

MEDICAL COUNCIL OF INDIA

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v.

DR. M.G.R. EDUCATIONAL AND RESEARCH INSTITUTE,
UNIVERSITY & ANR.

(Civil Appeal Nos.1757-1759 of 2015 etc.)

B

FEBRUARY 11, 2015

[MADAN B. LOKUR AND UDAY UMESH LALIT, JJ.]

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Establishment of Medical Colleges Regulations, 1999 – University Grants Commission Act, 1956 – s. 3 – Indian Medical Council Act, 1956 – s. 11(2) – Admission of students to MBBS course – Renewal of permission, to admit 2nd batch of students – Admissions made in the academic year 2009-10 by the Institute in the Medical College for the 2nd batch of MBBS course in complete defiance of the specific directions given by MCI and the MH & FW – Medical college not yet within the ambit of the Institute (deemed to be University) – Validity of – Held: Admissions were unauthorized – MHRD has now brought the College within the ambit of the Institute not only for the academic year 2008-09 (about which there is no dispute) but also for the admissions made to the 2nd batch in the academic year 2009-10, notwithstanding the objections of MCI and MH&FW – Admissions made were completely unauthorized at the relevant time but have now been granted approval and recognition as a result of certain subsequent events which have been taken into consideration by the MHRD – However, the students not visited with the natural consequence of setting aside their admissions – Certain directions issued to deal with the exigencies of the situation – Rs 5 crores cost imposed on institute for blatantly violating the directions of MCI and MH&FW and for risking the career

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A *of students.*

Disposing of the appeals, the Court

B **HELD: 1.1 The Institute gave some justification for admitting the students to the 2nd batch of MBBS course in the academic year 2009-10 namely that it was expecting grant of approval for admissions and that this was fortified by some communications received from the MCI. However, this justification wears extremely thin considering the specific directions given by the MCI and the MH&FW not to admit students in the 2nd batch in the academic year 2009-10. The Institute had also approached this Court praying for permission to admit the said students but no permission or interim order was granted by this Court. Notwithstanding this, the Institute went ahead and made admissions. There is nothing to suggest that at the relevant time the College was within the ambit of the Institute. In fact it is only when the MHRD passed an order on 25.09.09 (after the judgment under appeal) that recognition was given to the Institute but limited only to conducting the MBBS course commencing from 2008-09 and 2009-10 and thereafter in 2014-15. Clearly, the admission of the students in the academic year 2009-10 was unauthorized at the relevant time. [Para 40, 41] [597-E-H; 598-A-C]**

G **1.2 The statutory authorities-MCI, MH&FW, UGC and MHRD and the Government were toothless tigers when it came to retaining admission of the 2nd batch of students in the academic year 2009-10 or taking quick remedial steps after the admissions were made. Unless the statutory authorities and the Government realize and appreciate that by their inaction they are encouraging blatant defiance of their directions and are putting**

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society at risk with possibly not fully competent doctors, A
the possibility of improving the health of people will
remain a pipe dream. [Para 42] [598-D-F]

1.3 Though the MCI and the MH&FW accorded B
recognition and approval to the admissions made by
the Institute in the academic year 2008-09, no
recognition or approval was accorded to the
admissions made by the Institute to the 2nd batch of
students in the academic year 2009-10. However, the
MHRD went a step ahead and accepted the report of the C
Expert Committee set up by it and brought the College
within the ambit of the Institute not only for the
academic year 2008-09 but also for the admissions made
to the 2nd batch in the academic year 2009-10, D
notwithstanding the objections of the MCI and the
MH&FW. Clearly one Ministry of the Government is
completely oblivious of the views of another Ministry of
the Government and this absence of coordination is
what perhaps enabled the Institute and the College to E
make admissions in the academic year 2008-09 and
present a fait accompli to the statutory authorities and
the Government resulting in the approval and
recognition of the admissions made in that academic
year. This absence of coordination also enabled the F
Institute and the College to take similar advantage in
respect of the admissions to the 2nd batch of MBBS
students in the academic year 2009-10. [Para 43] [598-
F-H; 599-A-C]

1.4 Without the College being under the ambit of the G
Institute and having made unauthorized admissions in
the academic year 2008-09, the MCI conducted an
inspection of the facilities available in the College on 23/
24.03.09 for renewal of permission to admit the 2nd H

A batch of students in the academic year 2009-10. Not only was the inspection carried out but a positive recommendation was made by the MCI to the MH&FW to renew the permission. Again, when the College was not within the ambit of the Institute and could not admit students in the 2nd batch beginning in the academic year 2009-10, the MCI sent a letter to the College on 15.09.09 to furnish the list of students admitted in the academic year 2009-10. It is true that the letter was of a general nature but obviously it was sent without any application of mind and the Institute sought to take advantage of this. Further on 17.09.09 the MCI wrote to the College proposing an inspection for renewal of permission for admission to the 3rd batch of students from the academic year 2010-11. The mechanical manner in which the MCI has acted is extremely unfortunate. [Paras 44 & 45] [599-C-G]

1.5 When the MCI came to know and was given the list of students admitted to the 2nd batch in 2009-10 by a communication dated 30.09.09 sent by the College, it kept quiet till 4.02.10 that is for a period of about four months. The MCI could have and should have acted swiftly and taken some remedial steps but it permitted the unwitting students to continue their studies for which they would have had to pay a heavy price with the loss at least of one year of their education. Even the MH&FW kept quiet till 5.04.10 that is for a period of about 5 months. It is unfortunate that unauthorized admissions to a medical college are being taken in such a casual manner by the concerned statutory authorities and the Government. [Para 46] [599-H; 600-A-C]

1.6 Admissions made were completely unauthorized at the relevant time but have now been granted approval and recognition as a result of certain subsequent events

which have been taken into consideration by the MHRD. A
The MCI and the MH & FW as well as the UGC have
therefore, little option but to fall in line.[Para 49] [601-D]

1.7 The students have undergone the entire course
of study and are now waiting to commence their B
internship. Having spent five years in pursuing their
MBBS course, students cannot be told that they have
simply wasted their time. Matter cannot be allowed to
rest simply because the admission of the 2nd batch of C
students in the academic year 2009-10 has been
recognized and approved by the MHRD. It is not very
clear whether the course of study undergone by the
students admitted in the 2nd batch in the academic year D
2009-10 matches up to the quality expected by the MCI
and the MH&FW. In the given peculiar facts and
circumstances of the case, this Court is required to play
the role of a bridge over troubled water. The careers of
the students are required to be saved as also interests
of potential patients who may be treated by what might E
possibly be not fully qualified doctors to be considered.
To strike a balance between competing interests,
certain directions are issued. Student admitted by the
Institution in the academic year 2009-10 should be
required to once again undergo the final examination F
under the auspices of a State Health University and
expenses for conducting the examination would be
borne by the Institute. On qualification of the said
examination, student would do the internship
programme and on successful completion thereof, an G
MBBS degree would be awarded by the Institute,
subject to the final decision in Viplav Sharma's case. In
case the student does not qualify in the examination, he
or she would be given another chance. The institute is
directed to pay Rs.5 crores as cost for blatantly violating H

- A the directions of the MCI and the MH&FW and creating a complete mess insofar as the students admitted to the 2nd batch of MBBS course in the College in the academic year 2009-10 and the said amount would not be recovered in any manner from any student. [Paras
 B 49-53] [601-E-F, G; 602-B, C, F-G; 603-A-H; 604-A-B]

A.P. Christian Medical Educational Society v. State of Andhra Pradesh 1986 (2) SCR 749:1986 (2) SCC 667
 – referred to.

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Case Law Reference

1986 (2) SCR 749 Referred to. Para 47

- D CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 1757-1759 of 2015 etc.

From the Judgment and Order dated 13.08.2014 of the High Court of Judicature at Madras in WA Nos. 1078-1079 of 2014 and MP No. 1 of 2014.

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WITH

SLP (C) No. 5153 of 2015.

P. S. Patwalia, Gaurav Sharma, Archit Upadhyay, Prateek Bhatia for the Appellant.

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K. K. Venugopal, Dr. Rajeev Dhavan, G. Umapathy, R. Mekhala, Rakesh K. Sharma, Rohit K. Sharma for the Respondents.

The Judgment of the Court was delivered by

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MADAN B. LOKUR, J. 1. Leave granted in S.L.P. (Civil) Nos.32770-32772 of 2014.

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2. The question before us relates to the validity of admissions made in the academic year 2009-10 by the Dr. M.G.R. Educational and Research Institute, Chennai (for short

'the Institute') in the A.C.S. Medical College and Hospital (for short 'the College') for the 2nd batch of MBBS course. In our opinion, the admissions were unauthorized. However, we are not visiting the students with the natural consequence of setting aside their admissions, but are passing directions to deal with the exigencies of the situation. A
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Preliminary

3. A few facts are not in dispute. The Institute was declared as a Deemed to be University by a notification dated 21st January, 2003 issued by the Ministry of Human Resource Development of the Government of India (hereinafter referred to as 'the MHRD'). The declaration was in exercise of powers conferred by Section 3 of the University Grants Commission Act, 1956 (the 'UGC Act') and was for the purposes of the Act.¹ At that time the Institute comprised of two institutions: a dental college and hospital and an engineering college. C
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4. The Institute desired to establish a medical college being the ACS Medical College and Hospital and the necessary paperwork for this was carried out. However, the College was not within the ambit of the Institute (Deemed to be University) when admissions were made in the academic year 2008-09 and in the academic year 2009-10. The admissions made in both academic years were therefore unauthorized. However, the Medical Council of India (for short 'the MCI') is not making an issue of the validity of the E
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¹ 3. **Application of Act to institutions for higher studies other than Universities** .—The Central Government may, on the advice of the Commission, declare, by notification in the Official Gazette, that any institution for higher education, other than a University, shall be deemed to be a University for the purposes of this Act, and on such a declaration being made, all the provisions of this Act shall apply to such institution as if it were a University within the meaning of clause (f) of Section 2. G
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A admissions made in the academic year 2008-09 due to subsequent events and, therefore, it is not necessary for us to dwell on that issue. The limited scope of inquiry is only with reference to the admissions made in the academic year 2009-10 for the 2nd batch of students.

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Admissions made in 2009-10

C 5. Having admitted students in 2008-09 the Institute was required, in terms of the Establishment of Medical Colleges Regulations, 1999 of the MCI to renew the permission granted to admit the 2nd batch of students in the academic year 2009-10. In this context, the MCI wrote to the College on 10th November, 2008 that, for the renewal of permission for admission of the 2nd batch of students in the academic year 2009-10 it may send the proposed dates for carrying out an inspection before 15th March, 2009 and submit all requisite documents.

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E 6. Pursuant to this, an inspection of the College was carried out by the MCI on 23rd/24th March, 2009. The inspection report was placed before the Executive Committee of the MCI and in its meeting held on 8th April, 2009 the MCI decided to recommend to the Central Government [the Ministry of Health & Family Welfare or the MH&FW] to renew the permission to admit the 2nd batch of students in the College in the academic year 2009-10.

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G 7. Soon thereafter on 9th April, 2009 the MCI received a letter dated 1st April, 2009 from the Institute. The letter intimated that the Institute would be forwarding the notification of approval for inclusion of the College within the ambit of the Institute under Section 3 of the UGC Act as soon as it was received. This indicated to the MCI that the College was not yet under the ambit of the Institute. Accordingly, on 1st May, 2009 the MCI requested the Central Government [MH&FW] to

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keep in abeyance the renewal of permission to admit the 2nd A
batch of students in the College till it was brought within the
ambit of a Deemed to be University by an appropriate
notification.

8. In light of the information received, the issue of B
renewal of permission was considered by the Executive
Committee of the MCI in its meeting held on 9th May, 2009.
The Executive Committee decided to ratify the abeyance
communication dated 1st May, 2009. It also decided to recall C
the recommendation earlier made of the renewal of permission
for admission to the 2nd batch of MBBS students for the
academic year 2009-10. This was communicated by the MCI
by a letter of 15th May, 2009 to the MH&FW while reiterating
its decision to recall the recommendation of renewal of D
permission.

9. Thereafter on 24th June, 2009 the MCI once again
wrote to the MH&FW informing it of the decision of the
Executive Committee to recall the recommendation of renewal
of permission for admission to the 2nd batch of MBBS students E
for the academic year 2009-10 till the College is brought within
the ambit of the Institute by the UGC. This letter was also
endorsed to the Dean/Principal of the College with a request
to submit a copy of the notification for inclusion of the College
in the ambit of the Institute under Section 3 of the UGC Act. F

10. Since the Institute was not able to produce any
document to show that the College was within its ambit, the
MCI wrote a letter to the MH&FW on 15th July, 2009 reiterating
its earlier decision of 15th May, 2009 recalling the G
recommendation for renewal of permission for admission of
the 2nd batch of MBBS students in the academic year 2009-
10 till the College is brought within the ambit of a Deemed to
be University.

A 11. Earlier, on 10th August, 2009 the MH&FW wrote to
the Tmt. Kannammal Educational Trust (or 'the Trust' which
runs the Institute) with a copy to the MCI and the Institute that in
view of the recall of the recommendation for renewal of
permission it was decided that permission could not be
B renewed for that academic year. A specific request was made
to the College that in view of the above it should not admit any
fresh batch of students for the academic year 2009-10 and
also to comply with the observations made by the MCI.

C 12. The Institute filed a writ petition in this Court on or
about 10th August, 2009 being W.P. No.349 of 2009 in which it
was prayed, inter alia, for a direction to the respondents therein,
that is, the MH&FW, the UGC and the MCI to consider grant of
renewal of permission to admit students in the academic year
D 2009-10 in terms of the decision taken by the MCI on 15th April,
2009. It was also prayed that permission may be granted to
admit students from the academic year 2009-10.² This Court
did not grant any interim relief to the Institute to admit students
for the academic year 2009-10.

E 13. The position as it stood was that the College was
not within the ambit of the Institute; the permission granted by

² The reliefs prayed for in the writ petition were:

F (a) Issue a Writ of Mandamus directing the respondents to forthwith consider
the renewal of permission in terms of the decision of April 2009 of the Medical
Council of India and accord permission to admit the second batch of students
for the academic year 2009-10.

G (b) Issue a Writ of Mandamus directing the respondents to allow the first
batch of students admitted during the academic year 2008-2009 to pursue
the course in the second year MBBS course.

(c) Issue a Writ of Mandamus restraining the MCI in any manner in seeking to
recall the recommendation of renewal of permission for admission of second
batch of students; and

H (d) Pass such other order and/or direction, as this Hon'ble Court may deem
fit and proper in the facts and circumstances of the case.

the MCI to the Institute and the College to admit students for the 2nd batch in the academic year 2009-10 was initially kept in abeyance and thereafter withdrawn (with several reiterations), and the Institute had petitioned this Court for permitting admission for the 2nd batch of students for the academic year 2009-10 but no interim relief was granted to the Institute in this regard. A B

14. Therefore, both the Institute and the College were fully aware that they could not admit students for the 2nd batch in the academic year 2009-10. Notwithstanding these facts and the specific direction (given on 10th August, 2009) not to do so, the Institute and the College went ahead and admitted students for the 2nd batch of MBBS course in the academic year 2009-10. C

Justification for admissions made in 2009-10 D

15. The main hurdle faced by the Institute in making admissions in 2009-10 was the absence of any approval given by the MCI and no approval was possible in the absence of any notification bringing the College in the ambit of the Institute. E

16. Apart from the writ petition filed in this Court, the Institute had also filed W.P. No.13419 of 2009 in the Madras High Court for a direction to the MHRD to take a decision regarding issuance of an appropriate notification bringing the College in its ambit. This writ petition was allowed by the High Court by an order passed on 17th August, 2009 with a direction to take a decision within six weeks. F

17. Pursuant to the direction given by the High Court, the UGC appointed a committee on 2nd September, 2009 to inspect the College for bringing it under the ambit of the Institute. The committee conducted an inspection on 7th/8th September, 2009. It is not clear when the report was given by the committee, but on 10th September, 2009 the UGC H

A recommended to the MHRD to grant ex-post facto approval for bringing the College under the ambit of the Institute from the academic year 2008-2009.

B 18. The College also received a letter dated 15th September, 2009 (though the letter was of a general nature) from the MCI to all medical colleges to furnish the list of students admitted for the academic year 2009-10. Further, on 17th September, 2009 the MCI wrote to the College requesting for some documents but more importantly
C informing it of a proposed inspection for renewal of permission for admission to the 3rd batch of students from the academic year 2010-11.

D 19. Be that as it may, in compliance with the letter dated 15th September, 2009 the College sent on 30th September, 2009 a list of students that it had admitted in the 2nd batch of MBBS course from the academic year 2009-10.

E 20. Learned counsel for the Institute justified the actions of the Institute on the above facts and submitted that the admissions made were bona fide and anticipatory. Three facts were highlighted in this regard: (i) W.P. No.13419 of 2009 was allowed by the Madras High Court on 17th August, 2009 and a recommendation given by the UGC on 10th September, 2009 to the MHRD to grant ex-post facto
F approval for bringing the College under the ambit of the Institute from the academic year 2008-2009; (ii) The College had received a letter dated 15th September, 2009 (though the letter was of a general nature) from the MCI to all medical colleges to furnish the list of students admitted for the
G academic year 2009-10; and (iii) More importantly, on 17th September, 2009 the MCI wrote to the College requesting for some documents and informing it of a proposed inspection for renewal of permission for admission to the 3rd batch of students for the academic year 2010-11. These three facts
H led the Institute to believe that the admissions made in the

academic year 2008-09 were now acceptable to the MHRD A
and that the MCI also had no real objections if admissions
were made in the academic year 2009-10. In fact, there was
even a possibility that admissions could be made in the
academic year 2010-11. On a cumulative assessment of
these facts the College admitted students in the 2nd batch and B
sent the list of admitted students to the MCI on 30th
September, 2009.

Discharge of students admitted in 2009-10

21. Pursuant to the directions given by the MH&FW to C
the Trust (on 10th August, 2009) not to admit the 2nd batch of
students for the academic year 2009-10, the MCI also wrote
to the College on 4th February, 2010 that the students who had
been admitted by the College for the academic year 2009-
10 may be discharged immediately and compliance D
submitted.

22. On 1st April, 2010 the MCI again wrote to the
College reiterating its request to discharge the students
admitted in the academic year 2009-10 since the compliance E
report pursuant to the earlier letter dated 4th February, 2010
had not yet been received. This was followed soon thereafter
by an order passed by the MH&FW on 5th April, 2010 that
regularization of admission of students in the academic years F
2008-09 and 2009-10 cannot arise since there is no
notification bringing the College under the ambit of the
Institute. It was also mentioned in the order that the renewal
of permission from the academic year 2010-11 could not be
considered for the same reason.

23. Despite the letter dated 4th February, 2010 and the order G
dated 5th April, 2010 no steps were taken by the College for
discharging the students admitted to the 2nd batch in the
academic year 2009-10. Accordingly, by a letter dated 19th
May, 2010 (the third in the series) the MCI wrote to the College H
reiterating its request that the students admitted in the

- A academic year 2009-10 in the 2nd batch may be discharged and that no compliance report had been received pursuant to the letter dated 4th February, 2010.

Bringing the College within the ambit of the Institute

- B 24. The Institute continued to pursue its proposal to bring the College under its ambit of the Institute. This eventually led to the UGC deciding on 25th September, 2009 to accord ex-post fact approval to the admissions made by the Institute in the College in the academic year
C 2008-09. However, the MCI continued to hold the view that the admission of students of 2008-09 cannot be regularized as no notification had been issued by the MHRD bringing the College within the ambit of the Institute. This was
D communicated by the MCI to the MH&FW on 18th March, 2010.

25. Apparently in view of this conflict of opinions, the Institute filed W.P.No.13044 of 2010 in the Madras High Court and on 14th July, 2010 the High Court passed an
E order to the effect that the notification under Section 3 of the UGC Act may be issued in favour of the Institute subject to the decision in a public interest petition pending in this Court being W.P. No.142 of 2006 filed by one Viplav Sharma. Based on this order, the Institute made a representation on
F 20th July, 2010 to the MHRD for appropriate orders.

26. Since the MHRD did not pass orders on the representation made by the Institute, yet another writ petition being W.P. No.18682 of 2010 was filed by the
G Institute in the Madras High Court. This writ petition was decided on 18th August, 2010 and a direction issued to the MHRD to pass appropriate orders in terms of the earlier order of 14th July, 2010 after considering the recommendations of the UGC within one week.

- H 27. Upon receipt of the order passed by the Madras High Court in W.P. No. 18682 of 2010 an order was passed by the

MHRD on 31st August, 2010 rejecting the recommendations of the UGC made on 30th September, 2009 to bring the College in the ambit of the Institute. As a result, the ex-post facto approval granted to the College by the UGC (on 25th September, 2009) in the academic year 2008-09 stood rejected.

28. The order dated 31st August, 2010 passed by the MHRD was challenged by the Institute by filing W.P. No. 20995 of 2010 in the Madras High Court.

29. Apparently since the writ petition was not being decided on a priority basis by the Madras High Court, a petition being T.P.(C) No. 512 of 2011 was filed by the Institute in this Court for the transfer of W.P. No. 20995 of 2010 to this Court for disposal. While declining the request, this Court passed an order on 24th February, 2012 requesting the Madras High Court to dispose of the pending writ petition preferably within three months without waiting for the decision in Viplav Sharma's case.³ Acting upon the request, a learned Single Judge disposed of the pending writ petition on 9th November, 2012 and quashed the

³ The order passed by this Court reads: " The petitioner - Institute has filed a writ petition (Writ Petition No.20995/2010) before the High Court of Judicature at Madras for bringing the ACS Medical College and Hospital under the ambit of the Deemed University, which is pending before the High Court. This transfer petition has been filed by the petitioner - Institute under Article 139A of the Constitution for transfer of Writ Petition No.20995/2010 from Madras High Court to this Court for being decided by this Court along with W.P.(C)No.142/2006: Viplav Sharma Vs. Union of India & Ors. (Deemed University case). We have heard the learned counsel for the parties. We are not inclined to transfer the writ petition. However, in the peculiar facts and circumstances of this case, we request the High Court of Judicature at Madras to dispose of the Writ Petition No.20995 of 2010 as expeditiously as possible, preferably within three months from the date of communication of this order, without waiting for the decision of this Court in Viplav Sharma's case (supra).

The parties would be at liberty to complete pleadings before the High Court within six weeks from today.

The transfer petition is disposed of with the aforementioned observations."

A order dated 31st August, 2010 passed by the MHRD. While
doing so, a direction was given to the MHRD to issue a
notification under Section 3 of the UGC Act bringing the
College under the ambit of the Institute with effect from 2008-
09. The MHRD was also directed to consider regularizing
B admissions made by the Institute and the College in 2009-
10 and to grant renewal of permission for admissions for the
academic year 2010-11.

30. Feeling aggrieved by the judgment and order passed
C by the learned Single Judge, the MCI and the MHRD filed writ
appeals being Writ Appeal Nos. 2772/2012 and 256/2013
before the Division Bench of the Madras High Court. By its
judgment and order dated 15th April, 2013 the Division Bench
set aside the direction given by the learned Single Judge for
D issuing a notification under Section 3 of the UGC Act and
remanded the entire matter for reconsideration by the MHRD.

31. Pursuant to the decision rendered by the Division
Bench, the MHRD gave a hearing to the Institute on 8th May,
E 2013 and passed an order on 23rd May, 2013 to the effect
that the College was a constituent unit under the ambit of the
Institute for two academic years that is 2008-09 and 2009-
10 subject to the fulfillment of certain conditions and also
subject to the decision in Viplov Sharma's case.

F 32. On 24th May, 2013 the Institute sent a representation
to the MH&FW in respect of the order passed by the MHRD
on 23rd May, 2013. This representation was forwarded to the
MCI which decided to make an assessment of the College
G for recognition of the admissions made in 2008-09. The
assessment was made on 7th/8th August, 2013 and the
consequent report was then considered by the Under
Graduate Committee of the MCI and subsequently by the
Board of Governors of the MCI. By a decision taken on 2nd

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September, 2013 the Board of Governors of the MCI decided to recognize the admissions made in the academic year 2008-09 but reiterated the earlier decisions that the students admitted in the 2nd batch in the year 2009-10 be discharged. The Board of Governors also decided to black list the Institute and the Trust for a period of five years.⁴

33. A copy of the assessment report of 7th/8th August, 2013 was sent by the MCI to the MH&FW on 12th September, 2013 and on the same day the MCI passed a detailed order on the lines of the resolution of the Board of Governors to the MCI and communicated it to the College.

34. Acting upon the order passed by the MCI, the MH&FW issued a notification on 1st October, 2013 under Section 11(2) of the Indian Medical Council Act, 1956 recognizing the MBBS degree for the students admitted in the academic year 2008-09.⁵ The Institute was also included in the First Schedule to the Indian Medical Council Act, 1956.

35. However, the Institute was not fully satisfied with the order of 12th September, 2013 passed by the MCI and so it

⁴ The order of black listing has since been set aside and is not an issue before us.

⁵ **11. Recognition of medical qualifications granted by Universities or medical institutions in India** —(1) The medical qualifications granted by any University or medical institution in India which are included in the First Schedule shall be recognised medical qualifications for the purposes of this Act.

(2) Any University or medical institution in India which grants a medical qualification not included in the First Schedule may apply to the Central Government to have such qualification recognised, and the Central Government, after consulting the Council, may, by notification in the Official Gazette, amend the First Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the last column of the First Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date.

A filed W.P. Nos.1959 and 1964 of 2014 in the Madras High Court challenging that order. By a decision rendered on 14th July, 2014 a learned Single Judge of the High Court did not interfere with the recognition of the admissions made of the 2008-09 batch of students but the order passed by the MCI
B to discharge the students of the 2009-10 batch was set aside. The MCI was also directed to consider the case of those students in the light of the order passed by the MHRD on 23rd May, 2013 after giving a hearing to the Institute.

C 36. Feeling aggrieved by the order dated 14th July, 2014 the MCI preferred an appeal before the Division Bench and that came to be disposed of by the order dated 13th August, 2014 impugned before us. The Division Bench did not interfere with the order passed by the learned Single Judge
D and affirmed the remand with respect to the students admitted for the academic year 2009-10. The order dated 13th August, 2014 underwent a minor clarification on 19th August, 2014 to the effect that the MCI may pass an order (on remand) without being influenced by the findings of the learned Single Judge.
E It is under these circumstances that the MCI does not challenge the admission of students in the College in the academic year 2008-09 but questions the admissions made in 2009-10.

F **Subsequent events**

37. After the order dated 13th/19th August, 2014 passed by Madras High Court, the MHRD constituted an Expert Committee to re-examine the issue of bringing the College
G under the ambit of the Institute and that Expert Committee gave a recommendation on 22nd September, 2014 that there is no provision for the grant of an ambit order only for two years that is 2008-09 and 2009-10 but that the ambit order "should have been for the entirety."
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38. While accepting the recommendation of the Expert Committee the MHRD passed an order on 25th September, 2014 to the effect that the College is a constituent unit under the ambit of the Institute for the purposes of conducting an academic course from 2014-15 batch onwards, subject to the decision in Viplav Sharma's case.

39. These facts would indicate that the admissions made by the Institute and the College in 2008-09 are not in issue and this was in fact reiterated by the learned Additional Solicitor General who appeared for the MCI. The only issue is with regard to the validity of the admissions made by the Institute and the College in 2009-10 despite specific directions given by the MCI and the MH&FW and the consequence of the possibility of holding those admissions as being unauthorized.

Discussion and findings

40. There is no doubt from the narration of facts that the Institute and the College, in complete defiance of the directions given by the MCI and the MH&FW admitted students to the 2nd batch of the MBBS course in the academic year 2009-10. It is true that the Institute gave some justification for doing so namely that it was expecting grant of approval for admissions and that this was fortified by some communications received from the MCI. However, this justification wears extremely thin considering the specific directions given by the MCI and the MH&FW not to admit students in the 2nd batch in the academic year 2009-10. The Institute had also approached this Court praying for permission to admit students in the 2nd batch in 2009-10 but no permission or interim order was granted by this Court. Notwithstanding this, the Institute went ahead and made admissions.

A 41. To make matters worse, there is nothing to suggest
that at the relevant time the College was within the ambit of
the Institute. In fact it is only when the MHRD passed an order
on 25th September, 2014 (after the judgment under appeal)
B that recognition was given to the Institute but limited only to
conducting the MBBS course commencing from 2008-09 and
2009-10 and thereafter in 2014-15. Clearly, the admission of
the students in the academic year 2009-10 was unauthorized
at the relevant time.

C 42. It is a little disturbing that the MCI and the MH&FW
were completely helpless for several years in taking any action
against the Institute and the College in respect of the
admission of the 2nd batch of students. The UGC and the
MHRD were also passive spectators. It is quite clear that the
D statutory authorities and the Government were toothless tigers
when it came to retaining admission of the 2nd batch of
students in the academic year 2009-10 or taking quick
remedial steps after the admissions were made. Unless the
statutory authorities and the Government realize and
E appreciate that by their inaction they are encouraging blatant
defiance of their directions and are putting society at risk with
possibly not fully competent doctors, the possibility of
improving the health of our people will remain a pipe dream.

F 43. It is also necessary to point out that though the MCI
and the MH&FW accorded recognition and approval to the
admissions made by the Institute in the academic year 2008-
09, no recognition or approval was accorded to the
admissions made by the Institute to the 2nd batch of students
G in the academic year 2009-10. However, the MHRD went a
step ahead and accepted the report of the Expert Committee
set up by it and brought the College within the ambit of the
Institute from 2009-10 onwards. Clearly one Ministry of the
H Government is completely oblivious of the views of another

Ministry of the Government and this absence of coordination is what perhaps enabled the Institute and the College to make admissions in the academic year 2008-09 and present a *fait accompli* to the statutory authorities and the Government resulting in the approval and recognition of the admissions made in that academic year. It is also this absence of coordination which perhaps enabled the Institute and the College to take similar advantage in respect of the admissions to the 2nd batch of MBBS students in the academic year 2009-10.

44. We are pained to point out that without the College being under the ambit of the Institute and having made unauthorized admissions in the academic year 2008-09, the MCI conducted an inspection of the facilities available in the College on 23rd/24th March, 2009 for renewal of permission to admit the 2nd batch of students in the academic year 2009-10. Not only was the inspection carried out but a positive recommendation was made by the MCI to the MH&FW to renew the permission.

45. Again, when the College was not within the ambit of the Institute and could not admit students in the 2nd batch beginning in the academic year 2009-10, the MCI sent a letter to the College on 15th September, 2009 to furnish the list of students admitted in the academic year 2009-10. It is true that the letter was of a general nature but obviously it was sent without any application of mind and the Institute sought to take advantage of this in the submissions made before us. What is worse is that on 17th September, 2009 the MCI wrote to the College proposing an inspection for renewal of permission for admission to the 3rd batch of students from the academic year 2010-11. The mechanical manner in which the MCI has acted is extremely unfortunate to say the least.

46. When the MCI came to know and was given the list

A of students admitted to the 2nd batch in 2009-10 by a
communication dated 30th September, 2009 sent by the
College, it kept quiet till 4th February, 2010 that is for a period
of about four months. The MCI could have and should have
acted swiftly and taken some remedial steps but it permitted
B the unwitting students to continue their studies for which they
would have had to pay a heavy price with the loss at least of
one year of their education. Even the MH&FW kept quiet till
5th April, 2010 that is for a period of about 5 months. It is
unfortunate that unauthorized admissions to a medical college
C are being taken in such a casual manner by the concerned
statutory authorities and the Government.

47. In its order dated 12th September, 2013 the MCI
referred to *A.P. Christian Medical Educational Society v.*
D *State of Andhra Pradesh*⁶ to the effect that no direction can
be issued contrary to the provisions of the Indian Medical
Council Act, 1956 or the Regulations framed thereunder.
Therefore, it was observed in the order that the Board of
Governors in the MCI cannot regularize the admission of the
E 2nd batch of students in the academic year 2009-10.

48. In the referred decision, one of the submissions made
was that the interests of the students who had been admitted
into the MBBS course of that institute "should not be sacrificed
F because of the conduct or folly of the management and that
they should be permitted to appear at the University
examination notwithstanding the circumstance that permission
and affiliation had not been granted to the Institute." It was
noticed that the students concerned had not only lost their
G money to gain admission into the institute but had lost one or
two years of their precious time thereby virtually jeopardizing
their future careers. Therefore, this Court left it open to the
State Government to devise suitable ways, legislative and

H ⁶ 1986 (2) SCC 667

administrative to compensate the students, at least A
monetarily.

49. Insofar as the present appeals are concerned, the fact
situation is somewhat different inasmuch as the MHRD has
now brought the College within the ambit of the Institute not B
only for the academic year 2008-09 (about which there is no
dispute) but also for the admissions made to the 2nd batch in
the academic year 2009-10. This is notwithstanding the
objections of the MCI and the MH&FW. That being the C
position, it is not as if the admissions made by the Institute
and the College in 2009-10 continue to be completely
unauthorized. The admissions made were completely
unauthorized at the relevant time but have now been granted
approval and recognition as a result of certain subsequent D
events which have been taken into consideration by the
MHRD. The MCI and the MH&FW as well as the UGC have
therefore little option but to fall in line in this regard.

50. We also find a substantial difference between the
referred case and the present appeals inasmuch as in **A.P.** E
Christian Medical Educational Society, the students had
undergone one or two years of study. However, in the present
appeals they have undergone the entire course of study and
are now waiting to commence their internship. Having spent F
five years in pursuing their MBBS course, to now tell the
students that they have simply wasted their time would hardly
be a just and fair view to take. The students in the present
case appear to be mere pawns in a bigger game played by
the Institute and the College in which the MCI, the MH&FW, G
the UGC and the MHRD have participated as spectators. We
cannot let the matter rest at that simply because the admission
of the 2nd batch of students in the academic year 2009-10 has
been recognized and approved by the MHRD.

A 51. In view of this, we requested learned counsel for the parties to address us on the consequential orders that may be passed keeping in view the fact that it is not very clear whether the course of study undergone by the students admitted in the 2nd batch in the academic year 2009-10 matches up to the quality expected by the MCI and the MH&FW.

C 52. Learned counsel for the parties (other than the MCI) suggested⁷ a few alternatives to save the careers of the students. We heard and took note of various suggestions made in the consequence hearings and are of the view that given the peculiar facts and circumstances of this case, this Court is required to play the rôle of a bridge over troubled water. The careers of the students certainly require to be saved but at the same time the interests of potential patients who may be treated by what might possibly be not fully qualified doctors has also to be considered. It is far too dangerous for our society to be treated by doctors who may not be fully qualified or equipped to handle the exigencies of medical aid and services. Lives of common men and women cannot be put to grave risk under these circumstances.

F 53. Therefore, since this issue has been debated and discussed from various points of view, and to strike a balance between competing interests, we are of the opinion that:

G (1) A student admitted by the Institution in the academic year 2009-10 should be required to once again undergo the final examination – this time under the auspices of a State Health University located outside the State of Tamil Nadu, preferably Rajiv Gandhi University of Health Sciences, Bengaluru. The examination should be held within three

H ⁷ Mr. K.K. Venugopal, Senior Advocate for the students and Mr. Rajeev Dhavan, Senior Advocate for the Institute.

months from today. The Institute will bear the expenses for A
conducting the said examination.

(2) The Institute/State Health University/Rajiv Gandhi B
University of Health Sciences shall intimate to the Medical
Council of India the proposed date of examination and the
Medical Council of India shall appoint examiners to oversee
the conduct of such examination. The Institute will bear the
expenses for conducting the said examination.

(3) If a student qualifies in the said examination, he/ C
she may be allowed to begin his/her internship programme
and on successful completion thereof, an MBBS degree shall
be awarded by the Institute, subject to the final decision in
Viplav Sharma's case. If a student does not qualify in that
examination, he or she may be given another chance to qualify D
after a gap of six months in a similar examination conducted
under the auspices of a recognized University (but not
Deemed to be University) located outside the State of Tamil
Nadu. The Institute will bear the expenses for conducting the
said examination. E

(4) The MHRD and the MH&FW should put their house
in order and ensure better and more effective coordination
with each other as well as the MCI and the UGC.

(5) The MCI, the MH&FW, the UGC and the MHRD F
should take a joint inspection of the facilities in the College
within a period of two months from today to ascertain and
determine whether the College should be allowed to admit
students in the academic year 2015-16 and whether it
provides necessary facilities as required by law and the G
regulations.

(6) Costs of Rs.5 crores deserve to be imposed on the
Institute for blatantly violating the directions of the MCI and the H

- A MH&FW and creating a complete mess insofar as the students admitted to the 2nd batch of MBBS course in the College in the academic year 2009-10 are concerned. The amount will be deposited by the Institute in the Registry of this Court within four weeks from today. The amount of Rs.5 crores
- B so deposited towards costs shall not be recovered in any manner from any student or adjusted against the fees or provision of facilities for students of subsequent batches.

54. We direct accordingly and dispose of the appeals
- C with these directions. A copy of this judgment and order be sent to the Secretary, Ministry of Human Resource Development, Government of India and the Secretary, University Grants Commission.

- D 55. List for compliance after six weeks.

Petition for Special Leave to Appeal (C) No.5153/15 @ CC No.837/2015)

- E 56. Delay condoned. The SLP is disposed of in terms of the decision in civil appeals arising out of SLP (C) Nos.32770-32772 of 2014.

Nidhi Jain

Appeals disposed of.

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