in Ayurvedic Medicine and Surgery	G.A.M.S.	From 1953 onwards.
xxx	xxx		xxx"

Under the 1970 Act, the State Faculty established under the Bihar State Council of Ayurvedic and Unani Medicines (appellant in LPA No. 463 of 2000 and appellant in Civil Appeal No. 4643 of 2000) is empowered to confer a degree of Graduate in Ayurvedic Medicine and Surgery (GAMS) from 1953 onwards. It is an admitted fact that the 1951 Act has not been repealed by the 1970 Central Act nor it is the submission of any counsel appearing for respective parties that the provisions of the 1951 Act, in regard to conferment of GAMS degree, are repugnant to the provisions of the 1970 Act. The Second Schedule in the 1970 Act itself recognizes the GAMS degree given by the State Faculty of Ayurvedic and Unani Medicines, Patna, Bihar from 1953 onwards and thus it cannot be said that the course prescribed by the Faculty for conferment of a degree of GAMS is de-recognised under the 1970 Act. The 1970 Act read with regulations made thereunder prescribes course for conferment of a degree of BAMS by a University, whereas the 1951 Act prescribes course for conferment of a GAMS degree by State Faculty. Degree conferred by a university and degree conferred by a faculty are different for which separate courses have been prescribed. The 1951 Act having not been repealed by the 1970 Act, or till the Second Schedule is not amended de-recognising the degree of GAMS, the degree of GAMS given by the State Faculty will remain intact. No amendment has been brought about till today whereby the degree of

colleges which are affiliated to the Faculty under the 1951 Act do not require any approval from the State Government to start or to continue the educational institution or to run the courses of study in indigenous system of medicine leading to the degree, diploma etc., as included in Second Schedule of the 1970 Act, as the 1951 Act is a self-contained code. Whereas, it is the submission of the learned counsel for the respondents that after the Ordinance of 1981 and the Act of 1982 came into force, all colleges which are affiliated to the Faculty or which have to be opened after the Ordinance of 1981 and the Act of 1982 came into force, require permission of the State Government for opening or continuing the colleges or institution running the colleges, imparting education in indigenous system of medicine. If any college or the educational institution running the college continues the educational facility, imparting education in indigenous system of medicine leading to the degree, diploma etc., as included in the Act of 1982 without permission, would run the risk to their students of not being conferred with a recognized degree and penalties provided under the 1982 Act. The counsel further submits that after the introduction of 1982 Act the power of the Faculty to grant affiliation is circumscribed by the requirement of the State Governments permission to open the college imparting education in Ayurvedic and Unani systems of medicine.

15. Under the 1951 Act, Section 17 provides for the establishment of the Faculty. Sub-section (2) of Section 17 provides : it shall be the duty of the Faculty to prescribe the course of study and curricula for general instructions, or special refresher courses, in institutions affiliated to the Faculty. By virtue of clause (d) of sub-section (2) of Section 17, the Faculty is to recognize educational or instructional institutions of the Ayurvedic and Unani systems of medicine for purposes of affiliation. The manner in which the affiliation is to be given is provided in Chapter II of the 1959 Regulations whereunder an application for affiliation of an institution shall be made to the Registrar, State Council of Ayurvedic and Unani Medicines, Bihar. After the application is received for affiliation, the Faculty will scrutinize the application and if it is satisfied on the basis of the material supplied in the application or otherwise that the institution proposed to be affiliated has nearly fulfilled or is likely to fulfill all the

A conditions imposed by the Council established under the Act and is likely to run efficiently, it would depute an Inspector to visit the institution, make inquiry and report back to the Faculty. After the completion of the inquiry and submission of the inspection report, the Faculty shall give recognition to the institution either permanently or provisionally for a limited period
B or may reject it. The decision of the Faculty shall be communicated to the institution concerned as soon as possible. It is clear from the aforesaid provisions that the Faculty under the 1951 Act has been empowered with the power to affiliate institutions which are imparting education in Ayurvedic and Unani systems of medicine.

C 16. The Bihar Indigenous Medical Educational Institution (Regulation and Control) Ordinance, 1981 which provides for regulation and control of educational institutions of indigenous system of medicine in the State of Bihar was promulgated on 16th November, 1981. Preamble to the Ordinance reads as under :-

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"Whereas, the Legislature of the State of Bihar is not in session;

And, whereas, the Governor of Bihar is satisfied that inspite of repeated warnings from Government through Press Notes and Notices unregulated and indiscriminate opening of Indigenous
E Medical Educational Institutions in this State by persons or bodies registered under the Societies Registration Act, 1960 or otherwise without providing for adequate teaching facilities is hampering the cause of Indigenous Medical Education and is highly detrimental to the interest of students, admitted to such institutions after charging
F heavy capitation fee or donation and as such the circumstances exist which render it necessary to prescribe for regulation and control on the opening of College or Institutions of Indigenous System of Medicine in the State of Bihar;..."

G 17. The Ordinance was later replaced by introduction of the Act, viz., the Bihar Indigneous Medical Educational Institution (Regulation and Control) Act, 1981 (Act 20 of 1982) which came into force on 21st January, 1982. Section 3 of the Act requires the Governing Body or Organizing Committee or any body or institution intending to start medical
H course of study of indigenous system of medicine, along with requisite

information regarding the study, to apply to the State Government in the Health Department. A

18. Section 5 contemplates that on receipt of an application for permission to open the medical course of study of indigenous system of medicine, the State Government would cause the inspection of the body, agency, college or institution by the Central Council of Indian Medicine (CCIM) or Inspector appointed by the State Government to see whether the conditions laid down by the CCIM constituted under Section 3 of the 1970 Act are fulfilled or not. Section 6 further provides that on completion of the inspection the State Government in the Health Department will seek permission of the Government of India and the CCIM of India for granting permission to the starting of the course of medical studies in indigenous system of medicine by the applicant. Section 7 postulates that to all private medical colleges and medical institutions in indigenous system of medicine, preparing or intending to prepare students for study in indigenous system of medicine leading to degree, diploma, etc. and which have not been permanently affiliated to any University in the State of Bihar, the provisions of the 1982 Act shall apply. The 1982 Act has been made applicable to all private medical colleges and medical institutions which are not permanently affiliated to any University in the State of Bihar. By virtue of Section 9, the institutions which have been functioning without prior permission or approval of the State Government are required to apply for such permission within a period of one month from the date of coming into force of the 1982 Act. This Section prohibits admission of the students in such institutions till the grant of permission by the Government. It also provides that in case the application is not moved within the stipulated period or the State Government refuses permission, they will be deemed to have been established in contravention of the provisions of the Act. Section 10 provides for penalty and a person contravening any of the provisions of the Act is made liable for punishment with a fine which may extend to Rs. 10,000/- and imprisonment for a term which may extend upto three years. In case of continuing contravention, such person shall be liable to pay a further fine which may extend to Rs.1,000/- per day after the date of the first conviction for the period during which he is proved to have persisted in such contravention. B C D E F G H

A The offence is made non-bailable and cognizable. As per Section 11, if the application moved for permission to start medical course of study of indigenous system of medicine either under Section 3 or Section 9 is refused as the institution or college is not found eligible or does not qualify for permission, it is incumbent on the organizer of such institution to close B it down within a period of three months of refusal of permission. Section 15 gives authority to the State Government to seize the accounts of an institution contravening the provisions of the Act. From these provisions, it is apparent that after introduction of the 1981 Ordinance and the 1982 Act, the Governing Body or the Organizing Committee or any body or C institution intending to start any course of study in indigenous 'system of medicine is required to seek permission of the State Government to open a private medical college or medical institution for admitting the students to be conferred with a degree, diploma, etc., as included in the Second Schedule of the 1970 Act. It is only the Governing Body or the Organising D Committee or any body or institution which has been permanently affiliated to any University in the State of Bihar is exempted from the provisions of the 1981 Ordinance or the 1982 Act. Institutions already imparting education in indigenous system of medicine are required to take permission after coming into force of the 1982 Act.

E 19. The Act provides for imposition of the fine and imprisonment for any person who contravenes any of the provisions of the 1981 Ordinance or the 1982 Act. If the permission is refused, the institution will be closed down. Section 13 of the Act further authorizes the State Government to authorize any officer to enter into the premises of the F institution contravening the provisions of the 1981 Ordinance or the 1982 Act for the purposes of inspection and carrying into effect the provisions of the Ordinance or the Act. Such officer may be empowered to close down the institution and to lock and seal it. The Act also provides provision for seizure of the accounts by the State Government of an institution contravening the provisions of the Ordinance or the Act. The Act arms the State Government with various powers including the penal powers. Although the colleges were opened in the year 1992 without the authority or the permission of the State Government as required under the Act, no steps have been taken by the State of Bihar, and the students admitted in the two institutions which were affiliated with the Faculty were

conferred with the GAMS Degree. After reading the provisions of the Act, it is apparent to us that the 1982 Act is supplementary to the 1951 Act. The 1951 Act although provides for the inspection of the institutions which have to be affiliated to the Faculty, does not lay down that the conditions laid down by the CCIM are to be followed and adhered to. That has been provided under the 1982 Act. So the colleges or the institutions which want to impart education in the indigenous system of medicine have not only to follow the conditions laid down by the Faculty or the Council under the 1951 Act, but also under the 1982 Act. The college or the institution after the Act came into force cannot continue without the permission of the State Government as contemplated in the 1982 Act.

20. We have examined the provisions of the 1982 Act. The counsel for the State or the University could not point out as to what shall happen to the degrees given to the students who studied in the colleges which have been affiliated with the Faculty but without permission under the 1982 Act. We do not find any provision in the 1982 Act which takes away the degree already granted to the students conferred by the Faculty, recognized under the 1951 Act, and is being accepted to be a recognized degree under the 1970 Act. Therefore, by virtue of introduction of the 1982 Act, it cannot be said that the degrees conferred on the students who have studied in the colleges which have not been granted permission by the State Government as required under the 1982 Act, will be *ipso facto* illegal and could not be given effect to. However, we make it clear that any body, agency, college or institution which has not sought permission from the State Government would not be granted affiliation by the Faculty under the 1951 Act and the State Government shall take appropriate steps under the 1982 Act if any body, agency, college or institution is/are functioning without the permission of the State Government as required under the 1982 Act.

21. It is then contended by the learned counsel for the State that after the coming into force of the Indian Medicine Central Council (Amendment) Act, 2003 (for short "the Amending Act") on 7th November, 2003, if any medical college established on or before the commencement of the Amending Act does not seek permission of the

A Central Government within the period of three years from the said commencement, the medical qualification granted to any student of such medical college shall not be deemed to be a recognized medical qualification for the purposes of the 1970 Act. It is submitted that the two colleges from where the appellant-students were educated having not
B sought permission from the Central Government under the 1970 Act, the GAMS degree conferred on them shall not be a recognized medical qualification for the purposes of the 1970 Act, as a result whereof they are not eligible for admission for higher course of study or for employment on the basis of the GAMS degree conferred on them which is not a
C recognized medical qualification. For this proposition, the learned counsel for the State has relied upon the provisions of Sections 13A, 13B and 13C which have been introduced by Amending Act of 2003. For a better understanding of the contentions, the relevant portions of the Sections are reproduced hereunder:

D "13A. *Permission for establishment of new medical college, new course of study, etc.*—(1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) no person shall establish a medical college; or

E (b) no medical college shall—

(i) open a new or higher course of study or training, including a post-graduate course of study or training, which would enable a student of such course or training to qualify himself for the award of any recognised medical qualification; or

F (ii) increase its admission capacity in any course of study or training including a post-graduate course of study or training,

except with the previous permission of the Central Government obtained in accordance with the provisions of this section.

G *Explanation 1.*—For the purposes of this section, "person" includes any University or a trust, but does not include the Central Government.

Explanation 2.—For the purposes of this section, "admission

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capacity", in relation to any course of study or training, including post-graduate course of study or training, in a medical college, means the maximum number of students as may be fixed by the Central Government from time to time for being admitted to such course or training.

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13B. *Non-recognition of medical qualifications in certain cases.*—(1) Where any medical college is established without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical college shall not be deemed to be a recognised medical qualification for the purposes of this Act.

(2) Where any medical college opens a new or higher course of study or training including a post-graduate course of study or training without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical college on the basis of such study or training shall not be deemed to be a recognised medical qualification for the purposes of this Act.

(3) Where any medical college increases its admission capacity in any course of study or training without the previous permission of the Central Government in accordance with the provisions of section 13A, medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall not be deemed to be a recognised medical qualification for the purposes of this Act.

13C. *Time for seeking permission for certain existing medical colleges.*— (1) If any person has established a medical college or any medical college has opened a new or higher course of study or training or increased the admission capacity on or before the commencement of the Indian Medicine Central Council (Amendment) Act, 2003, such person or medical college, as the case may be, shall seek, within a period of three years from the said commencement, permission of the Central Government in

A accordance with the provisions of section 13A.

(2) If any person or medical college, as the case may be, fails to seek permission under sub-section (1), the provisions of section 13B shall apply, so far as may be, as if permission of the Central Government under section 13A has been refused."

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22. For the purposes of the 1970 Act, 'Indian medicine is a system of Indian medicine commonly known as Ashtang Ayurveda, Siddha or Unani Tibb. Section 2(ea) of the 1970 Act defines 'medical college' to mean a college of Indian medicine where a person undergoes a course C of study or training which will qualify him for the award of a recognized medical qualification. Section 13A (1) prohibits any person to establish a medical college; and a medical college to open a new or higher course of study or training including a post-graduate course of study or training, which would enable the students of that medical college for the award of D any recognised medical qualification or to increase its admission capacity except with the previous permission of the Central Government obtained in accordance with the provisions of Section 13A. Sub-sections (2), (3), (4), (5), (6), (7), (8) and (9) of Section 13A lay down the manner in which the Central Government is to be approached for establishment of E a new medical college or for opening of a new higher course of study or increasing admission capacity and how it would be dealt with. Section 13B postulates that where any medical college is established or an established medical college opens a new higher course of study or training or where any medical college increases its admission capacity in any course F of study or training without the permission of the Central Government, the medical qualification granted to any student of such medical college or the higher course of study or training or admission in the increased capacity in any course of study, would not be a recognized medical qualification for the purposes of the Act. Section 13C, however, provides a breathing time to the medical colleges which have been established on G or before the commencement of the Amending Act of 2003 without the permission of the Central Government to get such permission within a period of three years from the commencement of the Act. Therefore, the colleges or the institutions which have not obtained the permission of the Central Government may do so within a period of three years from the

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commencement of the Act to save the medical qualification conferred on the students of such medical colleges from the rigour of Section 13B of the 1970 Act. However, as per sub-section (2) of Section 13C, if any person or medical college fails to seek permission within three years of commencement of the Act, qualification granted to any student of such medical institution shall not be a recognised medical qualification and it shall be deemed that permission to open or start a new course or increase strength of students was refused by the Central Government. Medical colleges opened on or before the coming into force of the Amending Act of 2003 are necessarily required to take permission within three years to save the recognized medical qualification of the students. On their failure, the medical qualification conferred on the students shall come to naught. Under Section 13A, a person who establishes a medical college or a medical college opens a new higher course of study or increases the admission capacity is required to move an application for permission of the Central Government. For obtaining permission as required under Section 13A, every person or medical college is required to submit a scheme in such form with requisite fee, containing such particulars as provided under sub-section (3) of Section 13A. The Central Government on receipt of such application may require the applicant to submit such other particulars as may be considered necessary. The Central Government after considering the scheme and recommendations of the Central Council and after obtaining such other particulars as felt necessary, may approve the scheme with such conditions which are considered necessary. The Central Government may also disapprove the scheme. Sub-section (6) of Section 13A provides that where within a period of one year from the date of submission of scheme to the Central Government, no order is communicated by the Central Government to a person or medical college, such scheme shall be deemed to have been approved by the Central Government in the form in which it was submitted. From the aforesaid provisions, it is apparent that an application seeking permission for opening a medical college has to be moved by a person which also includes the university or a trust or a medical college or those which are already running the medical college when the Amending Act came into force. Section 13A nowhere provides that the students who have studied in the medical colleges would be eligible to seek permission

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A of the Central Government under that Section. Section 13A or Section 13B or Section 13C nowhere contemplates moving of an application by the students to take steps under Section 13A. In such a situation, the question arises what shall happen to the degrees conferred on the students who have studied in the medical colleges established prior to the B commencement of the Amending Act where the Governing Body or Organising Committee or any body or institution does not take any step for seeking permission of the Central Government and the period prescribed under Section 13C of three years has expired or where the institution has been closed down immediately after the commencement of C the Amending Act of 2003 and, therefore, no body is interested in seeking permission of the Central Government.

23. The provisions of Sections 13A, 13B and 13C of the 1970 Act as introduced by the Amending Act of 2003, if given retrospective operation, the medical qualification acquired from the study in the medical D colleges which have been opened prior to the commencement of the Amending Act of 2003 and conferred medical qualification on the students who studied in such medical colleges, the degrees so conferred in the absence of the permission of the Central Government would be *non est* though there is no fault on the part of the students who have studied in E the institutions which are recognized and affiliated to the Faculty under the 1951 Act.

24. In our opinion, where the legislature has used words in an Act which if generally construed, must lead to palpable injustice and F consequences revolting to the mind of any reasonable man, the court will always endeavour to place on such words a reasonable limitation, on the ground that the legislature could not have intended such consequence to ensue, unless the express language in the Act or binding authority prevents such limitation being interpolated into the Act. In construing an Act, a G construction ought not be put that would work injustice, or even hardship or inconvenience, unless it is clear that such was the intention of the legislature. It is also settled that where the language of the legislature admits of two constructions and if construction in one way would lead to obvious injustice, the courts act upon the view that such a result could not have been intended, unless the intention had been manifested in express words. H

Out of the two interpretations, that language of the statute should be preferred to that interpretation which would frustrate it. It is a cardinal rule governing the interpretation of the statutes that when the language of the legislature admits of two constructions, the court should not adopt the construction which would lead to an absurdity or obvious injustice. It is equally well settled that within two constructions that alternative is to be chosen which would be consistent with the smooth working of the system which the statute purported to be regulating and that alternative is to be rejected which will introduce uncertainty, friction or confusion with the working of the system. [See *Collector of Customs* v. *Digvijaysinhji Spinning & Weaving Mills Ltd.,* [1962] 1 SCR 896, at page 899 and His *Holiness Kesvananda Bharati* v. *State of Kerala,* AIR (1973) SC 1461].

25. The court must always lean to the interpretation which is a reasonable one, and discard the literal interpretation which does not fit in with the scheme of the Act under consideration.

26. In series of judgments of this Court, these exceptional situations have been provided for. In *Narashimaha Murthy* v. *Susheelabai,* [1996] 3 SCC 644 (at page 647), it was held that:

> ".....The purpose of law is to prevent brooding sense of injustice. It is not the words of the law but the spirit and eternal sense of it that makes the law meaningful....."

In the case of *American Home Products Corporation* v. *Mac Laboratories Pvt. Ltd. and Anr.,* AIR (1986) SC 137 (at page 166, para 66), it was held that:

> ".. It is a well-known principle of interpretation of statutes that a construction should not be put upon a statutory provision which would lead to manifest absurdity or futility, palpable injustice, or absurd inconvenience or anomaly...."

Further, in the case of *State of Punjab* v. *Sat Ram Das,* AIR (1959) Punj. 497, the Punjab High Court held that:

> "To avoid absurdity or incongruity, grammatical and ordinary sense of the words can, in certain circumstances, be avoided."

A 27. The amendment brought about in the Indian Medicine Central Council Act, 1970, in 2003 by introduction of Sections 13A, 13B and 13C are the provisions for continuance of the institution which has not obtained prior permission of the Central Government and, therefore, time limit of three years has been provided under Section 13C to regularize B the institution's affairs as required under the Act by seeking permission of the Central Government. Insertion of Section 13A in the 1970 Central Act in the year 2003 has regulated the opening of an indigenous medical college. The *non-obstante* clause clearly indicates that a medical institution cannot be established except with the prior permission of the Central C Government. Under Section 13B, any medical qualification granted by the colleges established without the prior permission of the Central Government is not a recognized medical qualification. The reasonable reading of Section 13C (1) puts the existing colleges at par with the new colleges as both of them are required to seek permission within three years D from the commencement of the Amending Act. The phrase 'on or before' has made it clear that the existing colleges are also required to seek permission and there is no exemption. Section 13C (2) further provides that the medical qualification granted by existing colleges whose establishment has not been recognized by the Central Government, the E medical qualification would not be a recognized qualification. Similar requirement is to be fulfilled by the new medical colleges opened, i.e., to seek permission of the Central Government for the medical qualification to be recognized qualification. Thus, new colleges or existing colleges cannot any more grant a recognized qualification without the sanction of F the Central Government. Section 13C(2) does not say that the effect of non-permission by the Central Government to the existing colleges after the Amending Act came into force would render the medical qualifications already granted by the existing colleges before the insertion of Sections 13A, 13B and 13C in 2003, un-recognised. The whole spectrum of the G amendment brought about by introducing Sections 13A, 13B and 13C indicates that it has an application from the date they have been introduced by an amendment in the 1970 Central Act. The effect of the amendment brought about is clear to us that all the medical colleges which are in existence or the medical colleges which have to be established should H compulsorily seek permission of the Central Government within the period

provided and on failure to get the permission of the Central Government the medical qualification granted to any student of such medical college shall not be a recognized medical qualification for the purposes of the 1970 Act. The established colleges are also required to seek permission of the Central Government for the medical qualification to be recognized medical qualification but it would not mean that the already conferred medical qualification of the students studied in such previously established medical colleges would not be a recognised medical qualification under the 1970 Act.

28. On a reasonable construction of these Sections, we hold that the provisions of Section 13B whereby the qualification granted to any student of a medical college would not be deemed to be a recognized medical qualification would not apply. When a degree has been legally conferred on the students prior to the commencement of the Amending Act of 2003, it shall be treated as a recognized degree although the medical college has not sought permission of the Central Government within a period of three years from the commencement of the Amending Act of 2003.

29. For the reasons aforesaid, the appeals are allowed. The judgment of the High Court is set aside and we hold that the GAMS degree conferred on the appellant-students shall be treated as a recognized degree for the purposes of taking admission to the higher courses of study and also for the purposes of employment.

30. There shall be no order as to costs.

S.K.S. Appeals allowed.