



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**WRIT PETITION NO. 14330 OF 2025
WITH
CIVIL APPLICATION NO. 139 OF 2026**

1. Ajeet Seeds Private Limited,
Through its Authorized Signatory,
2nd Floor, Tapdia Terrace,
Adalat Road, Chhatrapati Sambhajnagar,
Maharashtra- 431001
2. Dr. Kananbala Yelikar,
Dean, ASPL's CSMSS Medical College
& Hospital, Ajeet Seeds Private Limited
Gut No. 59-61, Limbejalgaon Toll Plaza,
Chhatrapati Sambhajnagar Pune Highway
Limbejalgaon, Tehsil-Gangapur,
Dist. Chhatrapati Sambhajnagar, ..Petitioners

VERSUS

1. Union of India,
Through Secretary,
Ministry of Health and Family Welfare
Nirman Bhavan,
New Delhi – 110011
2. National Medical Commission
Through Secretary,
Pocket-14, Sector-8, Dwarka Phase-1,
New Delhi- 110077, India
3. Medical Assessment and Rating Board,
Through Director, Under-Graduate
Medical Assessment and Rating Board
(UG-MARB), National Medical Commission
4. State of Maharashtra,
Through Secretary,
Medical Education and Drugs Department,
Ministry of Medical Education,
9th Floor, New Mantralaya,
GT Hospital Complex, Lokmanya Tilak
Marg, Mumbai, 400 001.

5. Maharashtra University of Health,
through Registrar, Vani Road, Mhasrul,
Nashik- 422004

...

Learned Senior Advocate for the Petitioner : Mr. V. D.Sapkal
i/by Adv. V.A. Bagidya a/w Adv. Pratik Bhosale, Adv. Yash A.
Jadhav

A.G.P. for respondent Nos. 4 & 5/State : Mr. P. S. Patil

Advocate for Respondent No.1 : Mr. Ravi Bangar

Advocate for Respondent No.2 : Mr. S. K. Kadam

....

**CORAM : SANDIPKUMAR C. MORE AND
ABASAHEB D. SHINDE, JJ.**

**RESERVED ON : JANUARY 19, 2026
PRONOUNCED ON : JANUARY 28, 2026**

JUDGMENT : (PER SANDIPKUMAR C. MORE, J.) :-

1. Rule. Rule is made returnable forthwith. With consent of the rival parties, the Writ Petition heard finally at the stage of admission.

2. Petitioner No.1, who is a Private Limited Company operating one Hospital, has filed this Writ Petition through its Dean i.e. petitioner No.2 for the following reliefs :-

(A) Hold and declare that Regulation 6 of the 2023 Regulations made by Respondent No.2 is *ultra vires* Section 28 and 29 of the NMC Act, issued beyond the powers prescribed under Section 57(2) of the NMC Act and in violation of Articles 14 and 19 of the Constitution of India.

(B) Strike down Regulation 6 of the 2023 Regulations as being unconstitutional and uphold the mandate of Sections 28 and 29 of the NMC Act.

B-1) Issue a writ of mandamus, or a writ, order or direction in the nature of mandamus under Article 226 of the Constitution of India directing Respondent No.3 to process petitioner No.1's application for academic year 2026-2027 which would be filed for establishment of ASPL's CSMSS Medical College and Hospital under Section 28 of the NMC Act without relying upon Regulation 6 of 2023 Regulations.

B-2) During the pendency of the present writ petition direct respondent No.3, 4 and 5 to allow the petitioner No.1 to apply for establishment of ASPL's CSMSS Medical College and Hospital under Section 28 of the NMC Act without relying upon Regulation 6 of 2023 Regulations.

B-3) Direct Respondent Nos. 3,4 and 5 to continue, during the pendency and till the disposal of the present writ petition, with the procedural steps as outlined in paragraph 54 of this petition and any other steps as may be prescribed under the NMC Act for the establishment of petitioner No.1's ASPL's CSMSS Medical College and Hospital for the academic year 2026-2027 without raising deficiency of the petitioner No.1 not being a Section 8 Company

registered under the Companies Act, 2013.

B-4) Grant ad-interim relief in terms of Prayer clause B-2, B-3 and B-4.

(C) Issue a writ of certiorari, or a writ, order or direction in the nature of certiorari under Article 226 of the Constitution of India calling for records and quashing the impugned SCN issued by respondent No.3 in terms of Regulation 6 of 2023 Regulations as being unconstitutional and *ultra vires* Sections 28 and 29 NMC Act.

(D) Issue a writ of certiorari or a writ, order or direction in the nature of certiorari under Article 226 of the Constitution of India calling for records and quashing the impugned LoD dated 11.07.2025 issued by Respondent No.2 while relying solely on Regulation 6 of 2023 Regulations as being unconstitutional and *ultra vires* Sections 28 and 29 NMC Act.

(E) Issue a writ of certiorari, or a writ order or direction in the nature of certiorari under Article 227 of the Constitution of India calling for records and quashing the impugned First Appeal Order dated 10.09.2025 issued by Respondent No.2 while relying solely on Regulation 6 of 2023 Regulations as being unconstitutional and *ultra vires* Sections 28 and 29 NMC Act.

(F) Issue a writ of certiorari, or a writ, order or direction in the nature of certiorari under Article 226 of the Constitution of India calling for

records and quashing the impugned Second Appeal Order dated 25.11.2025 issued by Respondent No.1 while relying solely on Regulation 6 of 2023 Regulations as being unconstitutional and ultra vires Sections 28 and 29 NMC Act.

(G) Issue a writ of mandamus, or a writ, order or direction in the nature of mandamus under Article 226 of the Constitution of India directing Respondent No.3 to process petitioner No.1's application for establishment of ASPL's CSMSS Medical College and Hospital under Section 28 of the NMC Act.

(H) Direct Respondent Nos. 3,4 and 5 to continue, during the pendency and till the disposal of the present writ petition, with the procedural steps as outlined in paragraph 54 of this petition and any other steps as may be prescribed under the NMC Act for establishment of Petitioner No.1's ASPL's CSMSS Medical College and Hospital.

3. On going through the aforesaid reliefs, it appears that the petitioners-company is mainly praying for declaring the Regulation (6) of 2023 Regulations, made by respondent No.2 National Medical Commission (hereinafter for short "N.M.C.") being issued beyond the powers prescribed under Section 57(2) of the National Commission Act (for short, "N.M.C. Act")

in violation of Articles 14 and 19 of the Constitution of India and also for striking down the same, by upholding the mandate of Sections 28 and 29 of the N.M.C Act. The remaining prayers appear to be consequential in nature.

4. In the present petition, the main challenge is to the Regulation 6 of the Establishment of Medical Institutions, Assessment and Rating Regulations 2023, on the ground that it is ultra vires to the Parent statute, especially Section 28 of the N.M.C. Act. The exception is also taken to the all consequential administrative actions, namely show cause notice dated 23.05.2025, issued by respondent No.3 (UG-MARB), letter of Disapproval dated 11.07.2025, again issued by respondent No.3 MARB, order dated 10.09.2025 in First Appeal passed passed by respondent No.2 N.M.C and Second Appeal Order dated 25.11.2025 passed by respondent No.1-Union of India.

5. The learned Senior counsel Mr. V.D. Sapkal vehemently argued that the power of respondent No.2-Authority to make Regulations flows from Section 57 of the N.M.C. Act and Section 28 of the same & governs the permission for new colleges. As per explanation of Section 27, term “person”

broadly includes a University, trust or any other association of persons or body of individuals, specially excluding only the Central Government. Thus, the definition does not exclude private companies. However, while drafting Regulation 6 of 2023 Rules, a restrictive meaning is given to the definition of “person” by completely giving go-by to the general interpretation and permitted only companies under Section 8 of the Companies Act, 2013, by narrowing down, the express provision of the parent statute and in contradiction to the same, making it ultra vires. The learned Senior counsel further argued that the power to prescribe additional criteria for approving or disproving a scheme under Section 29(d) of the N.M.C. Act vests solely with the Central Government via its rule making power under Section 56, but by restricting the eligibility criteria to the extent of type of company under Regulation 6, the N.M.C has encroached upon the rule making domain of Central Government by acting beyond its regulatory authority. The learned Senior counsel Mr. Sapkal also came down heavily on the Regulations 6, which violated Article 14 (equality) and Article 19(1)(g) (freedom of trade) of the Constitution of India, by incorporating arbitrary and unreasonable classification. According to him, such classification has no rational nexus with the object of the

N.M.C. Act, which bars whole class of legal entities like private companies, without any proper justification. He further pointed out that the petitioners started their project in March 2021 establishing huge Hospital by investing around Rupees Three Hundred and Fifty Five Crores and also employed 723 faculty and staff to meet all the mandatory pre-application approvals, essential for starting Medical College and Hospital. He also pointed out that the State has already issued essentiality certificate, considering the acute shortage of doctors in Maharashtra, by submitting certain disproportionate ratio regarding doctors and beneficiaries. He submits that denial of permission would definitely cause irreparable financial loss to the petitioners rendering the infrastructure ideal and waste of faculty resources. He pointed out that the NMC/MARB delayed their decision on the application beyond 6 months period, as stipulated in Regulation 16, and in one of the appellate order, the respondent N.M.C. introduced new aspect of deficiency regarding faculty norms, which was never raised in the initial show cause notice in the letter of disapproval, violating principle of natural justice. In addition to his submissions, he relied on following judgments :-

- (i) ***Motor General Traders And Another Vs. State of Andhra Pradesh And others [(1984) 1 Supreme Court***

Cases 222]

- (ii) **Ramanlal Bhailal Patel & Others Versus State of Gujarat 2008 AIR (SC) 1246**
- (iii) ***Ispat Industries Ltd. Versus Commissioner of Customs, Mumbai [2006 GLS(SC)834 (Supreme Court]***
- (iii) ***Hasmukhlal Dahayabhai And Others Vs. State of Gujrat And Others [(1976) 4 Supreme Court Cases 100]***

6. Per contra, learned counsel for respondent Nos. 2 and 3 by filing their joint reply, strongly opposed all the contentions in the petition as well as in the argument of learned Senior counsel for the petitioners. The joint reply of respondent Nos. 2 and 3 is that, Regulation 6 of the Establishment of Medical Institutions, Assessments and Rating Regulation 2023 is perfectly *intra vires* of the N.M.C. Act, 2019 and there is valid exercise of delegated legislative power. The regulations were framed in exercise of powers conferred by Section 57 (2) read with Sections 26, 28 and 29 of the N.M.C. Act which based on broad power and intended to allow the expert commission to lay down the detailed criteria. The defence is heavily based on various precedents of Hon'ble Apex Court, supporting the act of laying down Regulation 6. According to the respondents, burden heavily lies upon the petitioners to demonstrate invalidity of such Regulation, in which they have allegedly failed. Additionally, the respondents have pointed out the

delay and latches in challenging the Regulation of 2023, which was notified on 02.06.2023 and the present petition is filed in November 2025 i.e. after about two years, without any just cause. The respondents have reiterated their exclusive statutory mandate and expertise for framing the regulations mentioning that Commission was created as an expert body to reform medical education and separate regulatory functions. According to them, respondent/MARB is given power to grant permissions and assess the institutions as per Section 26. Moreover, under Section 28, the details of permission process and appeal mechanism has been provided, which the petitioners have already exhausted. Further, under Section 29 of the N.M.C Act, certain criteria for approval is to be included leaving room for detailed regulations like Regulation 6. Under Section 57, the general regulation making power is conferred. According to the respondents, the purpose of drafting Regulation 6(g) for giving the restrictive meaning to the company, being the company formed under Section 8 of the Companies Act, 2013 is only to ensure that establishment/operation of Medical Colleges remained alienated with the broader public interest and should not be driven by commercial or profit making objectives. Thus, it is concluded by the respondents vide their respective replies that the

application of the petitioners was rightly rejected and confirmed by the subsequent decisions of the two Appellate Forums. According to them, the compliance report dated 26.05.2025 of the petitioners fails to rectify the deficiencies pointed out in the show cause notice, despite having prior knowledge. According to them, during the Second Appeal hearing, the representatives of the petitioners had clearly admitted that they were not a Section 8 Company. In support of their contentions, the respondents have relied upon the following judgments :-

- (i) ***Hon'ble Apex Court in the case of State of T.N. & Another Vs. P. Krishnamurthy & Others (2006) 4 SCC 517.***
- (ii) ***Indian Express Newspaper (Bombay) Pvt. Ltd Vs. Union of India. 1986 AIR 515***
- (iii) ***St. Johns Teachers Training Institute Vs. Regional Director, NCTE [(2003) 1 SCR 975.***
- (iv) ***Modern Dental College & Research Center & Othes Vs. State of Madhya Pradesh and Others (2016) 7 SCC 353***
- (v) ***State of Kerala Vs. T.P. Roshna (1979) 1 SCC 572***
- (vi) ***MCI Vs. State of Karnataka (1998) 6 SCC 131***
- (vii) ***Dr. Preeti Srivastava Vs. State of M.P. and Others (1999) 7 SCC 120***
- (viii) ***Bharat Petroleum Corporation Vs. N.R. Vairamani (2004) 8 SCC 579***
- (ix) ***Ambica Quarry Works Vs. State of Gujarat (1987) 1 SCC 213 & Bhavnagar University Vs. Palitana Sugar Mill (2003) 2 SCC 111***

(x) ***Hon'ble Supreme Court in the case of Aravinth R.A Vs Union of India Civil Appeal No. (S) 35853586 of 2022 decided on 2.5.2022.***

7. With the help of learned Senior Counsel Mr. V.D. Sapkal, and learned counsel representing the respondents, we have gone through the entire material on record.

8. Admittedly, the petition is mainly filed for declaring Regulation 6 of the new 2023 Regulations ultra vires, being inconsistent with the legal provisions of the N.M.C Act. The rest of the reliefs appear to be consequential, which are for quashing of show cause notice dated 23.05.2025, letter of disapproval (for short "LoD") dated 11.07.2025, the First Appeal Order dated 10.09.2025 passed by respondent No.2 N.M.C. and the Second Appeal Order dated 25.11.2025 passed by respondent No.1-Union of India. Therefore, unless the main prayer is granted, no consequential reliefs, as mentioned above, can be allowed. For quick reference, we would like to mention in brief the chronological sequence of the events, which are as follows :

9. In March 2021, the petitioners, especially petitioner No.1 passed a formal resolution to establish a Hospital and an associated Medical College namely ASDPL's CSMSS Medical College and Hospital under the then regulatory framework of

the Establishment of Medical College Regulations, 1999 (for short, "Regulations of 1999"), which had permitted Private Limited Companies to establish the Medical Colleges. Based on the said resolution, the petitioners-company obtained registration certificate under the Bombay Nursing Homes, Registration Act, 1949 for operating its Hospital. On 30th October 2023, the registration of aforesaid Hospital was renewed by the State Authorities for an enhanced quota of patients conforming its operational status. Then from March 2021 to January 2025, the petitioners-company made substantial financial investment in the project to the tune around Rupees Three Hundred and Fifty Five Crores for land acquisition, Hospital construction, procurement of equipments and other infrastructure for the proposed Medical College.

10. On 9th October 2024, the petitioners-company also obtained Essentiality Certificate ("EC") from the State of Maharashtra i.e. respondent No.4, which is necessary for certifying the State's need for Medical College. On 11th October 2024, respondent No.4 also issued the Consent of an Affiliation to the proposed college indicating its approval for Affiliation with the University. On 3rd January 2025 after securing of pre-requisite State-level approvals, the petitioners-company

submitted its online application to the National Medical Commission for permission to establish the aforesaid Medical College and Hospital with proposed annual intake of 150 MBBS seats for the academic year 2025-26.

11. On 23rd May 2025, respondent No.3 issued show cause notice to the petitioners-company upon initial scrutiny of the application for clearing the deficiency, that petitioner No.1 is not a Company under Section 8 of the Companies Act 2013, which is necessary requirement for a company to apply as per MARB Regulations.(“Establishment of Medical Institutions, Assessment and Rating Regulations, 2023”). The said notice was directed to submit a compliance report by the petitioners-company in respect of the aforesaid deficiency within 7 days. On 26th May 2025, the petitioners-company submitted its Detailed Compliance Report in response to the aforesaid show cause notice by raising the grounds that project of Hospital made operational in March 2022 under 1999 Regulations, which had allowed Private Limited Companies to apply, but the new Regulations of 2023, which introduced the requirement of Section 8 Company for making application, were in fact notified on 2nd June, 2023 and by that time, significant investment was already done by the petitioners-company and

therefore, they claimed hardship regarding conversion of existing Commercial Private Limited Company into Section 8 (not-for-profit) Company for application.

12. On 9th July 2025, the petitioners-company even sent a follow up e-mail to respondent MARB enquiring about status of their application. However, on 11th July 2025, respondent No.3/MARB issued final letter of Disapproval (LoD) to the petitioners-company rejecting their application, on the ground that the applicant was not registered under the Companies Act 2013, specially under Section 8 of the Companies Act, 2013. On 14th July 2025, the petitioners-company, upon getting the knowledge of rejection, filed Writ Petition No. 8830 of 2025 before this Court, challenging the show cause notice and the anticipated/ communicated rejection. Thereafter, by way of amendment, the petitioners-company, by placing the LoD dated 11.07.2025 on record, made it subject of their challenge. However, this Court on 29th July 2025, permitted the petitioners-company to exhaust their appellate statutory remedies first.

13. Thereafter, on 29th July 2025, the petitioners preferred First Appeal to respondent No.2/N.M.C. under

section 28(5) of the N.M.C. Act, challenging the LoD. However, on 10th September 2025, Appeal Committee of respondent/N.M.C. dismissed the said First Appeal with observation that only Section 8 Company is eligible under Regulation 6(g), which was framed under the powers conferred by Section 57 (2) read with Sections 26, 28 and 29 of the N.M.C Act, 2019. It was also held that since the applicable regulatory framework for the Academic Year 2025-26 was the UG-MSR-2023, the MSR-1999 had been superseded. It was also held that despite pointing out the deficiency regarding the status of company not being Section 8 Company, it was not rectified despite sufficient opportunity. Consequently, the Second Appeal filed by the petitioners-company to respondent No.1-Union of India was also dismissed on 25th November 2025 on the same ground that Institution was not registered as a Section 8 Company at the time of filing the application.

14. In the backdrop of the aforesaid events, the present petition has been filed. After going through the entire material on record, we would like to reiterate that the petitioners-company has already exhausted its legal remedy for redressal of their grievances and failed in that attempt. It can be seen that the challenge in the earlier proceedings was to the letter of

Disapproval, issued after rejecting the application of petitioners-company. The main attack of the petitioners-company is on the language of Section 28 of the N.M.C Act. To have easy reference, we would like to reproduce the said Section as below :

Section 28 Permission for establishment of new medical college.-(1) No person shall establish a new medical college or start any postgraduate course or increase number of seats without obtaining prior permission of the Medical Assessment and Rating Board.

(2) For the purposes of obtaining permission under sub-section (1), a person may submit a scheme to the Medical Assessment and Rating Board in such form, containing such particulars, accompanied by such fees, and in such manner, as may be specified by the regulations.

Especially the explanation.

Explanation – For the purpose of this section, the term “ person” includes a University, trust or any other association of persons or body of individuals, but does not include the Central Government.

15. The learned Senior counsel Mr. V.D. Sapkal vehemently argued that the term “person” includes an University, trust or any other association of persons or body of

individuals, but does not include the Central Government and as per Section 28 only the Central Government was barred from making application from establishing a new Medical College. However, while framing the Regulation of 2023, which came into force on 2nd June 2023, a complete go-by is given to Section 28 and specially while making the Regulation 6, it was drafted contrary to the language of Section 28. We would like to reproduce the said Regulation 6,

Regulation 6. Applicant and application- No entity other than the following shall be eligible to apply for establishing a new medical college or medical institution or to start a new course or courses in medicine as the case may be-

- (a) The Central Government; or
- (b) The State Government or State Government in partnership; or
- (c) The Union Territory; or
- (d) A university duly established in India; or
- (e) An autonomous body promoted by the Central or the State Government by or under a statute, and he has no conflict of objectives for undertaking medical education by starting a medical institution; or
- (f) A society registered under the Societies Registration Act, 1860 (21 of 1860) or any

respective statute meant to establish and regulate Societies in the respective State; or

- (g) A Section 8 Company duly incorporated under the Companies Act, 2013 or any other corresponding law in force during its establishment; or

16. By drawing our attention to the Regulation 6, the learned Senior Counsel Mr. V.D. Sapkal submitted that despite specifying the term “person” in Section 28 of the N.M.C. Act, Regulation 6, introduced the term entity, which should be eligible to apply for establishing a new Medical College or Medical Institution. He pointed out that though under Section 28, the Central Government was barred from applying for new Medical College, but Regulation 6(a), without any Explanation, added the same. His main attack appears to be in respect of Regulation 6(g), whereby term “other associate persons” or “body of individuals” was given restricted meaning and included only a section 8 Company duly incorporated under the Companies Act, 2013. Thus, the main challenge in this petition is against Regulation 6(g), which according to the learned Senior counsel Mr. Sapkal, is inconsistent with the legal provision. According to him, rules and regulations cannot be drafted inconsistently and arbitrarily by ignoring the law.

17. Admittedly, on going through the language of Section 28 it is evident that barring the Central Government, any person with broad meaning is allowed to establish a new Medical College. Even in the said section, the term “person” has been specified, which includes University, trust or association of persons and body of individuals. It is nowhere mentioned in Section 28 that, only Section 8 Company is entitled for such application. Thus, the main issue in the instant petition is that, whether Regulation 6(g) of 2023 Rules is ultra vires or inconsistent with the legal provisions of NMC Act.

18. The learned respective counsel for the respondents are consistently coming with the submissions that under Section 57 of the N.M.C. Act, the Commission may after previous publication by notification making Regulation consistent with this Act and the Rules made thereunder to carry out the provisions of this Act. Admittedly, they heavily relied on Section 10 of the N.M.C Act which reads thus :-

Section 10 “ Powers and functions of Commission. (1)
The commission shall perform the following functions,
namely :-

- (a) lay down policies for maintaining a high quality
and high standards in medical education and

make necessary regulations in this behalf;

- (b) lay down policies for regulating medical institutions, medical researchers and medical professionals and make necessary regulations in this behalf;
- (c) assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting such requirements;
- (d) promote, co-ordinate and frame guidelines and lay down policies by making necessary regulations for the proper functioning of the commission, the Autonomous Boards and the State Medical Councils;

Scope of Judicial review – Court is generally slow to interfere with decision of regulatory body concerned, namely, Medical Council of India but has no option to do so if regulatory body's decision does not meet even minimum requirements of natural justice. ”

19. Therefore, the learned counsel for the respondents, by relying on the aforesaid Section 10, submitted that the regulations are to be framed for execution of the Act in its true letter and spirit, and therefore, while making the Regulations, they are free to lay down policies for maintaining high quality and high standards in the Medical Education. According to them, running a Medical College and Hospital, cannot be for

profit making, but the main object in running the same is to ensure that the education should not be monopoly of wealthy persons, who intends to make profit out of that. Considering these aspects, they supported the Rules of 2023. It is extremely important to note that even if the contention of respondents about delay and latches in filing this Writ Petition is kept aside, then also it is a duty cast upon this Court to examine the sole ground of rejection of the petitioners-company that it is not Section 8 Company. It has to be examined in the light of various observations made by Apex Court in the judgments relied by rival parties.

20. The main objection raised by the learned Senior Counsel Mr. V. D. Sapkal that, while drafting Regulation 6, certain modifications are carried out contrary to the language of Section 28 of N.M.C. Act, and therefore, he submitted that any Regulation, which is contrary to the legal provision, has to be declared ultra vires. For that purpose, he relied on the judgments of Hon'ble Apex Court in the cases of **Ramanlal Bhailal Patel Vs. State of Gujarath** (*supra*) and **Hasmukhlal Dahayabhai Vs. State of Gujarat** (*supra*), wherein a term "person", which is defined in General Clauses Act and in Section 28 of the N.M.C. Act, is elaborately discussed. It is

held that the aforesaid term “person” definitely inclusive of Companies, Associations and Bodies of individuals, and therefore, the aforesaid judgments support that the Private Companies are also included in the ambit of Section 28 of the N.M.C. Act. In the case of ***Bharat Petroleum Corporation Vs. N.R. Vairamani*** (supra) the Hon’ble Apex Court has reiterated that statutory definitions must be given their full, inclusive meaning, unless the context expressly excludes it. Even in the case of ***Ispat Industries Ltd Vs. Commissioner of Customs*** (supra) the Hon’ble Apex Court has observed that Rules and Regulations must be interpreted in harmony with the Parent Act. It has been laid down that if two interpretations are possible, then one that upholds the validity of subordinate legislation and aligns it with the parent Act, must be adopted. This, according to the learned Senior counsel, supports reading down Regulation 6 to supplement, not supplant, Section 28. Further, in the cases of ***Ambica Quarry Works Vs. State of Gujarat*** and ***Bhavnagar University Vs. Palitana Sugar Mill*** (supra), the Hon’ble Supreme Court has emphasized on the point that delegated legislation cannot contravene the parent statute. Court can adopt a purposive interpretation to reconcile inconsistencies and save the provision.

21. The learned Senior counsel Mr. V.D. Sapkal also submitted that the framing of Regulation 6 is an arbitrary act, which is in violation of Article 14 of the Constitution of India. He heavily relied on the judgment of Hon'ble Apex Court in the case of **Motor General Traders Vs. State of Andhra Pradesh** (supra) wherein it is held that a classification which is arbitrary and lacks a rational nexus with the legislative object is violative of Article 14. This is directly used to challenge the distinction created by Regulation 6 between Section 8 Companies and other Companies. In short, the learned Senior counsel Mr. V. D. Sapkal tried to argue that deviation while drafting the Rules and Regulations from the legal provision, is not at all permissible, and therefore, replacing the word "person" by "entity", and barring the other companies by including only Section 8 Companies, is the act of sheer arbitrariness and complete non application of mind.

22. However, respondent Nos. 2 and 3 have also relied on the various judgments, especially in the case of **Indian Express Newspapers Vs. Union of India** (supra) to state that the subordinate legislation can be questioned if it is manifestly arbitrary in the sense of being outrageous or not reasonably related to the purposes of enabling act. According to them,

the observation in the case of **St. Johns Teachers Training Institute Vs. Regional Director, NCTE** (supra) has proposed the doctrine of filling up details. The sum and substance of the aforesaid judgment is that, the legislature, after laying down broad policy (the N.M.C. Act) validly delegates the power to fill up details to an expert body like the N.M.C. to adopt the law to practical, technical circumstances. Further, in the case of ***Aravinth R.A. Vs. Union of India***, (supra) the Hon'ble Apex Court has rejected the similar challenge to the other N.M.C. Regulations, holding that the Commission was duly empowered to frame them. Further, in the case of ***Dental Council of India Vs. Biyani Shikshan Samiti*** (supra), the Hon'ble Apex Court has already overturned a High Court judgment that had quashed a DCI Regulation, reinforcing the principle that Courts should not enter the expert domain of such councils. Thus, it is contended by the learned counsel for Respondent Nos. 2 and 3 that under Section 10 of the N.M.C. Act, the body of experts is given free hand to frame the Regulations, keeping in mind the practical approach and to determine the policies, consistent with the object of the Act as well as legislatures intent.

23. In the instant case, respondent Nos. 2 and 3 definitely

possess certain statutory powers. It appears that in the 92nd Report of Parliamentary Standing Committee with the direction of Hon'ble Apex Court in the case of ***Modal Dental College & Research Center & Others Vs. State of Madhya Pradesh and Others*** (supra) and subsequent passing of the N.M.C. Act, 2019 a Commission was created as an expert body to reform medical education and separate regulatory functions. In the case of ***State of Kerala Vs. T. P. Roshan and MCI Vs. State of Karnataka*** (supra), the Supreme Court held the MCI (and by extension, the N.M.C.) is the principal expert body for fixing and maintaining the highest standards of medical education, and its Regulations are binding and mandatory. Doctrine of Repugnancy is also affirmed, In ***MCI Vs. State of Karnataka*** and ***Dr. Preeti Srivastava Vs. State of M.P.*** (supra) it is observed that any State law inconsistent with the N.M.C. Regulation, is void. Therefore, considering the specific powers under the N.M.C. Act, respondent Nos. 2 and 3 are definitely having powers to make Regulations, which can add criteria for approval inclusive of such other factors as may be prescribed, as may be seen from Regulations like Regulation 6.

24. It is extremely important to note that when the statutory bodies are permitted to frame the Rules, Regulations

by keeping in mind the legislative intent, then it certainly has freedom to adopt certain other practical ways to fulfill the object of the statute. Here in this case, the rejection of application of petitioners-company is only on the ground that they were not Section 8 Company (meant for non-profit). On going through the sum and substance of the judgments relied upon by respondent Nos. 2 and 3, it can be said that the intent behind restricting the proposed applicants for starting a Medical College and Hospital, only to the Section 8 Companies, is to see that it remains alien with the broader public interest and should not be driven by commercial or profit making objectives. At the cost of repetition, we would like to mention herein again that if the private companies, which are meant for making profit only, are allowed to start Medical Colleges, then they will definitely use such colleges as their commercial activities and then the object of imparting valuable knowledge to the aspirants will definitely be frustrated. Perhaps, for that purpose only, Regulation 6 (g) has been incorporated to see that the medical education should not be monopoly of wealthy persons, who can afford the high fees of such colleges being run by profit making companies. Considering all these aspects, we sincerely feel that Regulation 6 (g) is not the deviation from language of Section 28 of the N.M.C. Act, but it

has been framed by body of experts with holy intent to impart the knowledge to the needies without making profits. Therefore, Regulation 6(g) cannot be said to be *ultra vires*, keeping in mind the legislative intent and object of the main Act. In view of the same, no such relief of declaration in respect of Regulation 6(g) framed under the N.M.C Act, can be granted. Needless to say, when we are not inclined to declare the said Regulation *ultra vires*, no consequential reliefs as prayed, can be granted. Resultantly, the petition stands dismissed.

25. Pending Civil Application also stands disposed of.

(ABASAHEB D. SHINDE)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

YSK/