

No.MCI-5(3)/2006-Med./

MEDICAL COUNCIL OF INDIA

EXECUTIVE COMMITTEE

Minutes of the meeting of the Executive Committee held on 15th September, 2006 at 12.00 Noon in the Council Office at Sector 8, Pocket 14, Dwarka, New Delhi-110 075 where the members of the Adhoc Committee appointed as per the Hon'ble Supreme Court order dated 20.11.2002 were also present.

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Present:

Dr..P.C. Kesavankutty Nayar

]President (Acting)
]Former Dean,
]Govt. Medical College,
]Trivandrum

Prof. P.N.Tandon

]Former Prof. & Head of Neuro-
]Surgery, A.I.I.M.S, New Delhi and
]Member, Adhoc Committee
]appointed by the Hon'ble Supreme
]Court

Dr. (Mrs.) S. Kantha

]Former Vice-Chancellor,
]Rajiv Gandhi University of Health
]Sciences, Bangalore and
]Member, Adhoc Committee
]appointed by the Hon'ble Supreme
]Court

Dr. K.P. Mathur

]Former Medical Superintendent,
]Ram Manohar Lohia Hospital,
]77, Chitra Vihar,
]Delhi-110092

Dr. D.K. Sharma

]Former Professor & Head,
]Department of Paediatrics,
]L.L.R.M. Medical College,
]Meerut

Dr. P.K. Sur

]Director,
]I.P.G.M.E.R.,
]Kolkatta

Dr. G.B. Gupta

]Prof. of Medicine,
]Pt.JNM Medical College,
]Raipur

Dr. G.K. Thakur

]Professor & Head,
]Department of Radiodiagnosis,
]S.K.Medical College, Muzaffarpur

Lt.Col. (Retd.) Dr. A.R.N. Setalvad - Secretary

The apology for absence was received from Dr. N. Rangabhashyam, member, Adhoc Committee and Dr. M.K. Sharma & Dr. B.C. Das, members, Executive Committee.

1. Minutes of the Finance Committee Meeting held on 30th June, 2006-Approval of.

Read : The minutes of the Finance Committee meeting held on 30th June, 2006.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council approved the minutes of the Finance Committee meeting held on 30th June, 2006.

2. Removal of name of deceased person from the Indian Medical Register.

Read : The letter dated 19.05.2006 received from the Registrar, Rajasthan Medical Council intimating that Dr. Prakash Singh bearing Regn. No. 7907, dated 12.05.1980 has expired and his name has been removed from the Register of Registered Medical Practitioners.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council noted the letter dated 19.05.2006 received from the Registrar, Rajasthan Medical Council intimating that Dr. Prakash Singh bearing Regn. No. 7907, dated 12.05.1980 has expired and his name has been removed from the Register of Registered Medical Practitioners. The Committee decided to remove the name of above-mentioned doctor from the Indian Medical Register and also give intimation in this regard to all the State Medical Councils in the country.

3. Removal of name of deceased person from the Indian Medical Register.

Read : The letter dated 23.05.2006 received from the Registrar, Rajasthan Medical Council intimating that Dr. Surendra Motwani bearing Regn. No. 15316, dated 23.03.1994 has expired and his name has been removed from the Register of Registered Medical Practitioners.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council noted the letter dated 23.05.2006 received from the Registrar, Rajasthan Medical Council intimating that Dr. Surendra Motwani bearing Regn. No. 15316 dated 23.03.1994 has expired and his name has been removed from the Register of Registered Medical Practitioners. The Committee decided to remove the name of above-mentioned doctor from the Indian Medical Register and also give intimation in this regard to all the State Medical Councils in the country.

4. Undertaking given by Dr. Anant Bhaskar for working in more than one medical college – Action to be taken in view of Code of Medical Ethics.

Read : The undertaking given by Dr. Anant Bhaskar for working in more than one medical college along with the decision of the Ethics Committee.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council approved the following recommendations of the Ethics Committee taken at its meeting held on 10th & 11th July, 2006 and decided that the same be placed before the General Body of the Council for approval:-

Statement of Dr. Anant Bhaskar

I, Dr. Anant Bhaskar did my MBBS in the year 1972 from Gandhi Medical College, Hyderabad. I did my MD(Pharmacology) from the same Institute in the year 2003. My date of birth is 15.1.1947. My registration number is 4850, dated 13.3.1973 from A.P. Medical Council.

I have never joined at LB Medical College, Azamgarh nor at Pinnamaneni Instt. of Medical Sciences, Chinnoutpalli. However, I was physically present during MCI inspection on 11.12.2003 at Azamgarh and 22.3.2004/29.4.2004 twice at

Chinnoutpalli. I joined at A.P. Govt. Health Services in the year 1.4.1986 and retired from there on 31.1.2005. I was told by my Professor that during the last six months of my service I can go and present myself at Inspection. I have done anything wrong at one point of time. However, I am sorry for the same. I hereby promise that I will not appear for MCI Inspection in future in two places.

Sd/-
(Dr.Anant Bhaskar)

The above mentioned medical teacher had submitted Declaration Form to the Inspection team of the Council at the time of conduct of inspection of the medical college/institution claiming employment as a full time medical teacher in the concerned medical college/institution. He had also incorporated a statement in the Declaration Form that all the contents and statements made in the Declaration Form duly signed by him are correct and true to his knowledge.

On the examination of the records of the Council i.e. inspection reports and the Declaration Forms submitted by various medical colleges/ institutions inspected by the Council, it was prima facie found by the Monitoring Cell of the Council that the above mentioned medical teacher has made misstatements and false declarations in the Declaration Forms submitted by him to the effect and to the result that he has been found to be claiming employment as a full time medical teacher in more than one medical college/institution at the same point of time.

The above mentioned medical teacher was, therefore, issued “Show Cause Notices” calling upon him to explain why appropriate action be not taken against him for submitting more than one Declaration Forms signed and submitted by him claiming employment as full time medical teacher at the same point of time in more than one medical college/institution. Along with the respective “Show Cause Notice”, all the Declaration Forms, which he had submitted to the inspection team of the Council, were also sent to him.

The above mentioned medical teacher, pursuant to the Show Cause Notice issued to him, has submitted his written response giving his clarifications and explanations for the submission of more than one Declaration Form by him.

Upon consideration of the case of Dr.Anant Bhaskar of, the Ethics Committee noted that explanation /clarification has not been found to be satisfactory and the misconduct of making mis-declaration/misstatement in Declaration Form having been found to be established.

The Ethics Committee perused the opinion of the Council Advocate Sh. Maninder Singh which reads as follows :-

“Though the issue of interpretation of certain provisions of the Act and the Regulations made thereunder with regard to grant of direct registration and taking action against doctors for misconduct is pending before the Hon’ble Supreme Court, however, since filing of false declarations by the individual doctors with or without the involvement of college authorities with a view to fraudulently mislead the Council for falsely achieving the fulfillment of the minimum teaching requirement in the medical colleges, is a serious violation/offence having the potential of causing serious threat and prejudice to the general public and larger public interest, I am of the prima facie opinion that besides and in addition to informing the police authorities such illegal acts of omission and commission for necessary action, the Council would be well advised and empowered to initiate appropriate proceedings for removal of the names of such medical teachers from the Indian Medical Register, in accordance with law.

The Ethics Committee also perused the decision of the General Body of the Council taken at its meeting held on 12.10.2004 on this matter in similar type of cases, the extract of which is as follows :-

“Over a period of last 1-2 years by considering the inspection reports of various medical colleges seeking permissions /renewals under Section 10A of the Act, it was felt and observed that a large number of doctors are claiming employment as medical teachers in more than one medical college at the same time. It was being observed that the names of the doctors shown as medical teachers in a particular medical college were getting repeated in the inspection reports of certain other medical colleges, in the same proximity of time.

Apparently, the medical colleges and the medical teachers were indulging in such activities only to show to the inspection team of the Council that the colleges concerned are fulfilling the minimum requirement for the teaching staff for seeking permissions/renewals under Section 10A of the Act.

The Council, therefore, to curb such unscrupulous tendencies, started adopting methods in this regard. Declaration forms were introduced to be signed by the doctors claiming employment as medical teachers in any given medical college and that they also remain present along with their declaration forms, at the time of the conduct of the inspection of that college.

Subsequently, a provision for endorsement by the Dean/Principal of the medical college was also introduced in the Declaration Forms to make this requirement more efficient and effective by stating that in the event of any declaration made by a particular medical teacher turns out to be untrue and incorrect, the Dean/Principal of the college putting signatures as endorsement of the truthfulness of the statement made in the declaration would also be held responsible in that event.

Needless to state that the Council has always tried to improve in this regard for ensuring that such misdeclaration /misstatements are completely eliminated or minimized to the extent possible with the clear percept on that the Council should take appropriate action against such erring doctors whenever it is found that the particular doctor has furnished more than one declaration forms towards claiming teaching employment in any medical college when such a doctor has already furnished similar declaration for claiming employment as medical teacher in certain other medical colleges at the same point of time.

This problem has engaged attention of the Council continuously during the last 1-2 years. The cases have also been considered by the Ethics Committee of the Council. Whenever it has been found that a particular doctor is claiming employment as medical teacher at the same point of time in more than one medical colleges, show cause notices had been issued seeking their replies. They were given due opportunities to present their explanation before the Ethics Committee.

This issue was considered by the General Body of the Council with all required seriousness. Undoubtedly, such kind of misconduct is much more serious than the alleged negligence in cases of treating the patients by doctors. Such misdeclarations /misstatements are made to cause deception not only to the Council but also on the Central Govt. for extracting permissions/renewals under Section 10A of the Act.

The worst part is that ultimately it is those innocent students who get admissions in such medical colleges where the minimum required

medical teachers are shown only in such a dubious manner, causes irreparable prejudice to the fair interests of those students and further also to the patients who may be treated by such half-backed students who would not get their exposure and training with the minimum required number of medical teachers available to them.

The General Body was clearly of the view that such a tendency has to be completely eliminated and not only curbed. The situation does not brook any lenience in this regard and deserves to be dealt with a heavy hand. No doctor should ever be allowed to make such false declaration and get away with it. Timely efficient action in this regard is the need of the hour. It should also act as an effective deterrent so that others who are getting tempted to indulge into such activities should feel reluctant to do so."

The Ethics Committee, after detailed deliberations and perusal of all the relevant documents as well as the oral and written statement of Dr. Anant Bhaskar along with the opinion of Advocate of this Council, Sh. Maninder Singh vide his letter dated 29.12.2003 and the decision of General Body dated 12.10.2004, have come to the unanimous decision that he has violated the Professional Conduct, Etiquette and Ethics Regulations, 2002 so far as the following sections are concerned:-

Section 1.1.1.

A Physician shall uphold the dignity and honour of his profession.

Section 1.1.2.

The prime object of the medical profession is to render service to humanity; reward or financial gain is a subordinate consideration. Who- so-ever chooses his profession, assumes the obligation to conduct himself in accordance with its ideals. A physician should be an upright man, instructed in the art of healings. He shall keep himself pure in character and be diligent in caring for the sick; he should be modest, sober, patient, prompt in discharging his duty without anxiety; conducting himself with propriety in his profession and in all the actions of his life.

The Ethics Committee is of the opinion that the Act of Commission in the part of Dr. Anant Bhaskar constitutes PROFESSIONAL MISCONDUCT, which render him liable for disciplinary action.

Under the above mentioned circumstances, the Ethics Committee unanimously recommended that his name may be erased from IMR temporarily for a period of 2 years, as per Section 8.1 of the PROFESSIONAL CONDUCT, ETIQUETTE AND ETHICS REGULATIONS, 2002, which reads as follows :-

"Section 8.1 - PUNISHMENT AND DISCIPLINARY ACTION

"It must be clearly understood that the instances of offences and of Professional misconduct which are given above do not constitute and are not intended to constitute a complete list of the infamous acts which calls for disciplinary action, and that by issuing this notice the Medical Council of India and or State Medical Councils are in no way precluded from considering and dealing with any other form of professional misconduct on the part of a registered practitioner. Circumstances may and do arise from time to time in relation to which there may occur questions of professional misconduct which do not come within any of these categories. Every care should be taken that the code is not violated in letter or spirit. In such instances as in all others, the Medical Council of India and/or State Medical Councils has to consider and decide upon the facts brought before the Medical Council of India and/or State Medical Councils."

5. Undertaking given by Dr. Susheel S. Wakchouri for working in more than one medical college – Action to be taken in view of Code of Medical Ethics.

Read : The undertaking given by Dr. Susheel S. Wakchouri for working in more than one medical college along with the decision of the Ethics Committee.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council approved the following recommendations of the Ethics Committee taken at its meeting held on 10th & 11th July, 2006 and decided that the same be placed before the General Body of the Council for approval:-

Statement of Dr. Susheel S. Wakchouri

I, Dr. Susheel S. Wakchouri did my MBBS from NDMVP Samaj Medical College, Nasik in the year 1997. I did my MD(Community Medicine) from B.J. Medical College, Pune in the year 2002. My date of birth is 30th July, 1974. My registration number is 83731 of Maharashtra Medical Council.

I am to state that I have never joined at MNR Medical College, Sangareddy nor at PES Instt. of Medical Sciences, Kuppam. I was physically present during MCI inspection at PES Instt. of Medical Sciences, Kuppam on 31.3.2004 but I was not physically present during MCI inspection at MNR Medical College, Sangareddy.

However, with expectation of a permanent job with good salary package, I submitted the declaration form there at which bears my photograph and signature. I assure you Sir, I will never repeat in future. I have done a wrong and committed a mistake.

*Sd/-
(Dr. Susheel S. Wakchouri)*

The above mentioned medical teacher had submitted Declaration Form to the Inspection team of the Council at the time of conduct of inspection of the medical college/institution claiming employment as a full time medical teacher in the concerned medical college/institution. He had also incorporated a statement in the Declaration Form that all the contents and statements made in the Declaration Form duly signed by him are correct and true to his knowledge.

On the examination of the records of the Council i.e. inspection reports and the Declaration Forms submitted by various medical colleges/ institutions inspected by the Council, it was prima facie found by the Monitoring Cell of the Council that the above mentioned medical teacher has made misstatements and false declarations in the Declaration Forms submitted by him to the effect and to the result that he has been found to be claiming employment as a full time medical teacher in more than one medical college/institution at the same point of time.

The above mentioned medical teacher was, therefore, issued "Show Cause Notices" calling upon him to explain why appropriate action be not taken against him for submitting more than one Declaration Forms signed and submitted by him claiming employment as full time medical teacher at the same point of time in more than one medical college/institution. Along with the respective "Show Cause Notice", all the Declaration Forms, which he had submitted to the inspection team of the Council, were also sent to him.

The above mentioned medical teacher, pursuant to the Show Cause Notice issued to him, has submitted his written response giving his clarifications and explanations for the submission of more than one Declaration Form by him.

Upon consideration of the case Dr. Susheel S. Wakchouri, the Ethics Committee noted that explanation/clarification has not been found to be satisfactory and the misconduct of making mis-declaration/misstatement in Declaration Form having been found to be established.

The Ethics Committee perused the opinion of the Council Advocate Sh. Maninder Singh which reads as follows :-

“Though the issue of interpretation of certain provisions of the Act and the Regulations made thereunder with regard to grant of direct registration and taking action against doctors for misconduct is pending before the Hon’ble Supreme Court, however, since filing of false declarations by the individual doctors with or without the involvement of college authorities with a view to fraudulently mislead the Council for falsely achieving the fulfillment of the minimum teaching requirement in the medical colleges, is a serious violation/offence having the potential of causing serious threat and prejudice to the general public and larger public interest, I am of the prima facie opinion that besides and in addition to informing the police authorities such illegal acts of omission and commission for necessary action, the Council would be well advised and empowered to initiate appropriate proceedings for removal of the names of such medical teachers from the Indian Medical Register, in accordance with law.

The Ethics Committee also perused the decision of the General Body of the Council taken at its meeting held on 12.10.2004 on this matter in similar type of cases, the extract of which is as follows :-

“Over a period of last 1-2 years by considering the inspection reports of various medical colleges seeking permissions /renewals under Section 10A of the Act, it was felt and observed that a large number of doctors are claiming employment as medical teachers in more than one medical college at the same time. It was being observed that the names of the doctors shown as medical teachers in a particular medical college were getting repeated in the inspection reports of certain other medical colleges, in the same proximity of time.

Apparently, the medical colleges and the medical teachers were indulging in such activities only to show to the inspection team of the Council that the colleges concerned are fulfilling the minimum requirement for the teaching staff for seeking permissions/renewals under Section 10A of the Act.

The Council, therefore, to curb such unscrupulous tendencies, started adopting methods in this regard. Declaration forms were introduced to be signed by the doctors claiming employment as medical teachers in any given medical college and that they also remain present along with their declaration forms, at the time of the conduct of the inspection of that college.

Subsequently, a provision for endorsement by the Dean/Principal of the medical college was also introduced in the Declaration Forms to make this requirement more efficient and effective by stating that in the event of any declaration made by a particular medical teacher turns out to be untrue and incorrect, the Dean/Principal of the college putting signatures as endorsement of the truthfulness of the statement made in the declaration would also be held responsible in that event.

Needless to state that the Council has always tried to improve in this regard for ensuring that such

misdeclaration/misstatements are completely eliminated or minimized to the extent possible with the clear percept on that the Council should take appropriate action against such erring doctors whenever it is found that the particular doctor has furnished more than one declaration forms towards claiming teaching employment in any medical college when such a doctor has already furnished similar declaration for claiming employment as medical teacher in certain other medical colleges at the same point of time.

This problem has engaged attention of the Council continuously during the last 1-2 years. The cases have also been considered by the Ethics Committee of the Council. Whenever it has been found that a particular doctor is claiming employment as medical teacher at the same point of time in more than one medical colleges, show cause notices had been issued seeking their replies. They were given due opportunities to present their explanation before the Ethics Committee.

This issue was considered by the General Body of the Council with all required seriousness. Undoubtedly, such king of misconduct is much more serious than the alleged negligence in cases of treating the patients by doctors. Such misdeclarations /misstatements are made to cause deception not only to the Council but also on the Central Govt. for extracting permissions/renewals under Section 10A of the Act.

The worst part is that ultimately it is those innocent students who get admissions in such medical colleges where the minimum required medical teachers are shown only in such a dubious manner, causes irreparable prejudice to the fair interests of those students and further also to the patients who may be treated by such half-backed students who would not get their exposure and training with the minimum required number of medical teachers available to them.

The General Body was clearly of the view that such a tendency has to be completely eliminated and not only curbed. The situation does not brook any lenience in this regard and deserves to be dealt with a heavy hand. No doctor should ever be allowed to make such false declaration and get away with it. Timely efficient action in this regard is the need of the hour. It should also act as an effective deterrent so that others who are getting tempted to indulge into such activities should feel reluctant to do so."

The Ethics Committee, after detailed deliberations and perusal of all the relevant documents as well as the oral and written statement of Dr. Susheel S. Wakchouri along with the opinion of Advocate of this Council, Sh. Maninder Singh vide his letter dated 29.12.2003 and the decision of General Body dated 12.10.2004, have come to the unanimous decision that he has violated the Professional Conduct, Etiquette and Ethics Regulations, 2002 so far as the following sections are concerned:-

Section 1.1.1.

A Physician shall uphold the dignity and honour of his profession.

Section 1.1.2.

The prime object of the medical profession is to render service to humanity; reward or financial gain is a subordinate consideration. Who- so-ever chooses his profession, assumes the obligation to conduct himself in accordance with its ideals. A physician should be an upright man, instructed in the art of

healings. He shall keep himself pure in character and be diligent in caring for the sick; he should be modest, sober, patient, prompt in discharging his duty without anxiety; conducting himself with propriety in his profession and in all the actions of his life.

The Ethics Committee is of the opinion that the Act of Commission in the part of Dr. Susheel S.Wakchouri constitutes PROFESSIONAL MISCONDUCT, which render him liable for disciplinary action.

Under the above mentioned circumstances, the Ethics Committee unanimously recommended that his name may be erased from IMR temporarily for a period of 2 years, as per Section 8.1 of the PROFESSIONAL CONDUCT, ETIQUETTE AND ETHICS REGULATIONS, 2002, which reads as follows :-

“Section 8.1 - PUNISHMENT AND DISCIPLINARY ACTION

“It must be clearly understood that the instances of offences and of Professional misconduct which are given above do not constitute and are not intended to constitute a complete list of the infamous acts which calls for disciplinary action, and that by issuing this notice the Medical Council of India and or State Medical Councils are in no way precluded from considering and dealing with any other form of professional misconduct on the part of a registered practitioner. Circumstances may and do arise from time to time in relation to which there may occur questions of professional misconduct which do not come within any of these categories. Every care should be taken that the code is not violated in letter or spirit. In such instances as in all others, the Medical Council of India and/or State Medical Councils has to consider and decide upon the facts brought before the Medical Council of India and/or State Medical Councils.”

6. Undertaking given by Dr. K. Sekharappa for working in more than one medical college – Action to be taken in view of Code of Medical Ethics.

Read : The undertaking given by Dr. K. Sekharappa for working in more than one medical college along with the decision of the Ethics Committee.

The members of the Adhoc Committee appointed by the Hon’ble Supreme Court and of the Executive Committee of the Council approved the following recommendations of the Ethics Committee taken at its meeting held on 10th & 11th July,2006 and decided that the same be placed before the General Body of the Council for approval:-

Statement of Dr. K.Sekharappa

I, Dr. K.Sekharappa did my MBBS from Davangiri Medical College, Davangiri in the year 1973. I did my MS(Anatomy) from St. John Medical College, Bangalore in the year 1993. My date of birth is 12.12.1950. My registration No.10119 of Karnataka Medical Council.

After passing in 1993, I did not get a good job with a respectable salary since 1993 to 2003. I was working in same college with very little amount of salary. I got the offer from different medical colleges where they asked me to be present during the MCI inspection and later on they cannot gave me a good job. After inspection none of them asked me to continue there. I do agree that due to financial reasons I was physically present during MCI inspection at SBKS Medical College, Vadodara on 23.6.2003, Alluri Sitaram Instt. Of Medical Sciences, Eluru on 17.9.2003, Medical College, Chinoutpally on 29.4.2004 & Arogyavaram Instt. Of Medical Sciences, Arogyvaram on 9.7.2004. Actually I was only present during the inspection, I have not joined there at all but I filled up a declaration form and signed the same and those bears my photograph also.

I know that I have done a wrong thing but it was only due to financial reasons and also on the assurance of management of the college that they will allow me to join their college with good salary package. I have done a wrong but it will not repeat in future. I am sorry I was not aware of the MCI Rules. I am innocent in this regard and pray to excuse for the same. In future without your prior permission I will not change the medical college.

Sd/-
(Dr. K.Sekharappa)

The above mentioned medical teacher had submitted Declaration Form to the Inspection team of the Council at the time of conduct of inspection of the medical college/institution claiming employment as a full time medical teacher in the concerned medical college/institution. He had also incorporated a statement in the Declaration Form that all the contents and statements made in the Declaration Form duly signed by him are correct and true to his knowledge.

On the examination of the records of the Council i.e. inspection reports and the Declaration Forms submitted by various medical colleges/ institutions inspected by the Council, it was prima facie found by the Monitoring Cell of the Council that the above mentioned medical teacher has made misstatements and false declarations in the Declaration Forms submitted by him to the effect and to the result that he has been found to be claiming employment as a full time medical teacher in more than one medical college/institution at the same point of time.

The above mentioned medical teacher was, therefore, issued “Show Cause Notices” calling upon him to explain why appropriate action be not taken against him for submitting more than one Declaration Forms signed and submitted by him claiming employment as full time medical teacher at the same point of time in more than one medical college/institution. Along with the respective “Show Cause Notice”, all the Declaration Forms, which he had submitted to the inspection team of the Council, were also sent to him.

The above mentioned medical teacher, pursuant to the Show Cause Notice issued to him, has submitted his written response giving his clarifications and explanations for the submission of more than one Declaration Form by him.

Upon consideration of the case of Dr. K.Sekharappa, the Ethics Committee noted that explanation/clarification has not been found to be satisfactory and the misconduct of making mis-declaration/misstatement in Declaration Form having been found to be established.

The Ethics Committee perused the opinion of the Council Advocate Sh. Maninder Singh which reads as follows :-

“Though the issue of interpretation of certain provisions of the Act and the Regulations made thereunder with regard to grant of direct registration and taking action against doctors for misconduct is pending before the Hon’ble Supreme Court, however, since filing of false declarations by the individual doctors with or without the involvement of college authorities with a view to fraudulently mislead the Council for falsely achieving the fulfillment of the minimum teaching requirement in the medical colleges, is a serious violation/offence having the potential of causing serious threat and prejudice to the general public and larger public interest, I am of the prima facie opinion that besides and in addition to informing the police authorities such illegal acts of omission and commission for necessary action, the Council would be well advised and empowered to initiate appropriate proceedings for removal of the names of such medical teachers from the Indian Medical Register, in accordance with law.

The Ethics Committee also perused the decision of the General Body of the Council taken at its meeting held on 12.10.2004 on this matter in similar type of cases, the extract of which is as follows :-

“Over a period of last 1-2 years by considering the inspection reports of various medical colleges seeking permissions /renewals under Section 10A of the Act, it was felt and observed that a large number of doctors are claiming employment as medical teachers in more than one medical college at the same time. It was being observed that the names of the doctors shown as medical teachers in a particular medical college were getting repeated in the inspection reports of certain other medical colleges, in the same proximity of time.

Apparently, the medical colleges and the medical teachers were indulging in such activities only to show to the inspection team of the Council that the colleges concerned are fulfilling the minimum requirement for the teaching staff for seeking permissions/renewals under Section 10A of the Act.

The Council, therefore, to curb such unscrupulous tendencies, started adopting methods in this regard. Declaration forms were introduced to be signed by the doctors claiming employment as medical teachers in any given medical college and that they also remain present along with their declaration forms, at the time of the conduct of the inspection of that college.

Subsequently, a provision for endorsement by the Dean/Principal of the medical college was also introduced in the Declaration Forms to make this requirement more efficient and effective by stating that in the event of any declaration made by a particular medical teacher turns out to be untrue and incorrect, the Dean/Principal of the college putting signatures as endorsement of the truthfulness of the statement made in the declaration would also be held responsible in that event.

Needless to state that the Council has always tried to improve in this regard for ensuring that such misdeclaration /misstatements are completely eliminated or minimized to the extent possible with the clear percept on that the Council should take appropriate action against such erring doctors whenever it is found that the particular doctor has furnished more than one declaration forms towards claiming teaching employment in any medical college when such a doctor has already furnished similar declaration for claiming employment as medical teacher in certain other medical colleges at the same point of time.

This problem has engaged attention of the Council continuously during the last 1-2 years. The cases have also been considered by the Ethics Committee of the Council. Whenever it has been found that a particular doctor is claiming employment as medical teacher at the same point of time in more than one medical colleges, show cause notices had been issued seeking their replies. They were given due opportunities to present their explanation before the Ethics Committee.

This issue was considered by the General Body of the Council with all required seriousness. Undoubtedly, such kind of misconduct is much more serious than the alleged negligence in cases of treating the patients by doctors. Such misdeclarations /misstatements are made to cause deception not only to the Council but also on the Central Govt. for extracting permissions/renewals under Section 10A of the Act.

The worst part is that ultimately it is those innocent students who get admissions in such medical colleges where the minimum required medical teachers are shown only in such a dubious manner, causes irreparable prejudice to the fair interests of those students and further also to the patients who may be treated by such half-backed students

who would not get their exposure and training with the minimum required number of medical teachers available to them.

The General Body was clearly of the view that such a tendency has to be completely eliminated and not only curbed. The situation does not brook any lenience in this regard and deserves to be dealt with a heavy hand. No doctor should ever be allowed to make such false declaration and get away with it. Timely efficient action in this regard is the need of the hour. It should also act as an effective deterrent so that others who are getting tempted to indulge into such activities should feel reluctant to do so."

The Ethics Committee, after detailed deliberations and perusal of all the relevant documents as well as the oral and written statement of Dr. K.Sekharappa along with the opinion of Advocate of this Council, Sh. Maninder Singh vide his letter dated 29.12.2003 and the decision of General Body dated 12.10.2004, have come to the unanimous decision that he has violated the Professional Conduct, Etiquette and Ethics Regulations, 2002 so far as the following sections are concerned:-

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A Physician shall uphold the dignity and honour of his profession.

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The Ethics Committee is of the opinion that the Act of Commission in the part of Dr. K.Sekharappa constitutes PROFESSIONAL MISCONDUCT, which render him liable for disciplinary action.

Under the above mentioned circumstances, the Ethics Committee unanimously recommended that his name may be erased from IMR temporarily for a period of 2 years, as per Section 8.1 of the PROFESSIONAL CONDUCT, ETIQUETTE AND ETHICS REGULATIONS, 2002, which reads as follows :-

"Section 8.1 - PUNISHMENT AND DISCIPLINARY ACTION

"It must be clearly understood that the instances of offences and of Professional misconduct which are given above do not constitute and are not intended to constitute a complete list of the infamous acts which calls for disciplinary action, and that by issuing this notice the Medical Council of India and or State Medical Councils are in no way precluded from considering and dealing with any other form of professional misconduct on the part of a registered practitioner. Circumstances may and do arise from time to time in relation to which there may occur questions of professional misconduct which do not come within any of these categories. Every care should be taken that the code is not violated in letter or spirit. In such instances as in all others, the Medical Council of India and/or State Medical Councils has to consider and decide upon the facts brought before the Medical Council of India and/or State Medical Councils."

7. Eligibility of single eye students having high degree of myopia for admission to MBBS course.

Read : The letter dated 31.7.2006 received from the Director, Pt. B.D. Sharma PGIMS, Rohtak with regard to eligibility of single eye students having high degree of myopia for admission to MBBS course.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council considered the letter dated 31.07.2006 received from the Director, Pt. B.D. Sharma PGIMS, Rohtak regarding a candidate having visual defects including high degree of myopia with colour vision and observed that the decision of the General Body of the Council dated 20.10.2003 regarding reservation in admission in medical courses for person with disability of colour blindness was as under:-

“....Those suffering from disorders of colour perception, if they get admission by merit, should be granted admission after appropriate counseling. This is highlighted by the fact that even general practitioners with an MBBS degree need to be counseled about specific aspects of clinical practice for which they need to exercise caution to avoid harming themselves professionally or providing less than adequate service to their patients.”

It was further decided that the matter whether the said candidate Mr. Amir Azad Chauhan can be admitted to the MBBS course or not should be decided by the admission authorities keeping in view the above guidelines and the recommendations of the Special Medical Board constituted by the college to examine Mr. Amir Azad Chauhan.

8. Establishment of new medical college at Palakkad, Kerala by Safe Development Alms Trust.

Read : The compliance verification inspection report (12th Sept., 2006) for establishment of new medical college at Palakkad, Kerala by Safe Development Alms Trust u/s 10A of the IMC Act, 1956.

The members of the Adhoc. Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council considered the compliance verification inspection report (12th Sept., 2006) and decided to recommend to the Central Govt. to issue Letter of Permission for establishment of new medical college at Palakkad, Kerala by Safe Development Alms Trust u/s 10A of the IMC Act, 1956 with an annual intake of 100 (one hundred) students for the academic session 2006-07.

9. Revision of Syllabi for AIPMET Examination.

Read : The letter dated 23.8.2006 from Controller of Examinations, Central Board of Secondary Education (CBSE), Preet Vihar, Delhi with regard to revision of Syllabi for AIPMET Examination.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council considered the letter dated 23.8.2006 and decided to form a Sub-Committee comprising of the following members to go through the matter in detail:-

Dr. Indrajit Ray, Chairman, Ethics Committee
Dr. G.B. Gupta, Member, Executive Committee

10. Eligibility of the first batch of the medical students of R.D. Gardi Medical College, Ujjain for the purpose of provisional registration u/s 25(2) of the Indian Medical Council Act, 1956.

Read : The letter dt. 11th Sept., 2006 received from the Director of Medical Services & Ex Officio President, M.P. Medical Council, Bhopal with regard to Eligibility of the first batch of the medical students of R.D. Gardi Medical College, Ujjain for the purpose of provisional registration u/s 25(2) of the Indian Medical Council Act, 1956.

The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council deliberated upon the matter at length and observed that -

“Perusal of the records reveals that Medical Council of India is not a party-respondent to the Writ Petition No. 4584/06 before the Hon'ble High Court of Madhya Pradesh at Indore Bench.

The matter of recognition of R.D. Gardi Medical College, Ujjain was considered by the members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council at its meeting held on 14-15th June, 2006 wherein it was decided as under:-

“The members of the Adhoc Committee appointed by the Hon'ble Supreme Court and of the Executive Committee of the Council considered the compliance verification inspection report (26th May, 2006) and decided to recommend to the Central Govt. to renew the permission for admission of 6th batch of 100 MBBS students for the academic session 2006-07 at R.D. Gardi Medical College, Ujjain. However, the recommendation of the Committee with regard to recognition of R.D. Gardi Medical College, Ujjain for the award of MBBS degree granted by Vikram University will be placed before the General Body of the Council as and when held for its consideration and approval.”

It is further observed that the decision of the Executive Committee will be placed before the General Body of the Council at its next meeting for its consideration and if approved will be submitted to the Government of India for notification thereafter.

It is also observed that the statement of Dr. Prem Kumar, Additional Secretary made before the Hon'ble Madhya Pradesh Human Rights Commission, Bhopal does not reflect the correct position of various provisions of the Indian Medical Council Act, 1956 and regulations made thereunder.

In this connection, the attention may be invited to Section 25 of the Indian Medical Council Act, 1956 pertains to Provisional Registration which reads as under:-

- “25 (1) *A citizen of India possessing a medical qualification granted by a medical institution outside India included in part II of the Third Schedule, who is required to undergo practical training as prescribed under sub section (3) of Section 13, shall, on production of proper evidence that he has been selected for such practical training in an approved institution be entitled to be registered provisionally in a State Medical Register and shall be entitled to practice medicine in the approved institution for the purposes of such training and for no other purpose.*
- (2) *A person who has passed the qualifying examination of any university or Medical Institution in India for the grant of a recognized medical qualification shall be entitled to be registered provisionally in a State Medical Register for the purpose of enabling him to be engaged in employment in a resident medical capacity in any approved institution, or in the Medical Service of the Armed Forces of the Union, and for no other purpose, on production of proper evidence that he has been selected for such employment.*
- (3) *The names of all persons provisionally registered under sub-section (1) or sub-section (2) in the State Medical Register shall be entered therein separately from the names of other persons registered therein.*
- (4) *A person registered provisionally as aforesaid who has completed practical training referred to in sub section (1) or who has been engaged for the prescribed period in employment in a resident medical capacity in any approved institution or in the Medical service of the Armed Forces of the Union, as the case may be, shall be entitled to registration in the State Medical Register under Section 15.”*

As regards clause 14(5) (iii) & (iv), which are reproduced hereinbelow, it is stated that this clause forms a part of Regulations on Graduate Medical Education, 1997 which have been notified in the Gazette of India dated 17th May, 1997 in exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956:-

- (i) *The University shall issue a provisional MBBS pass certificate on passing the final examination.*
- (ii) *The State Medical Council will grant provisional registration to the candidate on production of the provisional MBBS pass certificate. The provisional registration will be for a period of one year. In the event of shortage or unsatisfactory work, the period of provisional registration and the compulsory rotating internship may be suitably extended by the appropriate authorities.*

It is further observed that perusal of the documents submitted along with your letter reveals that Vikram University has issued only provisional mark sheet to these candidates and the provisional pass certificate has not yet been issued by the University to these candidates.

In this connection, the attention is also invited to Section 11 of the Indian Medical Council Act, 1956 which reads as under:-

- “11. (1) *The medical qualifications granted by any university or medical Institution in India which are included in the first Schedule shall be recognised medical qualifications for the purposes of this Act.*
- (2) *Any university or medical Institution in India which grants a medical qualification not included in the First Schedule may apply to the Central Govt., to have such qualification recognised, and the Central Government, after consulting the Council, may, by notification in the official Gazette, amend the First Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the last column of the First Schedule against such medical qualification declaring that it shall be a recognised medical qualification only when granted after a specified date.”*

Further, as per the definition prescribed in Section 2(h) of the Indian Medical Council Act, 1956 “recognized medical qualification” means any of the medical qualifications included in the Schedules.”

It is noted that it is well-settled principle of law that the Regulations are subordinate legislation and cannot override the specific provisions contained in the Act passed by the Parliament. An Act passed by the Parliament has the legislative supremacy over all the Rules & Regulations framed thereunder. Further, Section 25(2), reproduced above states that (“a person who has passed the qualifying examination of any university or Medical Institution in India for the grant of a recognized medical qualification shall be entitled to be registered provisionally in a State Medical Register for the purpose of enabling him to be engaged in employment in a resident medical capacity in any approved institution etc.etc.....”). It is further noted that specifically clause 14(5)(iv) of the Graduate Medical Education Regulations, 1997 does not state that State Medical Council has to grant provisional registration to the candidates possessing medical qualifications which are not yet recognized medical qualifications as envisaged in the scheme of the Act. Clause 14(5)(iv) only amplifies the scope for the grant of provisional registration in as much as that it enjoins upon the State Medical Council to grant provisional registration to the candidates on production of the provisional MBBS pass certificate. As stated above, it does not state that this provisional registration can be granted to a candidate who does not possess a recognized medical qualification as envisaged under Section 25(2) of the Indian Medical Council Act, 1956. This clause 14(5)(iv) has to be read in conjunction with Section 25(2) of the Indian Medical Council Act, 1956 which would make it

evident that only those candidates who have passed the qualifying examination of any University or medical institution for grant of recognized medical qualification shall be entitled to be registered in a State medical Register upon production of the provisional MBBS pass certificate. Clause 14(5)(iii) and 14(5)(iv) of the Regulations on Graduate Medical Education, 1997 would only apply to such medical qualifications obtained from medical colleges/institutions as are included in the Schedules of the Indian Medical Council Act, 1956 and would not apply to medical qualifications obtained from the medical colleges/institutions which are not included in such Schedule of the Indian Medical Council Act, 1956.

In view of the above, matter of the provisional registration of the 66 candidates may be decided by the authorities of M.P. Medical Council taking into consideration the provisions of the Act and the Regulations framed thereunder, as stated above .

It is also observed that the Medical Council of India is party-respondent no.5 in a P.I.L. bearing number 9221/2006 before the Hon'ble High Court of Madhya Pradesh at Jabalpur regarding the matter of issuance of provisional registration certificate to the students of R.D. Gardi Medical College, Ujjain. The office is directed that the reply affidavit of the Council shall be filed before the Hon'ble Court in the said Writ Petition by the Council Advocate at Jabalpur at an appropriate time."

(Lt.Col. (Retd.) Dr. A.R.N. Setalvad)
Secretary

New Delhi, dated the
15th Sept., 2006

A P P R O V E D

(Dr. P.C. Kesavankutty Nayar)
President (Acting)