

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

WRIT PETITION ST. NO.9800/2020

PETITIONER : Manali Chandrashekhar Barde,
Age : 20 years, Occ. : Student
Residing at Plot No.5, Greater Nagpur
Housing Society, New Verma Layout
Nagpur – 440033.

...VERSUS...

RESPONDENTS :

1. The Director of Medical Education
And Research, Government
Dental College And Hospital
Building, St. Georges Hospital
Compound, Mumbai – 400 001.
2. The Medical Council of India
Pocket – 14, Sector 8, Dwarka
New Delhi – 110077.
3. The State of Maharashtra
Through its Government Pleader
Original Side, Bombay High Court
Mumbai – 400 001.

Dr. Uday P. Warunjikar and Mr. V.N. Walawalkar, Advocates h/f
Mr. A.C. Sawant, Advocate for petitioner
Mr. N.R. Patil, AGP for respondent nos.1 and 3
Mr. Dhruv Sharma, Advocate h/f Mr. R.M. Bhangde, Advocate
for respondent no.2

CORAM : SUNIL B. SHUKRE AND
AVINASH G. GHAROTE JJ.

Judgment reserved on : 09/12/2020
Judgment pronounced on : 04/01/2021

J U D G M E N T (PER : AVINASH G. GHAROTE , J.)

1. Heard. Rule. Rule made returnable forthwith.
2. The present petition seeks to quash and set aside clause 13 (a) (ii) of the brochure for transfer of medical students in the State published by the respondent no.1/Director of Medical Education and Research (DMER, hereinafter) and so also the communication dated 20/8/2020 by the respondent no.1/DMER and to allow the application of the petitioner dated 25/6/2020, seeking transfer to the Nagpur college on account of petitioner's health and the prevailing pandemic of Covid-19.
3. The petitioner is a student of MBBS course and is presently pursuing her studies in Government Medical College, Akola, having been admitted on 10/7/2018. The petitioner on 25/6/2020 (pg.79), made an application, to the authorities for her migration, from the Government Medical College (GMC), Akola to either of the Government Medical Colleges at Nagpur, under

Regulation 6 (1) of Chapter II of the Regulations of respondent no.2/Medical Council of India (MCI, hereinafter), as modified on 22/12/2008.

4. The petitioner who claimed to be suffering from allergic bronchitis with chronic bronchial asthma, of a moderate persistent nature, frequently leading to breathlessness, obtained medical certificates in that regard dated 31/1/2019, 17/4/2019, 29/10/2019 and 5/11/2019 (Annexures 1 to 4) to contend, that these demonstrate that the illness was genuine and she has been suffering throughout the year. It is further contended that due to the Covid-19 pandemic, considering her high co-morbidity, she was highly susceptible, which was the reason, the transfer was sought to any of the Government Colleges in Nagpur.

5. The application of the petitioner was turned down by the respondent no.1/DMER, by communication dated 20/8/2020 (pg.84) for the reasons that DMER had published notice for transfer after 1st MBBS in respect of 2019-20 regulatory and supplementary batch on 22/1/2020 and as the petitioner had not applied for the

transfer as per the notice in the prescribed format and the requisite fees and since the process of transfer for the year 2019-20 batch, as per the MCI guidelines, had already been completed, DMER was unable to consider her application.

6. This communication is challenged in the present petition. The basic grounds for contention by Dr. Uday Warunjikar, learned Counsel for the petitioner are (a) that the brochure issued by the respondent no.1/DMER was contrary to the MCI Regulations; (b) there was no source of power to the State/DMER to frame regulations; (c) the transfer, was to be considered on “genuine grounds” and the ground raised by the petitioner was a genuine ground.

7. Dr. Warunjikar, learned Counsel for the petitioner, further submits that Regulation 6 of the MCI, would always have a primacy, over any guidelines, which may be framed by the State/DMER, for which he relies upon :

(A) *Amey Prakash Kasbekar Vs. The Director, Medical Education and Research, Mumbai and others*, 2012

SCC Online Bom. 1265.

(B) *Lipika Gupta Vs. U.O.I.* (2014) 12 SCALE 533

(C) *Pankti M. Pancholi Vs. State of Maharashtra*

AIRONLINE 2018 BOM 194 .

(D) *Mahin Chetan Bhatt Vs. State of Maharashtra and others*, 2018 SCC OnLine Bom 10413.

8. Dr. Warunjikar, learned Counsel for the petitioner further contends that the expression “subject to provisions of these Regulations”, would necessarily mean that any guidelines for transfer, which may be framed by the State Government, cannot be contrary to what was contained in Regulation 6, framed by the MCI. He submits that the guidelines as given in the brochure by the DMER and specifically clause 13 (a) (ii), which required that the medical certificate to be submitted by the students, seeking migration, should certify that the illness had caused permanent disability of 40% or above, was contrary to the Regulation 6 (1) of the MCI Regulations, in as much as, the Regulations did not specify or

require any such certification of permanent disability of 40% or above. He therefore submits that clause 13 (a) (ii) of the brochure issued by the DMER/State to that extent was ultra vires the power of the DMER/State, and was therefore required to be quashed and set aside.

9. The DMER in its reply contends that the petitioner had not applied during the ongoing process; there was no challenge to the Rules of brochure for transfer; as the petitioner was pursuing clinical course at GMC, Akola and would be appearing for 2nd MBBS examination, the guidelines, which state that migration during clinical course of study shall not be allowed on any ground, would be applicable. Reliance is placed upon :

(a) Order dated 19/6/2020, passed in ***Ex Servicemen Social, Education and Sports Foundations/The Directorate of Medical Education, PIL No. CJ-LD-VC-1A 1/2020 in PIL (L) No.18/2020.***

(b) Order dated 7/2/2020, in ***Ms. Tanvi Abhay Gore / The State of Maharashtra and Ors., WP (ST) No.2489/2020.***

10. The respondent no.2/ MCI in its reply by relying on *Medical Council of India / State of Karnataka and others (1998) 6 SCC 131* and *Harish Verma and others/ Ajay Srivastava and another (2003) 8 SCC 69*, has submitted that the Regulations as framed by the MCI have a statutory force and are mandatory and have an overriding effect over all guidelines as framed by the DMER and the State, to the extent they are inconsistent with the MCI Regulations. It is contended that the MBBS course is divided into three parts, which are as under :-

“a) First Medical Professional : Phase – I (two semesters) :- consisting of teaching only in the class rooms pre-clinical subjects including Bio-Physics, Bio-Chemistry and introduction to Community Medicine including Humanities). (12 months duration). The content and order in which the subjects are taught is similar in almost all the medical institutions in the country.

b) Second Medical Professional : Phase – II (3 semesters) :- consisting of para-clinical/clinical subjects. During this phase teaching of para-clinical and clinical subjects shall be done concurrently. The first 18 months of the Second Medical Professional and Third Medical Professional overlap and run concurrently. However, the content and order of the training varies from college to college.

c) Third Medical Professional : Phase – III
(continuation of study of clinical subjects for seven
semesters after passing Phase-I.”

and that no migration is permissible either during the Second Professional or Third Professional. It is contended that migration is permitted after passing of first professional MBBS examination and before the starting of teaching and training of Second Professional MBBS and that migration during clinical course of study is not allowed on any ground whatsoever. It is contended that the petitioner who was a resident of Nagpur, was granted admission in GMC, Akola and wanted to go to her home town which was not a genuine ground. Though her mark-sheet was not annexed to her application, however, in her application dated 25/6/2020 addressed to DMER, she had stated that she was admitted in GMC, Akola on 10/7/2018, which clarified that the petitioner was already in her 2nd year course of MBBS in the 4th quarter of 2019 and therefore could not be permitted to migrate during the clinical phase of MBBS course. Reliance is placed on the judgment of the Gujrat High Court in the case of ***Bhaveshgiri Surajgiri Goswami –Vs-- State of Gujrat and others*** in LPA No.1029/2015 dated 25/6/2015 as affirmed by the Apex Court in SLP(C) No.27991/2015, decided on

7/12/2015 and of the Delhi High Court in *Ravi Singhal –Vs-- Guru Gobind Singh Indrapratha University and another* W.P.(C)No.10055/2016, dated 14/7/2017 and so also on *Dental Council of India -Vs-- Anhad Raj Singh and another*, in Civil Appeal No.18766/2017 dated 15/11/2017 of the Apex Court. It is thus submitted that there is no merit in the petition which needs to be dismissed.

11. The Regulations referred to are the Regulations on Graduate Medical Education, 1997 (Regulations, for short) which have been framed in exercise of power conferred under Section 33 of the Medical Council of India Act, 1956. There cannot be any two views that the Regulations framed by the MCI, being framed by virtue of the Statutory power under Section 33 of the Medical Council of India Act, 1956, have primacy, over any guidelines, which may be framed by the DMER and the State by use of the power and authority as conferred upon it by Note-1, Regulation 6 of MCI. This is further substantiated by use of the expression, “subject to provisions of these Regulations” as used in Note-1, Regulation 6 of MCI. The position in this regard is no longer *res integra* and is

clearly spelt out by the Courts in *MCI/ State of Karnataka* [The Indian Medical Council Act is relatable to Entry 66 of List I (Union List). It prevails over any State enactment to the extent the State enactment is repugnant to the provision of the Act even though the State Acts may be relatable to Entry 25 or 26 of List III (Concurrent List). Regulations framed under Section 33 of the Medical Council Act with the previous sanction of the Central Government are statutory. These regulations are framed to carry out the purposes of the Medical Council Act and for various purposes mentioned in Section 33. If a regulation falls within the purposes referred under Section 33 of the Medical Council Act, it will have mandatory force.], *Amey Kasbekar* [The State Government is permitted by the Regulations, as amended in 2008, to frame appropriate guidelines for the grant of no objection certificates for migration but those guidelines have to be consistent with guidelines framed by MCI], *Pankti Pancholi* [Brochure at the most can be considered to be administrative instructions and they cannot have overriding effect framed by the MCI, which are in the nature of subordinate legislation] and *Mahi Chetan Bhatt* [The guidelines of the State Government are not sacrosanct. The MCI regulation and

amendments thereto would have to be adhered to and no guideline contrary thereto can be invoked].

12. To consider the next contention by Dr. Warunjikar, learned Counsel for the petitioner that the procedure for transfer as laid down in clause 13 of the brochure, issued by the respondent no.1/DMER was contrary to Regulation 6 of MCI relating to migration, it is necessary to consider the language of Regulation 6 of MCI in juxtaposition to clause 13 of the brochure issued by DMER. Regulation 6 of MCI relating to migration/transfer of the students, as it stands amended in terms of notification published on 22/12/2008, which is extant as of present reads as under :-

“6. Migration :-

(1) Migration of students from one medical college to another medical college may be granted on any genuine ground, subject to the availability of vacancy in the college, where migration is sought and fulfilling the other requirements laid down in the Regulations. Migration would be restricted to 5 % of the sanctioned intake of the college during the year. No migration will be permitted on any ground from one medical college to another located within the same city.

(2) *Migration of students from one College to another is permissible only if both the colleges are recognised by the Central Government under Section 11 (2) of the Indian Medical Council Act, 1965 and further subject to the condition that it shall not result in increase in the sanctioned intake capacity for the academic year concerned in respect of the receiving medical college*

(3) *The applicant candidate shall be eligible to apply for migration only after qualifying in the first profession MBBS examination. Migration during clinical course of study shall not be allowed on any ground.*

(4) *For the purpose of migration, an applicant candidate shall first obtain 'No Objection Certificate' from the college where he is studying for the present and the University to which that college is affiliated and also from the college to which the migration is sought and the university to which that college is affiliated. He/She shall submit his application for migration within a period of 1 month of passing (Declaration of result of the 1st Professional MBBS examination) alongwith the above cited four "No Objection Certificates" to : (a) the Director of Medical Education of the State, if migration is sought from one college to another within the same State or (b) the Medical Council of India, if the migration is sought from one college to another located outside the State.*

Note -1 : The State Governments /Universities /Institutions may frame appropriate guidelines for grant of No Objection Certificate or migration, as the case may be, to the students subject to provisions of these regulations.

Note – 2 : Any request for migration not covered under the provisions of these Regulations shall be referred to the Medical Council of India for consideration on individual merits by the Director (Medical Education) of the State or the Head of Central Government Institution concerned. The decision taken by the Council on such requests shall be final.

Note – 3 : The College/Institutions shall send intimation to the Medical Council of India, about the number of students admitted by them on migration within one month of their joining. It shall be open to the Council to undertake verification of the compliance of the provisions of the regulations governing migration by the Colleges at any point of time.”

(emphasis supplied)

Regulation 13 of the brochure issued by DMER detailing the procedure for transfer reads as under :-

“13. Procedure for Transfer :

(a) The transfer shall be considered on the following genuine ground.

(i) Death of Father/Mother or supporting guardian as declared at the time of admission will be considered as genuine ground. However to be eligible under this ground the death of Father/Mother or supporting guardian should have been occurred after taking admission to the 1st MBBS course. The candidate should attach copy of Death Certificate with his/her application form.

(ii) Illness of candidate causing permanent disability shall be considered as genuine ground. To be eligible under this ground, the candidate should submit illness/medical certificate stating that the illness has caused Permanent Disability of 40% or above. The specified disability should be as permitted in the schedule provided in Clause (Zc) of Section 2 of the Rights of Persons with Disabilities Act, 2016. The Percentage of disability should be calculated as notified by the Gazette Notification issued by Government of India, dated 04.01.2018. The disability should have occurred on the date of or after 1st year MBBS admission. (in Annexure-E)

(iii) The illness/disability of any other family member will not be accepted as a ground for transfer.

Procedure for Obtaining Medical Certificate :

i. The candidate seeking transfer after 1st year MBBS on Medical/Health ground should submit medical certificate issued by Special Referral Medical Board (s) as which have been authorised for issuing disability certificate for 1st year admission to MBBS course (Grant Government Medical College & Sir JJ Hospital, Mumbai or All India Institute of Physical Medicine and Rehabilitation, Mumbai) Medical Certificate should mention that illness of candidate causing permanent disability of 40% or above.

ii. Candidates should approach to the Dean/Chairman of the Special Referral Medical Board(s) well in advance. Applications without medical

certificates will not be accepted. Late issue of medical certificate by the medical board will not be accepted as a reason for extension of last date.

iii. The Special Referral Medical Board should handover the medical certificate directly to the candidate and one set of medical certificate should be submitted to the DMER office. The candidate should attach medical certificate alongwith the application form. The candidate submitting two medical certificates i.e. Annexure E1 and E2 will be held ineligible for transfer.

(b) Candidate who has passed 1st MBBS University examination before May/June 2019 should not apply along with this 2019 batch, as they are not eligible as per Medical Council of India guidelines for the transfer.

(c) The seats reserved for candidate belonging to the reserved category shall be 50% of admissible seats.

(d) The candidate can apply for transfer to maximum 5 (five) receiving medical colleges.

(e) The manner of filing the seats reserved for Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes and Other Backward Classes shall be filled in as per procedure laid down vide Government Order No.MED 2006/1196/CR-204/06/Edu-1 - 24th June 2006. The candidate belonging to Maharashtra State (Domicile) will only be considered under Reserved Category.

Reserved Category candidate from Outside Maharashtra will only be considered as a Open Category candidate for transfer.”

13. A careful consideration of the language of Regulation 6 of the MCI Regulations would demonstrate that it is only on a 'genuine ground', subject to the availability of vacancy in the college, where migration is sought, and upon fulfilling other requirements laid down in the Regulations, could migration be permitted, which in turn was restricted to 5% of the sanctioned intake of the receiving college during the year. A perusal of Note-1 of Regulation 6 of the MCI Regulations, would indicate that the State Government/Universities/Institutions have been granted the power and authority to frame appropriate guidelines for grant of no-objection certificate or migration, as the case may be, to the students, subject to the provisions of these Regulations. The framing of any guidelines by the DMER/State, under the power/authority entrusted to them under Note-1, Regulation 6 of MCI has to be considered, in light of the fact, that Regulation 6 of MCI, does not lay down, prescribe or define, what the expression “genuine ground”, as used in Regulation 6 (1) of the MCI would mean. In the absence of defining

the expression “genuine ground”, by the MCI, in its Regulations, it would become open and permissible, for the DMER/State to frame and lay down guidelines, defining the parameters of the expression “genuine ground”. This is further evident from the fact that the earlier Regulation 6(1) (pg.21) instead of the expression “genuine ground”, used the expression “on extreme compassionate grounds”. It is further material to note that the expression “compassionate grounds”, was defined in Note-2 of Regulation 6 of MCI. In the present case, after its amendment, while replacing the expression “extreme compassionate grounds” by “genuine ground”, by not defining what the expression “genuine ground” would mean, the MCI appears to have left the decision of the parameters of the expression “genuine ground” with the DMER/State, by virtue of the authority as indicated in Note-1 of Regulation 6 of MCI. Though Note-2, states the criteria of the earlier expression 'compassionate grounds' and does not appear to have been deleted, there is no such criteria set out for the expression 'genuine ground', in Regulation 6 or the Notes appended thereunder. Thus the vacuum created in Regulation 6 of MCI, in absence of the expression 'genuine grounds', being defined, would be permissible to be filled in, by laying down

requisite parameters/criteria by use of the power/authority as conferred by Note-1 of Regulation 6 of MCI and that is what has been done by the DMER/State by framing the guideline No.13 in its Brochure, setting out parameters for the above expression. That being the position, the contention of Dr. Warunjikar, learned Counsel for the petitioner that the respondents did not have any power or authority to frame a criteria or guideline, is clearly without any merits whatsoever.

14. The next contention that the guidelines framed under clause 13 (a) (ii) of the brochure by the DMER/State, requiring disability to be a permanent disability of 40% or above, so as to fall within the expression “genuine grounds”, are contrary to Regulation 6 of MCI, is also untenable, for the same reason of absence of any parameters being set to the expression “genuine grounds” in the MCI Regulations, leaving the field open for the respondents to do so, under the authority imparted to them under Note-1 of Regulation 6 of the MCI.

15. The expression “genuine grounds” as laid down in Regulation 6 (1) of the MCI, on the face of it, is of very wide import and in absence of any parameters, criteria being laid down in the MCI Regulations is incapable of specific or precise definition, and would depend upon the reason given for migration in an individual application, which is required to be considered on an individual basis and would be based upon the subjective satisfaction of the authority for whose consideration it is so presented. This is more so, in light of the fact, that there is no restriction placed in the Regulations, in the matter of considering the expression in one way or the other. The expression 'genuine grounds', if left unfettered, uncontrolled and undefined, has the capability of great misuse and abuse, for what one person may consider to be a genuine ground, may not be so, in the eyes and perspective of another, reasons being varied, depending upon the viewpoint of the person considering the expression. Does the absence of any parameters to consider the expression 'genuine grounds', in the MCI regulations, prohibit the DMER/State to bring in guidelines, to define the parameters of the expression. The answer, in our humble opinion, has to be found in the language of Note-1 of Regulation 6, which empowers the DMER/

State to frame guidelines. Thus clause 13 (a) (ii) of the Brochure, attempts to define parameters of this expression, which is to some extent also based upon the criteria of the earlier expression “compassionate grounds”, which is clearly permissible by virtue of the power/authority vested in the DMER/State by Note-1 of Regulation 6 of MCI. That apart the requirement of the permanent disability being 40% or above, so as to be considered as a 'genuine ground' is based upon Section 2(Zc) of the Rights of Persons with Disabilities Act, 2016 and the schedule as appended thereunder, and thus has a statutory backing to it. Thus the challenge to clause 13 (a) (ii) as laid by Dr. Warunjikar, learned Counsel for the petitioner also fails.

16. Dr. Wrunjkar, learned Counsel for the petitioner, by relying on *Amey Kasbekar*, *Pankti Pancholi*, *Mahin Bhatt* (supra) submits that the matter in hand is squarely covered. The position, in our humble opinion, however, on facts is quite to the contrary, which would be demonstrable hereinafter.

17. Clause (4) of Regulation 6 of MCI requires the following acts to be done, before a student, can be held to be eligible to transfer/migration :-

- (i) obtain 'No Objection Certificate' from the college where he is studying for the present.
- (ii) obtain 'No Objection Certificate' from the University to which that college is affiliated.
- (iii) obtain 'No Objection Certificate' from the college to which the migration is sought.
- (iv) obtain 'No Objection Certificate' from the university to which that college is affiliated.

After obtaining the above mentioned four 'No objection Certificates', the student has to :

- (v) submit his application for migration within a period of 1 month of passing (Declaration of result of the 1st Professional MBBS examination) alongwith the above cited four "No Objection Certificates" to :
 - (a) the Director of Medical Education of the State, if migration is sought from one college to another within the same State or
 - (b) the Medical Council of India, if the migration is sought from one college to another located outside the State.

18. Thus, the application, had to be filed by the petitioner along with the requirements as enumerated in clause (4) of Regulation 6 within a period of one month of the declaration of result of first professional MBBS examination. In the instant case, the following position is uncontroverted :-

- (a) The first MBBS results were declared in May, 2019.
- (b) The window within which the application for migration/transfer was to be submitted, as published was between 22/1/2020 to 7/2/2020, which came to be extended till 9/2/2020.
- (c) It is an admitted position that the petitioner did not apply within the above period.
- (d) The application of the petitioner, is admittedly dated 25/6/2020, which is way beyond the period prescribed, within which the same was to be submitted, which would make it ineligible for consideration, that too when the entire process of migration, was over, nearly four months earlier on 9/2/2020.

(e) That apart, the four 'No objection Certificates', as were required by Regulation 6(4) of MCI, which were to be obtained from the Special Medical Referral Board, authorised for issuing the disability certificate, in the prescribed forms at Annex-E-1 & E-2, were also not obtained nor were available with the petitioner, even on 25/6/2020, much less, during the period within which the application for transfer/migration was required to be made, as per the schedule published.

(f) The Medical certificates as filed on record by the petitioner, were issued by Private Medical Practitioners and not by the Special Medical Referral Board, authorised for issuing the disability certificate.

all of which clearly indicate that the petitioner had not complied with the requirements of Regulation 6(4) of the MCI, and thus was not eligible to be considered for transfer/migration.

19. The contention of Dr. Warunjikar, learned Counsel for petitioner that the period prescribed, for filing the application, ought not to be strictly construed and the application as filed by the petitioner on 25/6/2020, can be considered by the DMER/State,

even today, in light of the pandemic situation created due to Covid-19, is clearly unjustified, for the reason, that neither the Regulations as framed by MCI nor the guidelines framed by the DMER/State, as indicated in the brochure, grant any authority or power to the respondents to make any exception to what is stated in clause (4) of Regulation 6 of the MCI and therefore, no exception can be made out for the petitioner. Then, the period during which application was to be made was the one when neither any difficulty nor any disability on account of imposition of lockdown to contain spread of Covid-19 had arisen. Rather, such difficulty was there when the petitioner submitted her application on 25/6/2020, after a delay of about 4 months. The fact that she could make her application irrespective of the grim situation prevailing then, itself would show that at least for the petitioner to make an application, that situation posed no difficulty and so the pandemic situation ground would not be available to the petitioner even on facts.

20. There is yet another hurdle in the way of the petitioner for claiming transfer/migration. Note-3 of MCI Regulation 6, expressly mandates that migration during clinical course of study,

shall not be allowed on any ground. The petitioner admittedly has completed her First MBBS in May 2019 and has since thereafter embarked upon her Second MBBS, which as per MCI, is the Second Medical Professional : Phase-II (3 semester) consisting of para-clinical/clinical subjects. The application for transfer was made on 25/6/2020, by which time the petitioner was nearly a year into her second MBBS (clinical course) due to which the prohibition as contained in Note-3 of MCI Regulation, clearly applies, thereby prohibiting migration/transfer, at this stage.

21. We are aware of the dicta in *Lipika Gupta* (supra) and therefore we were initially inclined to consider the transfer, if it could be demonstrated on record as an admitted position, that there were seats vacant in the Government Colleges at Nagpur, for the purpose of transfer as per the MCI Regulations. Though Dr. Warunjikar, learned Counsel for the petitioner, submitted that this position stood admitted by the DMER/State on account of non traverse of the averments in this regard, however, except for a bare averment in the petition, there was nothing on record to substantiate it, due to which the plea could not be viewed even on a sympathetic

consideration, however, further delving into the matter, brought out the position as narrated and discussed above, which obliterated the consideration of this plea altogether.

22. In view of what has been stated above, the issue of considering whether the reason given by the petitioner, seeking migration, falls within the expression “genuine grounds” or not, is clearly rendered otiose.

23. The writ petition therefore is clearly without any merits and is dismissed accordingly. Rule stands discharged. No costs.

24. While parting with this judgment, we are constrained to observe that as the Regulations framed by the MCI, are applicable throughout the country, in light of the dictum of Note-1 of the Regulations, each State Government/University/Institution, would be entitled to frame guidelines for grant of NOC or migration, subject to the provisions of the Regulations. This would automatically lead to different guidelines, being framed by different State Governments/Universities/Institutions, thereby leading to a

lack of uniformity in the policy of migration. It would thus be proper, if the MCI defines and sets the parameters or criteria of the expression “genuine grounds” as occurring in MCI Regulation 6 (1), so as to have a uniformity for its application throughout the country, which would not only avoid contrary meanings, but would also save the students from the vagaries of litigation and the time spent, due to pursuing them, which could be beneficially spent in the pursuit of the profession for which they are preparing themselves. We hope that appropriate steps would be taken in this regard by the MCI as soon as possible.

(AVINASH G. GHAROTE,J.)

(SUNIL B. SHUKRE, J.)