

HIND CHARITABLE TRUST SHEKHAR HOSPITAL PVT. LTD. A

v.

UNION OF INDIA & ORS.

(Writ Petition (Civil) No. 469 of 2014) B

SEPTEMBER 18, 2014

**[ANIL R. DAVE VIKRAMAJIT SEN AND
UDAY UMESH LALIT, JJ]**

Education/Educational Institutions: C

Medical admissions – Medical Colleges – Academic session 2014-15 – Non-renewal of recognition – Seats likely to remain vacant – Interim directions – Keeping in view the shortage of physicians in the country, medical colleges, on furnishing the required undertaking, permitted to admit students from the merit list prepared by States and the fees charged shall be that prescribed by Government Colleges of respective States – These interim directions are given under provision of Art. 142 of the Constitution – This order shall also apply to all institutions which had filed petitions for renewal of recognition for academic session 2014-15 but their petitions were rejected or withdrawn – Constitution of India, 1950 – Art. 142 – Interim orders. D E

Priya Gupta v. State of Chhattisgarh 2012 (5) SCR 768 : (2012) 7 SCC 433 – referred to. F

Case Law Reference

2012 (5) SCR 768 referred to Para 4

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 469 of 2014. G

Under Article 32 of the Constitution of India.

A WITH
W.P.(C) Nos. 700, 705, 706, 707, 757, 784, 799, 819 of
2014

AND

B SLP (C) Nos. 21765, 22755, 22756, 22757, 22758-
22759, 22974, 23512, 23777, 22785, 23476, 23547, 24154,
24150-24151, 24154, 24665, 24686, 24913, 25763 of 2014

AND

C T.P.(C) No. 1217 of 2014

Pinky Anand, ASG, Mohan Parasaran, Basava Prabhu
S. Patil, A. Sharan, Kapil Sibal, Nidhesh Gupta, Vikas Singh,
K. Shashi Kiran Shetty, P. Vishwanatha Shetty, Rajeev Dhawan,
Shyam Divan, Sr. Advs., S.U.K. Sagar, Ms. Bina Madhavan,

D Ms. Praseena Elizabeth Joseph, Shivendra Singh, Ms.
Akanksha Mehra (For M/s Lawyer's Knit & Co.), V. Balaji, Asai
Thambi, Rakesh K. Sharma, M. Gireesh Kumar, Ankur S.
Kulkarni, Sriram P., Vijay Kumar, Amit Kumar, K.P. Gautam,
Ramesh Alanki, Ms. Rekha Bakshi, Ankit Rajgarhia, A.K. Kaul,

E Avijit Mani Tripathi, Atul Kumar, R.D. Upadhyay, Giridhar G.
Upadhyay, Avadesh Kumar Singh, Ms. Asha Upadhyay, Sanjay
Bhatt, Rudra Prasad, Dushyant Kumar, Rabin Mjumder,
Jaimon Andrews, Sivaramakrishnan, Zulfiker Ali P.S., Ashish
Kumar, Ravinder Kumar Katna, Neeraj Shekhar, Prasanth P.,

F Shaurya Sahay, Yogesh Raavi, Tatini Basu, Avadesh
Choudhary, Amit Jaiswal, Jatin Zaveri, Amit Mehta, Neel Kamal
Mishra, V. Balaji, C. Kannan, Rakesh K. Sharma, Manish
Singhvi, Gaurav Sharma, Prateek Bhatia, Amandeep Kaur,
Ms. Deepeika Kalita, Kapish Shetty, R.K. Rathore, Ms. Rekha

G Pandey, R.S. Nagar, Ms. Sunita Sharma, Rohitash Nagar, M.
Khairati, D.S. Mahra, Rohit Bhat, Kush Chaturvedi, Ms. Farah
Fathima, V. Naveen Kumar, Vybhav Ramesh, Mahesh Thakur,
S.U.K. Sagar, Aditya Singla, Ms. Supriya Juneja, Ms. Priya
Puri, Sharan Thakur, Tara, Vijay Kumar Paradesi, Ramesh

H

Babu M.R., Jatin Zaveri, Amit Mehta, Neel Kamal Mishra, Tarun A
Gupta, Guntur Prabhakar, Advs. for the appearing parties.

The following Order of the Court was passed :

ORDER

Heard the learned senior counsel appearing for both the B
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 C
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 D
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 E
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 F
[(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 aforestated judgment would be G
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 H

A 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
B 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).

C 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
D 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.

E 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
F 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,
G 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.

H 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. A

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. B C D E

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

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 G

H

A also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

B 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.

C 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.

D

Rajendra Prasad

Directions issued.