

## Dr. Haritha Ravipati Vs Rajiv Gandhi University of Health Sciences

**Court:** KARNATAKA HIGH COURT

**Date of Decision:** Sept. 27, 2016

**Acts Referred:** Indian Medical Council Act, 1956 - Section 33

**Citation:** (2017) 1 KantLJ 400

**Hon'ble Judges:** B. Veerappa, J.

**Bench:** Single Bench

**Advocate:** Writ Petition No. 49749 of 2016; Sriyuths Abhishek Malipatil, Ajith A. Shetty and Ajay Kumar Patil, Advocates, for the Petitioner; Sri N.K. Ramesh, Advocate, for the Respondent No. 1; Smt. Pramodini Kishan, High Court Government Pleader, for the Respondent

**Final Decision:** Disposed Off

### Judgement

@JUDGMENTTAG-ORDER,,

B. Veerappa, J.â€”The petitioners, who are Post-graduate students of M.D. Dermatology, M.S. General Medicine and Orthopedics are before",,,

this Court.,,

2. The petitioner in W.P. No. 49749 of 2016, who is Post-graduate student in M.D. Dermatology has sought for issue of writ of certiorari",,,

quashing the impugned Notification dated 1-7-2015 bearing No. AUTH/Exam/Val/PG/24/2015 issued by the 2nd respondent-Rajiv Gandhi,,,

University of Health Sciences for Karnataka vide Annexure-D; a direction in the nature of writ of certiorari to respondents 1 and 2 to conduct,,,

fresh valuation in respect of answer scripts of Theory Papers I, II and III of the Subject in M.D. Dermatology in respect of her examination",,,

undertaken in June/July 2016 and consequently declaring that she has passed in the said examination and a writ of mandamus directing respondents,,,

1 and 2 to consider her representation dated 1-9-2016 vide Annexures-E and EI respectively.,,

3. The petitioner in W.P. No. 46632 of 2016, who is a Post-graduate student in ms (Orthopedics), has sought for issue of writ of mandamus",,,

directing the 1st respondent-University to award additional marks to the answers given by him for Question Nos. 3,5,6, 7 and 1 of Theory Paper",,,

III as per the answer script at Annexure-E in the M.S. (Orthopedics) examination conducted by the 1st respondent-University in June/July 2016,,,

and also to refer his answer scripts - Annexure-E in Theory Paper - III of MS (Orthopedics) examination conducted by the Rajiv Gandhi,,

University of Health Sciences to the third examiner.,,

4. The petitioner in W.P. No. 44342 of 2016 who is Post-graduate student in M.S. General Medicine has sought for a writ of mandamus directing,,

the 2nd respondent-Rajiv Gandhi University of Health Sciences to get the answer scripts evaluated by the four individual examiners in accordance,,

with Regulation 14(1)(b) of the Post-graduate Medical Education Regulations, 2000 and also to publish the results of such revaluation as earliest",,,

possible juncture.,,

5. It is the case of the petitioner in W.P. No. 49749 of 2016 that she has secured a seat in M.D. Dermatology in J.J.M. Medical College,",,

Davangere. Subsequent to admission to the M.D. Dermatology Course, her seat was approved by the University. The synopsis of the thesis was",,,

also approved by the University. She having completed the course of study for three years, submitted the "thesis" which came to be approved by",,,

the University for evaluation. Subsequently she having completed all the requisite material study, had completely prepared to appear in the final",,,

examination to be conducted by the University in the months of June, July 2016. The petitioner has all along been a student of high calibre and has",,,

consistently been securing high marks throughout her schooling, college and graduate level. On 1-7-2015 the 1st respondent-University issued",,,

notification modifying the earlier system of evaluation by four evaluators (two internal and 2 external) to only by two (internal) evaluators. The said,,

modification of the ordinance governing multiple valuation of Post-graduate Courses under the Rajiv Gandhi University of Health Sciences is in,,

complete contravention of the minimum standards of educations notified by the Medical Council of India under the Post-graduate Medical,,

Education Regulations, 2000, more particularly Regulation 14 of the Post-graduate Medical Education Regulations, 2000 which is binding on the",,,

respondent-University. The petitioner having completed the course of study for 3 years, being fully prepared to appear in the final examinations,",,

appeared for the Post-graduation Examinations conducted by the University during June/July 2016. The results of the examination undertaken by,,

her being announced by the University in the last week of July 2016, to her utter shock and dismay, she was declared as having failed in the theory",,,

examinations. On perusal of the score sheets, she was declared as having less than 50% marks in Theory Papers I, II and III out of the total 4",,,

theory papers. However, she was declared as pass in the Practical-viva voce.",,

6. On 1-8-2016 she being completely confident that her answer scripts would be evaluated improperly, applied for the photocopies of the answer",,,

scripts. The applications along with the requisite fee were submitted to the institution which were forwarded thereby to the University. On 25-8-,,

2016 she was issued with soft copies of the answer scripts of the examinations undertaken by her. It is then that she noticed that her answers have,,

been evaluated wrongly in all tire answer scripts and that she deserves more marks in all the answer scripts. She evaluated the same by experts,,

including the professors from the same institution, who have all opined that she ought to have easily secured passing marked in all the answered",,,

scripts. However, fearing backlash from the University to which they are all concerned, chose not to endorse in writing. She was shocked to find",,,

out that the answer scripts were evaluated by two evaluators instead of four evaluators (2 internal and 2 external evaluators). On enquiry, it was",,,

informed by the University that the said procedure earlier mandated has now been changed vide notification dated 1-7-2015 and the evaluations of,,

the Post-graduate Examinations will be undertaken by only two internal evaluators. Therefore, she was constrained to file a detailed",,,

representations to the respondent-University bringing to their notice that the answers written by her are all similar to the prescribed answers from,,

the prescribed text books and specifically pointed out that she deserves passing marks and has consequently, requested the Vice-Chancellor to",,,

direct for revaluations under the extraordinary powers bestowed on him under the Rajiv Gandhi University of Health Sciences Act, 11994. The",,,

respondent-University did not take any action on the said representations made by her. Aggrieved by the wrongful valuation and non-consideration,,

of the representations of the petitioner seeking revaluation of the answer scripts of the Post-graduate M.D. Dermatology in accordance with the,,

Post-graduate Medical Education Regulations, 2000, the petitioner is before this Court for the relief sought for.",,,

7. It is the case of the petitioner in W.P. No. 44632 of 2016 that he appeared for the M.S. (Orthopedics) Examination conducted by the Rajiv,,

Gandhi University of Health Sciences in June/July 2016 which consists of four theory papers in the subject of Orthopedics. He has to secure,,

minimum marks of 40 out of maximum marks of 100 in each of the four theory papers and in additional minimum aggregate of 200 marks out of,,

400 has to be secured for passing the examination. The result of the said examination were announced in July 2016 and a true copy of the results,,

declared on the website of the University is marked as Annexure-B. As could be seen from the said declaration of results, though he secured more",,,

than the minimum marks of 40 in each of the 4 theory papers, he has secured an aggregate of only 194 marks in all the 4 theory papers which is",,,

less than the minimum aggregate of 1200 marks to be declared as pass. Consequently he has been declared as failed in the said examination. It is,,

his further case that though the answer scripts were subjected to double evaluation i.e., each answer script is valued by two examiners and the",,,

average of the marks awarded by each of the examiners is taken for the final computation of results, in Theory Paper-III for Question No. 3 the",,,

first examiner has given him 2 marks and the second examiner has given 5 marks. Similarly for Question No. 5, the first examiner has given him 3",,,

marks and the second examiner has given 6 marks. For Question No. 6, the first examiner has given him 3 marks and the second examiner has",,,

Q. No.,Marks awarded by 1st examiner,"Marks awarded by 2nd

examiner

3,2,5

5,3,6

6,3,5

7,3,6

1,10,9

respective Post-graduate Degrees in June/July 2016 examination conducted by it is arbitrary, discriminatory, unreasonable, capricious and violative",,,

of Article 14 of the Constitution of India. They also contended that the notification dated 1-7-2015 issued by the Rajiv Gandhi University,,

introducing only double evaluation is in utter violation of Regulation 14 of the Medical Council of India. Salient Features of Post-graduate Medical,,

Education Regulations, 2000. They also contended that the Medical Council of India Regulations mandates that each of the answer scripts of the",,,

Post-graduate Medical Examination shall have to be evaluated at least by two internals and two external evaluators. Therefore, the notification",,,

issued by the Rajiv Gandhi University of Health Sciences is contrary to the regulations issued by the Medical Council of India and the same cannot,,

be acted upon. Therefore, they sought for allowing of the writ petitions.",,,

16. Per contra, Sri N. Khetty, learned Counsel representing the Medical Council of India submits that when the Medical Council of India has",,,

introduced Post-graduate Medical Education Regulations, 2000, any notification issued by any University in the Country will not go beyond the",,,

Regulations issued by the Medical Council of India and all the Universities are bound by the said Regulations.,,,

17. Sri N.K. Ramesh, learned Standing Counsel representing the Rajiv Gandhi University strenuously contended that in view of the notification",,,

issued by the Rajiv Gandhi University on 1-7-2015, double evaluation of the Post-graduate answer scripts will benefit the students and in no way",,,

prejudice the students but will eliminate the erratic evaluation of the evaluations and will enable to announce the results. He further contended that,,

one of the writ petitioners have not assigned the legality of the notifications of the double evaluation and therefore, sought to dismissal of the writ",,,

petitions. He also contended that on the basis of the said notification issued, some of the students have already completed their Post-graduate",,,

courses based on the very notification and they should not be affected and they have been already admitted to Super Speciality Courses.,,,

Therefore, he submits that the persons, who are benefitted in view of the notification dated 1-7-2015 should not affected, who have already joined",,,

the Super Speciality Courses. Therefore, he sought for dismissal of the writ petitions.",,,

18. In view of the rival contentions urged by the learned Counsel for the parties, the points that arise for consideration in the present writ petitions",,,

are:,,

(i) Whether the petitioners are entitled to the relief sought for in the present writ petitions?,,

(ii) Whether the Medical Education Regulations framed by the Medical Council of India for the Post-graduate Medical Education will prevail over,,

the notification issued by the 1st respondent-University?,,

(iii) Whether the impugned notification dated 1-7-2015 issued by the Rajiv Gandhi is binding on the petitioners for evaluation of their answer,,

scripts?,,

19. I have given my anxious consideration to the arguments advanced by the learned Counsel for the parties and perused the entire material on,,

record including the regulation of the Medical Council of India carefully.,,

20. In all these writ petitions, it is not in dispute that all the petitioners have appeared for the Post-graduation Degree Courses stated supra. Their",,,

admissions are approved by the University and thereafter, they have submitted their respective thesis and the petitioners have to complete their",,,

course of studies within a period of three years. Accordingly, they have submitted their thesis to the University. After the results were announced in",,,

the month of August 2016, the petitioners came to know that the double evaluation was done by the University which is erratic and the petitioners",,,

deserve more marks in all the answer scripts. According to them, if the answer scripts evaluated by four evaluators in terms of Regulation 14 of the",,,

Post-graduate Medical Education Regulations, 2000 definitely the petitioners would have completed their courses within the period of the",,,

prescribed period i.e., 3 years and because of the double evaluation made by the University on the basis of the notification issued by the 1st",,,

respondent is contrary to the Regulations of the Medical Council of India and hence, they all have failed.",,,

21. The provisions of Section 33 of the Indian Medical Council Act, 1956 provides power to the Council to make regulations generally to carry",,,

out the purposes of this Act, and without prejudice to the generality of this power which reads as under:"",,,

33. Power to make regulations.-The Council may, with the previous sanction of the Central Government, make regulations generally to carry out",,,

the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for.-" "",,,

(a) the management of the property of the Council and the maintenance and audit of its accounts;,,

(b) the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct of business",,,

thereat and the number of members necessary to constitute a quorum;,,

(c) the resignation of members of the Council;,,

(d) the powers and duties of the President and Vice-President;,,

(e) the mode of appointment of the Executive Committee and other Committees, the summoning and holding of meetings and the conduct of",,,

business of such Committees;,,

(f) the tenure of office, and the powers and duties of the Registrar and other officers and servants of the Council; (fa) the form of the scheme, the",,,

particulars to be given in such scheme, the manner in which the scheme is to be preferred and the fee payable with the scheme under clause (b) of",,,

sub-section (2) of Section 10-A;,,

(fb) any other factors under clause (g) of sub-section (7) of Section 10-A;,,

(fc) the criteria for identifying a student who has been granted a medical qualification referred to in the explanation to sub-section (3) of Section,,

10-B;,,

(g) the particulars to be stated, and the proof of qualifications to be given in applications for registration under this Act;,,

(h) the fees to be paid on applications and appeal under this Act;,,

(i) the appointment, powers, duties and procedure of medical inspectors and visitors;,,

(j) the courses and period of study and of practical training to be undertaken, the subjects of examination and the standards of proficiency therein",,,

to be obtained, in Universities or medical institutions for grant of recognised medical qualifications;,,

(k) the standards of staff, equipment, accommodation, training and other facilities for medical education;,,

(l) the conduct of professional examinations, qualifications of examiners and the conditions of admissions to such examinations;,,

(m) the standards of professional conduct and etiquette and code of ethics to be observed by medical practitioners; and

(ma) the modalities for,,

conducting screening tests" under sub-section (4-A), and under the proviso to sub-section (4-B), and for issuing eligibility certificate under sub-",,,

section (4-B) of Section 13; (n) any matter for which under this Act provision may be made by regulations."",,

22. The Medical Council of India introduced the Post-graduate Medical Education Regulations, 2000 which came into effect from 22nd August",,

2000 and in terms of the Regulation 14(1)(b) of the Medical Council of India Post-graduate Medical Education Regulations, 2000, for all Post-",,

graduate examinations, minimum number of examinations shall be four, out of which, at least two shall be External Examiners, who shall be invited",,

from other recognised Universities from outside the State. Two sets of internal examiners may be appointed one for M.D./M.S. and one for",,

diploma. Under Regulation 14 of the said Regulations, 2000 reads as under:",,

14. Examinations. - The examinations shall be organised on the basis of grading or marking system to evaluate and certify candidates level of",,

knowledge, skill and competence at the end of the training and obtaining a minimum of 50% marks in theory as well as practical separately shall be",,

mandatory for passing the whole examination. The examination for M.S., M.D., M.Ch. shall be held at the end of 3 academic years (six academic",,

terms) and for diploma at the end of 2 academic years (four academic terms). The academic terms shall mean six months training period:",,

(1) Examiners,,

(a) All the Post-graduate Examiners shall be recognised Post-graduate Teachers holding recognised Post-graduate qualifications in the subject,,

concerned,,

(b) For all Post-graduate Examinations, the minimum number of Examiners shall be four, out of which at least two (50%) shall be External",,

Examiners, who shall be invited from other recognised Universities from outside the State. Two sets of internal examiners may be appointed one",,

for M.D./M.S. and one for diploma,,

(c) Under exceptional circumstances, examinations may be held with 3 (three) examiners provided two of them are external and Medical Council",,

of India is intimated the justification of such action prior to publication of result for approval. Under no circumstances, result shall be published in",,

such cases without the approval of Medical Council of India,,

(d) In the event of there being more than one centre in one city, the external examiners at all the centres in that city shall be the same. Where there",,

is more than one centre of examination, the University shall appoint a Supervisor to co-ordinate the examination on its behalf.",,

(e) The examining authorities may follow the guidelines regarding appointment of examiners given in Appendix-II,,

(2) Number of candidates The maximum number of candidates to be examined in Clinical/practical and Oral on any day shall not exceed eight for,,

M.D./M.S. degree, eight for diploma and three for D.M./M.Ch. examinations.",,

(3) Number of examinations: The University shall conduct not more than two examinations in a year, for any subject, with an interval of not less",,

than 4 and not more than 6 months between the two examinations.,,

(4) Doctor of Medicine (M.D.)/Master of Surgery (M.S.) M.D./M.S. examinations, in any subject shall consist of Thesis, Theory Papers, and",,

clinical/Practical and Oral examinations.,,

(a) Thesis,,

Every candidate shall carry out work on an assigned research , project under the guidance of a recognised Post-graduate Teacher, the result of",,

which shall be written up and submitted in the form of a Thesis.,,

Work for writing the Thesis is aimed at contributing to the development of a spirit of enquiry, besides exposing the candidate to the techniques of",,

research, critical analysis, acquaintance with the latest advances in medical science and the manner of identifying and consulting available literature.",,

Thesis shall be submitted at least six months before the theoretical and clinical/practical examination. The thesis shall be examined by a minimum of",,

three examiners; one internal and two external examiners, who shall not be the examiners for Theory and Clinical; and on the acceptance of the",,

thesis by two examiners, the candidate shall appear for the final examination.",,

(b) Theory,,

(i) There shall be four theory papers.,,

(ii) Out of these one shall be of Basic Medical Sciences and one shall be of recent advances.,,

(iii) The theory examinations shall be held sufficiently earlier than the Clinical and Practical examination, so that the answer books can be assessed",,

and evaluated before the start of the Clinical/Practical and Oral examination:.,,

Provided that after five years from the commencement of these regulations, there shall be one theory paper of "multiple choice questions"; unless",,

any institution wants to have such paper earlier.,,

(c) Clinical/Practical and Oral:.,,

(i) Clinical examination for the subjects in Clinical Sciences shall be conducted to test the knowledge and competence of the candidates for,,

undertaking independent work as a specialist/Teacher, for which candidates shall examine a minimum one long case and two short cases.",,

(ii) Practical examination for the subjects in Basic Medical Sciences shall be conducted to test the knowledge and competence of the candidates,,

for making valid and relevant observations based on the experimental/Laboratory studies and his ability to perform such studies as are relevant to,,



his subject.,,

(iii) The Oral examination shall be thorough and shall aim at assessing the candidate knowledge and competence about the subject, investigative",,,

procedures, therapeutic technique and other aspects of the speciality, which form a part of the examination.".,,

A candidate shall secure not less than 50% marks in each head of passing which shall include: (1) Theory; (2) Practical including clinical and viva,,

voce examination.,,

II. Doctor of Medicine (D.M.)/Magister of Chirurgiae (M.Ch.),,

The examination shall consist of: Theory and Clinical/Practical and Oral.,,

(a) Theory,,

There shall be four theory papers, one paper out of these shall be on Basic Medical Sciences, and another paper on Recent Advances. The theory",,,

examination will be held sufficiently earlier than the Clinical and Practical examination, so that the answer books can be assessed and evaluated",,,

before the start of the clinical/Practical and Oral examination.,,

(b) Clinical/Practical and Oral Practical examination shall consist of carrying out special investigative techniques for Diagnosis and Therapy. M.Ch.,,

candidates shall also be examined in surgical procedures. Oral examination shall be comprehensive to test the candidate"s overall knowledge of the,,

subject.,,

A candidate shall secure not less than 50% marks in each head of passing which shall include: (1) Theory; (2) Practical including clinical and viva,,

voce examination.,,

III. Post-graduate Diploma,,

Diploma examination in any subject shall consist of Theory, Clinical and Oral.".,,

(a) Theory,,

There shall be three theory papers. One paper out of these shall be on Basic Medical Sciences. The examination shall be held sufficiently earlier,,

than the clinical examination, so that the answer books can be assessed before the start of the clinical examination.".,,

(b) Clinical and Oral,,

Clinical examination for the subject in clinical Science shall be conducted to test/aimed at assessing the knowledge and competence of the,,

candidate for undertaking independent work as a Specialist/Teacher for which a candidate shall examine a minimum of one long case and two,,

short cases.,,

The oral examination shall be thorough and shall aim at assessing the candidate"s knowledge and competence about the subject, investigative",,,

procedures, therapeutic technique and other aspects of the speciality, which shall form a part of the examination.",,

The candidate shall secure not less than 50% marks in each head of passing which shall include: (1) Theory; (2) Practical including clinical and viva,,

voice examinations."",,

23. The Hon"ble Supreme Court while considering the Regulations of Post-graduate Medical Education, 1997 in the case of Maharashtra",,

University of Health Sciences represented by Deputy Registrar v. Paryani Mukesh Jawaharlul and Others, (2007) 10 SCC 201 at",,

paragraphs 14 and 15 has held as under:,,

14. The High Court had on an earlier occasion considered the very issue relating to the validity of Clauses 56(2) and 57 of amended University",,

Ordinance 1 of 2002 in Sheetal A. Abhyankar v. Maharashtra University of Health Sciences, W.P. No. 5725 of 2003 and connected",,

cases decided on 12-12-2003. There also the MCI had supported the contention of the students. The High Court had negated the said,,

contention and held that Clauses 56 and 57 were in consonance with MCI Regulation 12. The High Court held:,,

Apart from the fact that there is no inconsistency with Regulation 12, it will be seen that wherever the Medical Council of India or University",,

desired to club certain assessment, have specifically provided for the same. Regulation 12 specifically provides while dealing with the final",,

examination that in order to pass in each subject the candidate must obtain 50% in aggregate with minimum of 50% in theory including orals and,,

minimum of 50% in practical/clinical. The council wherever intended to include something it specifically provided for it... """,,

It proceeded to hold that a student must obtain 50% in theory including orals and 50% in practicals/clinicals and inclusion of internal assessment,,

marks was impermissible. Unfortunately, the earlier decision in Sheetal A. Abhyankar was not followed by a co-ordinate Bench in the judgment",,

under appeal. Two reasons are given for not following the earlier decision. The first is that the minimum internal assessment marks required for,,

becoming eligible to take the final examination had been reduced from 50% to 35% by amendment to MCI Regulation 12(2)(v) vide notification,,

dated 15-10-2003. The second is that MCI had given a clarification regarding the manner of giving effect to Regulation 12(4) on 17-9-2002,,

which permitted clubbing of internal assessment marks with the external examination marks, for the passing head of "Theory" with Orals" and",,

"Practicals", and the said clarification by MCI had been accepted by the Kerala High Court in K. Fahad Mohamed v. Calicut University",,

W.A. No. 1777 of 2002 decided on 25-9-2002 and other cases. We find that neither of the two reasons given by the High Court in the judgment,,

under appeal for not following its earlier decision in Sheetal A. Abhyankar is valid. The amendment to Regulation 12(2)(v), reducing the eligibility",,,

marks in internal assessment from 50% to 35%, was specifically noticed in para 16 of the earlier judgment. Similarly the clarification by MCI",,,

supporting the interpretation put forth by the students was also noticed, though the letter dated 17-9-2002 as such was not referred. Both the two",,,

contentions were considered and rejected. Merely because the Kerala High Court had accepted the clarification of the MCI, the Bombay High",,,

Court could not have ignored a binding precedent of a Co-ordinate Bench. If it wanted to take a different view, judicial propriety required that the",,,

matter be referred to a larger Bench. Be that as it may. We find it difficult to sustain the reasoning of the High Court in the judgment under appeal.,,

What is the intent of MCI Regulation 12(4)?,,

15. MCI has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. The,,

regulations framed by the MCI with the previous sanction of the Central Government, in regard to any of the matters referred to in Section 33 of",,,

the Indian Medical Council Act, 1956, will have statutory force and are mandatory. Universities must necessarily be guided by the MCI",,,

Regulations. Any regulations made by the Universities which are inconsistent with the MCI Regulations, or which dilute the criteria laid down by",,,

MCI will not be valid to the extent of inconsistency or dilution. (Vide State of Tamil Nadu v. Adhiyaman Educational and Research,,

Institute, (1995) 4 SCC 104; Medical Council of India v. State of Karnataka and Others, (1998) 6 SCC 131; and Dr. Preeti Srivastava",,,

v. State of Madhya Pradesh, (1999) 7 SCC 120. It, therefore, follows that if Clauses 56(2) and 57 of amended University Ordinance 1 of 2002",,,

are inconsistent with MCI Regulation 12(4), they will be void to the extent of inconsistency. On the other hand, if the said clauses merely",,,

implement, or make explicit what is implicit in MCI Regulation 12(4), then they will be valid and binding. """,,,

24. The Hon"ble Supreme Court while considering the provisions of Sections 10-A, 10-B, 10-C, 19-A, 33(fa), 33(fb), 33(fc), 33(j), 33(k) and",,,

33(1) of the Indian Medical Council Act, 1956 in the case of Medical Council of India v. State of Karnataka and Others Reported in",,,

(1998) 6 SCC 131 at para 24 has held as under:,,

The Indian Medical Council Act is relatable to Entry 66 of List I (Union List of Seventh Schedule of the Constitution of India). It prevails over any",,,

state enactment to the extent the State enactment is repugnant to the provision of the Act even though the State Acts may be relatable to Entry 25,,

or 26 of List III (Concurrent List). Regulations framed under Section 33 of the Medical Council Act with the previous sanctions of the Central,,

Government are statutory. These regulations are framed to carry out the purposes of the Medical Council Act and for various purposes mentioned,,

in Section 33. If a regulation falls within the purposes referred under Section 33 of the Medical Council At, it will have mandatory force.",,

Regulations have been framed with reference to clauses (fa), (fb) and (fc) (which have been introduced by the Amendment Act of 1993 with effect",,,

from August 27, 1992) and clauses (j), (k) and (1) of Section 33. """,,,

25. In view of the aforesaid facts and circumstances of the present case, the notification dated 1-7-2015 issued by the 1st respondent-Rajiv",,,

Gandhi University of Health Sciences introducing double evaluation system is contrary to Regulation 14(1)(b) of the Post-graduate Medical,,

Education Regulations, 2000. The Medical Council Act, 1956 is relatable to Entry 66 of List I (Union List). It prevails over any State enactment to",,,

the extent the State enactment is repugnant to the provision of the Act, even though the State Acts may be relatable to Entry 25 or 26 of List III",,,

(Concurrent List). Regulations framed under Section 33 of the Medical Council Act with the previous sanction of the Central Government are,,

statutory. These regulations are framed to carry out the purposes of the Medical Council Act and for various purposes mentioned in Section 33. If,,

a regulation falls within the purposes referred under Section 33 of the Medical Council Act, it will have mandatory force. Therefore the notification",,,

dated 1-7-2015 issued by the Rajiv Gandhi University is repugnant to the provisions of Section 33 of the Act and contrary to the Regulation 14(1),,,

(b) of the Post-graduate Medical Education Regulations, 2000. For the reasons stated above, Point No. 1 raised in the present petitions has to be",,,

answered in the affirmative holding that the petitioners are entitled to the relief sought for in the present petitions and Point No. 2 has to be,,

answered in the affirmative holding that the Medical Council of India Post-graduate Medical Education Regulations, 2000 is prevail and binding on",,,

the State Universities, including 1st respondent-University or any other enactments/notifications made by the authorities of the respective",,,

Universities.,,,

26. Accordingly, Point No. 3 is answered in the negative holding that the notification issued by the Rajiv Gandhi University of Health Sciences is",,,

inconsistent and contrary to Regulation 14(1)(b) of the Medical Council of India Post-graduate Medical Education Regulations, 2000. Therefore,,

the same is not binding on the petitioners. The Medical Council of India Post-graduate Medical Education Regulations, 2000 prevails over the",,,

notification issued by the Rajiv Gandhi University. The Rajiv Gandhi University is bound by the Post-graduate Medical Education Regulations,",,

2000 and it has no power to introduce double evaluation system by way of notification contrary to Regulation 14(1)(b) of the Post-graduate,,

Medical Education Regulations, 2000.",,

27. In view of the aforesaid reasons, writ petitions are allowed. The impugned notification dated 1-7-2015 bearing No.",,

AUTH/Exam/Val/PG/24/2015-16 issued by the 2nd respondent-Rajiv Gandhi University of Health Sciences, Karnataka, Bengaluru is quashed.",,

The Rajiv Gandhi University of Health Sciences, Karnataka represented by the Registrar (Evaluation) is directed to conduct fresh evaluation of" ,,

answer scripts of all the petitioners, who have failed in the subjects viz., Post-graduate M.D. in Dermatology, M.S. in General Medicine and" ,,

Orthopedic in accordance with the provisions of Regulation 14(1)(b) of the Post-graduate Medical Education Regulations, 2000 on or before 30th" ,,

September, 2016 and announce the results." ,,

28. However, it is made clear that quashing of the impugned notification dated 1-7-2015 issued by the Rajiv Gandhi University of Health Sciences" ,,

is only prospective and shall not affect the Post-graduate students, who have completed their courses on the basis of the impugned notification and" ,,

have already joined the super speciality courses.,,

29. Ordered accordingly.,,