

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
JODHPUR**

S.B. Civil Writ Petition No. 6068/2022

Geetanjali Medical College And Hospital

----Petitioner

Versus

The Union of India & Ors.

----Respondents

Connected With

S.B. Civil Writ Petitions Nos. 6665/2022, 6069/2022, 6089/2022, 6119/2022, 6126/2022, 6145/2022, 6176/2022, 6180/2022, 6183/2022, 6203/2022, 6349/2022, 6613/2022, 7676/2022, 7717/2022, 9364/2022 & 9625/2022



For Petitioner(s)

: Mr. K. Venugopal, Sr. Adv.
Mr. Nidhesh Gupta, Sr. Adv.
Mr. Vikas Balia, Sr. Adv.
(Assisted by)
Mr. Ravi Malu
Mr. Abhishek Mehta
Ms. Charu Mathur
Ms. Tanvi Dubey
Mr. Akhilesh Rajpurohit
Mr. Hemant Dutt

For Respondent(s)

: Mr. Manish Vyas, AAG
Mr. Mukesh Rajpurohit, AAG
Mr. Deepesh Beniwal
Mr. Uttam Singh
Mr. R.S. Saluja
Mr. Mahendra Vishnoi
Mr. Harsh Chittora

HON'BLE MR. JUSTICE ARUN MONGA
Judgment

***18/01/2024**

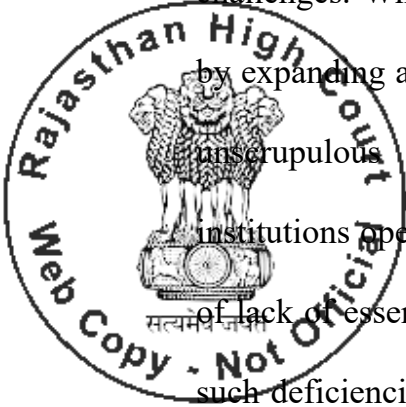
1. Under judicial review herein are the actions and directives of the Medical Assessment and Rating Board (MARB), an autonomous board set up under the overall supervision of National Medical Commission (NMC), exercising regulatory powers under National Medical Commission Act, 2019. MARB cancelled the admissions of students in undergraduate (UG) and post graduate (PG) courses in

*Due to inadvertence, the date of judgment was earlier wrongly mentioned as 28.11.2023. The judgment was offloaded and after rectification thereof, the same was uploaded again.

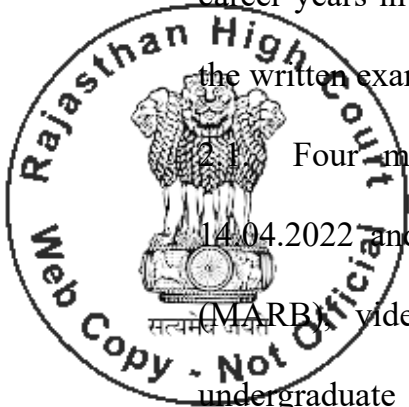
four private medical colleges, who are before this Court along with all the affected students, due to alleged deficiency in infrastructure and faculty etc. MARB and NMC are vital in regulating and eradicating malpractices in medical education. The privatization of medical colleges in India has brought both opportunities and challenges. While it has transformed the educational landscape in medical science by expanding avenues, however, this positive shift has also led to the emergence of unscrupulous institutions prioritizing profit over quality education. These institutions operate with inadequate infrastructure, staff and thriving in the shadows of lack of essential resources necessary for quality education. The consequences of such deficiencies pose a direct threat to the lives of common citizens/public health by producing inadequately trained medical professionals (“Half baked and poor quality doctors¹”). MARB and NMC are the regulatory guardians tasked with ensuring high standards in medical education, crucial for aspiring physicians' futures. The unchecked growth of such institutions jeopardizes students' dreams and public health. Vigilance and proactive measures by MARB and NMC are necessary to maintain the integrity of medical education and protect students' aspirations.

1.1. At the same time, one ought to be mindful that grant/renewal of permissions for existing institutions is a crucial process that demands meticulous consideration. The regulatory bodies must delve into and have pragmatic approach qua the complexities surrounding the renewal of permissions for medical colleges that have been operational in the past years. These institutions, having admitted hundreds of students, play a vital role in the healthcare and education sectors. Fair and systematic approach is imperative to avoid abrupt refusals and ensure a gradual fulfillment of infrastructural and faculty requirements. The petitioner medical colleges herein are existing medical colleges/entities that have been imparting education and training to students in the medical field for a considerable period.

¹ Words of Supreme Court in Manohar Lal v/s MCI – (2013)10 SCC 60



2. Lis before this Court is by two sets of aggrieved, i.e., the institutions/medical colleges assailing the regulatory directives of MARB and; the students, who, as a consequence thereof, are direct sufferers as the ultimate brunt of the same, if implemented, would be borne by them. Students are before this Court alleging that for no fault on their part they have to undergo the hardship of wasting their precious career years in the medical colleges already allocated to them as per their merit in the written examination conducted by the respondent NEET.



2. Four medical colleges and their students have assailed orders dated 14.04.2022 and 18.04.2022 passed by the Medical Assessment & Rating Board (MARB) vide which it has withdrawn the letter of permission (LOP) for undergraduate (UG) and post graduate (PG) courses in the said colleges for academic session 2021-22. Consequently, it also cancelled the admissions granted to students in those colleges, due to alleged deficiency in infrastructure and faculty etc. Furthermore, recommendation has been made by MARB to NMC for cancellation of recognition granted to the medical institutions with effect from the date of passing of impugned orders. For ready reference, relief sought viz-a-viz current status of students, in each of the petition, in the aforesaid bunch is succinctly

put in the tabular form as below :-

Sr No	SBCWP No / Title	Relief sought	Status
1	6068/2022 Geentanjali Medical College and Hospital v UOI	Quashing of impugned order dated 18.04.2022 passed by medical assessment and rating board of national medical commission	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
2	6069/2022 Ananta charitable educational society v UOI	Quashing of order dated 14.04.2022 passed by medical assessment and rating board, whereby the letter of permission granted was withdrawn	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated

		and the admissions in the under graduate and post graduate courses for the academic year 2021-22 were cancelled w.e.f. 14.04.2022.	21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
3	6089/2022 Shruti Priya Darshani and Ors V UOI	Quashing of order dated 14.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection in medical college – ananta institute of medical sciences.	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
4	6119/2022 Pacific Institute Of Medical Sciences V UOI	Petition filed against meeting held on 22.04.2022 whereby the respondent authorities seek direction / clarification from the Government for cancellation of entire PG seats in petitioner-college.	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
5	6126/2022 Dharaiya Khushboo Nayan and Ors v UOI	Quashing of order dated 18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- geetanjali medical college & hospital	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
6	6145/2022 Vaibhav Shrimali & Ors v UOI	Quashing of order dated 14.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college-ananta insti-	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same



		tute of medical sciences and research centre	Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
7	6176/2022 Patel Shyam Shailesh Kumar and Ors v UOI	Quashing of order dated 14.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- the pacific institute of medical sciences	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
8	6180/2022 Saloni Jhala & Ors vs. UOI	Quashing of order dated 18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- american international institute of medical sciences	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
9	6183/2022 Aaina Choudhary And Ors V UOI	Quashing of order dated 18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- geetanjali medical college & hospital	Vide an ad-interim order dated 28.04.2022 passed by Coordinate Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
10	6203/2022 Manswit Saini and Ors v UOI	Quashing of order dated 14.04.2022 passed by medical assessment and	Vide an ad-interim order dated 28.04.2022 passed by Coordinate





		rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- pacific institute of medical sciences.	Bench, respondents were restrained not to cancel the admission of the students. Vide a subsequent order dated 21.09.2022 passed by the same Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
	6349/2022 Pacific Institute of Medical Sciences V UOI	Quashing of order dated 14.4.2022 passed by the medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of the medical college and has recommended to the national medical commission to cancel the recognition for the college;	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
12	6613/2022 Ruhi Dak and Ors v UOI	Quashing of order dated 18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- american international institute of medical sciences	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
13	6665/ Suditi Mahatma and Ors v UOI and Ors	Quashing of order dated 18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- american international institute of medical sciences	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
14	7676/2022 Vijendra Jangir v	Quashing of order dated	Vide an order dated 21.09.2022

	UOI	18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- american international institute of medical sciences	passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
	15 7/17/2022 Dr. Himani V UOI	Quashing of order dated 18.04.2022 passed by medical assessment and rating board whereby it has cancelled the admission of academic year 2021-2022 on account of deficiencies found during inspection of medical college- american international institute of medical sciences	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
16	9364/2022 American International Health Management Ltd V UOI	Quashing of impugned order dated 18.04.2022 passed by medical assessment and rating board of national medical commission vide which the respondent Medical Assessment and Rating Board has withdrawn the letter of permission and cancelled the admission of 150 under graduate students and post graduate courses for academic session 2021-22 with immediate effect.	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.
17	9625/2022 Pacific Institute of Medical Sciences v UOI	Seeking direction to allow the petitioner institute to take admission for pg courses for the academic session 2022-2023 as per the regulations of 2000.	Vide an order dated 21.09.2022 passed by a Coordinate Bench, RUHS was directed to enroll the students for admission on provisional basis subject to final outcome of the writ petition.

3. FACTS

3.1. All the writ petitions are having more or less similar facts. The alleged deficiencies leading to passing of impugned orders are also almost similar in

nature. Only the number of seats in under-graduation and post graduation vary in the four medical colleges. For convenience, factual narrative and other recitals are being referred from SBCWP No. 6068/2022 titled as Geetanjali Medical College & Hospital V/s. UOI &Ors.

3.2. Geetanjali Medical College & Hospital (GMCH- for short) has been imparting education in MBBS course since the academic year 2008 onwards.

After passing of first batch, NMC (erstwhile MCI) recognized it with an annual intake capacity of 150 seats. GMCH later on applied for grant of permission to conduct PG course. The then MCI accorded the permission for same.

3.3. The Act of 1956 was repealed w.e.f. 08.08.2019 and NMC Act 2019 was promulgated. GMCH applied for increase of intake in MBBS from 150 to 250

seats to the NMC. After carrying-out the required inspection and, on being fully satisfied, NMC granted additional 100 seats from academic session 2019-2020.

Vide renewal letter/order dated 22.09.2021 (**Annexure-3**), NMC renewed the permission for intake of 250 students for academic session 2021-2022.

3.4. GMCH pleads that it has been running 1210 bedded Multi-Specialty Hospital spread over 35 acres of land. It has adequate number of Qualified Medical teaching faculty, teaching infrastructure viz. Lecture theatres and halls, teaching laboratories, Auditorium, Hostels, Central Mess, Games and Library and other Facilities since the inception. More than 1,350 students (in UG course and PG course) take admission the College in one academic year. The hospital-college is equipped with ultra-modern technology and medical facilities catering to the need of patients of Udaipur and nearby districts of Rajasthan and adjoining States of Madhya Pradesh and Gujarat.

3.5. Team of assessors of the NMC conducted surprise physical inspection of GMCH (**Annexure -7**) as well as other three medical colleges on 24.02.2022. It pointed out some deficiencies in all four colleges. All the institutions expressed their dissent on the inspection reports of the NMC. More of it later.



3.6. Subsequently, GMCH (as did other colleges) submitted its detailed clarifications dated 25.02.2022 (**Annexure-8**) on the assessment report.

3.7. Notwithstanding, NMC issued a show cause notice dated 21.03.2022 (**Annexure -9**), asking GMCH to rectify the deficiencies within 15 days. (All four colleges were issued similar notices.)

3.8. GMCH submitted an elaborate response dated 05.04.2022 (**Annexure-**

10) to the show cause notice, giving micro details. Stand taken was that in compliance of the SCN all the deficiencies pointed therein have been rectified.

Should there be any clarification warranted, a personal hearing was sought. A request for fresh inspection of the college was also made.

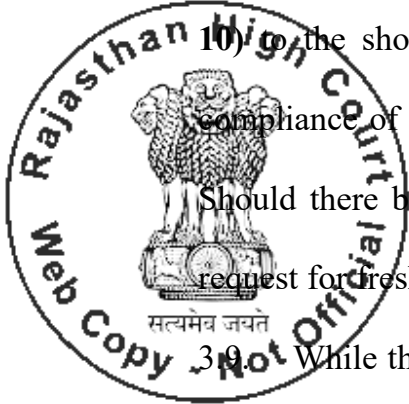
3.9. While the matter was pending as aforesaid, the counseling for 2021-2022

batch for admission in MBBS and MD commenced in the interregnum. Last date fixed by the State Counseling Board for admission in MBBS was 12.04.2022 (**Annexure-16**). For PG courses, last date fixed was 07.05.2022.

3.10. Pursuant to aforesaid UG counseling, 250 students were granted admission by the State Counseling Board in GMCH. Likewise, 61 students were allotted in various specialty courses in MD/MS of GMCH. Classes in the medical college commenced thereafter. (In the other three medical colleges also, 450 students in UG- 150 each and, 54 in PG were admitted.)

3.11. As a bolt from blue, without granting any opportunity of hearing on the detailed reply filed to show cause notice, the MARB passed impugned order dated 18.04.2022 (**Annexure-20**), inter alia, canceling the letter of renewal permission granted to the college for 250 MBBS seats of UG and post graduate seats, both in Broad specialties and Super specialty courses, for academic session 2021-2022. The order is signed by Member and President, MARB of NMC and copied to Secretary, NMC, amongst others.

4. In the aforesaid backdrop, I have heard the competing arguments addressed by the learned senior counsels Mr. K. Venugopal, Mr. Nidhesh Gupta and Mr. Vikas



Balia assisted by their respective briefing counsels representing various petitioners with common cause and Mr. Manish Vyas, Mr. Akhilesh Rajpurohit, Mr. Ravi Malu, Mr. D.S. Beniwal, Mr. Uttam Singh, Mr. R.S. Saluja and Mr. Mukesh Rajpurohit appearing for the respondents.

ARGUMENTS/SUBMISSIONS ON BEHALF OF THE PETITIONERS



4.1. Impugned orders clearly reveal that essentially the same have been passed by the MARB under section 26 (1) (a), (b), (c) and section 28 of the Act of 2019.

The MARB has also recommended NMC to cancel the recognition for the college including UG & PG- Broad Specialties and Super Specialty courses. The

said orders, so far as, they relate to cancellation of admission already done, are

thus without authority of law and without jurisdiction. Section 26 (1) (f) does not contemplate cancellation of admission already made. MARB is not competent in law to pass such orders, with retrospective effect, under section 26, *ibid*.

4.2. MARB vide its show cause notice dated 21.03.2022 categorically mentioned "why the commission should not levy penalties over the College, withdraw the Letter of Permission granted for increased MBBS seats 150 to 250 MBBS seats, be stopped from conducting the MBBS recognition of the increased seats", and further asked "you are thereby called upon to fill the deficiencies as mentioned and report to the MARB of NMC within 15 days after receiving this letter". The Petitioner has submitted detailed reply and provided all explanation and requested the MARB to conduct compliance verification inspection as per its convenience or grant an opportunity of personal hearing if any clarification required. The reply to the show cause notice submitted by the petitioner was not considered while passing impugned order and there is no reason assigned by the MARB in its order for dissatisfaction on the petitioner's reply. The important aspect with relation to availability of bed occupancy and faculty members in all

earlier inspections, coupled with the factum COVID situation has not been dealt by MARB, and moreover, the MARB while passing impugned order also without any authority of law cancelled admissions upon recognized seats.

4.4. MARB has put large number of students' career in lurch, acted as silent spectator during entire counseling conducted by the State Counseling Board.

That aside, from 2008 onwards, about 154 inspections were carried out by MCI/

NMC and the institution was found suitable. However, on the basis of one inspection all things have been undone by the respondents.

4.5. By an administrative fiat, the admission already done through proper mode of centralized counseling by the State Counseling Board to the students

for academic session 2021-2022 have been cancelled. No administrative order can be given retrospective effect in law, to do what cannot be undone.

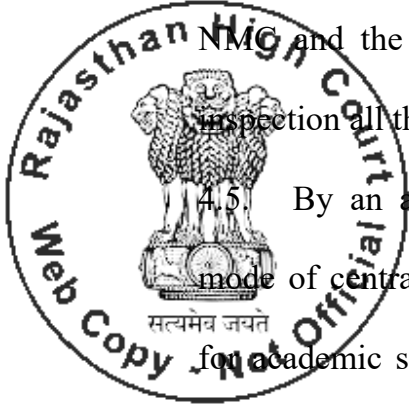
4.6. The impugned order dated 18.04.2022 is self contradictory. MARB has observed at many places that the explanation offered by the petitioner is convincing but not acceptable. The respondents have failed to give any explanation in this regard that how the explanation is convincing but not acceptable.

4.7. Merely after one and half month on 10.06.2022 and then on 24.06.2022, followed by 28.06.2022 and then on 02.07.2022, the NMC conducted as many as 18 surprise inspections for enhancement/renewal of recognition of PG seats and found the college fully compliant with statutory norms.

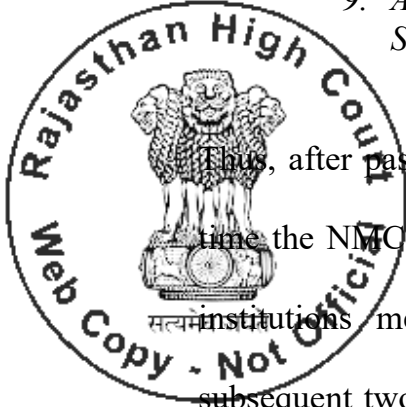
4.8. NMC conducted a surprise inspection on 24/25.08.2022 at Geetanjali Medical College & Hospital. In this surprise inspection, the respondent NMC found all the colleges meeting with the statutory norms of NMC. Summary of assessment of GMCH is as under :

Summary of Assessment

1. *Geetanjali Medical College & Hospital, is run by University sponsored by Geetanjali University Trust.*
2. *The college has got LOP from GOI/MCI with intake of 250 seats for last academic year 2019-20.*
3. *Type of assessment: 3rd Renewal No. of seats: 150 to 250*



4. *PG courses: Yes in all Departments*
5. *Deficiency of teaching staff if any:
Shortage of teaching faculty is 0.85%
(1 Associate Professor in Forensic Medicine and 1 Assistant Professor in Paediatrics is deficient)*
6. *Deficiency of resident doctors if any:
Shortage of resident doctors is Nil%*
7. *Deficiency of the infrastructure of college and hospital If any :
Pl. mention category wise;*
8. *Deficiency of clinical material If any:
Pl mention category wise;*
9. *Any other Remarks:
Sd/-“*



Thus, after passing of impugned order dated 18.4.2022, within a short span of time the NMC conducted various surprise inspections, in which they found all institutions meeting with norms and also NMC granted permissions for subsequent two academic sessions i.e. academic session 2022- 2023 and 2023-

2024. Prior to passing of the impugned orders, 154 inspections were carried out and subsequent to the impugned order, 46 inspections were carried out. In all inspections the GMCH was found fully compliant with all the statutory norms. In support of their aforesaid argument, the learned senior counsels urged the court to refer to Inspection report dated 06.12.2022 (**Annexure-24**).

4.9. In course of arguments, the learned seniors would also refer to tabular statements containing the facts of other three medical colleges. Same are as below:-

S.B. CIVIL WRIT PETITION NO.9364/2022 American International Health Management Ltd. &Anr.

2016	College is running with 150 student's capacity in MBBS.
2021	Recognition was granted under section 11(2) of the Act of 1956. The letter of recognition was granted in year 2021.
	Petitioner applied for grant of permission for various PG courses for academic year 2021-22 and the same is granted. However, the NMC did not grant PG seats as applied by the petitioner. The petitioner filed various writ petitions before this Court and vide interim orders dated 24.01.2022, the respondent counselling board was directed to allot the students to the petitioner as applied by the petitioner.
24.02.22	Perhaps being annoyed by the above interim orders, NMC conducted surprise physical inspection.
01.03.22	The petitioner mentioned its dissent note on inspection report itself.

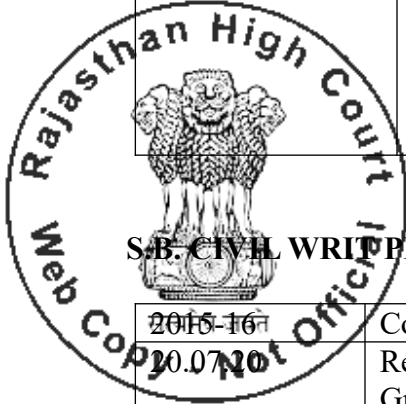
23.03.22	Show cause notice was issued to the petitioner.
04.04.22	The petitioner submitted detailed reply with supporting documents.
18.04.22	The respondent MARB issued impugned order by which it withdrew the letter of permission and cancelled the admissions for 150 MBBS seats & post graduate seats for academic session 2021-22.
28.04.22 & 11.05.22	This Court passed interim orders to protect the admissions of the students when they approached by filing aforesaid writ petition
03.06.22	This Court confirmed the aforesaid interim order dated 28.04.2022.
07.07.22	This Court granted interim order in favour of the petitioner college also.
02.08.22	The counsel appearing for respondent NMC sought time to complete his instruction with respect to fresh surprise inspection to be carried by NMC.
04.08.22	NMC granted permission for 12 PG subjects for academic session 2022-23 and 2023-24.
24/25.08.2022	The NMC conducted surprise inspection and found the college compliant with the statutory norms of NMC.
14.12.22	Another surprise inspection conducted by NMC and found the college fully compliant.



S.B.CIVIL WRIT PETITION NO.6069/2022 Ananta Charitable Educational Society &Anr.

2016	College is running with 150 student's capacity in MBBS
15/19.07.2021	Recognition was granted under section 11(2) of the Act of 1956. The letter of recognition was granted.
	Petitioner applied for grant of PG seats in some of the PG subjects from academic session 2021-22 and the same was granted. However, the NMC did not grant PG seats as applied by the petitioner. The petitioner filed various writ petitions before this Court and vide interim orders the respondent counselling board was directed to allot the students to the petitioner as applied.
24.02.22	Perhaps being annoyed by the above interim orders, NMC conducted surprise physical inspection.
25.02.22	The petitioner submitted dissent note through email.
23.03.22	Show cause notice was issued to the petitioner.
06.04.22	The petitioner submitted detailed reply with supporting documents.
14.04.22	The respondent MARB issued impugned order by which it withdrew the letter of renewal of permission granted academic year 2021-22 for 150 MBBS seats and post graduate seats.
28.04.22	This Court passed interim orders to protect the admissions of the students when they approached by filing aforesaid writ petition.
03.06.22	This Court confirmed the aforesaid interim order dated 28.04.2022.
02.08.22	The counsel appearing for respondent NMC sought time to complete his instruction with respect to fresh surprise inspection to be carried by NMC.
24/25.08.2022	The NMC conducted surprise inspection and found the college compliant with the statutory norms of NMC.
08.12.22 & 12.01.23	The NMC also conducted various surprise inspection for PG seats and found the institution fully in accordance with the statutory norms in orders dated 31.01.2023, 23.02.2023, 16.03.2023 & 24.03.2023.

	The NMC has granted recognition of MBBS degree 150 seats on or after June 2022 to the petitioner.
08.12.22 & 14.02.23	Apart from above inspection the NMC also conducted as many as 11 inspections regarding UG and PG, after passing of impugned order, however, all reports have not been placed on record by the petitioner but the petitioner has placed two inspection reports dated 08.12.2022 and 14.02.2023.
07.06.23	It is also very pertinent to and relevant aspect of the matter that the students of academic session 2021-2022 batch of Petitioner's College have secured 1 st , 5 th and 18 th position in first MBBS examination of the State University i.e. Rajasthan University of Health & Science, Jaipur. Therefore, the fact itself clearly reveal that the institution is fully compliant with the norms and imparting quality education fully in accordance with the National Medical Commission.



S.B. CIVIL WRIT PETITION NO.6349/2022 Pacific Institute of Medical Science

2015-16	College has been running with 150 students capacity in MBBS
10.07.22	Recognition was granted under section 11(2) of the Act of 1956. Post Graduate seats applied and letter or permission was granted.
	Petitioner applied for grant of PG seats in some of the PG subjects from academic session 2021-22 and the same was granted. However, the NMC did not grant PG seats as applied by the petitioner. The petitioner filed writ petition before this Court and vide interim order, the respondent counselling board was directed to allot the students to the petitioner as applied.
24.02.22	Perhaps being annoyed by the above interim orders, NMC conducted surprise physical inspection.
23.03.22	Show cause notice was issued to the petitioner.
05.04.22	The petitioner submitted detailed reply with supporting documents.
14.04.22	The respondent MARB issued impugned order by which it withdrew the letter of renewal of permission granted academic year 2021-22 for 150 MBBS seats and post graduate seats.
17.05.22	Court granted interim order in favour of the petitioners for protecting the admissions already granted prior to passing the impugned orders.
03.06.22	Court confirmed the interim order.
02.08.22	The counsel appearing for respondent NMC sought time to complete his instruction with respect to fresh surprise inspection to be carried by NMC.
24/25.08.22	NMC conducted surprise inspection and found the college compliant with the statutory norms of NMC.
23.02.23	Apart from above inspection the NMC also conducted inspection regarding UG and PG after passing of impugned order.
27.06.23	The petitioner also placed on record order dated 27.06.2023 by which the NMC has granted recognition of MBBS degree 150 seats on or after February 2023 to the petitioner.

Learned counsel for the petitioners would contend that in view of the above, it can safely be concluded that impugned orders/recommendations dated 14.4.2022 and 18.04.2022 have lost significance, since subsequent thereto, within a short span of time, NMC has conducted various surprise inspections in which they found the institution meeting with the norms. Not only that, the NMC has also granted

permissions to admit students for subsequent two academic sessions i.e. academic session 2022-23 and 2023-24.

4.3. The counsel for the petitioners would argue the inspections were carried on same day report thereof prepared by the assessment team with malafide intent. They contended that the surprise inspections were motivated by the institutions' pursuit of seeking increased P.G. course seats by filing writ petitions before this court, since MARB/NMC had denied the same to the colleges.

4.4. Furthermore, they argued that the MARB should have considered imposing monetary penalties before resorting to severe measures like cancelling admissions or recommending withdrawal of recognition, as per Section 26(1)(f) of the Act of



4.5. They would also contend that the MARB did not properly appreciate the institutions' responses to the show cause notices and didn't even follow the NMC guidelines for inspections.

4.6 They would contend that impugned orders are contrary to law laid down by the Apex Court in Priyadarshini Dental College & Hospital V/s. Union of India².

5. ARGUMENTS ON BEHALF OF MARB/NMC :-

As regards the case of set up by MARB and NMC, the stand taken, is as below:-

5.1. During surprise assessment conducted in 4 medical colleges, deficiencies were found. Before passing impugned orders, time was granted to rectify the same but the colleges failed to do so. Deficiencies are succinctly tabulated, college-wise, as below:

College	Deficiencies
Geetanjali Medical College & Hospital	(i) The college had a deficiency of faculty of 38% (ii) Authorization for Handing Bio-Medical Waste Certificate was found to be expired on 31st Jan 2019. (iii) The verification team found 424 indoor patients between 2.30 and 4 PM against 1220 beds displayed in the HMIS of the



	<p>hospital, suggesting only 35% bed occupancy.</p> <p>(iv) The number of major and minor surgeries was much less (50%) than the daily operative load for the PG intake surgical specialities.</p> <p>(v) Difference between the HMIS data and direct verification by team in the ward.</p> <p>(vi) Shortage of surgical case load.</p> <p>(vii) The Histopathology and Cytology work load is inadequate.</p>
<p>Mantra Charitable Educational Society</p>	<p>(i) Net faculty deficiency was of 77 (51.6%)</p> <p>(ii) Bed occupancy was lesser against the requirement.</p> <p>(iii) Boys and girls hostels were deficient.</p> <p>(iv) There is no lecture theatre in the hospital.</p> <p>(v) Boys and girls hostels were deficient.</p> <p>(vi) Emergency medicine department was deficient.</p> <p>(vii) Major operation theatre deficient.</p>
<p>American International Institute of Medical Sciences</p>	<p>(i) OPD attendance was 776 on the day of assessment against the requirement of 1200.</p> <p>(ii) Bed occupancy was 29.5% against the expected in-patients requirement of 75%.</p> <p>(iii) Nursing and staff number was 372 against requirement of 429.</p> <p>(iv) Non-teaching staff deficiency-40%.</p> <p>(v) Foreign and Indian Journals were not upto the date.</p> <p>(vi) College website was not updated.</p> <p>(vii) Computer terminals were not available.</p> <p>(viii) Shortage of the faculty and residents.</p> <p>(ix) Infrastructure not available for PG specialities.</p> <p>(x) Shortage of IPd and OPD - more than 65% deficiency.</p> <p>(xi) Difference between HMIS and direct verification.</p> <p>(xii) Shortage of Investigation.</p> <p>(xiii) Shortage of equipment as per the UG/PG intake deficiency.</p> <p>(xiv) Hostel facilities for PG students are not available as per PG intake.</p>
<p>Pacific Institute of Medical Sciences</p>	<p>(i) Faculty deficiency.</p> <p>(ii) Patients in the wards are scanty.</p> <p>(iii) Quality of clinical material for hands on training is poor quality.</p> <p>(iv) The number of patients as per the register maintained in the pediatrics ward did not match the number of patients observed during inspection.</p> <p>(V) The quality of clinical material as per the admission registers available in the wards was not of adequate spectrum of clinical material to teach variety to meet the requirements of PG students training.</p>

- (vi) The daily census of wards, LR, OTs, and clinics is not complied and entered in their respective registers.
- (vii) Only one national journal and no international journal in the library.
- (viii) The bed occupancy of wards was discrepant.
- (ix) No physical attendance register/record was found in teaching of undergraduate and post graduate students.
- (x) There was no consultant/senior residents available in any OPD during the OPD visit.
- (xi) Difference in the major surgeries.



Fresh surprise inspections were conducted in August 2023, pursuant to an interim order dated 02.08.2022 passed by this Court. NMC stands by its decision to cancel LOP for AY 2021-22 in view of gross deficiencies which existed at that point in the colleges and a stern view thereof ought to be taken in the present case.

5.3. Scheme of the Act and section 26 and 28, of the Act permits MARB to take all such steps as are necessary to maintain high standards of medical education in the country. Students admitted in the four medical colleges under question in the academic year 2021-22, cannot be subjected to imparting of sub-standard medical education.

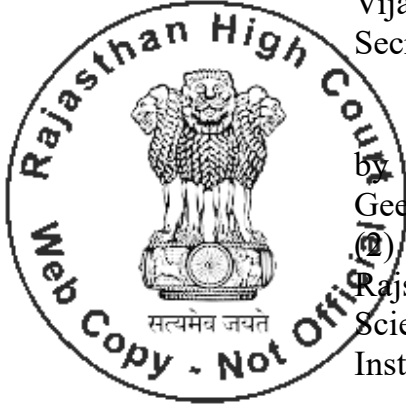
5.4. Reliance was placed on Supreme Court judgment rendered in Manohar Lal Sharma v/s MCI³ in support of the argument that rigid rules of principle of natural justice are not applicable for granting renewal of permission to a medical college. Personal hearing is not a matter of right. Opportunity was given to rectify the deficiencies within 15 days and the colleges failed to do so. Hence, the impugned orders ought not to be interfered with by this court.

DISCUSSION AND OUTCOME

6. I shall now proceed to deal with the rival contentions and render my opinion giving reasons thereof.

7. First and foremost, the grievance of the students, who are all before this Court in their respective writ petitions. The same arises out of a decision, taken by a specially constituted committee, under the Chairmanship of National Medical Commission in its meeting held on 11.05.2022, which is as below:

" A meeting was held under the Chairmanship of Dr. Suresh Chandra Sharma, Chairman, National Medical Commission and attended by Dr. Suryanarayan Raju, Member, MARB, Dr. Vijay Oza, PGMEB and Shri Vaibhav Galriya, Principle Secretary, Medical Education, Government of Rajasthan.



The meeting was convened to discuss the action taken by the State Government in re-allocation of students of (1) Geetanjali Medical College & Hospital, Udaipur, Rajasthan, (2) Ananta Institute of Medical Sciences & Research Centre, Rajsamand, Rajasthan, (3) Pacific Institute of Medical Sciences, Udaipur, Rajasthan and (4) American International Institute of Medical Sciences, Udaipur, Rajasthan.

Following decisions were taken in the meeting:-

1. *It has been decided that redistribution of Under Graduate & Post Graduate students from these colleges to existing Government and Private medical colleges will be done by the State Government based on their merit and availability of seats.*
2. *The distribution of students to the colleges' dependents on the number of pre-existing students and the availability of infrastructure. Seats cannot be more than 250.*
3. *Post Graduate students may also be redistributed with same specialty based on their merit and seats availability and infrastructure in other colleges.*
4. *The Post Graduate students may be permitted to work for 3 months in district hospitals against the seats available for District Resident Program.*
5. *Regarding fees, the students will follow as per the college norms where they are choosing for continuation of their courses. The colleges which have already collected the fees shall transfer the money to the State Government.*
6. *The State Government should notify the decision as per the final outcome of the Court cases.*

Sd/- "

A bare perusal of the above reflects that concededly there is no dispute qua the merit of the students, proposed to be redistributed, who have been granted

admissions in their respective colleges. To that extent, the students are fully justified that for no fault of theirs, their careers have been jeopardized mid-stream of their medical education.

8. On the other hand, on a court query, it transpires that even the State Government, despite there being no legal impediment, did not taken adequate steps in terms of the decision dated 11.05.2022, *supra*, leaving the students completely shattered as to their fate of future education to complete their MBBS/MD. Be that as it may, *apropos* various interim orders passed by different co-ordinate benches of this court, earlier seized of the matter from time to time, as far as the students are concerned, they are studying in the four medical colleges under the protection granted by this Court subject, of course, to the final outcome of the respective writ petitions.

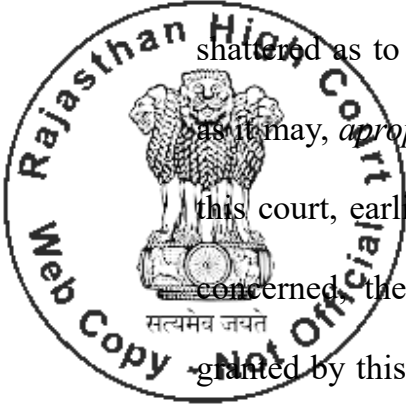
10. Adverting now to the impugned orders/recommendations of the MARB. *Dehors* the merits thereof, much of time was since spent by learned seniors on canvassing that MARB lacks the legal authority under section 26 the National Medical Commission Act, 2019 to cancel the admissions already granted. For ready reference said section is reproduced here in below:-

"26. Powers and functions of Medical Assessment and Rating Board.—

(1) *The Medical Assessment and Rating Board shall perform the following functions, namely:—*

- (a) *determine the procedure for assessing and rating the medical institutions for their compliance with the standards laid down by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in accordance with the regulations made under this Act;*
- (b) *grant permission for establishment of a new medical institution, or to start any postgraduate course or to increase number of seats, in accordance with the provisions of section 28;*
- (c) *carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under this Act:*

Provided that the Medical Assessment and Rating Board may, if it deems necessary, hire and authorise any other third party agency or persons for carrying out inspections of medical institutions for assessing and rating such institutions:



Provided further that where inspection of medical institutions is carried out by such third party agency or persons authorised by the Medical Assessment and Rating Board, it shall be obligatory on such institutions to provide access to such agency or person;

(d). *conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by the regulations;*

(e). *make available on its website or in public domain the assessment and ratings of medical institutions at regular intervals in accordance with the regulations made under this Act;*

take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a medical institution for failure to maintain the minimum essential standards specified by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in accordance with the regulations made under this Act.



(2).The Medical Assessment and Rating Board may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary."

(emphasis supplied)

The above section thus empowers the MARB with the vital role of ensuring quality healthcare education, so paramount for the development of competent medical professionals and the delivery of efficient healthcare services. The establishment of the MARB is a pivotal step towards ensuring the adherence of medical institutions to rigorous standards and regulations. Let us now delve into the statutory powers and functions of the MARB.

10.1. The scope of powers and functions envisaged under section 26 *ibid* can be better understood by splitting it into various heads, as discussed here in below :-

FUNCTIONS & RESPONSIBILITIES OF MARB-

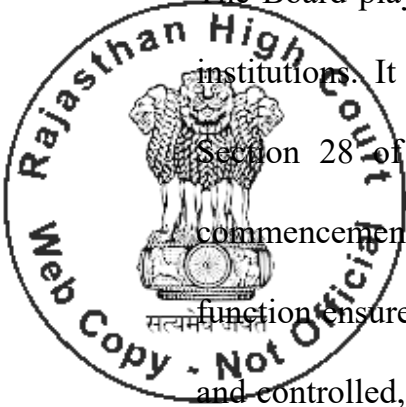
(a)- Determining Assessment Procedures:

One of the primary functions of the MARB is to establish procedures for assessing and rating medical institutions. This involves evaluating the compliance of these institutions with the standards set forth by the Under-Graduate Medical Education

Board or the Post-Graduate Medical Education Board. By defining clear assessment procedures, the Board facilitates a systematic evaluation of educational institutions, ensuring that they meet the requisite standards for providing quality medical education.

(b)- Granting Permissions for Establishment and Expansion:

The Board plays a pivotal role in regulating the growth and expansion of medical institutions. It grants permission, in accordance with the provisions specified in Section 28 of the Act, for the establishment of new medical institutions, the commencement of postgraduate courses, or the increase in the number of seats. This function ensures that the proliferation of medical institutions is carefully monitored and controlled, preventing the haphazard growth that could compromise the quality of education and healthcare services.



(c)- Conducting Inspections and Evaluations:

The Board conducts regular inspections of medical institutions to assess their compliance with regulations. It may enlist the assistance of third-party agencies for these inspections, ensuring impartiality and thoroughness in the evaluation process. By conducting comprehensive evaluations, the Board identifies areas for improvement and ensures that institutions adhere to established standards, thereby enhancing the quality of medical education.

(d)- Empanelling Independent Rating Agencies:

To further strengthen the evaluation process, the Board has the authority to empanel independent rating agencies. These agencies conduct assessments and rate medical institutions based on predetermined criteria. By engaging independent agencies, the Board ensures objectivity and transparency in the evaluation process, fostering accountability and continuous improvement in medical education standards.

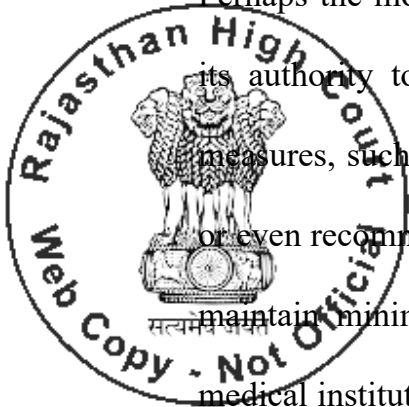
(e)- Transparency through Publication of Ratings:

The Board promotes transparency and accountability by making the assessment and ratings of medical institutions publicly available. This information is disseminated

through its website or other public domains, allowing stakeholders to access and evaluate the performance of medical institutions. By facilitating access to this information, the Board promotes informed decision-making and encourages institutions to strive for excellence in medical education.

(f)- Enforcement of Standards and Regulations:

Perhaps the most critical function of the Medical Assessment and Rating Board is its authority to enforce standards and regulations. The Board can take various measures, such as issuing warnings, imposing monetary penalties, reducing intake, or even recommending the withdrawal of recognition, against institutions that fail to maintain minimum standards. By enforcing compliance, the Board ensures that medical institutions uphold the highest standards of education, thereby safeguarding the quality of healthcare services.



(g) (sub section-2): Collaboration with the Commission:

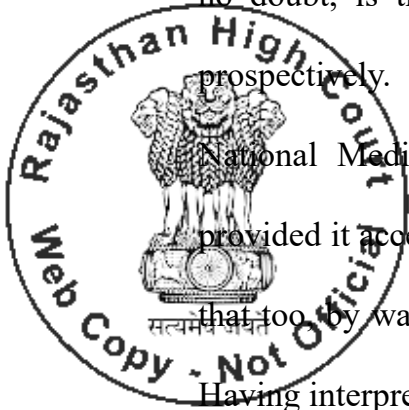
In the discharge of its functions, the Medical Assessment and Rating Board collaborates closely with the Commission. It may make recommendations to the Commission and seek directions as necessary, ensuring alignment with broader regulatory objectives and policies. This collaboration enhances the effectiveness of the Board's regulatory efforts and ensures a coordinated approach towards advancing medical education standards.

10.2. Question arises, whether MARB can cancel the admissions already granted?

10.3 Answer thereof necessitates a closer examination of the functions/powers outlined in sub-sections 26(1)(f) and 26(2), which have been delineated above.

Upon careful consideration of the interpretation of these sub-sections, I am firmly of the belief that the collective argument put forth by all the learned senior counsel representing the medical colleges, as well as the students, holds weight and merits acceptance i.e. the MARB lacks the jurisdiction to mandate retrospective cancellation of admissions by medical colleges/institutions. Statutory words “reducing intake or stoppage of admissions” in sub section 26(1)(f) cannot be

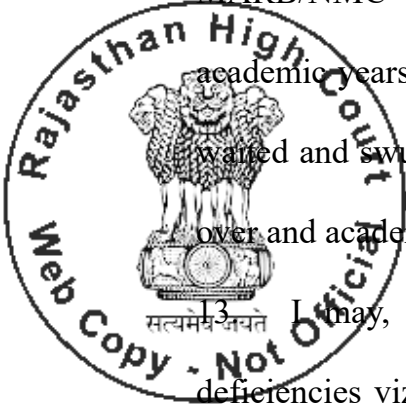
interpreted to mean that intake can be reduced retrospectively or admissions once granted can be stopped retrospectively. For, that would result in consequences fraught with danger and play havoc with the career of students, who are otherwise meritorious in all respects. What has been done cannot be undone, but yes, it must be stopped forthwith, if situation so warrants, to avoid perpetuity in future. MARB, no doubt, is thus vested with the power to disallow/stop admissions, but only prospectively. As regards action, contemplated if any, qua the past, it is only National Medical Commission, which is vested with such a power, if at all, provided it accepts the recommendations of MARB given under sub section (2), but that too, by way of a separate speaking order, after applying its independent mind. Having interpreted, as aforesaid, let us now proceed further.



11. Concededly, the impugned orders have been passed by the MARB with retrospective effect putting the career and future of all the students under peril. Thereby, hanging Damocles sword on their head midstream of their medical education by leaving them high and dry. At the relevant time, the medical seats in all the other colleges in the country had already been consumed as per the merit list prepared by NEET. Therefore, even if the order of MARB is to be upheld the students have no-where to go. Same may result in displacing those students who have already been given the benefit of the vacant seats in the other medical colleges, which resulted due to the allocations of the students before this Court in the four respective colleges based on their performance in the entrance examination. Alternatively, supernumerary seats may have to be created in other colleges which they would not equipped in terms of infrastructural, leading to the farcical consequences by depriving quality education.

12. Since I have already expressed my opinion on the MARB jurisdiction and/or the lack of power or the legal incompetence to pass any retrospective orders, it is though not necessary to consider the allegations and counter allegations on merits, but since much time was spent in court by respective counsels to expose the same, I

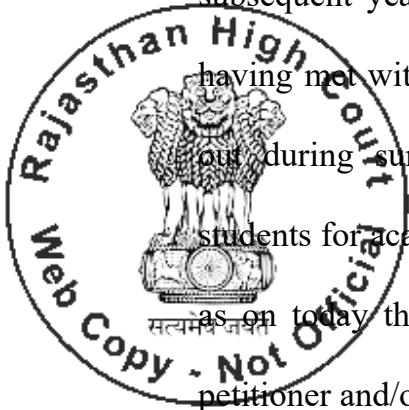
might as well endeavor to deal with it. As stated, once the impugned orders suffer from lack of jurisdiction, they have to be held as non-est, and thus, in that context, the merits of allegations are insignificant. However, leaving the matter at that may result in passing post haste fresh orders by a competent authority without proper application of mind. Pertinently, when the alacrity was required on the part of MARB/NMC to take forthwith action to avoid students being admitted during academic years 2021-22, they were most lackadaisical and nonchalant. They rather waited and swung in action only after entire admission process of the students was over and academic session was midway.



I may, at the threshold itself, hasten to add that having perused the deficiencies viz-a-viz the explanation given by the colleges, as well as, the initial intent/content of the SCN, both the MARB and NMC appear to have given a short shrift to the same by non application of proper mind. Steps proposed in SCN, inter alia, were “why the commission should not levy penalties over the College, withdraw the Letter of Permission granted for increased MBBS seats 150 to 250 MBBS seats, be stopped from conducting the MBBS recognition of the increased seats”. Notwithstanding, without exploring the option either burdening the colleges with monetary penalty or any other punitive measure, the impugned orders have been passed, as bolt from the blue, cancelling the admission of entire batch of 250 students in MBBS (instead of $250-150=100$ as per SCN), apart from the PG students. Reasons are not far to seek. *Malafides* cannot be ruled, as was strenuously argued on behalf of the petitioner-medical colleges and borne out from the succeeding narrative.

13.1. There appears to be no merit in the feeble defense argument of MARB/NMC to contend that though in subsequent multiple surprise inspections carried out by them, all colleges were found fully equipped to impart education to the number of students allocated to them, but yet on a particular day i.e. 22.04.2022, since there were deficiencies, the entire batch of students, therefore, deserves to be thrown out

of colleges. Significantly, within a short span of one and a half months, specifically on June 10, June 24, June 28, and July 2 of 2022, the National Medical Commission (NMC) conducted a total of 18 surprise inspections for the purpose of enhancing/renewing recognition of PG seats. During these inspections, the college was found to be fully compliant with statutory norms. Needless to say, for subsequent years, only when MARB/NMC found those colleges fully compliant, having met with all the objections and having fulfilled all the deficiencies pointed out during surprise inspection, that they were allowed to continue admitting students for academic years i.e. 2022-23 and 2023-24. It is, thus, nobody's case that as on today that the medical colleges are not equipped, both on the side of the petitioner and/or the respondents.



13.2. MARB issued a show cause notice on March 21, 2022, to the college, outlining various actions it could take, including levying penalties, withdrawing permission for increased MBBS seats, and stopping the recognition of those increased seats. The college was given 15 days to address the deficiencies mentioned in the notice. The petitioner-college submitted a detailed reply to the show cause notice, providing explanations and requesting either a compliance verification inspection or a personal hearing for clarification. The petitioner highlighted important factors such as bed occupancy, availability of faculty members, and the impact of the COVID-19 situation. These factors could have significant implications for the college's ability to comply with regulations. However, *Au Contraire*, the MARB did not take into account the detailed reply submitted by the petitioner in response to the show cause notice. This is concerning. It appears that the MARB did not fully evaluate the college's explanations and requests for a compliance verification inspection or a personal hearing. The impugned order passed by the MARB did not provide any reason for its dissatisfaction with the petitioner's reply. Such lack of transparency raises questions about the fairness of the decision-making process. To conclude on the conduct of

MARB, it seems that there are valid concerns regarding the fairness and legality of the MARB's actions in this case.

13.3. The impugned order dated April 18, 2022, exhibits self-contradictory elements. MARB notes in several instances that the petitioner's explanations are convincing, and yet, simultaneously unacceptable. However, the respondents have not provided any clarification on how the explanations can be considered convincing yet ultimately unacceptable. Illustratively, some excerpts are as



under :

“The explanations of availability of faculty and the assessors’ objection to their signature after 11.00 AM **is convincing and is not acceptable**. We don’t take any declaration of absentees into consideration”

...

“The explanation on recent certificate issued on Dt 29-03-2022 and validity till 31-03-2023 **is accepted** and lack of such biomedical waste management at the time of assessment on 24-02-2022 (between 31-01-2019 and 29-03-2022) is a major deficiency, needs action.

...

The explanation of availability of patients in the wards have gone for food, investigations, physiotherapy, surgeries, dental check ups, PAC, under discharge process, daycare procedures, ICU, Private rooms during the assessors’ round **is convincing and is not acceptable**.” (emphasis supplied)

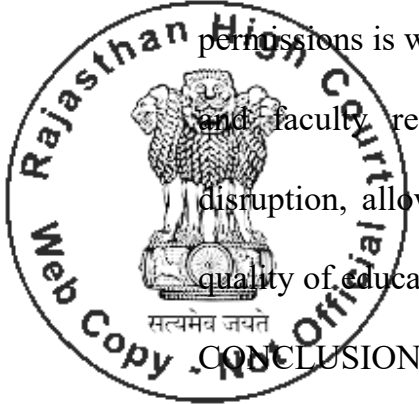
...

MARB is thus approbating and reprobating at the same time, with no explanation coming forth.

13.4. Pertinently, impugned order though states that MARB has recommended NMC for cancellation of the recognition granted to the colleges and further action will be taken as per section 26 and 38 of the NMC Act, but no steps, whatsoever, have been taken by the NMC in furtherance of recommendations made by the MARB. Not only that, NMC has actually increased the number of seats in some of PG courses and also granted permission for subsequent academic sessions 2022-2023 and 2023-2024.

13.5 The inherent complexity of managing educational institutions demands a thoughtful and thorough evaluation process that takes into account the broader

impact of refusal on the institution, students, and the community. Granting inadequate time, such as less than a week or two, for rectifying deficiencies can be rather counterproductive. Absence of an effective hearing before refusal impedes the fairness and transparency of the renewal process. Timely verification and inspection ensures that existing colleges have ample opportunity to address deficiencies and provide necessary explanations. Concept of annual renewal of permissions is with an objective to facilitate a gradual fulfillment of infrastructural and faculty requirements. This measured approach is designed to prevent disruption, allowing institutions to evolve and adapt without compromising the quality of education imparted to students, without causing unnecessary disruption.



CONCLUSION

14. The case in hand underscores the multifaceted nature of the challenges facing medical education in India. As stakeholders continue to navigate this intricate terrain, it is imperative to seek solutions that strike a harmonious balance between maintaining standards and ensuring inclusivity in medical training vis-à-vis invocation of powers by the regulatory bodies. Only through collaborative efforts and nuanced approaches can the goals of excellence and accessibility be effectively reconciled in the realm of medical education.

14.1. In the aforesaid context, it would, therefore be appropriate to outline the powers and responsibilities of the Medical Assessment and Rating Board (MARB) and it is advisable that it functions within the four corners thereof and as far as possible in the same order, since that would be enough caution for the medical institute as to what lies ahead. Same are culled out as below :-

POWERS OF MARB under Section 26(1)(f) of the Act, 2019-

(I). Issuing Warning:

The MARB is empowered to issue warnings to medical institutions that fail to maintain the prescribed standards. Warnings serve as formal notices of non-compliance and signal the need for corrective action.

(II). Imposition of Monetary Penalty:

In cases of persistent non-compliance or serious breaches of standards, the MARB has the authority to impose monetary penalties on medical institutions. Monetary fines serve as deterrents and incentivize institutions to rectify deficiencies.

(III). Reducing Intake:

The MARB can recommend reducing the future intake capacity of medical institutions that consistently fail to meet the minimum standards. This measure aims to limit the number of students admitted to institutions unable to provide quality education and facilities.

(IV). Stoppage of Admissions:

If an institution's failure to maintain standards poses a significant risk to student education and welfare, the MARB can recommend the cessation of admissions in future. This extreme measure halts the influx of students until the institution addresses the identified deficiencies.

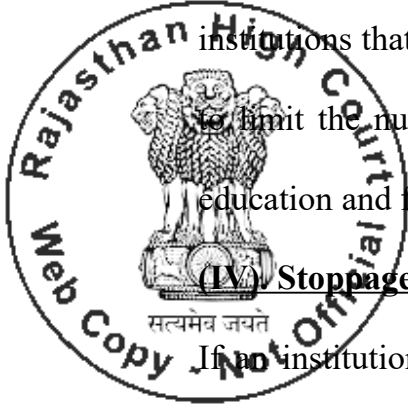
(V). Recommendation for Withdrawal of Recognition:

In cases where an institution chronically fails to adhere to minimum standards despite warnings and penalties, the MARB can recommend the withdrawal of recognition to the National Medical Commission (NMC). This recommendation signifies a loss of accreditation and official recognition, potentially leading to the closure of the institution.

14.2. The measures outlined, as above, ranging from warnings to withdrawal of recognition, are merely an endeavor to provide a harmonious framework for addressing non-compliance among medical institutions. They must be held accountable for each deficiency so as to bring continuous improvement in ensuring the delivery of high-quality medical education across the country.

15. Pursuit of excellence and adherence to standards often clash with the imperative of ensuring access and opportunity for aspiring medical professionals.

This tension is vividly illustrated in the legal saga surrounding the admission



policies of various medical institutions, as evidenced in the case herein and the ensuing battle against the orders issued by the Medical Assessment and Rating Board (MARB). While recognizing the importance of standards and accountability, this court ought to also remain cognizant of the need to mitigate potential adverse effects on the students.

RELIEF

16. In view of the discussion and the conclusion herein above, while reconciling competing interests, at the same time keeping in mind principles of justice and equity, the instant bunch of writ petitions, except S.B. Civil Writ Petition No. 9625/2022 is disposed with following directions :-



16.1. Various interim orders passed in the present writ proceedings, more particularly, the orders dated 28.04.2022 and 21.09.2022, mentioned in the table contained aforesaid in the preceding part, are made absolute, with consequences to follow.

16.2. Impugned orders dated 18.04.2022 and 14.04.2022 passed by MARB in respect of all the four colleges i.e. Geetanjali Medical College and Hospital, Ananta Charitable Educational Society, Pacific Institute of Medical Sciences and American International Management Ltd. assailed in CWP No. 6068, 6069, 6349 and 9364, respectively to extent of retrospectively cancelling admissions already granted, are quashed.

16.3. Pursuant to decision dated 11.05.2022, (referred in para-7 of judgment), those of the students who have been adjusted in other colleges shall continue to study in the same colleges and there shall be no interruption in their future continuation in the colleges allotted to them.

16.4. If it so desires, NMC is at liberty to proceed further to consider the recommendations of the MARB made in the impugned orders, in accordance with law.

16.5. In case the MARB/NMC subsequently finds the medical colleges to be lacking in any manner, they shall be at liberty to proceed against the erring medical colleges/institutions in accordance with law. Making of the interim order absolute shall not be construed as any shield by any medical college to not comply with the future directives, if at all need arises on the part of MARB/NMC to issue the same for imparting better medical education in the interest of students.

17. As regards SBCW No.9625/2022, the petitioner college has sought direction against the respondents to allow it to make admissions for PG courses for the academic session 2022-2023, same seems to have been rendered infructuous and is disposed of accordingly. Petitioner is at liberty to approach MARB/NMC for future admission permissions, if so required.

18. Disposed of in above terms. All pending applications also stand disposed of.

(ARUN MONGA),J

169-DhananjayS/-

Whether Reportable Yes / No