

MEDICAL COUNCIL OF INDIA

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v.

JAIPUR NATIONAL UNIVERSITY INSTITUTE FOR MEDICAL  
SCIENCES AND RESEARCH CENTRE JAIPUR AND  
ANOTHER

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(Civil Appeal No. 6000 OF 2018)

JULY 04, 2018

**[UDAY UMESH LALIT AND DEEPAK GUPTA, JJ.]**

*Education/Educational Institutions – Medical education –  
Renewal of permission to admit students for MBBS course for next  
academic session – Grant of – On facts, interim order by High Court  
directing the Central Government to permit the Medical institute to  
admit 150 students in the third batch of MBBS course for the  
academic year subject to a rider that if the Institute fails, the fees  
would be refunded to the students – Propriety and correctness of –  
Held: There was no justification for passing interim directions and  
permitting the Institute to go ahead with provisional admissions for  
the academic session – Any stipulation that the admissions pursuant  
to such interim directions shall be subject to the result of the petition  
would not be a sufficient protection or insulation and such orders  
result in tremendous prejudice to the students – Proper course would  
be to hear the matter finally rather than passing interim directions  
– Thus, the High Court not justified in passing the interim order –  
Order passed by the High Court set aside.*

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*Medical Council of India v. Rajiv Gandhi University of  
Health Sciences and others (2004) 6 SCC 76 : [2004]  
3 SCR 1119; Medical Council of India v. JSS Medical  
College (2012) 5 SCC 628: [2012] 1 SCR 136; Medical  
Council of India v. Kalinga Institute of Medical Sciences  
(KIMS) (2016) 11 SCC 530 : [2016] 4 SCR 403; Dental  
Council of India v. Dr. Hedgewar Smruti Rugna Seva  
Mandal Hingoli and Others (2017) 13 SCC 115 –  
referred to.*

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**Case Law Reference**

**[2004] 3 SCR 1119**

**referred to Para 8**

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- A        **[2012] 1 SCR 136**                      **referred to**        **Para 8**  
              **[2016] 4 SCR 403**                      **referred to**        **Para 8**  
              **(2017) 13 SCC 115**                      **referred to**        **Para 8**

B        CIVIL APPELLATE JURISDICTION: Civil Appeal No. 6000 of 2018.

             From the Judgment and Order dated 29.05.2018 of the High Court of Judicature for Rajasthan, Bench at Jaipur in DB Civil Writs No. 10103/2018.

C        Mr. Maninder Singh, ASG, Gaurav Sharma, Prateek Bhatia, Advs. for the Appellant.

             Mr. Vivek Krishna Tankha, Sr. Adv., Ms. Bina Madhavan, Varun K. Chopra, Piyush Dwivedi, Ms. Ramandeep Kaur, Lawyer's Knit & Co., R. Balasubramaniam, Sachin Sharma, Arvind K. Sharma, Advs. for the respondents.

D        The Judgment of the Court was delivered by

**UDAY UMESH LALIT, J.** 1. Leave granted.

E        2. This appeal challenges the correctness of interim order dated 29.05.2018 passed by the High Court of Rajasthan, Bench at Jaipur in D. B. Civil Writ Petition No.10103/2018 whereby the High Court directed the Central Government to permit the Respondent Institute to admit 150 students in the third batch of MBBS course for the academic year 2018-2019.

F        3. Pursuant to appropriate recommendation having been given by Medical Council of India ('MCI', for short), Central Government by its letter dated 06.06.2016 granted letter of permission to the Respondent Institute to establish a Medical College from the academic year 2016-2017 with annual undertake of 150 students. It appears that after conducting due inspection and verification, MCI did not recommend renewal of permission for the next academic session 2017-2018.  
 G        However, the Central Government by its letter dated 31.05.2017 granted renewal of permission to admit 2<sup>nd</sup> Batch of students for the academic year 2017-2018.

H        4. In Writ Petition No.432 of 2017 (*N.C. Medical College and Hospital Principal v. Union of India Secretary and Another*), a list

of 24 Colleges who despite negative recommendation on part of MCI were accorded renewal of permission by the Central Government was extracted by this Court in its order dated 09.10.2017 and all those Institutions including the Respondent Institute were added as respondents. This Court further directed MCI to conduct surprise inspection in respect of all the Colleges. It appears that the Assessors appointed by MCI conducted physical assessment and verification on 31<sup>st</sup> October, 2017 and 1<sup>st</sup> November, 2017. The assessment report was placed before the Executive Committee of MCI in its Meeting held on 22.11.2017 where the Executive Committee observed various deficiencies of Infrastructure, Clinical Material and other physical facilities. The Executive Committee therefore decided to recommend to the Central Government not to grant renewal of permission for the 3<sup>rd</sup> Batch of students for the academic year 2018-2019. Thereafter, the Central Government afforded opportunity of hearing to the Respondent Institute and requested MCI to review the case of Respondent Institute. Aforesaid Writ Petition No.432 of 2017 was disposed of by this Court on 17.01.2018 directing MCI to take appropriate decision in respect of 25 Medical Colleges for the academic year 2018-2019 by 31.03.2018.

5. In order to verify the claims made by the Respondent Institute regarding compliance and that the deficiencies had been removed, MCI conducted compliance verification on 05.03.2018 and the report in respect thereof was placed in the Meeting of the Executive Committee of MCI held on 24.03.2018. After discussion and deliberation, the Executive Committee found that the deficiencies in respect of Infrastructure, Clinical Material and other physical facilities still persisted and therefore recommended to the Central Government not to grant renewal of permission to the Respondent Institute for academic session 2018-2019. The Central Government after due consideration of the recommendations made by MCI, vide its letter dated 01.05.2018 decided not to grant renewal of permission for admission for the academic year 2018-2019.

6. The aforesaid decision of the Central Government was challenged by the Respondent Institute by preferring D.B. Civil Writ Petition No.10103 of 2018 in the High Court of Rajasthan, Bench at Jaipur. It appears that since the Advocates in Jaipur had gone on strike, the Chairperson of the Respondent Institute, Under Secretary, Ministry of Health and Family Welfare, Union of India and Law Officer of MCI who were present, were heard by the High Court on 29.05.2018. The

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A High Court found that the inspection conducted by MCI was with predetermined mind not to renew the permission to the Respondent Institute and was of the *prima facie* view that the findings arrived at by MCI were required to be stayed at the interim stage. The High Court thus while admitting the petition fixed the matter for final hearing on 09.07.2018 but proceeded to pass following order:-

B “6.2 The matter is fixed for final hearing on 09.07.2018.

C 6.3 In the meantime and till disposal of the petition, the order dated 01.05.2018 as well as dated 28.03.2018 both are stayed and respondent No.1 is directed to allow the petitioner College to admit 150 students in the third batch for the academic year 2018-2019 subject to a rider that if ultimately the petitioner fails in this petition, he will refund all the fees to the students who are admitted pursuant to the order of this court.

D 6.4 The stay application is accordingly disposed of.  
The Central Government will act upon this order”.

E 7. This appeal questioning the aforesaid interim direction dated 29.05.2018 was listed along with a similar matter where by way of an interim direction the concerned College was allowed to go ahead with admissions to 1<sup>st</sup> MBBS course for the academic session 2018-2019. After having heard Mr. Maninder Singh, learned Additional Solicitor General of India in support of the appeal and Mr. Vivek Krishna Tankha, Senior Advocate for the respondent in the present matter in whose submission there were no deficiencies at all, this Court on 14.06.2018 had reserved the matters for judgment and passed following order:-

F “Heard learned counsel. In both these matters, the High Courts have permitted the concerned medical colleges to go ahead with admissions. The correctness of those orders passed at an interim stage is under challenge at the instance of the Medical College of India. We have been given to understand by the learned counsel appearing for both the medical colleges that till this date, no admissions have been effected despite the interim orders passed by the High Court in their favour. The statement is taken on record.

G We reserve the judgment and till the judgment is pronounced, no admission shall take place in respect of both the institutions to the course of 1<sup>st</sup> MBBS for the ensuing academic session 2018-2019.

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Permission is granted to place on record requisite documents by 16.06.2018.” A

8. In the companion matter namely Civil Appeal arising out of Special Leave Petition (Civil) No.14972 of 2018, we have adverted to certain decisions of this Court where the propriety and correctness of similar such interim directions had been questioned before this Court. Relying upon the decisions in (i) **Medical Council of India v. Rajiv Gandhi University of Health Sciences and others**<sup>1</sup>, (ii) **Medical Council of India v. JSS Medical College**<sup>2</sup>, (iii) **Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS)**<sup>3</sup>, (iv) **Dental Council of India v. Dr. Hedgewar Smruti Rugna Seva Mandal Hingoli and Others**<sup>4</sup>, we have held in the companion matter that there was no justification for passing interim directions and permitting the concerned College to go ahead with provisional admissions for the academic session 2018-2019. We have further held that any stipulation that the admissions pursuant to such interim directions shall be subject to the result of the petition would not be a sufficient protection or insulation and such orders result in tremendous prejudice to the students. We have further held that if a case is made out the proper course is to hear the matter finally rather than passing interim directions as have been passed in the present matter. Based on same reasoning, we hold that the High Court was not justified in passing the order under challenge. B C D E

9. We, therefore, allow this appeal and set aside the order dated 29.05.2018 passed by the High Court. Since the matter is to come up on 09.07.2018 before the High Court, the entire controversy can be gone into. We have not dealt with factual controversy in the present matter and the facts that have been set out in the preceding paragraphs are only by way of narration of events. We are sure that the pending matter will be considered purely on merits. F

10. With these observations, the present appeal is allowed and the order under appeal is set aside. No costs.

Nidhi Jain

Appeal allowed.

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<sup>1</sup> (2004) 6 SCC 76

<sup>2</sup> (2012) 5 SCC 628

<sup>3</sup> (2016) 11 SCC 530

<sup>4</sup> (2017) 13 SCC 115