

ITEM NO.29

COURT NO.3

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 20091-20092/2024

(Arising out of impugned judgment and order dated 13-08-2024 in WA No. 1060/2024 13-08-2024 in WA No. 1086/2024 passed by the High Court of Kerala at Ernakulam)

THE NATIONAL MEDICAL COMMISSION & ANR. Petitioner(s)

VERSUS

THE PRINCIPAL K.M.C.T. MEDICAL COLLEGE & ORS. Respondent(s)

(FOR ADMISSION and I.R.)

Date : 09-09-2024 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Petitioner(s)

Mr. Gaurav Sharma, Sr. Adv.
Mr. Prateek Bhatia, AOR
Mr. Dhawal Mohan, Adv.
Mr. Paranjay Tripathi, Adv.
Mr. Rajesh Raj, Adv.
Mr. Ankita Dogra, Adv.

For Respondent(s)

Mr. Maninder Singh, Sr. Adv.
Mr. Niraj Bobby Paonam, Adv.
Ms. Aswathi M.k., AOR

UPON hearing the counsel the Court made the following
O R D E R

1. These special leave petitions challenge the order passed

the Division Bench of the High Court dated 13.08.2024,

vide which the Division Bench of the High Court has directed respondent-Medical College to file an undertaking as per order

dated 09.08.2024. It has further directed that the petitioner(s) herein, on receipt of such an undertaking, should be granted permission to the respondent-Medical College.

2. The perusal of the material placed on record would reveal that by letter dated 27.02.2023 issued by the Medical Assessment & Rating Board (for short "MARB"), the respondent-Medical College had initially been granted approval for increase of seats from 150 to 250 for the academic year 2023-24. However, by a subsequent letter dated 05.04.2023 issued by the MARB, it was withdrawn.

3. It would further be seen that from the letter of disapproval dated 29.06.2024, the MARB had granted disapproval to the respondent-Medical College, giving two reasons: (i) COA is not submitted and (ii) the matter is *sub judice* in the Court.

4. We find that merely because the matter is *sub judice* in Court could not have been the ground of disapproval of the proposal. If the National Medical Council (for short "NMC") had any doubts, it could have clearly approached the Court concerned and sought clarification.

5. Insofar as the second ground is concerned, the perusal of the impugned order would reveal that a consent of affiliation (COA) has admittedly been granted in favour of the

respondent-Medical College on 12.08.2024.

6. Shri Gaurav Sharma, learned senior counsel appearing for the NMC submits that the grant of permission has to be considered on an annual basis. He submits that earlier disapproval was for the academic year 2023-2024, whereas in the present year, we are concerned with the academic year 2024-2025. He submits that there is no inspection insofar as the academic year 2024-2025 is concerned and, therefore, the High Court was not justified in passing the order which is challenged before this Court.

7. *Prima facie*, we find that the attitude of the NMC is not of a model litigant. The NMC is an organ of the State and is expected to act in a fair and reasonable manner.

8. Making a party run from Court to Court to seek permission, specifically when the institute concerned is not a new institute and has been running for the last 18 years, in our view, is only an attempt to harass the institution. Particularly, when the approval granted earlier for the academic year 2023-2024 was withdrawn, no deficiency, except non-grant of COA, was pointed out.

9. We are, therefore, of the view that the present special leave petitions are an abuse of the process of law and, therefore, dismissed with cost quantified at Rs.10,00,000/- to be paid within four weeks from the date of this order. The

cost of Rs.5,00,000/- shall be deposited in the Supreme Court Advocates-on-Record Association to be used for the purpose of Library and the cost of Rs.5,00,000/- shall be deposited with the Supreme Court Bar Association Advocates Welfare Fund.

10. Pending application(s), if any, stand(s) disposed of.

(DEEPAK SINGH)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)