

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
	17.08.2023		<p>WPPIL No. 128 of 2023  <b><u>Hon'ble Vipin Sanghi, C.J.</u></b>  <b><u>Hon'ble Rakesh Thapliyal, J.</u></b></p> <ol style="list-style-type: none"> <li>1. Mr. Rajiv Dutta, learned Senior Counsel assisted by Mr. Rajendra Arya, learned counsel for the petitioner.</li> <li>2. Mr. K.N. Joshi, learned Deputy Advocate General for the State of Uttarakhand/ respondent nos. 2 to 6.</li> <li>3. The petitioner has preferred the present Writ Petition, purportedly in public interest, to seek the following reliefs :- <ul style="list-style-type: none"> <li><i>i. Issue a Writ, Rule or Order, in nature of mandamus directing the respondents) concerned to follow the National Medical Commission Act, 2019 and the Regulations made under the Act while issuing requisite certificates/ documents and grating permission for establishment of new medical colleges and further to reject the application process of such medical institutions which are not eligible under the regulations and local laws of the State of Uttarakhand.</i></li> <li><i>ii. Issue a Writ, Rule or Order in the nature of mandamus directing the Competent Authority under the State Government of Uttarakhand to apply its mind to the permissions / certificates granted to the Applicant while considering the Essentiality Certificate for starting a new medical college in Uttarakhand.</i></li> <li><i>iii. Issue a Writ, Rule or Order, in nature of mandamus directing the respondent(s) concerned to cancel all the Essentiality Certificates which have been granted illegally by wrongful change of land use i.e. wrongful conversion of agriculture / forest land and thereafter getting sanctioned maps duly approved in the State of Uttarakhand.</i></li> <li><i>iv. Any other Writ, Rule or Direction which this Hon'ble Court may deem fit and proper in circumstances of the case."</i></li> </ul> </li> <li>4. Mr. Rajiv Dutta, learned Senior Counsel, who appears for the petitioner, has submitted that State Medical Colleges have been set up in only 05 districts of the State of Uttarakhand, which has 13 districts. The said five districts are Dehradun, Haridwar, Nainital,</li> </ol>

Almora and Pauri Garhwal. Three private Medical Colleges have also been allowed to be set up in district Dehradun. He submits that, under the Regulations framed by the National Medical Commission, the guideline is that the Essentiality Certificate, for setting up of Medical Colleges, should be granted while also keeping in view the fact that they should not be in close vicinity of each other, i.e. within 15 kilometres of each other.

5. So far as the submission of Mr. Dutta, opposing the grant of Essentiality Certificate for setting up of private Medical Colleges in the plain districts of the State is concerned, we are not inclined to entertain this Writ Petition, and we reject the same.

6. The reason for the same is that the State has a very different topography/ geography, as compared to other States, having large plain areas. Due to the hilly terrain of the State, there is uneven distribution of the population in the State. The plain areas account for very vast majority of the population, and the hilly areas are very sparsely populated. There is acute shortage of medical personnel in the State. Therefore, one cannot grudge the fact that Essentiality Certificate is being granted in respect of the districts having plain areas, such as the districts of Dehradun, Haridwar, Nainital etc.

7. Our experience shows that qualified medical Doctors are not even willing to accept appointment in the remote areas of the State. That being the position, it would be too much to expect - either from the State, or the private entities, to set up Medical Colleges in the far flung areas. We also find that, while the petitioner seeks, in the Writ Petition, to oppose setting up of new

Medical Colleges in the plain districts, the submission of Mr. Dutta is, primarily, to say that the remote districts of the State do not have proper medical facilities.

8. In our view, these are two different things. It is not necessary that, to provide good medical facilities in a district, the said district should also have a Medical College. We, therefore, reject the Writ Petition so far as relief nos. i to iii, sought in this Writ Petition, are concerned.

9. Mr. Dutta states that he would like to press this Writ Petition for provision of better medical facilities in the State of Utrtarakhand in all the districts.

10. Limited to that extent, we permit the petitioner to amend the present Writ Petition to incorporate those reliefs.

11. The amendment may be carried out within four weeks.

12. List on 08.11.2023.

**(Rakesh Thapliyal, J.)**  
**17.08.2023**

**(Vipin Sanghi, C.J.)**  
**17.08.2023**

Rahul