

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

SUO MOTU PUBLIC INTEREST LITIGATION (S.M.P.I.L.) NO.01/2023

Court on its own motion

Vs.

The State of Maharashtra through its Secretary, Medical Education and Drugs
Department, Mantralaya, Mumbai and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.J. Gilda, Amicus Curiae for petitioners
Shri D.P. Thakare, Addl. G.P. for respondent Nos.1 to 3, 7, 10 and 11/State
Shri F.T. Mirza, Sr. Advocate for respondent No.12
Shri S.M. Puranik, Advocate for respondent Nos.4, 5 and 15
Mrs. Mugdha Chandurkar, Advocate for respondent No.6
Shri R.M. Bhangde, Advocate for respondent No.17

**CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ..**

DATED : 28/08/2024

It is not disputed that while disposing of PIL No. 44/2016 (Dr Kirshna Marotirao Kamble Vs. MCI) on 21.06.2017, the following directions were issued in respect of the Post Graduation Diploma in Radiology at GMC Nagpur:

- “1) Respondent no.2 to expeditiously obtain necessary clearances from Cabinet within next two months;*
- 2) The efforts to obtain necessary building permission and clearances from planning authority and other authorities shall be simultaneously commenced. The concern authorities shall co-operate with respondent nos.2 to 5 and complete exercise at their level within next three months;*
- 3) Construction shall thereafter be*

undertaken immediately and efforts will be made to complete it within next eighteen months;

4) The necessary appliances and apparatus and machinery shall also be procured well within time so as to affix it as and when required during construction or immediately after its completion;

5) In view of Exh. X, we hope that the Cancer Institute/Hospital shall commence its functioning within two years from today.”

In pursuance of the said directions, the recognition to five seats in MD (Radiation Oncology Course) was granted by MCI and has been continued from time to time, which is also reflected from the letter of permission dated 10.09.2022.

2. The MCI, however, has now issued an order on 05.04.2024, indicating stoppage of admission of students to the above seats. The same is on the ground of non availability of essential equipment, which comprises of Brachy Therapy machine, which was claimed to be not functioning and the linear accelerator, which was under procurement.

3. In view of the orders passed by this Court in the recent past, the Brachy Therapy Unit is likely to be installed within a couple of months and the process for installation of the linear accelerator is also under process, in view of which and considering the order dated 21.06.2017, we hereby grant stay to the order dated 05.04.2024, passed by National Medical Commission, since it is not disputed that in view of the earlier order dated 21.06.2017, students

have been admitted in the first year of the three year course of MD (Radiation Oncology). We clarify, that in view of the stay, it would be permissible for the GMC to continue to grant admission for the first year MD (Radiation Oncology Course) with the GMC. Since the process of installing the machine is underway, it would be appropriate for the GMC to have a tie up with AIIMS or NCI and Rashtrasant Tukdoji Cancer Institute for ensuring the experience as is required to be imparted to the students for the interim period. This shall be reported to this Court by 04.09.2024.

4. Mrs. Mugdha Chandurkar, who appears for the AIIMS, shall intimate the authorities in that regard and make an appropriate statement on 30.08.2024.

(SMT. M.S. JAWALKAR, J.) (AVINASH G. GHAROTE, J.)

R.S. Sahare