

Medical Council of India Vs Indian Doctors from Russia Welfare Associations and Others

Court: Supreme Court of India

Date of Decision: March 8, 2002

Acts Referred: Constitution of India, 1950 " Article 142

Indian Medical Council Act, 1956 " Section 13

Citation: AIR 2002 SC 1565 : (2002) AIRSCW 1461 : (2002) 2 AWC 1120 Supp : (2002) 2 JT 589 : (2002) 2 SCALE 521 : (2002) 3 SCC 696 : (2002) 2 SCT 344 : (2002) 2 Supreme 279 : (2002) 1 UJ 646 : (2002) 2 UPLBEC 1161

Hon'ble Judges: S. Rajendra Babu, J; P. Venkatarama Reddi, J; K. G. Balakrishnan, J

Bench: Full Bench

Final Decision: Dismissed

Judgement

Rajendra Babu, J.

CIVIL APPAL NOS. 2779/2000, 2808/2000, 2809/2000, 2811-2863/2000, 2787-2803/2000, 2804-2807/2000, 2810/2000, 2782-

2786/2000.

1. Writ petition were filed in different High Courts by persons who had undergone courses in medicine in medical colleges in the erstwhile USSR.

After disintegration of USSR, their admissions ran into difficulties either not having studied in recognised colleges or partly in recognised and partly

in non-recognised colleges or they had not completed their courses in full. The Medical Council of India (for short "MCI") also entertained serious

doubts as to the genuineness of some courses undergone by various students, thus leading to difficulties on the question of recognising their degrees

and their registration as Medical Practitioners. MCI took the stand that when their initial admission in non-recognised institution could not be

accepted, their transfer to recognised colleges subsequently cannot be of any benefit. MCI also passed various types of orders either during the

pendency of the proceedings before the courts or otherwise in relation to recognition of the degrees or registration of such persons as practitioners.

The Delhi High Court allowed those writ petitions and granted reliefs to the concerned doctors which orders stood affirmed on appeal, while

Allahabad High Court granted interim order, which stood affirmed on appeal MCI is in appeal before us.

2. Several contentions have been raised in support of the orders under appeal and opposing them. In fact, this Court also made an interim order on

April 17, 2000.

3. This Court, while hearing this matter on different occasions, made the observations in the best interest of all concerned that the Government of

India should formulate an appropriate policy bearing in mind the human problem arising in relation to the doctors in question.

4. Now, Section 13 of the Indian Medical Council Act, 1956 [hereinafter referred to as "the Act"] has been amended by Act No. 34 of 2001

which would cover situations as arising in the present cases. The Regulations for conduct of the screening test and for issue of Eligibility Certificate

by the MCI to the students proceeding abroad for studies in medicine have been approved by the Government of India and sent to the MCI. The

MCI has sent the same on 18.2.2002 to the Government of India Press for publication in the Gazette and those Regulations, in brief, provide as

follows:-

(i) An Indian citizen possessing a primary medical qualification awarded by any of the medical institutions outside india and desirous of getting

provisional or permanent registration with the Medical Council of India or any State Medical Council on or after 15.3.2002 shall have to qualify a

Screening test conducted by the prescribed authority for the purpose of their registration in India. A person seeking permanent registration shall not

have to qualify the Screening test if he or she had already qualified the same before getting or her provisional registration.

(ii) The primary medical qualification possessed by the Indian citizen should be a recognised medical qualification for enrolment as medical

practitioner in the country in which the institution awarding the said qualification is situated.

(iii) Any Indian citizen who is desirous of taking admission in an undergraduate medical course abroad on or after 15th March, 2002 shall have to

obtain an Eligibility Certificate from the MCI stating that he or she fulfils the minimum eligibility criteria laid down by the MCI for admission in

MBBS course in India. He shall also have to produce the same at the time of appearing in the Screening test, after completion of his degree

abroad, for the purpose of obtaining registration in India.

5. Under the provisions of the Act a person has to successfully complete compulsory internship of one year after getting provisional registration and

all persons who applied for provisional registration and have to do the internship on or after 15.3.2001 will be required to qualify the screening test

as per the provisions of the Screening Test Regulation, 2002, as they would become eligible for permanent registration on or after 15.3.2002, that

is, after successful completion of one year internship. However, the Government noticed that there are a number of persons who have applied to

the MCI for grant of provisional registration after completion of their degree abroad prior to 15.3.2001 and have not been granted provisional

registration by the MCI for the various reasons, such persons fall into following categories:-

(a) Those who did not undergo the complete duration of six years of the medicine course from institute recognised by MCI;

(b) Those who did not fulfil the minimum eligibility criteria for joining medical course laid down by MCI at the time of their admission in the medical

institutions abroad, particularly in the erstwhile States of USSR; and

(c) Those who came back with medical degree which are not recognised by the MCI.

6. In order to regulate the grant of registration to such persons who have completed their degree abroad prior to March, 15, 2001, the following

guidelines are placed before this Court by the Government of India:-

(A) The case of all persons who applied for registration to MCI prior to 15.3.2001 shall be dealt with according to the provisions of the Act as

existing prior to the commencement of the IMC (Amendment) Act, 2001 subject to the following:-

(i) Those students who obtained degrees where the total duration of study in recognised institutions is less than six years (i.e. where a part of the

study has been in unrecognised institutions, or the total length of study in a recognised institution is short of six years), shall be granted registration

by MCI provided that the period of shortfall is covered by them by way of additional internship over and above the regular internship of one year.

In other words, for such categories of students, the total duration of study in recognised institution plus the internship, would be seven years, which

is the requirement even otherwise.

(ii) Where students who did not meet the minimum admission norms of MCI for joining undergraduate medical course, were admitted to foreign

institutes recognised by MCI, this irregularity be condoned. In other words, the degrees of such students be treated as eligible for registration with

MCI.

(B) All students who have taken admission abroad prior to 15.3.2002 and are required to qualify the Screening Test for their registration as per

the provisions of the Screening Test Regulations, 2002 shall be allowed to appear in the Screening test even if they also come in the categories of

circumstances contained in A(ii) above, as the relaxation contained therein would also be applicable in their case. In other words, any person at

present undergoing medical education abroad, who did not conform to the minimum eligibility requirements for joining an undergraduate medical

course in India laid down by MCI, seeking provisional or permanent registration on or after 15.3.2002 shall be permitted to appear in the

Screening Test in relaxation of this requirement provided he had taken admission in an Institute recognised by MCI. This relaxation shall be

available to only those students who had taken admission abroad prior to 15.3.2002. From 15.3.2002 and onwards all students are required to

first obtain an Eligibility Certificate from MCI before proceeding abroad for studies in Medicine.

(C) The categories of students not covered in A(i) & (ii) above and whose entire period of study has been in medical college not recognised by

MCI, will be allowed to appear in the Screening test for the purpose of their registration provided they fulfil and the conditions laid down in the

IMC (Amendment) Act, 2001. In other words, the qualification obtained by them must be qualification recognised for enrolment as medical

practitioner in the country in which the institution awarding the same is situated and they must be fulfilling the minimum eligibility qualification laid

down by MCI for taking admission in an undergraduate medical course in India. They shall not be entitled for any relaxation.

7. In the special features and circumstances arising in these cases, it is unnecessary to consider the various contentions urged on behalf of the

parties but, we propose to dispose of these matters by approving the guidelines set for the above in exercise of powers under Article 142 of the

Constitution and these guidelines will be applicable to all such persons who are similarly situated whether they are parties before this Court or not. In

respect of those who have already applied for registration to MCI, the same shall be granted or refused within a period of 15 days from today in

terms of this order. On grant of such registration, the students shall undergo the internship or the housemanship, if needed. It is made clear that

these guidelines approved by us are by way of one time measure. Future cases will be governed by the revised Regulations framed by MCI as

approved by the Government.

8. The orders of the High Courts shall stand displaced by this order and these appeals shall stand disposed of accordingly. Any proceeding

pending in any High Court relating to these matters shall stand withdrawn to this Court and disposed of in the same terms as aforesaid.

W.C.(C) No. 215/2001

9. The writ petition will stand disposed of accordingly.

T.P. (C) No. 103/2000

10. Writ petition filed in the High Court is withdrawn and disposed of in the same terms as aforesaid.