

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Impleadment Application (CLMA No. 3016 of 2020)

In

Writ Petition (M/S) No.3736 of 2019

Dr. Manasvini Pandey & another ...Petitioners

Versus

Union of India & othersRespondents

Present:- Mr. Vinay Kumar, Advocate for the petitioners.
Mr. Sanjay Bhatt, Central Government Standing Counsel for the Union of India/respondent no. 1.
Mr. Paresh Tripathi, Chief Standing Counsel with Mr. Pradeep Haiyia, Standing Counsel, for the State/respondent nos.2 to 4.
Mr. Parikshit Saini, Advocate for the Medical Council of India/respondent no. 5.
Mr. Anil Dabral, Advocate for the applicants in Impleadment Application.

Hon'ble Sudhanshu Dhulia, J.

Present applicants are MBBS doctors, who seek admission in post-graduate medical courses. They have moved the present impleadment application to the above writ petition for the reasons that in the above writ petition, the petitioners were undergoing a post-graduation courses in Sushila Tiwari Medical College, Haldwani, although for the said course i.e. M.D. (Radiology), permission was granted to the medical college, but it was subject to certain conditions. As these conditions were not fulfilled by the medical college, inspite of reminders, the M.D. (Radiology) course was derecognized by the Medical Council of India. As their course stood derecognized, they had approached this Court for appropriate relief.

2. Vide order dated 16.12.2019, this Court had passed the following orders:-

“Counter affidavit filed on behalf of respondent no.4 in the Court today is taken on record.

2. Apparently the MD (Radiology) course in Government Medical College, Haldwani, has not

been recognized by the Medical Council of India.

3. Learned Senior Counsel for the MCI Mr. V.K. Kohli has pointed out several deficiencies which have not been removed by the Government Medical College, Haldwani in order to get recognition. Government Medical College, Haldwani did not have sufficient teaching staff and other facilities. Yet for a course of MD (Radiology) which is still to get recognition from the Medical Council of India, the Government Medical College, Haldwani keeps advertising, it for admission purposes and students are being admitted to this course.

4. Learned State Counsel Mr. Pradeep Hairiya, who represents the Medical College has informed this Court that no student has been admitted in the MD (Radiology) course in Government Medical College, Haldwani for the year 2019-2020.

5. Learned counsel for the petitioner relies upon amended clause 6 (3) of the "Postgraduate Medical Education (Amendment) Regulations, 2018", by which a penalty may be imposed upon such colleges, which have been made effective from 05.04.2018. Clause 6 (3) of the Postgraduate Medical Education (Amendment) Regulations, 2018 reads as under:-

"(3) Failure to seek timely recognition as required in sub-clause 2 shall invariably result in stoppage of admission to the concerned Post Graduate course.

In the event of failure of the institute to seek recognition for existing Post Graduate courses, the Council may recommend to the Central Government for imposition of exemplary penalty which may extend to Rupees ten lakhs per seat of the postgraduate course;

and/or stoppage of other postgraduate Medical courses of the Institution; and/or debar the Institution from making any application for starting or increase of seats in postgraduate courses for a specified period; and/or reducing the intake capacity in MBBS.”

6. Three weeks’ time is granted to the respondents to file counter affidavit.

7. List this matter on 10.02.2020 in the daily cause list.

8. Meanwhile, learned Senior Counsel for the MCI shall apprise this Court as to whether penalty has been imposed against the Medical College and recommendation has been made for action against the Medical College or what remedial measures have been taken.

9. Till the valid recommendation is taken from the Medical Council of India, the Government Medical College, Haldwani will not advertise or admit on the seats for MD (Radiology) or any other seats which has not been recognized by the Medical Council of India.

10. Meanwhile, it is open for the Government Medical College, Haldwani to remove all the deficiencies and apply for fresh recognition.”

3. The primary concern of this Court in passing the above order was that students should not waste their time and energy in a course, which may be of no use to them later, as it has no recognition of the Medical Council of India.

4. The present applicants are affected by the said order primarily of what is contained in para 9 of the said

order, as it prohibits the medical college to take admission on any seat which has not been recognized by the Medical Council of India.

5. This Court has been informed by the learned counsel for the applicants Mr. Anil Dabral, learned counsel for the Medical Council of India Mr. Parikshit Saini as well as learned Chief Standing Counsel Mr. Paresh Tripathi, that there is some journey which is taken by the medical college between the permission it receives from the Medical Council of India and the final recognition it gets. There are presently many seats in the medical college at the post-graduation level for clinical as well as non-clinical courses, for which they have been given a valid permission from the Medical Council of India, but recognition has not yet been given.

6. Merely because recognition has not been given as yet, but since the medical college has a permission to conduct the course, Mr. Parikshit Saini, learned Counsel for the Medical Council of India has informed the Court that actually there is no legal impediment to admit the students on these courses.

7. Presently the counselling for filling of seats for the post-graduation courses is underway. Purely in the interest of justice, this Court allows the impleadment application. Let the applicants be impleaded as respondent nos. 6 to 11, and a detail counter affidavit be filed within three weeks.

8. Meanwhile, para 9 of the interim order dated 16.12.209 will stand substituted by the following paragraph:-

“9. Till the valid recommendation is taken from the Medical Council of India, the Government Medical College, Haldwani will not advertise or admit on the seats for MD (Radiology) or any other seats which has either been derecognized by the Medical Council of India or for which there is no valid permission by the Medical Council of India.”

9. It is, however, made clear that the Government Medical College, Haldwani shall not fill the seats for M.D. (Radiology) course, as it has been derecognized by the Medical Council of India.

10. The learned Chief Standing Counsel has given an assurance to this Court that he shall promptly inform the Principal of the Government Medical College as well as the State Authorities so that today itself the order brought to their notice and to the notice of general public particularly the concerned students that these seats are now in the open market for counselling.

11. List this case after three weeks.

(Sudhanshu Dhulia, J.)
29.04.2019