

No. MCI-5(3)/2014-Med.Misc./

MEDICAL COUNCIL OF INDIA
NEW DELHI

EXECUTIVE COMMITTEE

Minutes of the meeting of the Executive Committee held on 27th March, 2015 in the Council Office at Sector 8, Pocket 14, Dwarka, New Delhi.

Present:

Dr. Jayshree Mehta	President Medical Council of India, Former Professor of Surgery, Govt. Medical College, Vadodara, Gujarat.
Dr. C.V. Bhirmanandham	Vice-President, Medical Council of India, Former Vice-Chancellor of Dr. M.G.R. Health University, Tamil Nadu
Dr. Radha Madhab Tripathy	Professor and Head, Department of Community Medicine, MKCG Medical College, Berhampur.
Dr. Anil Mahajan	Professor & HOD, General Medicine, Government Medical College, Jammu, J&K.
Dr. V.N. Jindal	Dean, Goa Medical College, Bombolim-403202, Goa
Dr. Baldev Singh Aulakh	Professor of Urology and Transplant Surgery, Head Transplant Unit, Dayanand Medical College, Ludhiana
Dr. K.K. Gupta	Director General, Medical Education, 10, Gulistan Colony, Lucknow
Dr. G.B. Gupta	Vice-Chancellor, Ayush & Health Sciences University, Raipur, Chhattisgarh.
Dr. Vijay Prakash Singh	Professor & Head, Department Of Gastroenterology, Patna Medical College, Patna, Bihar
Dr. Ravindra H.N.	Deputy Director, Karnataka State AIDS Prevention Society, No. 4-13/1, Crescent Road, High grounds, Bangalore - 560 001

Dr. Reena Nayyar, Secretary I/c

Apology for absence was received from Dr. Venkatesh Kakollu.

1. **Minutes of the Executive Committee Meeting held on 16th March, 2015 – Confirmation of.**

The Executive Committee of the Council confirmed the minutes of the Executive Committee meeting held on 16th March, 2015.

2. **Minutes of the last meeting of the Executive Committee – Action taken thereon.**

The Executive Committee of the Council noted the action taken on the minutes of the Executive Committee meeting held on 16th March, 2015.

3. **Pending Items arising out of the decisions taken by the Executive Committee.**

The Executive Committee of the Council noted the pending items arising out of the decisions taken by the Executive Committee.

4. **Establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-16.**

Read: the matter with regard to establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the matter and observed that both the letters (one letter giving NOC & another giving consent of affiliation) issued in the name of Rani Durgawati Vishwavidyalaya bear the same outward no. – i.e. Aca/2014/3037 and same date – i.e. 01/08/2014. It was also observed by the Executive Committee that the Registrar, Rani Durgawati Vishwavidyalaya vide his letter dt. 10/12/2014 has informed that since M.P. Medical University has been constituted in the state, w.e.f. 17/09/2014 and any further processing would be done by M.P. Medical University. It was also observed that M.P. Medical University has not issued any consent of affiliation till date.

In view of above, the Executive Committee of the Council decided to accept the opinion of the Law Officer of the Council and decided to return the application recommending disapproval of the scheme for establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-16 since there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the Regulations framed therein to keep the application pending in the Council office for the next academic year.

The Executive Committee of the Council further decided to seek a clarification from Rani Durgawati University about the discrepancy of two different letters bearing the same outward number."

The Committee further observed that vide its submission before the Committee appointed by the Ministry, applicant trust has stated as under:

"We have applied on 29/10/2014 for grant of affiliation for academic yea 2015-16 for 150 MBBS student and deposited Rs. 50,30,000.00 as affiliation fees on 28/10/2014 thereafter Madhya Pradesh Medical Science University has informed on 20/11/2014 that our affiliation fees had been accepted and our affiliation is under consideration. Thus we are at a stage above "consent of affiliation" as our affiliation is under consideration with Madhya Pradesh Medical University."

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

“Recommended for review by MCI”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.”

From the above, it is evident that the applicant trust has not yet received consent of affiliation from affiliating University –i.e. Madhya Pradesh Medical Sciences University w.e.f. 17/09/2014 which is a Qualifying Criterion 3(2)(4) of Establishment of Medical College regulations, 1999.

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon’ble in Mridul Dhar’s case is as under:

“1-13.

- 14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
- 15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

In view of above, the Executive Committee of the Council decided to reiterate earlier decision to return the application recommending disapproval of the scheme for establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur , Madhya Pradesh u/s 10A of the IMC

Act, 1956 for the academic year 2015-16 as the qualifying criterion 3(2)(4) of Establishment of Medical College Regulations, 1999 is not fulfilled and since there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the Regulations framed therein to keep the application pending in the Council office for the next academic year.

5. Recognition/approval of Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council noted that at its earlier meeting dt. 02.03.2015, had observed as under:-

1. *Deficiency of faculty is 8.8 % as detailed in the report.*
2. *Shortage of Residents is 18 % as detailed in the report.*
3. *Bed Occupancy was 60 % against requirement of 75 % as per Regulations on day of assessment. There is some discrepancy noted between the data of previous monthly average & that found actually on the day of assessment.*
4. *There was NIL Major & NIL Minor operation for the whole hospital on day of assessment. No patients were seen in Postoperative ward on day of assessment.*
5. *There was only 1 Normal delivery & NIL Caesarean section on day of assessment.*
6. *Radiological & Laboratory Investigation workload is inadequate.*
7. *There was NIL patient in MICU & NICU/PICU and only 1 patient each in ICCU & SICU which is grossly inadequate.*
8. *Radiodiagnosis department: Details of AERB approval are not provided.*
9. *Lecture Theaters: One lecture theater is not fully constructed or furnished. Lecture theater in the hospital is not of gallery type. There is no facility for E class.*
10. *Central Photography Section: No equipment is available. Photographer is not available.*
11. *Students' Hostels: Visitors' room, A.C. study room with computer & Internet, Recreation room are not available.*
12. *Interns' Hostels: They are under construction.*
13. *Residents' Hostel: Accommodation is available for only 60 against requirement of 85 as per Regulations.*
14. *Nurses' Hostel: It is not available.*
15. *Residential Quarters: No quarters are available for non-teaching staff as they are under construction.*
16. *Teaching Beds: Orthopaedics male ward is under construction; resultantly 30 beds in male Orthopaedics ward are not available.*
17. *Central Kitchen is under construction. Dietician is not available.*
18. *Anatomy department: Only 100 specimens are available. There are no MRI/CT films in the museum.*
19. *Physiology department: Audiovisual aids are not available in Demonstration Room.*
20. *Pathology department: Only 3 catalogues are available in the museum.*
21. *Microbiology department: Service laboratories are not fully functional.*
22. *Pharmacology department: Museum facilities are inadequate.*
23. *Community Medicine department: Audiovisual aids are not available in Demonstration Room.*
24. *RHTC: It is under dual control of Govt. of Andhra Pradesh & institute which is not as per Regulations. Messing facilities are not available. There is no record of students being posted at RHTC. Specialists' visits are not*

organized. No records of activities under National Health Programmes are available.

25. UHC: It is in a rented building conjoined with a private practitioner clinic and medical stores. There are no records of posting of students. Specialists' visits are not organized.
26. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Government not to recognise/approve Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 1 month for further consideration of the matter.

Further the Executive Committee of the Council decided to take legal opinion with regard to apply of clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

- (b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

The Executive Committee of the Council further noted that legal opinion on application of Section 8(3)(1)(b) had been received. The Committee perused the opinion of Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999. My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to

grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

The Executive Committee of the Council in view of above mentioned opinion of Additional Solicitor General of India as well as the deficiencies mentioned above decided to recommend to Central Government not to recognise/approve of Great Eastern Medical School & Hospital, Ragolu, Srikakulam, A.P. for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada u/s 11(2) of the IMC Act, 1956 and further decided to ask the Institution to submit the compliance within one month.

6. Renewal of permission for MBBS course of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its earlier meeting dt. 13/01/2015 had observed as under:

"The Executive Committee of the Council considered the Council Assessors report (16th & 17th December, 2014) and noted the following:-

1. *Deficiency of faculty is 57 % as detailed in report.*
2. *Shortage of Residents is 99 % as detailed in report.*
3. *OPD attendance was only 210 on day of assessment.*
4. *Bed occupancy was 10.36 % on day of assessment.*
5. *There was NIL major operation and only 1 minor operation on day of assessment.*
6. *ICUs: There was no patient in SICU & NICU/PICU and only 1 patient in ICCU on day of assessment.*
7. *The following faculty have submitted fake telephone bills as proof of residence. After dialing the number mentioned in the bill, recorded message was heard saying "This is Anil Neelakonda Medical College. Please press the extension number."*

Name	Designation	Department
Dr. Gudurusree Latha	Asso. Prof.	Pathology
Dr. C. Madhav Rao	Professor & HOD	Forensic Medicine
Dr. Pradeep Vundavalli	Asst. Prof.	ENT
Dr. Pandula Revathi	Asst. Prof.	O.G.
Dr. Y. Nagatalupula Rao	Asst. Prof.	O.G.
Dr. D.K. Chedrolu	Senior Resident	Ophthalmology

8. No workshop on Medical Education Technology has been conducted by MEU during the year.
9. Pharmaco Vigilance Committee: No meetings have taken place during the year.
10. Lecture Theaters: Hospital lecture hall is not of gallery type.
11. Students' Hostels: There is no AC, Computer & Internet in the study room.
12. Residents' Hostels: Accommodation is available for 120 against requirement of 138. There is no AC, Computer & Internet in the study room.
13. Office of Dean and Medical Superintendent in the hospital are smaller in size than required as per Regulations.
14. Wards: Wards of Tb & Chest, Skin & VD and Psychiatry departments do not have Nursing station, Examination/Treatment room, Pantry, Duty room, Demonstration room. In other departments, demonstration room is common for 2 wards.
15. There was no Caesarean section on day of assessment.
16. Radiological and Laboratory investigation workload was grossly inadequate on day of assessment.
17. Histopathology & Cytopathology workload was NIL on day of assessment.
18. Separate casualty for Obstetrics is not available.
19. O.T.: Facilities in ENT O.T. are inadequate.
20. Anatomy department: Number of specimens are only 70.
21. RHTC: Cold chain equipment is not available.
22. UHC: Cold chain equipment is not available.
23. Other deficiencies as pointed out in the assessment report."

In view of above, it was decided to recommend to the Central Govt. not to renew the permission for admission of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

It was further decided to apply clause 8(3)(1)(b) & clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which read as under:-

"8(3)(1).....

(b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

....

(d) Colleges which are found to have employed teachers with faked/forged documents:

If it is observed during any institute is found to have employed a teacher with faked/forged documents and have submitted the declaration form of such a teacher, such an institute will not be considered for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year and the next academic year also.

In view of above, it was decided not to consider the institute for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017). "

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“Recommended for review by MCI. MCI has barred the college for 2 years on point no. 7. In view of the submission made by college, MCI may reconsider before taking such action .”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if noting is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Committee observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Establishment of Medical College Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities as has been directed by Hon’ble Supreme Court in Mridul Dhar’s case. The operative part of the order of Hon’ble Supreme Court in Mridul Dhar’s case is as under:

- “1-13.*
- 14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.*
- 15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”*

The Executive Committee of the Council perused the opinion of Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*

2. *Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by

that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate the earlier decision to recommend to the Central Govt. not to renew the permission for admission of 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

It was further decided that with regard to Section 8(3)(1)(d) of Establishment of Medical College Regulations, the institute in its compliance has stated as under:

“Some of the telephone connections / numbers have been allotted to the faculty members, who were not having their own telephone connections and are staying in the staff quarters. The copy of letter sent by BSNL authorities to that effect is enclosed herewith.

Due to technical reasons, the calls of those phone numbers landed at our local telephone exchange. Now the technical problem was rectified.”

The Executive Committee of the Council perused the letter dated 06-02-2015 submitted by the college to the Committee constituted by Ministry of Health & FW which reads as under:-

"NRI Institute of Medical Sciences, Sangivalasa, Bheemunipatnam, Visakhapatnam is provided with ISDN PRI having telephone numbers from 0891-2821100 to 2821199 (100 lines)

The above telephone numbers can be allotted for the individuals staying in the campus. The above ISDN PRI (Integrated service digital Network Primary rate interface) is extended with DID (Direct Inward Dialing facility). With this facility one can make and receive calls directly from anywhere in India."

The Committee further decided that the Institute be asked to submit further clarification from BSNL as under:

- (1) *When did the problem in respect of the telephone connections issued in respect of the following doctors begin ?*

Name	Designation	Department
Dr. Gudurusree Latha	Asso. Prof.	Pathology
Dr. C. Madhav Rao	Professor & HOD	Forensic Medicine
Dr. Pradeep Vundavalli	Asst. Prof.	ENT
Dr. Pandula Revathi	Asst. Prof.	O.G.
Dr. Y. Nagatalupula Rao	Asst. Prof.	O.G.
Dr. D.K. Chedrolu	Senior Resident	Ophthalmology

- (2) *When the complaint was filed by these Doctors to BSNL?*

- (3) *Was the problem limited only to the abovementioned doctors or did it occur with other numbers as well ? If it occurred in other numbers also, a list of those numbers along with names of persons to whom these numbers are allocated may also be furnished.*

- (4) *What was the precise nature of the problem ?*

- (5) *How was the problem resolved ?*

- (6) *When was the problem resolved ?*

- (7) *Was the problem resolved only for these numbers or also for those mentioned in (3) above ?*

- (8) *What is the present status of these connections ?*

- (9) *Where was the precise location of these telephones on day of assessment – i.e. 16th & 17th December 2014 ?*

- (10) *Photocopies of bills of November 2014, December 2014 & January 2015 in respect of these connections may also be provided.*

The Executive Committee of the Council further decided that the Dean of the institute may also be asked to provide on affidavit details like in whose custody the instruments with these telephone numbers are lying at present and on the day of assessment, who is utilizing these connections and the locations of these instruments at present.

7. Renewal of permission for MBBS course of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, the Executive Committee had decided as under:

"The Executive Committee of the Council considered the Council Assessors report (31st December, 2014 and 1st January, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 45 % as detailed in report.*
2. *Shortage of Residents is 78 % as detailed in the report.*
3. *Bed occupancy is only 15%.*
4. *OPD attendance was only 318 on day of assessment.*
5. *Dean's office: Area available is 20 sq.m. against requirement of 36 sq.m. as per Regulations*
6. *Examination Hall cum Auditorium: Available area is 1,000 sq.m. against requirement of 1,200 sq.m. as per Regulations*
7. *Lecture Theaters: Facility for E class is not available.*
8. *Students' Hostels: Accommodation is available for 516 students against requirement of 565 as per Regulations. There is no provision for cupboard in the rooms. It has no recreation room, no visitors' room, no notice board & no lift in a 5 storied building.*
9. *Interns' Hostel: it is not available.*
10. *Nurses' Hostel : it is not available.*
11. *Dean's office is not available in the teaching hospital.*
12. *OPD: Registration counters are not separate for males/females or for OPD/IPD. Staff is inadequate.*
13. *Wards: Pantry, Examination room & Doctors' room are common for 2 wards. No lift is available.*
14. *Previous data have not been provided to assessors by the institute.*
15. *Plain X-rays are inadequate.*
16. *Cytopathology workload is NIL on day of assessment.*
17. *MRD: Statistician is not available.*
18. *ICUs: there was no patient in ICCU, SICU on day of assessment.*
19. *Nursing staff: Only 94 Nurses are available against requirement of 277.*
20. *Paramedical staff: Only 35 are available against requirement of 181.*
21. *Anatomy department: Lockers are inadequate. One cold storage is not working. Only 102 specimens are available.*
22. *Dean has refused to sign the report. College authorities and Dean pressurized Assessors to count faculty & Residents who presented on second day of assessment also.*
23. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

It was further observed that in this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

"The inspection was carried out on 31st December and 1st January. Year end and Christmas vacation, particularly, being Christian minority institution. Recommended for review by MCI"

The Committee further observed that the Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the

request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed by the executive committee that the plea that *the inspection was carried out on 31st December and 1st January, Year end and Christmas vacation, particularly, being Christian minority institution* in the recommendation of the Committee appointed by the Ministry of Health & family Welfare does not appear to have been taken by the institute anywhere in compliance submitted by it to the ministry.

It was further observed that the Statutory Regulations are equally applicable to all the institutes and there cannot be any deviation for a Christian Minority institute.

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. *Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.*
15. *Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”*

The Executive Committee of the Council also perused the opinion of Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the*

academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.

2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of to recommend to the Central Govt. not to renew the permission for admission of 5th batch (150 seats) of Madha Medical College & Hospital, Thandalam, Chennai under the Tamilnadu Dr. M.G.R. Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

8. Renewal of permission for MBBS course for 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016-

Read: the matter with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore,

Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (31st December, 2014 and 1st January, 2015) alongwith a complaint received through email dated 24.11.2014 from Mr. Ramiz K addressed to the Medical Council of India and copy to PMO and others against the said college and noted the following:-

1. *Deficiency of faculty is 8.03 % as detailed in report.*
2. *Shortage of Residents is 25.36 % as detailed in the report.*
3. *Bed occupancy is 34 % on day of assessment.*
4. *There are only 5 major & 6 minor operations on day of assessment.*
5. *There was only 1 Normal delivery & NIL Caesarean section on day of assessment. Average of Caesarean section is 1 / week.*
6. *SICU is not available.*
7. *In wards of General Medicine, General Surgery & Orthopaedics, no patient was put on I.V. solutions & most of the patients could be treated on outpatient basis. In General Surgery wards, surgery related patients are less and in Orthopaedics wards, trauma related patients are very less. Critically ill admitted patients are less.*
8. *Teaching Programme: Integrated teaching programme is not organized. CPC is not held.*
9. *Anatomy department: Cooling chambers are less. Specimens are only 102. Office space is not furnished.*
10. *Physiology department: office space is not furnished.*
11. *Biochemistry department: office space is not furnished. Microscopes are less.*
12. *Forensic Medicine department: Mortuary & Cold storage are non-functional.*
13. *Many equipment are nonfunctional in laboratories of the college.*
14. *Kitchen is messy and unhygienic & needs to be improved urgently.*
15. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

The Executive Committee of the Council further noted that the institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated 18.09.2014 in the name of Shri K. Eralah which state as under:

"..1. .The institute undertakes to this Hon'ble Court that the deficiencies pointed out by the Medical Council of India by its communication dt. 12.6.2014 have already been removed and deficiencies, if any, as per Regulation of Medical Council of India shall be rectified within a period of days from the date of the Order of this Hon'ble Court.

2. I say that in the event the Institution, for any reasons whatsoever, does not comply with this solemn undertaking, this Hon'ble Court may, if it so chooses, direct that the Bank Guarantee/Security furnished by this Institution to the Medical Council of India be forfeited.

3. I say that the admissions to the academic year 2014-15 with respect to the seats to be filled will be in accordance with the norms of the Medical Council of India. Candidates will be admitted in accordance with merit from the list of candidates declared eligible for admission to MBBS course on the basis of entrance test conducted by the State Govt./State Authority.

4. I say that the fees to be charges from students admitted through this process in accordance with what is stated hereinabove shall be as per fee fixed by Fee Fixation Committee constituted under the State Act or under the judgment of this Hon'ble Court in P.A. Inamdar Vs. State of Maharashtra (2005) 6 SCC 537.

5. I submit that in the event this Hon'ble Court comes to the conclusion that our institution has in any way failed to comply with the terms of this Undertaking pursuant to the Order of this Hon'ble Court, this Hon'ble Court may, if it so chooses, initiate proceedings for contempt against the Institution."

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman

and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs. 10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.
2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall

- be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.
3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.
4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.
5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.
6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities." In view of above, the Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks."

It was further observed that the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

“ Recommended for review by MCI. Should have avoided inspection on New Year’s Eve and New Year day ”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if noting is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed that the observation of the Committee appointed by the Ministry that *“Should have avoided inspection on New Year’s Eve and New Year day”* is irrelevant and has no bearing as both 31st December & 1st January are full working days and neither of these 2 days have not been declared as Gazetted holidays nor they fall within 3 days’ embargo prescribed in the Regulations.

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February

6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis

subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS

degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations(Amendment),2010(Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate the earlier decision to recommend to the Central Govt. not to renew the permission for admission of 3rd batch (150 seats) of BGS Global Institute of Medical Sciences, Bangalore, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks.

9. Renewal of permission for MBBS course for 5th batch of 100 seats of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

Read: the matter with regard to renewal of permission for MBBS course for 5th batch of 100 seats of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 16/12/2014, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (11th & 12th November 2014) and noted the following:-

1. *Shortage of Residents is 29 % as detailed in the report.*
2. *Bed occupancy is 60 % on day of assessment. There was discrepancy in the ward register & actual number of patients in female Surgical ward. The register showed 21 patients while only 5 could be verified.*
3. *OPD attendance was 680 till 2:30 p.m. on day of assessment Lecture Theaters: Facility for E class is not available.*
4. *Residential quarters: Only 18 quarters are available for teaching faculty against requirement of 23 as per norms.*
5. *OPD: 4 examination rooms are not available for all the departments.*
6. *Separate dressing rooms for male/female patients are not available.*
7. *There were only 9 major operations on day of assessment.*
8. *There was only 1 normal delivery & NIL Caesarean section on day of assessment.*
9. *Radiological investigations: Daily average of special investigations like Ba, IVP is NIL.*
10. *Daily average Histopathological workload is only 4 which is grossly inadequate. On day of assessment, it was only 3.*
11. *Casualty: Resuscitation equipment like Pulse Oxymeter, Crash cart, Ventilator are not available.*
12. *Only 2 mobile X-ray machines are available against requirement of 3 as per Regulations.*
13. *ETO sterilizer is not available.*
14. *Faculty list was not provided by the college till 12:15 p.m. D.F. of faculty & Residents who were not present in the morning were included by the college.*
15. *Adequate staff offices are not provided in the departments.*
16. *Play field is an open undeveloped plot. which cannot be considered.*
17. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th batch (100 seats) of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 which reads as under:-
“8(3)(1).....
(b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year.”

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

“Recommended for review by MCI”

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon’ble in Mridul Dhar’s case is as under:

- “1-13.
14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision to recommend to the Central Govt. not to renew the permission for admission of 5th batch (100 seats) of Career Institute of Medical Sciences & Hospital, Lucknow under Dr. Ram Manohar Lohia Avadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

10. Renewal of permission for MBBS course of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (05th & 6th December, 2014) alongwith the letter dated 12.12.2014 received from the college authorities and noted the following:-

1. Shortage of teaching faculty – 17.69% as detailed in report.
2. Shortage of Resident Doctors - 45.32% as detailed in report.
3. Lecture theater in the hospital is not available.
4. Students' Hostels: Accommodation available is for 270 students against requirement of 300 as per Regulations. .
5. Residents' Hostel: Accommodation available is for 56 Residents against requirement of 85 as per Regulations. .
6. Audiometry room is not available. Only space is provided.
7. ICUs: SICU is not available. There were only 2 patients each in ICCU & ICU on day of assessment.
8. Radiodiagnosis department: Only 1 mobile X-ray unit is available against requirement of 2 as per Regulations. Dental X-ray machine cannot be equated with mobile X-ray required under these Regulations. Only 2 static X-ray machines are available against requirement of 3 as per Regulations.
9. Blood bank is not functional.
10. ETO sterilizer is not available.
11. Paramedical & Nonteaching staff: available staff is 154 against requirement of 160.
12. Anatomy department: Mounted specimens are only 50.
13. Pathology department: Mounted specimens are only 40.
14. RHTC is under control of State Govt. & not under Dean.
15. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010(Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

Colleges in the stage from III renewal (i.e. Admission of fourth batch)till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated nil in the name of Prabhas Kr. Singh which states as under:

"..1. .I say that there is no defect in medical college run by the petitioner trust.

2. I say that if the above statement is found to be incorrect at the time of next inspection, the deposit of the trust with MCI shall stand forfeited."

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.

2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.

3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.

4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.

5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

In view of above, the Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks. "

The above decision of the Executive Committee was communicated to the Central Government vide this office letter dated 21/01/2015 with copy to the college and other concerned authorities.

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

"Recommended for review by MCI. "

The Central Govt. has requested the Council to review/assess the scheme in the light of the documents submitted by the college/applicants in compliance and recommendations of the Committee with the request to take necessary action(s) for review and furnish its recommendations accordingly to the Ministry immediately latest by 15.04.2015, if noting is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

The Executive Committee of the Council also perused opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999. My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)1(b) and 8(3)1(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.
PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)1(a), 8(3)1(b) and 8(1)(c) of the Establishment of Medical

College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt...."

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision to recommend to the Central Govt. not to renew the permission for admission of 4th batch (100 seats) of Lord Buddha Koshi Medical College and Hospital, Saharsa, Bihar under B.N Mandal University, Madhepura, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks.

11. Renewal of permission for MBBS course of 5th batch of (150 seats) of Rama Medical College Hospital & Research Centre, Hapur, Ghaziabad under Ch. Charan Singh University, Meerut, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course of 5th batch of (150 seats) of Rama Medical College Hospital & Research Centre, Hapur, Ghaziabad under Ch. Charan Singh University, Meerut, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (16th & 17th December, 2014) and noted the following:-

1. *Deficiency of faculty is 34 % as detailed in report.*
2. *Shortage of Residents is 76 % as detailed in report.*
3. *Students' Hostels: Accommodation is available for only 372 students against requirement of 525 as per Regulations.*
4. *Interns' Hostel: It is not available against requirement of interns' hostel with capacity of 150.*
5. *Nursing College students' hostel & Nursing staff hostel are in the same building.*
6. *Residential Quarters: Only hostel rooms are available instead of quarters for non-teaching staff.*
7. *OPD attendance is only 634 against requirement of 1,200.*
8. *Casualty attendance was NIL on day of assessment.*
9. *Bed occupancy is only 30 % on day of assessment.*
10. *There were only 8 major operations in the whole hospital on day of assessment.*

- 11. There was only 1 normal delivery and NIL Caesarean section on day of assessment.
 - 12. Radiological Investigations: Daily average of C.T. scan is only 4. On day of assessment it was only 3. Number of special investigations like Ba, IVP was only 2 on day of assessment.
 - 13. Cytopathological workload on day of assessment was only 2.
 - 14. ICUs: There were only 2 patients each in ICU, SICU, PICU/NICU.
 - 15. Nursing staff: Only 191 Nurses are available against requirement of 277 as per Regulations.
 - 16. Paramedical staff: Only 85 are available against requirement of 181 as per Regulations.
 - 17. Other deficiencies as pointed out in the assessment report.
- In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th batch (150 seats) of Rama Medical College Hospital & Research Centre, Hapur, Ghaziabad under Ch. Charan Singh University, Meerut, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 which reads as under:-

“8(3)(1).....
(b) Colleges in the stage upto III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year.”

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

It was further observed that the Council Office has received a letter dated 20/02/2015 from the from the Central Govt., Ministry of Health & Family Welfare, New Delhi stating therein that as per the proviso under Section10(A)(4) of IMC Act, 1956, a Committee has been constituted for granting opportunity of personal hearing the Ministry in case of disapproval/ non-renewal recommendation of the Council in case of PG courses for the year 2015-16. The Committee has given personal hearing to the authorized representatives of the medical colleges/applicants on 09th, 10th & 12th February, 2015. Based on the compliance submitted by the colleges concerned in support of their claim , the committee has recommended for review/assessment of the schemes by the MCI.

The Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“Recommended for review by MCI”

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September

3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

"1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with."

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the

Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision to recommend to the Central Govt. not to renew the permission for admission of 5th batch of (150 seats) of Rama Medical College Hospital & Research Centre, Hapur, Ghaziabad under Ch. Charan Singh University, Meerut, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

12. Renewal of permission for MBBS course for 4th batch (100 seats) of Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

Read: the matter with regard to renewal of permission for MBBS course for 4th batch (100 seats) of Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (1st & 2nd December, 2014) alongwith a complaint dated nil (received on 09/12/2014) from the Secretary, India against corruption Rourkela Branch, Odisha regarding false, forged inspection of Hi-Tech Medical College, Rourkela, Odisha and noted the following:-

1. *Bed occupancy was 58 % on day of assessment.*
2. *Shortage of Residents is 14.56 % as detailed in the report.*
3. *Lecture Theaters: Facility for E class is not available. Lecture theater in the hospital is not available.*
4. *Central Library: 13 foreign journals are available against requirement of 14 as per Regulations.*
5. *OPD: Plaster room & plaster cutting room are one. There is no facility for storage of vaccines in OPD.*
6. *Wards: In departments of General Medicine & General Surgery, space between 2 beds is < 1.5 m prescribed under the Regulations. Pantry is not available in all the wards.*
7. *Number of major operations on day of assessment was only 8.*
8. *Radiological Investigations: Number of special investigations like Ba, IVP is NIL.*
9. *MRD is partly computerized.*
10. *O.T. There are 2 tables in General Surgery O.T. which is not as per norms.*
11. *ICUs: There were only 2 patients in ICCU & 1 patient in PICU/NICU on day of assessment. There was no patient in SICU.*

12. ETO sterilizer is not available.
13. Website: Information regarding toll free number to report ragging & members of anti-ragging committee is not provided. Information regarding results of examinations is partly provided. Citizens' charter is not available.
14. Anatomy museum: MRI/CT films are not available.
15. No workshop on Medical Education Technology has been conducted by MEU during the year.
16. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 4th batch (100 seats) of Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(b) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of MBBS degree.

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <70%, such an institute will not be considered for renewal of permission in that Academic Year."

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

The Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

"Recommended for review by MCI. The college is run in PPP mode with Government of Odisha. 100% admissions through State Government"

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
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It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

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14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.

15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with."

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decide to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999. My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
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I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

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Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

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If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of

the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(b) of Establishment of Medical College Regulations, (Amendment), 2010 (Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision to recommend to the Central Govt. not to renew the permission for admission of 4th batch (100 seats) of Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

13. Establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 in pursuance of Hon'ble Supreme Court orders dated 02.07.2014 & 17.11.2014 in CA no. 5933/2014-Medical Council of India Vs. Society for the Advancement of Environmental Sciences & Ors.

Read: the matter with regard to establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 in pursuance of Hon'ble Supreme Court orders dated 02.07.2014 & 17.11.2014 in CA no. 5933/2014-Medical Council of India Vs. Society for the Advancement of Environmental Sciences & Ors.

The Executive Committee of the Council observed that at its meeting held on 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the assessment report (9th & 10th December, 2014) carried out by the Council Assessors in compliance of Hon'ble Supreme Court orders dated 02.07.2014 & 17.11.2014 in CA no. 5933/2014-Medical Council of India Vs. Society for the Advancement of Environmental Sciences & Ors and noted the following:

1. *Deficiency of faculty is 55 % as detailed in report.*
2. *Shortage of Residents is 95.55 % as detailed in the report.*
3. *Teaching beds are short by 60 as only 30 beds are available in General Surgery against requirement of 90 as per Regulations. Thus, only 240 beds are available against requirement of 300 as per Regulations.*
4. *Bed occupancy is only 25 % on day of assessment.*
5. *Central Library: Available area is 1,600 sq.m. against requirement of 2,400 sq.m. as per Regulations.*
6. *Common Rooms for Boys & Girls: They are smaller than required as per Regulations. They are not furnished. .*
7. *Central photography Unit is not available. .*
8. *Hostels: They are not furnished properly and are with inadequate facilities.*
9. *OPD: Minor O.T. is not available. In Ophthalmology OPD, dark room & dressing room / procedure room is not available.*
10. *Audiometry & Speech Therapy are not available.*
11. *Various clinics are not available in Paediatrics OPD.*
12. *Wards: Male & female beds are together in 1 ward in the departments of Tb & Chest, Psychiatry, Skin & VD, Orthopaedics, Facilities are not as per norms. Doctors' duty room is not available in any ward.*
13. *There were no major or minor operation on day of assessment.*
14. *No normal or Caesarean delivery was conducted on day of assessment.*
15. *Radiological & Laboratory investigation workload is inadequate.*
16. *MRD is not computerized. ICD X classification of diseases is not used for indexing. Medical Records officer & Statistician are not available.*
17. *Casualty: Disaster trolley & Crash cart are not available. Defibrillator is not available.*

- 18. O.T.s: Only 2 O.T.s are available against requirement of 5 as per Regulations. 3 other O.T.s are not furnished and cannot be considered. Monitoring & Resuscitation Equipment are inadequate.
- 19. ICUs: They are not utilized. There was n patient in ICCU / any ICU on day of assessment. PICU/NICU has only 3 beds against requirement of 5 as per Regulations.
- 20. Labour Room: Separate rooms for septic cases & Eclampsia cases are not available.
- 21. Radiodiagnosis department: Only 1 USG is available against requirement of 2 as per Regulations.
- 22. CSSD: ETO sterilizer is not available. Receiving & Distribution points are not separate. Staff is inadequate. There is no one designated as incharge.
- 23. Anatomy department: Infrastructure is inadequate. Office is not furnished. Mounted specimens are only 50. Lockers are not available.
- 24. Physiology department: Office is not furnished.
- 25. Biochemistry department: Microscopes are inadequate in number. Office is not furnished.
- 26. Other deficiencies as pointed out in the assessment report.

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2015-16 as there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the regulations framed therein to keep the application pending in the Council office for the next academic year.”

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“Recommended for review by MCI.”

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March

7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

In view of above, the Executive Committee of the Council decided to obtain legal opinion from Senior Counsel on the issue of application of the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds and deferred the matter.

14. **Establishment of new medical college at Kodagu Karnataka by Government of Karnataka with an annual intake of 150 MBBS students under the Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015.**

Read: the matter with regard to establishment of new medical college at Kodagu Karnataka by Government of Karnataka with an annual intake of 150 MBBS students under the Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the assessment report (29th & 30th December, 2014) and noted the following:

1. Deficiency of faculty is 35 % as detailed in report.
2. Shortage of Residents is 91.1 % as detailed in the report.
3. Teaching beds are deficient as under:

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	72	55	17
2	General Surgery	90	62	28
3	Orthopaedics	30	24	6
4	Ophthalmology	10	8	2
5	ENT	10	8	2
	TOTAL			55

4. OPD: Registration counters are not separate for males/females. They are not computerized. There are only 2 examination rooms for each department against requirement of 4 rooms. Teaching areas are very small. Injection room for males/females is common. Dressing room for males/females is common. Plaster room & Plaster cutting room are common.
5. Audiometry & Speech therapy are not available.
6. Wards: Demonstration rooms are smaller and not furnished. Pantry is not available.
7. OPD attendance is 400 on day of assessment against requirement of 600.
8. Lecture Theaters are under construction.

9. Central Library: It is under construction. Books & journals are not available. Staff is not available.
10. College building is under construction. Area of dean's office in temporary premises is small.
11. Central Photography Unit is not available.
12. Students' Hostels: They are under construction.
13. Residents' Hostel: It is under construction.
14. Residential Quarters: Only 10 quarters are available for non-teaching staff against requirement of 20.
15. MRD is manual. ICD X classification of diseases is not followed for indexing.
16. Casualty: Disaster Trolley, Crash cart, Defibrillator, Ventilator are not available.
17. Central Clinical Laboratory: Separate sections are not available. Staff is inadequate.
18. O.T.s: Only 4 O.T.s are available against requirement of 5. Monitoring & Resuscitation equipment are inadequate.
19. ICUs: ICCU is not available.
20. Labour Room: Septic room is not available.
21. AERB approval is not available.
22. CSSD is not available.
23. Intercom is not available.
24. Nursing staff: Only 90 Nurses are available against requirement of 175.
25. College building is under construction. Hence departments of Anatomy, Physiology & Biochemistry are not available.
26. Other deficiencies as pointed out in the assessment report.

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3 (2)(5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Kodagu Karnataka by Government of Karnataka to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2015-16 as there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the regulations framed therein to keep the application pending in the Council office for the next academic year."

The Executive Committee of the Council also perused the compliance submitted by the institute and observed that the following deficiencies are not still fully rectified:

Sl. No.	Deficiencies pointed out by MCI	Submission of college on deficiencies	Annexure No.
1.	Deficiency of faculty is 35% as detailed in report.	The Faculty position as on 09/02/2015 is 40 and a fresh walk in interview has been called on 12/02/2015 for the vacant posts.	Annexure 01: The list of teaching faculty with department and designation Annexure 02: paper notification of walk in interview.
2.	Shortage of Residents is 91.1% as detailed in report.	The total number of residents (SR+JR) working is 13 and the walk in interview is ongoing for junior residents and the walk in interview for senior residents is scheduled for 12/02/2015	Annexure 03: The print of screen shot of the Institution website showing ongoing walk in interview for junior Residents. Annexure 02: paper notification of walk in interview for senior residents.
5.	Audiometry and speech therapy are not available	Audiometry and Speech therapy rooms are under construction	Annexure 4 and 8: Copy of the Government order for the civil works is attached

6.	Wards: Demonstration rooms are smaller and not furnished. Pantry is not available.	1)The demonstration rooms are arranged and are being furnished and 2)Pantry will be made available	<u>Annexure 4 and 9:</u> Copy of the Government order for the civil works is attached
7.	OPD attendance is 400 on day of assessment against requirement of 600.	OPD is less due to Coffee Picking season at the time of inspection	<u>Annexure 10:</u> Previous 1 week OPD attendance is enclosed
8.	Lecture theatres are under construction.	The lecture halls are expected to be ready by March 2015	<u>Annexure 11:</u> Undertaking of the builder enclosed
9.	Central library: It is under construction. Books and journals are not available. Staff is not available.	1)Central Library is expected to be ready by March 2015 2)Purchase of Books and journals are approved and Orders are placed 3)Process to recruit staff has been initiated	<u>Annexure 11, 12 and 13:</u> a)Undertaking of the builder enclosed b)Purchase Order of books and journals enclosed c)Librarian appointed (Appointment order enclosed) and process for appointment of Asst Librarian is underway
10.	College building is under construction. Area of Dean's office in temporary premises is small.	1)College building is under construction and will be ready for occupation by May 2015 2)Area of Dean's office in the college is as per MCI norms.	<u>Annexure 11:</u> Undertaking of the builder enclosed.
11.	Central Photography unit is not available.	1)Equipment are made available 2)Process to recruit staff has been initiated	<u>Annexure 14:</u> List of equipment enclosed.
12.	Students' hostels: They are under construction.	1)The hostels are under construction and are expected to be ready by May 2015. 2)For immediate requirement alternate arrangements are planned.	<u>Annexure 11 and 15:</u> a)Undertaking of the builder enclosed b)MOU with different Hostel enclosed
13.	Residents hostel: It is under construction.	The Resident hostels are under construction and are expected to be ready by May 2015.	<u>Annexure 11:</u> Undertaking of the builder enclosed.
14.	Residential Quarters: Only 10 quarters are available for non-teaching staff against requirement of 20.	The remaining Quarters are expected to be made available by April 2015.	<u>Annexure 11:</u> Undertaking of the builder enclosed.
15.	MRD is manual. ICD X classification of diseases is not followed for indexing.	1)The MRD computerization has been initiated with the National Informatics center 2)The process for adopting ICD 10 will be done	<u>Annexure 16:</u> Copy of the mail from NIC enclosed.
17.	Central clinical laboratory: Separate sections are not available. Staff is inadequate.	1)Civil works has been approved and is expected to be completed in 2 months 2)Staff have been recruited.	<u>Annexure 18:</u> Staff List enclosed. <u>Annexure 19:</u> Photo of sections enclosed. <u>Annexure 4 and 20:</u> Civil works for further expansion approved plans enclosed.
19.	ICUs: ICCU is not available.	ICCU is planned and the civil works for the same is approved	<u>Annexure 4 and 22:</u> Government approval

		and construction is expected in 3 months.	for the civil works and plans are enclosed.
21.	AERB approval is not available.	AERB approval is in process.	<u>Annexure 24:</u> TLD card application with fees paid details enclosed.
23.	Intercom is not available.	Intercom facility is partially available and extension through BSNL is planned.	<u>Annexure 26:</u> Work Order copy enclosed.
24.	Nursing staff: Only 90 nurses are available against requirement of 175.	Recruitment is in progress through Karnataka Examination Authority.	<u>Annexure 27:</u> Copies of the letters and Government order enclosed.
25.	College building is under construction. Hence departments of Anatomy, Physiology and Biochemistry are not available.	College Building as per LOP will be available by May 2015.	<u>Annexure 11:</u> Undertaking by builder enclosed.

It is further observed that the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

“In view of undertaking given by the Government of Karnataka, recommended for review by MCI. Compliance verification may be carried out towards April-May, 2015.”

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon’ble in Mridul Dhar’s case is as under:

“1-13.

- 14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
- 15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

In view of above, the Executive Committee of the Council decided to obtain legal opinion from Senior Counsel on the issue of application of the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds and deferred the matter.

15. **Establishment of New Medical College at Karwar, Karnataka by Government of Karnataka with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-16.**

Read: the matter with regard to establishment of New Medical College at Karwar, Karnataka by Government of Karnataka with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting held on 13/01/2015, it was decided as under:

- “The Executive Committee of the Council considered the assessment report (29th & 30th December, 2014) and noted the following:
- 1. Deficiency of faculty is 67.24 % as detailed in report.
 - 2. Shortage of Residents is 97.77 % as detailed in report.
 - 3. Teaching beds are deficient as under:
- | # | Department | Beds | | |
|---|------------------|----------|-----------|----------|
| | | Required | Available | Shortage |
| 1 | General Medicine | 72 | 40 | 32 |
| 2 | Skin & VD | 8 | 0 | 8 |
| | TOTAL | | | 40 |
- 4. OPD attendance is only 364 on day of assessment.
 - 5. Figures of major & minor operations and number of deliveries do not match.
 - 6. OPD: Teaching areas are not available.
 - 7. ICUs: ICCU & SICU are not available. There was no patient in MICU on day of assessment. It is not functional.
 - 8. Radiodiagnosis department: AERB approval is not available.
 - 9. CSSD is not available.
 - 10. Nursing Staff: Only 77 Nurses are available against requirement of 175.
 - 11. Lecture Theaters are under construction.
 - 12. Central Library is under construction. No books and journals are available. No staff is available.
 - 13. Common Rooms for Boys & Girls are not available.
 - 14. Central Photography Unit is not available.
 - 15. Students' Hostels: Available accommodation is for 60 students against requirement of 113.
 - 16. Residents' Hostel is under construction.
 - 17. Nurses' Hostel: Accommodation is available for 10 Nurses against requirement of 34.
 - 18. Residential Quarters: 6 quarters are available for faculty against requirement of 12. 10 quarters are available for non-teaching staff against requirement of 20.
 - 19. Microbiology, Histopathology & Cytopathology laboratories are not functional.
 - 20. MRD: ICD X classification is not followed for indexing. Medical Records Officer & Statistician are not available.
 - 21. Intercom is not available.
 - 22. College building is under construction. Hence departments of Anatomy, Physiology & Biochemistry are not functional.
 - 23. Other deficiencies as pointed out in the assessment report.

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3 (2)(5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Karwar, Karnataka by Government of Karnataka to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2015-16 as there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the regulations framed therein to keep the application pending in the Council office for the next academic year."

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

The Executive Committee of the Council also perused that the compliance is not satisfactory as the following deficiencies are not yet fully rectified:

Sl. No.	Deficiencies pointed out by MCI	Submission college on deficiencies	Annexure No.																									
1	Deficiency of faculty is 67.24% as detailed in report.	28 faculties are appointed as on today. Notification for another walk-in interview is scheduled on 16-2-2015 for filling up of the remaining vacant posts.	1. a) Faculty list with designation, department and photo copy of declaration. b) Paper notification, enclosed. c) List of candidates willing to join with details.																									
2	Shortage of Residents is 97.77% as detailed in report.	27 residents / tutors have been appointed. Notification for another walk-in interview is scheduled on 16-2-2015 for filling up of the remaining vacant posts.	2. List of resident doctors with designation, department and photocopy of declaration. 1b) Paper notification, enclosed.																									
3	Teaching beds are deficient as under Teaching beds are deficient as under: <table><tr><th>#</th><th>Departments</th><th colspan="3">Beds</th></tr><tr><td></td><td></td><th>Req .</th><th>Avil.</th><th>Def.</th></tr><tr><td>1</td><td>Gen. Medicine</td><td>72</td><td>40</td><td>32</td></tr><tr><td>2</td><td>Skin & VD</td><td>8</td><td>0</td><td>8</td></tr><tr><td></td><td>TOTAL:</td><td></td><td></td><td>40</td></tr></table>	#	Departments	Beds					Req .	Avil.	Def.	1	Gen. Medicine	72	40	32	2	Skin & VD	8	0	8		TOTAL:			40	Arrangements to accommodate 40beds will be done and made functional as there are 2 extra wards readily available.	3 Photocopy of proposed MMW, FMW and dermatology ward (presently vacant). 6. Tender copy for the purchase of cots enclosed.
#	Departments	Beds																										
		Req .	Avil.	Def.																								
1	Gen. Medicine	72	40	32																								
2	Skin & VD	8	0	8																								
	TOTAL:			40																								
6	OPD: Teaching areas are not available.	Tender has been floated to construct teaching rooms for aluminum partitions in OPD and wards.	6. Tender copies and bid open copies for hospital necessities, furniture & equipment's.																									
7	ICU's, ICCU & SICU are not available. There was no patient in MICU on day of assessment. It is not functional.	Up gradation of ICU is in progress. Tenders called for procuring the equipments to make it functional.	7. Photograph of upgraded ICU's (Anx. 6).																									
10	Nursing Staff: Only 77 Nurses are available against requirement of 175	The process of appointment of nurses through Karnataka examination authority is in progress - Letter is enclosed	10. a) Photocopy of Government approval letter for selection of nursing staff through																									

		(English translated).	Karnataka Examination Authority. b) List of Nurses enclosed.
11	Lecture Theaters are under construction.	Lecture theater construction is in progress, it is likely to be functional by May 2015.	11. a) Photographs of construction work. b) PWD under taking letter and furniture's of lecture hall tender copy (Anx. 6)
12	Central Library is under construction. No books and journals are available. No staff is available.	Purchase process for medical books and journals is on. Central library is located in the college building. This building will be functional by May 2015.	12. a) Photo of library building. b) Supply order of books and journals and library furniture's tender copy (Anx. 6).
13	Common Rooms for Boys & Girls are not available.	Common rooms for boys and girls will be made available in college building by May 2015.	13. Anx. 11(b).
15	Students Hostels: Available accommodation is for 60 students against requirement of 113.	Student hostel is under construction. Presently 2 different hostels are available to fulfill the immediate requirement.	15. Boys and girls hostel photographs & (Anx. 11(b).
16	Residents Hostel is under construction	Resident's hostel is under construction. This building will be ready for occupation by May 2015.	16. Anx. 11(b).
18	Residential Quarters: 6 quarters are available for faculty against requirement of 12. 10quarters are available for non-teaching staff against requirement of 20.	Resident's quarters are under construction. This building will be ready for occupation by May 2015.	18. Photographs of residential quarters &{Anx. 11(b)}.
19	Microbiology, Histopathology & Cytopathology laboratories are not functional.	Microbiology, histopathology & cytopathology. Supply orders have been placed to procure the necessary equipments.	19. a) Photographs of department labs with equipments. b) Statistics of laboratory investigations.
20	MRD: ICD X classification is not followed for indexing. Medical Records Officer & Statistician are not available.	The networking /computer purchase process is going on. ICD X indexing is initiated.	20. Work order enclosed.
21	Intercom is not available.	Installation process is on.	21. Order copy of Intercom installation.
22	College building is under construction. Hence departments of Anatomy, Physiology & Biochemistry are not functional.	Construction is in progress, college building will be available for occupation by May 2015.	22. E-tender copy of 4 departmental requirements and supply order. &Anx. 11(b)

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

"Recommended for review by MCI."

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

In view of above, the Executive Committee of the Council decided to obtain legal opinion from senior counsel on the issue of application of the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds and deferred the matter.

16. **Establishment of a new medical college at Kolar, Gold Fields, Kolar District, Karnataka by Sambhram Charitable Trust, Bangalore with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-16.**

Read: the matter with regard to establishment of a new medical college at Kolar, Gold Fields, Kolar District, Karnataka by Sambhram Charitable Trust, Bangalore with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the assessment report (29th & 30th December, 2014) and noted the following:

- 1. Deficiency of teaching faculty is 25 % as detailed in report.
- 2. Shortage of Residents is 50 % as detailed in the report.
- 3. Teaching beds are deficient as under:

#	Department	Beds		
		Required	Available	Deficient
1	General Medicine	72	52	20
2	Tb & Chest	8	NIL	8
3	Psychiatry	8	NIL	8
4	Skin & VD	8	NIL	8
5	General Surgery	90	60	30
	TOTAL			74
- 4. OPD attendance on day of assessment is 350.
- 5. Bed occupancy is 29 % on day of assessment.
- 6. Central Library: No journals are available.
- 7. Students' Hostels: Furniture is available but yet to be placed in hostels.
- 8. Residents' Hostels: Furniture is available but yet to be placed in hostels.
- 9. Audiometry & Speech Therapy are not available.
- 10. MRD: ICD X classification of diseases is not followed for indexing.
- 11. O.T.: Only 2 O.T.s are functional against requirement of 5 as per Regulations.
- 12. ICUs: MICU, SICU, NICU/PICU are not available.
- 13. AERB approval is not available.
- 14. Nursing staff: 156 are available against requirement of 175.
- 15. Other deficiencies as pointed out in the assessment report.

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3 (2)(5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Kolar, Gold Fields, Kolar District, Karnataka by Sambhram Charitable Trust, Bangalore to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2015-16 as there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the regulations framed therein to keep the application pending in the Council office for the next academic year.”

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter , which is as under:-

“Recommended for review by MCI.”

The Committee further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon’ble in Mridul Dhar’s case is as under:

“1-13.

- 14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
- 15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

In view of above, the Executive Committee of the Council decided to obtain legal opinion from Senior Counsel on the issue of application of the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds and deferred the matter.

17. **Establishment of a new medical college at Chandrapur, Maharashtra by Govt. of Maharashtra with an annual intake of 100 MBBS students under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2015-16.**

Read: the matter with regard to establishment of a new medical college at Chandrapur, Maharashtra by Govt. of Maharashtra with an annual intake of 100 MBBS students under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

- “The Executive Committee of the Council considered the assessment report (29th & 30th December, 2014) and noted the following:
1. Deficiency of faculty is 41 % as detailed in report.
 2. Shortage of Residents is 44 % as detailed in report.
 3. Teaching beds are deficient as under:

#	Department	Beds		
		Required	Available	Shortage
1	General Surgery	90	64	26

4. Wards: Demonstration rooms are not available.
5. College building is yet to be constructed. Hence Dean's office functions from the hospital. Staff room & College Council hall are available.
6. Lecture Theaters are to be constructed.
7. Central Library is to be constructed. There are no books and journals. Staff is not available.
8. Central Photography Unit is not available.
9. Students' Hostels are to be constructed.
10. Residents' Hostels are to be constructed.
11. Nurses' Hostels are to be constructed.
12. Residential quarters are to be constructed.
13. OPD: Although registration counters are computerized, on day of assessment, computers were not working. 4 Examination rooms as required for all departments are not available. Teaching areas are not adequate. Enquiry desk is available but there was no person on day of assessment.
14. Laboratory investigation workload is inadequate.
15. MRD: It is located in one half of a hall; in the other half there is library without any wall or partition.
16. Casualty: Disaster Trolley, Crash cart, Defibrillator & Ventilator are not available.
17. O.T.: Only 3 O.T.s are available against requirement of 4. Monitoring & Resuscitation equipment are inadequate as detailed in report.
18. No mobile X-ray is available against requirement of 1. Proof of AERB approval is not available.
19. Intercom is available but not working.
20. Nursing staff: 164 Nurses are available against requirement of 175.
21. Website: It is not available.
22. College building is yet to be constructed. Hence departments of Anatomy, Physiology & Biochemistry are not available.
23. All the faculty have been transferred from GMC, Nagpur on 09/12/2014. There is no proper joining report. Declaration Forms are also incomplete.
24. Other deficiencies as pointed out in the assessment report.

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3 (2)(5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Chandrapur, Maharashtra by Govt. of Maharashtra to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2015-16 as there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the regulations framed therein to keep the application pending in the Council office for the next academic year."

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

Perusal of compliance submitted by the institute shows that the following deficiencies pointed out in earlier report have still not been rectified:

Sl. No.	Deficiencies pointed out by MCI	Submission college on deficiencies	Annexure No.	Remarks
5	College building is yet to be constructed. Hence Dean's office functions from the hospital. Staff room & College Council hall are available	Dean Office is inaugurated at the hands of Hon Guardian Minister & Finance minister, Mr Mungantiwar on 26 th Jan 2015 in College building.	2 (photo)	-

6&7	Lecture theatres and Library is to be-constructed There are no books & journals. Staff is not available	Yes, this new building of hundred bedded hospital is nearing completion and will be ready by the end of March as per letter submitted by Executive Engineer, B & C, Chandrapur. Lecture theatres and Library are now available in this building. Proposal for purchase of books & journals is in process and will be available by March end. Posts are created and will be filled in March 15.	4 a (Sanction letter)and b(photo) 5(photo-library) 28 31	
8	Central photography section	Space identified in new building		Not required at LOP
9	UG Hostel	Type IV & Type V buildings are constructed in New Hospital building campus with-required capacity at LOP stage.	6 (p h o t o)	
10	Resident Hostel	Building ready in general-hospital premises.	7 (photo)	
12	Residential Quarters for Teaching & nonteaching staff	Construction of Type 1 to Type III buildings of teaching and nonteaching staff is near completion and will be ready by March end. At present quarters also are available in Hospital premises.	8 -, & 10 (photo)	
16	Casualty : Disaster trolley, Crash Cart, Defibrillator, Ventilator Not available	Provision is made for purchasing these equipments in next financial year. Provision of budget submitted to Mantralaya.	13- Budget for hospital	
18	Mobile X Ray 30 mA : Not available: AERB Approval for X ray machine not made available	Provision to purchase same is made in budget proposed for next financial year 15-16. Past record of AERB approval is not tracable hence new application forwarded to concerned authority	13- Budget for Hospital 33- Application	
19	Intercom is available but not working.	Repair work is going on .		

20	Nursing Staff : 164 nurses are available against requirement of 175,	Total 180 posts are available. 16 posts are vacant. These posts will be filled shortly. On 1 st Feb 2015, Written examination was conducted by DMER for this purpose.	38- Position of Nursing staff in Hospital.	
21	College website not available	Quotations are received and order is placed with M/S Systron Micronics, Nagpur	Enclosure 35	
22	College building is yet to be-constructed. Hence Department of Anatomy, Biochemistry, Physiology are not available	1) Infrastructure: Departments of Anatomy, Biochemistry and Physiology are located in New 100 bedded hospital building and will be ready by 15 th March as far as infrastructure is concerned. Other departments including dept of community medicine, Microbiology, Pathology, Pharmacology and PMT are also located in same building whose construction will be complete by end of March 2015. 2) Instruments & Equipments: Administrative approval for purchase of Instruments & equipments obtained and these will be purchased at the earliest. Procedure of procurement is at completion stage. 3) Furniture & Books: Demand is placed with Govt and issue of Administrative approval is in process.	14- Letter from Executive Engineer PWD Chandrapur attached with photographs No15 to 26. 27- a) Administrative 1 Approval ' b) College budget for 15-16 28) Demand of Library books 29) Demand of Furniture , AA sanctioned.	Purchase will be completed by March end.
24	OTHER DEFICIENCIES AS POINTED OUT IN ASSESSMENT REPORT			
6	Minor OT available but not functioning	Minor OT will be made equipped by purchasing all necessary equipments in next financial year. Provision is made in proposal of budget submitted.		
7	Equipment not available in O. T. Block- Defibrillator/ Multipara Monitor with Capnograph/ Infusion Pumps	Provision to purchase same is made in budget proposed for next financial year 15-16.	13- Budget for hospital -	

8	Static X Ray 500mA :Not available	Provision to purchase same is made in budget proposed for next financial year 15-16		
9	PNDT Approval not made available	PNDT approval available and enclosed	34-(A) and 16)-Approval	

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“DME, Maharashtra was present. Since the college has not started the faculties are utilized for various duties. Recommended for review by MCI. Compliance verification may be carried out towards April-May, 2015. ”

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

The Committee further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon’ble in Mridul Dhar’s case is as under:

- “1-13.
14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

In view of above, the Executive Committee of the Council decided to obtain legal opinion from Senior Counsel on the issue of application of the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999

pertaining to the person owning and managing a hospital of not less than 300 beds and deferred the matter.

18. **Establishment of new medical college at Chamarajnagar, Karnataka by Government of Karnataka with an annual intake of (150 seats) under Rajiv Gandhi University of Health Sciences, Bangalore Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.**

Read: the matter with regard to establishment of new medical college at Chamarajnagar, Karnataka by Government of Karnataka with an annual intake of (150 seats) under Rajiv Gandhi University of Health Sciences, Bangalore Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the Council Assessors report (29th & 30th December, 2014) and noted the following:-

- 1. Deficiency of teaching faculty is 43.3 % as detailed in the report. .*
- 2. Shortage of Residents is 77.8 % as detailed in report. .*
- 3. Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	72	71	1
2	Paediatrics	24	19	5
3	Psychiatry	8	NIL	8
4	Skin & VD	8	NIL	8
5	General Surgery	90	70	20
6	Orthopaedics	30	28	2
7	Ophthalmology	10	5	5
8	ENT	10	4	6
	TOTAL			55

- 4. Wards: Distance between 2 beds is less than 1.5 m as required under the Regulations. Examination/Treatment room, Pantry, Duty room, Demonstration room are not available in any ward.*
- 5. Radiodiagnosis department: USG workload is NIL.*
- 6. Histopathology workload is NIL.*
- 7. OPD: Separate registration counters for males / females are not available. They are not computerized. Waiting area for patients required as per Regulations is not available. Teaching areas are not available. Number of Examination rooms in each department is less than 4 as required per Regulations. E.C.G. room is not available. In Ophthalmology OPD, Dressing room / Minor procedure room is not available.*
- 8. College building is under construction. Central Library, Common Rooms for Boys & Girls, Recreational facilities are not available.*
- 9. Lecture theaters are under construction.*
- 10. Students' hostels are under construction.*
- 11. Residential Quarters: Only 12 quarters are available for non-teaching staff against requirement of 20.*
- 12. Area of Dean's & Medical Superintendent's offices in the teaching hospital is smaller than required under Regulations.*
- 13. Audiometry & Speech therapy are not available.*
- 14. MRD: It is manual. ICD X classification of diseases is not followed for indexing. Medical records officer & Statistician are not available.*
- 15. Casualty: Equipment is inadequate.*
- 16. O.T.: Only 4 O.T.s are available against requirement of 5. Each O.T. has 2 tables which is not as per norms. Preoperative beds are not available. Postoperative ward has only 1 bed.*
- 17. ICUs: ICCU & SICU are not available.*
- 18. Labour Room: Eclampsia room is not available.*

19. Radiodiagnosis department: No faculty is available. AERB approval is not available.
20. CSSD is not available.
21. Central Laundry: It is mechanical.
22. There is no qualified Pharmacist in Pharmacy.
23. Central kitchen is not functional.
24. Nursing staff: Only 99 Nurses are available against 175 required as per Regulations.
25. College building is under construction. Preclinical departments of Anatomy, Physiology & Biochemistry are not functional.
26. Other deficiencies as pointed out in the assessment report.

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3(2)(5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Chamaraj Nagar, Karnataka by Government of Karnataka to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2015-16 as there is no provision u/s 10A of the Indian Medical Council Act, 1956 or the regulations framed therein to keep the application pending in the Council office for the next academic year."

The above decision of the Executive Committee of the Council was communicated to the Central Govt. vide this office letter dated 21/01/2015.

Perusal of the compliance submitted by the institute shows that the following deficiencies have not yet been rectified:

S.No	Deficiencies pointed out by MCI	Submission of College deficiencies	Annex No.	Remarks
2.	Shortage of Residents is 77.8% as detailed in report	Declaration forms of 02 residents is now submitted.	Declaration forms enclosed.	Walk-in-interview is conducted on 22.01.2015 & MBBS Graduates from Govt. Medical Colleges under bond period will posted by end of March 2015 to fillup the remaining 30 posts
		List of teaching faculty of CIMS, Chamarajanagar as on 07.02.2015 is submitted	Annexure-3	
4	Wards: Distance between 2 beds is less than 1.5 m as required under the Regulations Examination/Treatment room, Pantry, duty room, Demonstration room are not available any ward.	New hospital building is under construction which is being constructed as per the MCI Regulations in addition to the available 300 beds hospital.		
5	Radio diagnosis department: USG workload is Nil	Radiologist is posted to the department. Ultrasound will be put in to better usage.		

7	OPD: Separate registration counters for males/ Females are not available. They are not computerized. Waiting area for patients required as per Regulations is not available. teaching areas are not available. Number of Examinations rooms in each department is less than 4 as required per Regulations. E.C.G room is not available. In Ophthalmology OPD, Dressing room/ Minor procedure room is not available.	Separate registration counters for males/ Females are made available. They are computerized. New hospital building is under construction which will be constructed as per the MCI Regulations and all deficiencies will be rectified. Dressing room / Minor procedure room are made available.		
8	College building is under construction. Central Library, Common Rooms for Boys & Girls, recreational facilities are not available.	3000 books and 20 journals are purchased and Librarian will be appointed		
9	Lecture theaters are under construction.	Made available by May 2015.	Photos enclosed	
10	Student's hostels are under construction.	Made available by May 2015.	Photos enclosed	
11	Residential Quarters: Only 12 Quarters are available for non-teaching staff against requirement of 20	New Residential quarters are under construction at the college campus.	Photos enclosed	
12	Area of Dean's & Medical Superintendents' offices in the teaching hospital is smaller than required under Regulations.	New hospital building is under construction which will be constructed as per the MCI Regulations	Photos enclosed	
13	Audiometry & Speech therapy are not available.	Audiometry is available, Speech therapist services are made available.		
14	MRD: It is manual. ICD X classification of diseases is not followed for indexing. Medical records officers and statistician	It is computerized; ICD X classification will be followed for indexing through MRD.		

	are not available.			
16	OT: only 4 OTS are available against requirements of 5. Each OTs has 2 Tables which is not as per Norms. Post operative beds are not available, Post operative ward has only one bed.	One more OT will be ready for use by May 2015.		
19	Radio diagnosis department: No faculty is available. AERB approval is not available.	One Asst. Prof. is transferred from Health department. Written letter to AERB for the approval of necessary Radiological equipments.	Copy enclosed	
21	Central Landry: manual	Tender has been called for mechanization of the landry.		
22	There is no qualified pharmacist in pharmacy.	Pharmacist will appointed shortly.		
23	Central kitchen is not functional.	Will be made Functional.		
24	Nursing staff: only 99 nurses are available against 175 required as per regulations.	54 nursing staff recruitment is under process, selection is done by KEA.	Order copy enclosed. Annexure – 4	
25	College building is under construction. Pre clinical department of anatomy, physiology, and bio-chemistry are not functional.	All buildings will be ready for occupation by may 2015. Equipments for pre-clinical departments are procured.	Supply order copy enclosed. Annexure – 5	

In this regards, the Ministry has forwarded the recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

“Recommended for review by MCI”

The Committee further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of

		any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

"1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.

15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with."

In view of above, the Executive Committee of the Council decided to obtain legal opinion from Senior Counsel on the issue of application of the qualifying criteria u/s 3 (2) (5) of Establishment of Medical College Regulations, 1999 pertaining to the person owning and managing a hospital of not less than 300 beds and deferred the matter.

19. **Vinayaka Missions Medical College, Karaikal Pondicherry- CBI inquiry in case no. RC MA1 2011A0010 registered on 12.2.2011 by CBI, Chennai.**

Read: the matter with regard to Vinayaka Missions Medical College, Karaikal Pondicherry- CBI inquiry in case no. RC MA1 2011A0010 registered on 12.2.2011 by CBI, Chennai.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

20. Index Medical College & Hospital Center, Indore- CBI inquiry in case no. RC AC 2 2010 A0003 registered on 12.6.2010 by CBI, Delhi.

Read: the matter with regard to Index Medical College & Hospital Center, Indore- CBI inquiry in case no. RC AC 2 2010 A0003 registered on 12.6.2010 by CBI, Delhi.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

21. Rohilkhand Medical College & Hospital, Bareilly - CBI inquiry in case no. RC 0062010A0014 registered by CBI, New Delhi.

Read: the matter with regard to Rohilkhand Medical College & Hospital, Bareilly - CBI inquiry in case no. RC 0062010A0014 registered by CBI, New Delhi.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

The Committee further decided to direct the office to request Principal Secretary (Medical Education), Deptt. Of Health Lucknow to confirm the veracity of the report of an investigation conducted by Joint Director, Medical, Health & FW, Bareilly and furnish complete details of the investigation/action taken report.

It was further decided to direct the office to request Director General of I.T.(Vig.) & CVO, CBDT, New Delhi to furnish the finding of Audit team (M.s Sanjay Satpal & Assoc. Chattered Accountant, New Delhi) which was appointed to carry out special audit of the IT Act in the case of Rohilkhand Medical College, Bareilly.

22. National Institute of Medical Science & Research, Jaipur - CBI inquiry in PE no.02(A)/2012 registered on 21.2.2012.

Read: the matter with regard to National Institute of Medical Science & Research, Jaipur - CBI inquiry in PE no.02(A)/2012 registered on 21.2.2012.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

23. Sri Lakshmi Narayana Institute of Medical Sciences, Pondicherry - CBI inquiry in case no. RC 24(A)/2010 registered on 21.5.2010 by CBI, ACB, Chennai.

Read: the matter with regard to Sri Lakshmi Narayana Institute of Medical Sciences, Pondicherry - CBI inquiry in case no. RC 24(A)/2010 registered on 21.5.2010 by CBI, ACB, Chennai.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

24. Mahatma Gandhi Medical College & Research Institute, Pondicherry - CBI inquiry in case no. RC MA1 2011A0008 registered on 09.02.2011 by CBI, ACB, Chennai.

Read: the matter with regard to Mahatma Gandhi Medical College & Research Institute, Pondicherry - **CBI inquiry in case no. RC MA1 2011A0008 registered on 09.02.2011 by CBI, ACB, Chennai.**

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with

the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

25. Aarupadai Veedu Medical College, Pondicherry - CBI inquiry in case no. RC 19(A) of 2011 registered on 28.4.2011 by CBI.

Read: the matter with regard to Aarupadai Veedu Medical College, Pondicherry - CBI inquiry in case no. RC 19(A) of 2011 registered on 28.4.2011 by CBI.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

26. Melmaruvathur Adhiparasakthi institute of Medical Sciences and Research, Melmaruvathur - CBI inquiry in case no. RC MA12010A0025 registered on 29.6.2010 by CBI.

Read: the matter with regard to **Melmaruvathur Adhiparasakthi institute of Medical Sciences and Research, Melmaruvathur** - CBI inquiry in case no. RC MA12010A0025 registered on 29.6.2010 by CBI.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

27. Muzaffarnagar Medical College, Muzaffarnagar - CBI inquiry in case no. PE 1202011A0002 registered on 8.3.2011 by CBI, ACB, Ghaziabad.

Read: the matter with regard to Muzaffarnagar Medical College, Muzaffarnagar - CBI inquiry in case no. PE 1202011A0002 registered on 8.3.2011 by CBI, ACB, Ghaziabad.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been

described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

28. K.P.C. Medical College & Hospital, Jadavpur, Kolkatta - CBI inquiry in case no.RC 0102010A0017 registered by CBI, Kolkata on 21.5.2010.

Read: the matter with regard to **K.P.C. Medical College & Hospital, Jadavpur, Kolkatta** - CBI inquiry in case no.RC 0102010A0017 registered by CBI, Kolkata on 21.5.2010.

The Executive Committee of the Council observed that a Case no. RC 0102010A0017 was registered by CBI, Kolkata on 21.5.2010.

The Committee also noted that the CBI, Kolkata vide their letter dated 11.7.2013 has informed that in RC 010/2010/A0017-CBI/ACB, Kolkata, the case has been closed.

The Executive Committee of the Council decided to accept the report of Sub-Committee operative part of which reads as under:

"The modalities that have been suggested by the CBI in regard to the conduct of inspections, distribution of work among the assessor, maintenance of hospital records etc. may be given an appropriate consideration by the Executive Committee for the purposes of their incorporation in the operational procedure if deemed appropriate."

The Executive Committee of the Council further observed that the Medical Council of India has taken action on remedial measures accordingly.

29. M.G.M.Medical College, Jaipur – letter received from CVO.

Read: the matter with regard to M.G.M.Medical College, Jaipur – letter received from CVO.

The Executive Committee of the Council observed that item agenda note does not reflect the subsequent developments regarding permissions / renewals / recognitions. Assessments carried out subsequently to the CBI note have not been described. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute has not been incorporated.

In view of above, the Executive Committee of the Council decided to direct the office to prepare a comprehensive agenda item note incorporating the subsequent developments regarding permissions / renewals / recognitions and assessments carried out subsequently to the CBI note and present status of case/charge sheet. A comparative chart of the deficiencies pointed out in the show cause notice and compliance submitted by the institute should be submitted with the note. This should be placed before Sub-Committee for their recommendation which should be placed before Executive Committee thereafter.

30. Maharajah's Institute of Medical Sciences, Vizianagaram – Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Maharajah's Institute of Medical Sciences, Vizianagaram – Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (5th & 6th December, 2014) and noted the following:-

1. *Most of the faculty have not shown their residence proof in Vizianagaram district where the college is located and they have shown proof of residence in Vishakhapatnam which is at a distance of 65 KM. The faculty attendance from none of the departments could be produced by the authorities by 11 am on the first day of assessment. Deficiency of Faculty – 65.49%,*
2. *Deficiency of Residents – 22.3%.*
3. *Areas of Dean's office, Staff room & College Council room are smaller than required.*
4. *Students' Hostels: Accommodation is available for 480 students against requirement of 527. Mess is not available in Boys' hostel.*
5. *There is no hostel designated as Interns' hostel.*
6. *Wards: Duty rooms for doctors, Pantry, Treatment rooms are not available in all the wards.*
7. *Radiodiagnosis department: Only 5 mobile X-ray machines are available against requirement of 6 as per Regulations.*
8. *Intercom: It is not available.*
9. *RHTC: Survey registers are not available. National health programmes are not carried out. Cold chain equipment is not available.*
8. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

"8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses*

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The Central Govt. has requested the Council to review/assess the schemes in light of the documents submitted by the colleges/applicants in compliance and the recommendations of the committee with the request to take appropriate necessary action (s) for review and furnish its recommendations accordingly to the Ministry immediately, latest by 15.04.2015. If nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Executive Committee of the Council also perused opinion of Additional Solicitor General of India and decided to accept it, which reads as under:

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate its earlier decision to recommend to the Central Govt. not to renew the permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 of Maharajah's Institute of Medical Sciences, Vizianagaram u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

31. Mahatma Gandhi Mission's Medical College, Navi Mumbai – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Mahatma Gandhi Mission's Medical College, Navi Mumbai – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting held on 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (3rd & 4th December, 2014) and noted the following:-

1. *Deficiency of faculty is 29 % as detailed in report.*
2. *Shortage of residents is 53.5 % as detailed in report.*
3. *Bed occupancy is 54 % on day of assessment as detailed in report.*
4. *There were only 7 major & 4 minor operations on day of assessment.*
5. *Clinical material: There were inadequate number of patients in OPD. The number of patients registered as provided by Registration Counter did not tally with the number of patients recorded in the registers of the departments.*
6. *ICUs: There were only 2 patients in ICCU on day of assessment. Bed occupancy was poor.*
7. *Labour Room: Instruments & equipment available are inadequate.*
8. *Examination hall cum Auditorium: Capacity is 500 against requirement of 750.*
9. *Residential Quarters: Some quarters are taken on lease outside the campus which is not as per Regulations.*
10. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 of Mahatma Gandhi Mission's Medical College, Navi Mumbai under MGM Institute of Health Sciences, Navi Mumbai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

(c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for

postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The above decision was communicated to the Central Govt. vide Council letter dated 21.01.2015 and the said decision was also communicated to the College authorities vide Council letter dated 21.01.2015 and directed to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

The Central Govt. vide letter dated 20.02.2015 has also forwarded the same compliance as submitted by the college authorities and stated that as per the proviso under section 10(A)(4) of IMC Act, 1956, a committee has been constituted for granting opportunity of personal hearing the Ministry in case of disapproval/non-renewal recommendations of the Council for the year 2015-16. The committee has given personal hearing to the authorized representatives of the medical college/applicants on 9th and 12th February, 2015. Based on the compliance submitted by the colleges concerned in support of their claim, the Committee has recommended for review/assessment of the schemes by MCI.

The Central Govt. has requested the Council to review/assess the schemes in light of the documents submitted by the colleges/applicants in compliance and the recommendations of the committee with the request to take appropriate necessary action (s) for review and furnish its recommendations accordingly to the Ministry immediately, latest by 15.04.2015. If nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Executive Committee of the Council also perused opinion of Additional Solicitor General of India and decided to accept it, which reads as under:

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the

Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate its earlier decision to recommend to the Central Govt. not to renew the permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 of Mahatma Gandhi Mission's Medical College, Navi Mumbai under MGM Institute of Health Sciences, Navi Mumbai u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

32. Al-Ameen Medical College & Hospital, Bijapur – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Al-Ameen Medical College & Hospital, Bijapur – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (8th & 9th December, 2014) and noted the following:-

1. *Deficiency of Teaching faculty is 10.27 % as detailed in report.*
2. *Shortage of Residents is 27.85 % as detailed in report.*

3. *Lecture Theaters: Facility for E class is not available.*
4. *OPD: In Ophthalmology OPD, Refraction Room & Dark Room are common.*
5. *O.T.s: At present surgical special specialties share O.T. with General Surgery. There are 3 tables in 2 General Surgery O.T.s indicating 2 tables in 1 O.T. which is not as per norms.*
6. *Radiodiagnosis department: AERB approval is not available.*
7. *CSSD: ETO sterilizer is not available. Equipment is inadequate.*
8. *RHTC: Teaching & Non-teaching staff were not present at RHTC at the time of assessment. Separate blocks for boys & girls are not available.*
9. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd batch of MBBS students against the increased intake i.e. from 100-150 of Al-Ameen Medical College & Hospital, Bijapur under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses*

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses...."

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The above decision was communicated to the Central Govt. vide Council letter dated 21.01.2015 and the said decision was also communicated to the College authorities vide Council letter dated 21.01.2015 and directed to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

The Central Govt. has requested the Council to review/assess the schemes in light of the documents submitted by the colleges/applicants in compliance and the recommendations of the committee with the request to take appropriate necessary action (s) for review and furnish its recommendations accordingly to the Ministry immediately, latest by 15.04.2015. If nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Executive Committee of the Council also perused opinion of Additional Solicitor General of India and decided to accept it, which reads as under:

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision to recommend to the Central Govt. not to renew the permission for admission of 3rd batch of MBBS students against the increased intake i.e. from 100-150 of Al-Ameen Medical College & Hospital, Bijapur under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted postgraduate courses.

33. Sri Aurobindo Instt. of Medical Sciences, Indore, MP– Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100 to 150 for the academic session 2015-16.

Read: the matter with regard to Sri Aurobindo Instt. of Medical Sciences, Indore, MP– Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100 to 150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its earlier meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (29th & 30th December, 2014) and noted the following:-

1. *Deficiency of faculty is 32.22 % as detailed in report.*
2. *Shortage of Residents is 41.67 % as detailed in the report.*
3. *Dean & Medical Superintendent were on leave. Charge was not given to any faculty. Dean's office was locked at 09:45 a.m. on 29/12/2014 (i.e. first day of assessment). Dean reached institute at 12:30 p.m. & Medical Superintendent came at 11:45 a.m. Faculty & Residents (around 100) along with Dean who came to the institute after 11:00 a.m. on 29/12/2014 forcibly entered College Council hall at 05:00 p.m. where verification on D.F. was going on and started arguing for accepting them for attendance. They misbehaved with assessors and stalled the process for more than 2 hours. On 30/12/2014, the representative of the management of the institute and the dean met the assessors and tendered unconditional apology for the incident.*
4. *Wards: Ancillary facilities like pantry, store room, duty room & demonstration room are not available .*
5. *OPD attendance: Data given by the institute is grossly inflated and manipulated on computer. Assessors' estimated it to be not more than 800.*
6. *Casualty attendance: Data given by the institute is grossly inflated and manipulated on computer. There were 9 patients till 1:30 p.m. on 29/12/2014 & 3 patients when visited on 30/12/2014 at 10:30 a.m.*
7. *Admissions & Discharge: Data given by the institute is grossly inflated and manipulated on computer.*
8. *There were only 3 major & 4 minor operations in the hospital on day of assessment. No other O.T. list was available at that time.*
9. *Radiological & Laboratory Investigations: Data given by the institute is grossly inflated and manipulated on computer.*
10. *Eight faculty have not been considered as teachers due to reasons mentioned in the report. 5 Senior Residents have not been considered as they are not staying in campus. 4 other Senior Residents have not been considered due to reasons mentioned in the report.*
11. *Seven faculty have been found doing private practice whose timings of private practice mentioned on his clinic overlap with the institute's timings. They cannot be considered as faculty as practice during institute working hours is not permitted.*
12. *Dr. G.S. Gehlot, Asst. Prof. of Medicine, agreed doing private practice though this fact was not mentioned on his Declaration Form. He has not submitted a written statement in spite of being asked to do so.*
13. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 of Sri Aurobindo Instt. of Medical Sciences, Indore, MP under under Devi Ahilya Vishwa Vidyalaya, Indore u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clauses 8(3)(1)(c) & 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010(Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act,1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

- (d) Colleges which are found to have employed teachers with faked/forged documents:

If it is observed during any institute is found to have employed a teacher with faked/forged documents and have submitted the declaration form of such a teacher, such an institute will not be considered for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year and the next academic year also.

In view of above, it was decided not to consider the institute for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act,1956.

The Executive Committee of the Council further decided to refer the matter to the Ethics Committee.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated 26.09.2014 in the name of Dr. Manjushree Bhandari and Shri Anil Pokharna which states as under:

"..1. .That SAIMS hereby declares that there is no defect in the SAIMS medical college/institution i.e. Sri Aurobindo Medical College & Postgraduate Institute, Indore.

2. That SAIMS shall not admit students, in any case, after 30th Sept. as directed by the Hon'ble Supreme Court.

3. That the admissions shall be done as per MCI Rules & Regulations notified on 16.4.2010.

4. That SAIMS undertakes an agrees that in case the statement made hereinabove in this undertaking is found to be incorrect in the next inspection by the MCI, the amount of SAIMS deposited in the form of Bank Guarantee with MCI shall be forfeited by way of penalty.

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

“ Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of *Priya Gupta v. State of Chhattisgarh* [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of *Priya Gupta* (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of *Priya Gupta* (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.

2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.

3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.

4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.

5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

In view of above, the Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks."

The above decision was communicated to the Central Govt. vide Council letter dated 21.01.2015 and the said decision was also communicated to the College authorities vide Council letter dated 21.01.2015 and directed to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

The Central Govt. vide letter dated 20.02.2015 has also forwarded the same compliance as submitted by the college authorities and stated that as per the proviso under section 10(A)(4) of IMC Act, 1956, a committee has been constituted for granting opportunity of personal hearing the Ministry in case of disapproval/non-renewal recommendations of the Council for the year 2015-16. The committee has given personal hearing to the authorized representatives of the medical college/applicants on 9th and 12th February, 2015. Based on the compliance submitted by the colleges concerned in support of their claim, the Committee has recommended for review/assessment of the schemes by MCI.

The Central Govt. has requested the Council to review/assess the schemes in light of the documents submitted by the colleges/applicants in compliance and the recommendations of the committee with the request to take appropriate necessary action (s) for review and furnish its recommendations accordingly to the Ministry immediately, latest by 15.04.2015. If nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

It was further observed that the time schedule prescribed under Establishment of Medical College Regulations with regard to last date prescribed under Establishment of Medical College Regulations, 1999 as amended from time to time reads as under:

No.	Stage of processing	Last Date
1.	Receipt of applications by the Central Govt.	From 1st August to 31st August (both days inclusive) of any year
2.	Receipt of applications by the MCI from Central Govt.	30th September
3.	Recommendations of Medical Council of India to Central Government for issue of Letter of Intent	15th December
4.	Issue of Letter of Intent by the Central Government.	15th January
5.	Receipt of reply from the applicant by the Central Government requesting for Letter of permission.	15th February
6.	Receipt of Letter from Central Government by the Medical Council of India for consideration for issue of Letter of Permission.	1st March
7.	Recommendation of Medical Council of India to Central Government for issue of India to Central Government for issue of Letter of Permission.	15th May
8.	Issue of Letter of Permission by the Central Government.	15th June

It was further observed that these Regulations being Statutory Regulations are mandatory and binding in character and are required to be strictly adhered to by all the authorities. The operative part of the order of Hon'ble in Mridul Dhar's case is as under:

“1-13.

14. Time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.
15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.”

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999. My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate its earlier decision to recommend to the Central Govt. not to renew the permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 of Sri Aurobindo Instt. of Medical Sciences, Indore, MP under under Devi Ahilya Vishwa

Vidyalaya, Indore u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, not to consider the institute for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017), to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956. alongwith direction of stoppage of admissions in permitted postgraduate courses, to refer the matter to the Ethics Committee and invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks.

34. Mediciti Institute of Medical Sciences, Ghanpur – Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Mediciti Institute of Medical Sciences, Ghanpur – Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

“The Executive Committee of the Council considered the Council Assessors report (5th & 6th December, 2014) and noted the following:-

1. *Deficiency of faculty is 10 % as detailed in report.*
2. *Shortage of Residents is 16.5 % as detailed in report.*
3. *Common Room for Girls is in corridor and requires improvement.*
4. *O.T.: There are 15 tables in 11 O.T.s indicating more than 1 table in several O.T.s which is not as per norms.*
5. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 4th batch of MBBS students against the increased intake i.e. from 100-150 of Mediciti Institute of Medical Sciences, Ghanpur under NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

(c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.”

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The above decision was communicated to the Central Govt. vide Council letters dated 21.01.2015 & 13.02.2015 the said decision was also communicated to the College authorities vide Council letters dated 21.01.2015 & 13.02.2015 directed to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

It is further observed that the Executive Committee on 10/02/2015 while confirming the minutes of the meeting of 31st Jan, 2015 had decided to include the following paragraph as a part of the decision of minutes dated 13.01.2015:-

"The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated 26.09.2014 in the name of Dr. V. Malakonda Reddy which states as under:

1. *"I say that there is no defect in medical college run by the petitioner institution.*
2. *I say that if the above statement is found to be incorrect at the time of next inspection, the deposit of the institution with MCI shall stand forfeited."*

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of

the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions. It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect of the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have

been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.

2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.

3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.

4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.

5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

The Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks."

The Central Govt. vide letter dated 20.02.2015 has also forwarded the same compliance as submitted by the college authorities and stated that as per the proviso under section 10(A)(4) of IMC Act, 1956, a committee has been constituted for granting opportunity of personal hearing the Ministry in case of disapproval/non-renewal recommendations of the Council for the year 2015-16. The committee has given personal hearing to the authorized representatives of the medical college/applicants on 9th, 10th and 12th February, 2015. Based on the compliance submitted by the colleges concerned in support of their claim, the Committee has recommended for review/assessment of the schemes by MCI.

The Central Govt. has requested the Council to review/assess the schemes in light of the documents submitted by the colleges/applicants in compliance and the recommendations of the committee with the request to take appropriate necessary action (s) for review and furnish its recommendations accordingly to the Ministry immediately, latest by 15.04.2015. If nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*

2. *Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses

which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of recommending to the Central Govt. not to renew the permission for admission of 4th batch of MBBS students against the increased intake i.e. from 100-150 of Medici Institute of Medical Sciences, Ghanpur under NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16), to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses and to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks.

35. Himalayan Institute of Medical Sciences, Dehradun – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Himalayan Institute of Medical Sciences, Dehradun – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (12th & 13th December, 2014) and noted the following:-

1. Shortage of Residents is 30.71 % as detailed in report.
2. Central Library: It is not air-conditioned.
3. Workload of special investigations like Ba, IVP is NIL on day of assessment.
4. RHTC: It is very small and congested. There is no place for teaching. Separate blocks for accommodation of boys & girls are not available. Facilities for cooking & dining are not available. Specialists' visits are not organized. Cold chain equipment is not available. Survey registers are not maintained. There are no activities under National health Programmes.
5. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 of Himalayan Institute of Medical Sciences, Dehradun under HIHT University, Dehradun u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

(c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate course.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The above decision was communicated to the Central Govt. vide Council letters dated 21.01.2015 the said decision was also communicated to the College authorities vide Council letters dated 21.01.2015 directed to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

The Central Govt. vide letter dated 20.02.2015 has also forwarded the same compliance as submitted by the college authorities and stated that as per the proviso under section 10(A)(4) of IMC Act, 1956, a committee has been constituted for granting opportunity of personal hearing the Ministry in case of disapproval/non-renewal recommendations of the Council for the year 2015-16. The committee has given personal hearing to the authorized representatives of the medical college/applicants on 9th, 10th and 12th February, 2015. Based on the compliance

submitted by the colleges concerned in support of their claim, the Committee has recommended for review/assessment of the schemes by MCI.

The Central Govt. has requested the Council to review/assess the schemes in light of the documents submitted by the colleges/applicants in compliance and the recommendations of the committee with the request to take appropriate necessary action (s) for review and furnish its recommendations accordingly to the Ministry immediately, latest by 15.04.2015. If nothing is heard by Council then it will be presumed that the MCI has no further comments to offer in the matter.

The Executive Committee of the Council perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of recommending to the Central Govt. not to renew the permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 of Himalayan Institute of Medical Sciences, Dehradun under HIHT University, Dehradun u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate course.

36. Sree Gokulam Medical College & Research Foundation, Trivandrum, Kerala – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 50 to 150 for the academic session 2015-16.

Read: the matter with regard to Sree Gokulam Medical College & Research Foundation, Trivandrum, Kerala – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 50 to 150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 13/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (2nd & 3rd December, 2014) and noted the following:-

1. *Bed occupancy was 65 % on day of assessment.*
2. *There were only 2 patients in ICCU on day of assessment.*
3. *AERB approval is not available for all X-ray machines.*
4. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5th batch of MBBS students against the increased intake i.e. from 50-150 of Sree Gokulam Medical College & Research Foundation, Trivandrum, Kerala under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses*

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for

undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action."

The above decision was communicated to the Central Govt. vide Council letters dated 21.01.2015 the said decision was also communicated to the College authorities vide Council letters dated 21.01.2015 directed to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

It is further stated that the Executive Committee of the Council while confirming the minutes of the meeting of 31st Jan, 2015 decided to include the following paragraph as a part of the decision in item nos 71, 72 & 73 of minutes dated 13.01.2015:-

"The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated nil in the name of Dr. A.M. Gopalan and Dr. K.K. Manojan which states as under:

".....We hereby solemnly affirm that the defects which had been recorded at the time of last inspection by the representative of the Medical Council of India has been duly rectified and at present the defects pointed out in the report do not exist. If the statement made in the undertaking is found to be incorrect at the time of next inspection, we understand that our Bank Guarantee deposited with Medical Council of India for renewal of seats from 50 to 150 will be forfeited by way of penalty".

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting. *

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of Priya Gupta v. State of Chhattisgarh [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at

present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions. It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.

2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.

3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.

4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.

5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

The Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks."

The above decision was communicated to the Central Govt. vide Council letter dated 13.02.2015 with copy to other concerned authorities and the said decision was also communicated to the College authorities vide Council letter dated 13.02.2015.

The Executive Committee of the Council also perused the letter from The Principal, Sree Gokulam Medical College & Research Foundation, Trivandrum, Kerala vide another letter dated 20.02.2015 has stated as under:-

".....It is submitted that the assessment inspection for renewal of permission for admission to 5th batch of MBBS students against the increased intake i.e. From 50 to 150 has been carried out on 2nd and 3rd December 2014. The deficiencies pointed out in the assessment report were communicated to this office vide letter 2nd cited, i.e. Letter dt. 21/01/2015, with a direction to submit the compliance with in one month from the date of issue of the said letter, i.e. with in one month from 21/01/2015. (booked by speed post on 22/01/2015). This would mean that this institution has to furnish a reply before 21st February 2015.

In the mean time, Ministry of Health & Family Welfare Government of India vide letter dt. 3rd February 2015 forwarded a copy the council letter dt. 21/01/15 and granted hearing by the committee constituted for the purpose on 10/02/2015 at 2 PM at Ministry of Health, Nirman Bhavan, New Delhi. Accordingly Dr.

Manojan.K.K., Secretary of the Trust running this institution appeared before the committee and presented a compliance report with required supporting documents. But the decision of the committee in the matter consequent to the hearing is pending.

In accordance with the direction contained in the Council letter dt. 21/01/15 we submitted the compliance report to Medical Council of India vide this office letter dt. 09/02/15, which has been delivered to the council office on 20/02/15. The letter 1st cited (i.e. Letter dt. 13/02/15), is seen issued prior to the expiry of time allowed to this institution for submission of compliance report

A perusal of para 4 and 6 of the judgment of the Hon'ble Supreme Court of India in WP © No. 469 of 2014 makes it clear that the submission and undertaking of the Institutions are specifically with respect to the rectification of defects pointed out in the inspection conducted for renewal of permission for the academic year 2014-15 and not any future deficiency.

Paragraph 4

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this court in the case of Priya Gupta (Supra).

Paragraph 6

Looking at the peculiar facts of the case and the circumstances stated herein above, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs. 10 crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

The above portions of the judgment makes clear that;

what the Counsel appeared for the institutions submitted before the Hon'ble court is regarding to the rectification of defects pointed out in the inspection conducted for renewal of permission for the academic year 2014-15 as is evident from the following narrations.

"that the defects which had been recorded at the time of last inspection by the representatives of Medical Council of India have been duly rectified and at present the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh compliance verification / inspection."

"How ever the stand taken by the Central Government/Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this court in the case of Priya Gupta (Supra)".

It is evident from the above two narrations in the judgment, that the Hon: Court considered only the facts relating to renewal permission for the year 2014-15, particularly in the context of the stand taken by the Central Government and Medical Council of India that compliance verification cannot be undertaken in the academic year because of paucity of time, and in para 6 directed the petitioners to file undertaking by President/Chairman and Secretary of the institution running Medical College within 10 days to the effect that there is no defect in the Medical colleges run by them and would also state that their deposits with MCI be forfeited by way of penalty, if the statement made in the undertaking found to be in correct at the time of next inspection.

In accordance with the direction in para 6 of judgment we filed the undertaking. We invite your kind attention to the relevant excerpt of the undertaking and court the same as follows for ready reference.

"We hereby solemnly affirm that the defects which had been recorded at the time of last inspection by the representative of the Medical Council of India has been duly rectified and at present the defects pointed out in the report do not exist. If the statement made in the undertaking is found to be incorrect at the time of next inspection, we understand that our Bank Guarantee deposited with Medical Council of India for renewal of seats from 50 to 150 will be forfeited by way of penalty".

As per the order of Hon'ble Supreme Court of India dt. 18/09/2014, imposition of penalty is only if the undertaking filed is found to be incorrect at the time of next Inspection. The next inspection for 2015-16 was taken up on 2nd and 3rd December 2014. No defects point out in the 2014-15 inspection was observed and noted in 201516 Inspection report.

Sl. No.	Defects pointed out in the Inspection for 2014-15 (3 rd Renewal)	Defects pointed out in the inspection for 2015-16 (4 th Renewal)
1	Examination Hall cum Auditorium – At present, seating arrangement for only 200 available against requirement of 350 as per regulations.	Bed occupancy was 65% on the day of assessment.
2	Lecturer Theatre in the Hospital has no facility for E.Class. It is not air conditioned.	There were only 2 patients in ICCU on day of assessment
3	UHC — Teaching room is too cramped and there is very little room for placement of chairs	AERB approval is not available for all X-ray machines.
4	Website — it does not provide information about CME programme, academic activities, awards, achievement, informations about affiliating University, Infrastructure details like quarters, citizens chart, list of students admitted, Results of last one year examination ,and anti ragging committee	

The bed requirement for 4th renewal as per the norms fixed by the Medical Council of India is 530 for undergraduate course and additional 26 beds for PG courses. So total requirement is 556 beds. Against this we are having 630 beds in the hospital. The inspection report itself shows that 96 patients were mobilized for investigation/ procedures. The patients mobilized for procedures /investigations were not taken note of by the Inspectors to arrive at the bed occupancy. So the actual bed occupancy on the day of Inspection was 83.45%

The bed requirement in the ICCU as per norms is only 5 beds. We have. 10 beds and 4 patients including 2 patients taken for angiograph in the cath lab.

AERB approval was available for all X-ray machines except the one portable machine newly purchased which has now been registered with AERB. Now all X-ray machines are AERB approved.

It is evident from the above that the defects pointed out in the inspection for 2014-15 do not exist now and as such the undertaking

filed by the Chairman and Secretary of this institution is absolutely correct. As per the order dt. 18/09/2014 of Hon:ble Supreme Court of India and as per the undertaking filed by the Chairman and Secretary of this institution, imposition of penalty is only if the undertaking is found incorrect. Since the defects pointed out in the inspection for the year 2014-15 do not exist now, this institution is not liable to pay any penalty as per the decision of the executive committee of Medical Council of India, communicated vide letter dt. 13/02/15.

In view of the above facts kindly re-consider the matter and exonerate from invocation of bank guarantee submitted by this institution."

The Executive Committee of the Council also perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their

studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010 the Executive Committee of the Council decided to reiterate earlier decision of recommending to the Central Govt. not to renew the permission for admission of 5th batch of MBBS students against the increased intake i.e. from 50-150 of Sree Gokulam Medical College & Research Foundation, Trivandrum, Kerala under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, not to consider the Institute for processing applications for postgraduate courses in the current Academic year (i.e. 2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses and to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantees within 2 weeks.

The Executive Committee of the Council further observed that with regard to decision on revocation of bank guarantee, the Institute has claimed that it is not applicable as none of the deficiencies pointed out in the assessment report for 2014-2015 academic year have been shown in assessment for 2015-2016 academic year which means that the deficiencies pointed out in 2014-2015 have been rectified for which the undertaking was given. Comparative chart of deficiencies for 2014-2015 & 2015-2016 shows that the contention of the institution that none of the deficiencies pointed out in 2014-2015 have been shown in assessment report for 2015-2016 appears to be correct. In this view of matter, it was decided to obtain legal opinion whether bank guarantee can be invoked in such a case.

37. Increase of MBBS seats from 100 to 150 at Saraswati Institute of Medical Sciences, Hapur for the academic session 2015-16.

Read: the matter with regard to increase of MBBS seats from 100 to 150 at Saraswati Institute of Medical Sciences, Hapur for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting held on 31/01/2015, it was decided as under:

“The Executive Committee of the Council considered the Council Assessors report (27th & 28th January, 2015) and noted the following:-

1. *There is no meeting of Pharmaco Vigilance Committee in the previous year.*
2. *Examination hall cum Auditorium: Area available is 750 sq.m. against requirement of 800 sq.m. as per Regulations. Available capacity is 400 against requirement of 500.*
3. *Central Library: Area available is 1,800 sq.m. against requirement of 2,400 sq.m. Capacity of Reading room (outside) & Reading room (inside) is 140 & 135 respectively against requirement of 150 each as per regulations. More than 10 copies of many titles have been counted which is not permissible. Journals for 2014 are not available.*
4. *Wards: Space is less than 1.5 m. required as per Regulations. Audiovisual aids are not available in some demonstration rooms.*
5. *Bed occupancy is 67 % on day of assessment.*
6. *There are only total 16 major operations for the whole hospital on day of assessment which is inadequate.*
7. *There was no delivery – normal or Caesarean – on day of assessment.*
8. *ICUs: There was no patient in MICU & only 1 patient in SICU on day of assessment.*
9. *Labour Room: Space between 2 beds is inadequate.*

10. Anatomy department: Number of catalogues in museum is inadequate.
11. Physiology department: Seating capacity in Clinical Physiology laboratory is inadequate.
12. Biochemistry department: Audiovisual aids are inadequate in demonstration room.
13. Audio visual aids are not adequate in departments of Microbiology, Pharmacology, Forensic Medicine and Community Medicine.
14. Shortage of Residents is 19 & as detailed in the report.
15. Dr. Mumtaz Sanghmitra, Professor of O.G. is also Member of Parliament and hence cannot be considered as full time faculty.
16. Valid proof of payment was not produced by some faculty & Residents. Certain faculty & faculty reported that they have not been paid salary for the months of September to December 2014.
17. Deficiency of faculty is 16.53 % (i.e. 21 out of 127) as under:
 - (a) Professor: 2 (Biochemistry: 1; Tb & Chest): 1
 - (b) Associate Professor: 2 (Pathology: 1; Psychiatry: 1)
 - (c) Assistant Professor: 1 (Pathology: 1)
 - (d) Tutor: 16 (Anatomy: 3; Physiology: 3; Biochemistry: 3; Pathology: 4; Microbiology: 1; Forensic Medicine: 1; Community Medicine: 1)
18. Shortage of Residents is 17.34 % (i.e. 17 out of 98) as under:
 - (a) Senior Resident: 15 (General Medicine: 4; Paediatrics: 1; Skin & VD: 1; Ophthalmology: 1; Anaesthesiology: 5; O.G.: 2; Dentistry: 1.)
 - (b) Junior Resident: 2 (General Medicine: 1)
19. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to increase of MBBS seats from 100 to 150 at Saraswati Institute of Medical Sciences, Hapur under Ch. Charan Singh University u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action.

The minutes of the above item were read and confirmed in the meeting itself."

The Executive Committee of the Council also observed that the institute has withdrawn its proposal for increase of MBBS seats from 100 to 150 vide letter dated 27.02.2015.

The Executive Committee of the Council perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70

%, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses....."

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over the college, the querist or the Central Govt....."

In view of above and upon application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of recommend to the Central Govt. not to issue letter of permission for increase of MBBS seats from 100 to 150 at Saraswati Institute of Medical Sciences, Hapur under Ch. Charan Singh University u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, and not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

38. Kalinga Institute of Medical Sciences, Bhubaneswar – Renewal of Permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Kalinga Institute of Medical Sciences, Bhubaneswar – Renewal of Permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dt. 31/01/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors report (27th & 28th January, 2014) and noted the following:-

1. Deficiency of faculty is 29.68 % as detailed in the report. There was discrepancy in the salary amount mentioned in appointment order, emolument statement and Form 16.
2. Shortage of Residents is 96.33 % as detailed in the report. Many Residents are not staying in the hostel.
3. As many as 71 faculty & Residents as detailed in the report have submitted fake address proof of mobile bill. Original bill was not produced and the person could not tell mobile number mentioned on the respective bill. On dialing the number, there was no response.
4. Dr. Swati Banerjee, Tutor in Physiology; Dr. P.K. Sengupta, Tutor in Physiology and Dr. S. Sarkar, Tutor in Biochemistry have submitted fake salary certificates from the institute as they are inservice PG candidates also drawing salary from the Govt. of Odisha.
5. OPD on day of assessment was 450 against requirement of 1000 as per Regulations.
6. Bed occupancy was 28 % on day of assessment against requirement of 75 % as per Regulations.
7. There were only 12 major & NIL Minor operations on day of assessment.
8. Data given by the institute is grossly inflated.
9. Lecture Theaters: Facility for E class is not available in lecture theatre of capacity 250 and also in Hospital lecture theater.
10. Residents' Hostel: Residents & Students from Dental College are also staying. Resultantly, capacity is not adequate.
11. Residential Quarters: No quarters are available for non-teaching staff.
12. Wards: Wards are not as per Regulations. All so called wards are small / medium sized rooms with no one having bed capacity of 30. More than 90 % of these rooms do not have toilet facility. Doctors' duty room, Pantry, Examination cum Treatment room, Store Room & Demonstration Rooms are not available. Essential life saving medicines were not available.
13. Casualty: Disaster Trolley, Emergency Drug Tray & Crash Cart are not available.
14. Only 1 mobile X-ray & 3 static X-ray machines are available which are inadequate.
15. Pathology department: Only 3 catalogues are available in the museum.
16. Students' Hostels: Study room is not air-conditioned. In Boys' hostels, students from Dental & Nursing colleges are staying.
17. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 100-150 of Kalinga Institute of Medical Sciences, Bhubaneswar under KIIT University, Bhubaneswar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clauses 8(3)(1)(c) & 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

- (d) Colleges which are found to have employed teachers with faked/forged documents:

If it is observed during any institute is found to have employed a teacher with faked/forged documents and have submitted the declaration form of such a teacher, such an institute will not be considered for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year and the next academic year also.

In view of above, it was decided not to consider the institute for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council further decided to refer the matter to the Ethics Committee.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action.

The minutes of the above item were read and confirmed in the meeting itself.

The above decision was communicated to the Central Govt. and the institute vide Council letter dated 31.01.2015. In response to above, the Principal, Kalinga Institute of Medical Sciences, Bhubaneswar vide letter dated 27.02.2015 has submitted the compliance alongwith the necessary documents.

The Executive Committee of the Council perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(2)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)1(b) and 8(3)1(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of

the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

In view of above and upon application of clause 8(3)(1)(c) & 8(3)(1)(d) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of recommending to the Central Govt. not to renew the permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 100-150 of Kalinga Institute of Medical Sciences, Bhubaneswar under KIIT University, Bhubaneswar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, not to consider the institute for renewal of permission/recognition for award of MBBS degree/processing the applications for postgraduate courses for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 and to refer the matter to the Ethics Committee.

39. Navodya Medical College, Raichur – Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Navodya Medical College, Raichur – Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council observed that at its meeting dated 10/02/2015, it was decided as under:

"The Executive Committee of the Council considered the Council Assessors reports (3rd & 4th December 2014) & (20th & 21st January, 2015) and noted the following:-

1. Shortage of Residents is 27.83 % as detailed in report.
2. Lecture Theaters: Facility for E class is not available.
3. ICUs: There were only 2 patients in SICU on day of assessment.
4. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 of Navodaya Medical College, Raichur under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and further decided to apply clauses 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

“8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.”

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the Academic year (2016-17) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.”

The above decision was communicated to the Central Govt. and the institute vide Council letter dated 12.02.2015. In response to above, the Principal, Navodaya Medical College, Raichur vide letter dated 09.03.2015 has submitted the detailed compliance report along with the necessary documents.

The Executive Committee of the Council perused the opinion dated 14/03/2015 from Ld. Addl. Solicitor General of India and decided to accept it, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- “1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students.”

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

“.....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily

required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

In view of above and upon application of clause 8(3)(1)(c) & 8(3)(1)(d) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16th April, 2010, the Executive Committee of the Council decided to reiterate earlier decision of recommending to the Central Govt. not to renew the permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 of Navodaya Medical College, Raichur under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2015-2016, not to consider the Institute for processing applications for postgraduate courses in the Academic year (2016-17) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

40. Admission of MBBS student at Malabar Medical College & Research Centre, Kozhikode, Kerala for the Academic Year 2014-15.

Read: the matter with regard to admission of MBBS student at Malabar Medical College & Research Centre, Kozhikode, Kerala for the Academic Year 2014-15.

The Executive Committee of the Council observed that the Director Medical Education, Kerala with copy to institute was requested vide Council letter dated 30/12/2014 to confirm immediately the above facts of the following four candidates for further consideration in the matter:-

1. Adithya Anil
2. Ashique Ummer K M
3. Joshua Gerold
4. Lakshmi S

In reference to above the DME, Kerala vide his letter dated 09/02/2015 has informed that four candidates admitted by Malabar Medical College to the vacant seats the Commissioner for Entrance Examination has commented that it can't be adjudged that the admission have been made on the basis of the merit in the rank list of the candidate, which is not in accordance with the direction of Supreme Court of India that admission should be made on the basis of merit.

Further it is stated that the Principal of the said college vide his letter dated 10/03/2015 has informed that all the above four candidates have been discharged. The discharge letters have also been attached.

In above view of matter, it was decided by the Executive Committee that no further action is required to be taken in the matter. However, the office was directed to ascertain from the Principal present status of discharged students.

41. Recognition/Approval of Sikkim Manipal Institute of Medical Sciences, Sikkim for the award of MBBS degree granted by Sikkim Manipal University, Gangtok, Sikkim against the increased intake i.e. from 50-100 seats u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/Approval of Sikkim Manipal Institute of Medical Sciences, Sikkim for the award of MBBS degree granted by Sikkim Manipal University, Gangtok, Sikkim against the increased intake i.e. from 50-100 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council observed that at its meeting held on 16.03.2015, the Executive Committee had decided as under:-

The Executive Committee of the Council considered the assessment report (10th & 11th March, 2015) and noted the following:-

1. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	120	115	5
2	Paediatrics	60	30	30
3	Tb & Chest	20	16	4
4	General Surgery	120	118	2
5	Orthopaedics	60	45	15
	TOTAL			56

2. *Wards: Wards are not as per MC I norms. They are very small with capacity of 4, 8, 11 & 18 beds. Many wards do not have examination rooms, Demonstration rooms, Doctors' duty room, Pantry, Store room, etc. In small wards, no spate Nursing station is available.*

3. *OPD attendance on day of assessment was 762 which is inadequate. However, on physical verification during round it appears to be less than 500.*

4. *Bed occupancy was 31 % on day of assessment which is grossly inadequate.*

5. *Number of Major & Minor operations on day of assessment was only 3 & 5 respectively which is inadequate.*

6. *Radiological investigations are inadequate. Workload of special investigations like Ba, IVP is NIL.*

7. *Histopathology workload is only 3 on day of assessment.*

8. *Only 4 mobile X-ray machines are available against requirement of 6 as per Regulations.*

9. *Anatomy department: Mounted specimens are only 98. Cold storage is not available.*

10. *Dr. Indralal Sharma, Asso. Prof. has submitted TDS certificate issued by the Dean which contradicts with that mentioned in D.F. There is data mismatch between joining date & experience dates.*

11. Deficiency of teaching faculty is 8.2 % as detailed in report.
12. Shortage of Residents is 33.9 % as detailed in report.
13. Dean has stated on P. 61 that he does not agree with the report as (i) Excess Asst. Prof. have not been counted as Senior Residents & (ii) Faculty & workload of STNM Hospital has not been counted.

With regard to first observation of the Dean, it cannot be accepted as Executive Committee vide its decision dt. 01.10.2014 has already decided that excess Asst. Prof. will not be counted towards deficit of Senior Residents and this decision has been included in the Assessors' Guide which is placed on website of MCI and is also well publicized before the assessments began.

With regard to second observation, the Executive Committee noted clause 2(5) of the Qyalifying Criteria of Establishment of Medical College Regulations, 1999 which reads as under:-

"That the person owns and manages a hospital of not less than 300 beds with necessary infrastructural facilities capable of being developed into teaching institution in the campus of the proposed medical college".....

These Regulations being Statutory Regulations are mandatory and binding in charater and are required to be strictly adhered to all authorities as per directions of Hon'ble Supreme Court in Mridul Dhar's case.

Therefore, the Executive Committee of the Council decided that the observation (ii) cannot be accepted.

14. On day of assessment, in Paediatric ward, out of 30 beds, total 28 patients were shown to assessors. However, most of patients were not ill enough to warrant admission. None of the patients were on I.V. fluids. One patient named Phurzung Lepcha, certain symptoms as told by patient did not match with Sister's & Resident doctor's verbal statements. Resident doctor told assessors that blood investigation of this patient had been done but the patient denied his blood being taken. Professor & HOD Paediatrics accepted and gave a written statement that half of the patients of Paediatric ward were not genuine and they were brought for purpose of examination.

15. In Ophthalmology, number of major operations performed were only 1, 3, 2 & 1 during the months of March, February, January 2015 & December 2014 respectively which is grossly inadequate.

16. Part I of SAF shows OPD timing as 9 a.m. – 5 p.m. but it is not mentioned in OPD building, Hospital building or in record papers.

17. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Government not to recognise/approve Sikkim Manipal Institute of Medical Sciences, Sikkim for the award of MBBS degree granted by Sikkim Manipal University, Gangtok, Sikkim against the increased intake i.e. from 50-100 seats u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 01 month for further consideration of the matter.

The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated 29/09/2014 by the college authorities which states as under:

1) Whereas by an Act of the State Legislature called the Sikkim Manipal University of Health Medical and Technological Sciences Act, 1995 (Act No.9 of 1995) published in the Sikkim Government Gazette No.184 dated 15.10.1995. The Petitioner Institution was established.

2) The Petitioner University had filed WP No.34 of 2014, preying the Hon'ble Court to issue an appropriate writ, order or direction quashing and setting aside the impugned order contained in File No.U-12012/682/2014-ME(P-II) dated 15th July, 2014 of the respondent no.1 disapproving the scheme of renewal of permission of

5th Batch of 50 to 100 students of MBBS course for the academic session 2014-15 and consequently to quash the letter No.MCI-37(1)(R1075)(UG)/2013-Med./113914, dated 10.06.2014 of the respondent No.2 recommending the Central Government not to renew the permission of 5th batch of MBBS students against the increased intake from 50 to 100 u/s 10A of the IMC Act, 1956 and issue an appropriate writ, order or direction commanding the respondents herein to consider the prayer of the petitioners herein to increase the intake capacity from 50 to 100 students for admission to the 1st year of the MBBS course for the academic session 2014-15 in the light of the compliance report filed by the petitioners on 09.07.2014 and if necessary to carry out a compliance verification inspection forthwith and issue an appropriate writ, order or direction restraining the respondents 1 & 2 from reducing the intake capacity of the petitioner college from 100 to 50 for the academic session 2014-15 for admission to the 1st year of the MBBS course and permit the petitioners herein to admit 100 students to the 1st year of the MBBS course for the academic session 2014-15 during the pendency and till final disposal of the writ petition by this Hon'ble court.

3) The Sikkim Manipal University, undertakes to this Hon'ble Court that, there is no deficiency considering the STNM hospital and it's specialists Medical Officers and such other staff of the Hospital are part of this institution as per the Judgement of This Hon'ble Court in WP No.37/2011, and there are no deficiencies as pointed out by the Medical Council of India.

4) In the event the institution for any reason whatsoever does not comply with this solemn Undertaking, this Hon'ble Court may, if it so chooses, direct that the Bank Guarantee/Security furnished by this Institution to the Medical Council of India be forfeited.

5) The admission to the academic year 2014-15 with respect to the seats to be filled will be in accordance with the norms of the Medical Council of India and the candidates will be admitted from the merit list prepared by the petitioner university and the fees to be charged from the students admitted through this process will be in accordance with the orders of the Hon'ble Supreme Court."

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of *Priya Gupta v. State of Chhattisgarh* [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical

Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of Priya Gupta (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of Priya Gupta (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect to the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.

2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.

3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.

4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.

5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.

6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."

In view of above, the Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantees submitted by the Institute and directed the Institute to submit fresh bank guarantee within 2 weeks.

The Executive Committee of the Council also noted that the college has not taken action regarding discharge of students but has filed a Writ Petition for stay against the MCI letter dated 23.01.2015 in the Hon'ble Sikkim High Court, Gangtok and the matter is listed on 02.04.2015.

Further the Executive Committee of the Council decided to take legal opinion with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

(c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by

that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act,1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.”

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act,1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action.”

The Executive Committee of the Council also noted that the legal opinion dated 24.03.2015 from the Council Advocate has been received which reads as under:-

“The querist has sought my opinion as to whether, in cases of medical colleges seeking recognition of increased admission capacity in MBBS course, the querist while applying Regulation 8(3)(1)(c) of Establishment of Medical College Regulation, 1999, could deny the recognition of MBBS degrees of the students who were admitted on the permission granted by the Central Govt. and have completed their MBBS course.

The amendment notification dated 16.04.2010 inserting Clause 8(3)(1) in the Establishment of Medical College Regulation, 1999, were introduced in order to ensure that medical colleges maintain minimum infrastructure, teaching faculty, clinical material and other physical facilities, in their medical colleges for providing best of teaching and training to the students undergoing the MBBS course. The amendment dated 16.04.2010 provides that the Central Govt. at any stage convey the deficiencies found during the inspection of the applicant medical college and provide them an opportunity to rectify the same.

The aforementioned amendment also provides that at the time of renewal of permission, at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical colleges for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the Establishment of Medical College Regulation, 1999 is reproduced as under:-

“
.....

8. GRANT OF PERMISSION:

- (1) *The Central Government on the recommendation of the Council may issue a Letter of Intent to set up a new medical college with such conditions or modifications in the original proposal as may be considered necessary. This letter of Intent will also include a clear cut statement of preliminary requirements to be met in respect of buildings, infrastructural facilities, medical and allied equipments, faculty and staff before admitting the first batch of students. The formal permission may be granted after the above conditions and modifications are accepted and the performance bank*

guarantees for the required sums are furnished by the person and after consulting the Medical Council of India.

- (2) The formal permission may include a time bound programme for the establishment of the medical college and expansion of the hospital facilities. The permission may also define annual targets as may be fixed by the Council to be achieved by the person to commensurate with the intake of students during the following years.
- (3) The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.
- (3)(1) The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

PROVIDED that in respect of -

- (a) Colleges in the stage upto II renewal (i.e. Admission of third batch): If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <60%, such an institute will not be considered for renewal of permission in that Academic Year.
- (b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B.B.S. degree: If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.
- (c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses: If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are 16 recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.

In the similar facts, with regard to the interpretation of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, the querist has sought an opinion from the Ld. Additional Solicitor General of India to consider the cases of the medical college who were at the stage of recognition and the querist had invoked Regulation 8(3)(1)(b) of the Regulations. The relevant portion of the opinion dated 14.03.2015 given by the Ld. Additional Solicitor General of India is reproduced as under:-

.. . I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean / Principal of the concerned medical college. The truthfulness or veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean / Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of the Establishment Of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Act or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment Of Medical College Regulation, 1999, while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course / studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had / have no control over either the college, the querist or the Central Govt.

The Ld. Additional Solicitor General of India, in his abovementioned opinion has opined that the students who have already completed their MBBS course cannot be made to suffer on the failure of the medical college to maintain the complete infrastructure as provided in the IMC Act, 1956 and the Regulations made thereunder and that the Statutory Regulations do not bar a medical college for the purpose of recognition of MBBS degree of the students who have already completed their course. In view of the above, I am of the opinion that the cases of medical colleges who are seeking recognition of increase of admission capacity, has to be considered in accordance with the above opinion rendered by the Ld. Additional Solicitor General of India."

In view of above, the Executive Committee of the Council decided to accept the legal opinion and accordingly decided to recommend to the Central Government not to recognise/approve Sikkim Manipal Institute of Medical

Sciences, Sikkim for the award of MBBS degree granted by Sikkim Manipal University, Gangtok, Sikkim against the increased intake i.e. from 50-100 seats u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 01 month for further consideration of the matter.

With regard to non-compliance to discharge notice, the Executive Committee of the Council directed the Office to obtain opinion from the Law Officer of the Council in view of matter being pending in the High Court of Sikkim, Gangtok whether a final reminder be issued to the college to discharge the students and intimate to the Council within 02 weeks or the earlier decision (quoted below) taken on 16.03.2015 be implemented:-

".....decided to write to the concerned university to not to enroll these students and to the State Medical Council for not registering these students. A copy of the communication be sent to college authorities. The Committee further directed the college to inform the concerned candidates of the said decision since the onus of informing them was with the college.

The Executive Committee of the Council also decided that the above decision may be applied to all those medical colleges where discharge notices have been issued and the college has not yet complied."

42. NSCB Medical College, Jabalpur – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 140-150 for the academic session 2015-16 – regarding

Read: the matter with regard to NSCB Medical College, Jabalpur – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 140-150 for the academic session 2015-16.

The Executive Committee of the Council considered the Council Assessors report (4th & 5th February, 2015) and noted the following:-

1. Deficiency of faculty is 15.13 % as detailed in the report.
2. Shortage of Residents is 32.85 % as detailed in the report.
3. Examination Hall cum Auditorium: Available capacity is 240 against requirement of 750 as per Regulations.
4. Lecture Theaters: Capacity is 140 against requirement of 180 as per Regulations.
5. Central Library: Capacity of Students' reading room (Outside) is only 75 against requirement of 150. Staff reading room is not functional.
6. Students' Hostels: Study room with Internet & computer is not available.
7. Residents' Hostel: There is no separate hostel for Residents.
8. OPD: Registration counters are partly computerized. Injection room for males/females is common.
9. Wards: There is overcrowding & floor beds in Orthopaedics, General Surgery & O.G. wards. Space between 2 beds is < 1.5 m. In Orthopaedics wards, separate beds for males/females are not provided. Psychiatry ward is non-functional.
10. MRD: It does not exist.
11. Casualty: Only 20 beds are available against requirement of 25. Separate Casualty for Obstetrics is not available. Disaster Trolley, Crash cart, Defibrillator are not available.
12. Central Clinical Laboratory: Separate section for Microbiology is not available.
13. O.T.s: There are 24 tables in 18 O.T.s indicating more than 1 table in several O.T.s which is not as per norms. Septic O.T. is not yet functional.
14. ICUs: SICU is not fully equipped.
15. Labour Room: There is no separate room for Eclampsia patients.

16. Radiodiagnosis department: Only 4 static X-ray machines are available against requirement of 5 as per Regulations. CT scan is outsourced.
17. CSSD: Equipment is inadequate. Receiving & Distribution points are not separate.
18. Website: Information is not updated. Toll free number for ragging is not available.
19. Size & capacity of demonstration rooms are smaller than required in all departments.
20. RHTC: It is under the control of Health Department and not under Dean. Residential accommodation is not available.
21. UHC: It is not under control of Dean. Students & Interns are not posted.
22. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 140-150 at NSCB Medical College, Jabalpur under Rani Durgavati Vishlaya, Jabalpur for the academic session 2015-16.

43. Recognition/approval of Subharti Medical College, Meerut for the award of MBBS degree granted by Swami Vivekanand Subharti University, Meerut against increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Subharti Medical College, Meerut for awarded of MBBS degree granted by Swami Vivekanand Subharti University, Meerut against increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council considered the Council Assessors report (16th & 17th March, 2015) and noted the following:-

1. Deficiency of faculty is 5.11 % as detailed in report.
2. Shortage of Residents is 40.28 % as detailed in report.
3. Lecture Theaters: Hospital Lecture Theater is not of gallery type.
4. Hostels: Hostels are common for all institutes run by the University. Separate hostels for UG students, Interns & Residents of the institute are not provided.
5. Wards: Wards are not as per MSR guidelines. Paediatrics, General Surgery, Orthopaedics, Obstetric wards have more than 30 beds. There are cubicles partitioned by 5 ft. wall. Nurses cannot have overview of all the patients in many wards as Nursing station is located in a corner of the ward. Distance between 2 patients is < 1.5 m in some wards of General Medicine, Paediatrics. There are no toilets in Psychiatry ward which is common for males & females. Skin & VD ward, some wards in General Surgery, Orthopaedics, are common for males & females. Equipment is inadequate in General Surgery wards. Dressing tray & instrument tray are filled with saline & water. Pantry is basic with only a gas stove or platform. Store room in all wards was filled with junk material.
6. There are only 9 Major & 11 Minor Surgical operations for the whole hospital which is inadequate.
7. Casualty: Disaster Trolley, Emergency Drug Tray, Mobile X-ray unit are not available.
8. ICUs: Details of RICU are not provided.
9. Only 5 static X-ray machines are available against requirement of 6 as per Regulations.
10. As many as 47 Residents were found to be not staying in the campus hence they cannot be considered.

11. Dr. Himanshu D. Sharma, Senior Resident, & Dr. Rajendra Munish, Senior Resident, General Medicine do not know Junior Residents working under them. Hence they cannot be considered.
12. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Government not to recognise/approve Subharti Medical College, Meerut for the award of MBBS degree granted by Swami Vivekanand Subharti University, Meerut against increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 01 month for further consideration of the matter. The Committee further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II), dated 16th April, 2010 which reads as under:-

8(3)(1).....

- (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <80%, such an institute will not be considered for processing applications for postgraduate courses in the Academic year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2015-16) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for undergraduate and postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 alongwith direction of stoppage of admissions in permitted postgraduate courses.

The Executive Committee of the Council further decided to intimate the Postgraduate Section of application of clause 8(3)(1)(c) for this Institute for information and further necessary action.

44. **Assessment of the physical and other teaching facilities available for recognition/approval of ACS Medical College & Hospital, Chennai along with standard of examination held by the Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956 for the award of MBBS degree (150) seats under the ambit of Dr. M.G.R. Educational & Research Institute, Deemed to be University, Chennai for the students admitted in the academic year 2009-2010 only in compliance of Order dated 11/02/2015 passed by the Hon'ble Supreme Court in CA Nos. 1757-1759/2015 (arising out of SLP© Nos.32770-32772 of 2014).**

Read: the matter with regard to assessment of the physical and other teaching facilities available for recognition/approval of ACS Medical College & Hospital, Chennai along with standard of examination held by the Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956 for the award of MBBS degree (150) seats under the ambit of Dr. M.G.R. Educational & Research Institute, Deemed to be University, Chennai for the students admitted in the academic year 2009-2010 only in compliance of Order dated 11/02/2015

passed by the Hon'ble Supreme Court in CA Nos. 1757-1759/2015 (arising out of SLP© Nos.32770-32772 of 2014).

The Executive Committee of the Council considered the Council Assessors report (18th & 19th March, 2015) in compliance of Order dated 11/02/2015 passed by the Hon'ble Supreme Court in CA Nos. 1757-1759/2015 (arising out of SLP© Nos.32770-32772 of 2014).and noted the following:-

1. There were only 9 Major Surgical operations on day of assessment.
2. Number of deliveries is less. On day of assessment, there was only 1 stillbirth & 1 Caesarean section.
3. Cytopathology workload is only 7 on day of assessment.
4. ICUs: There was only 1 patient in ICCU on day of assessment.
5. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Government not to recognise/approve ACS Medical College & Hospital, Chennai along with standard of examination held by Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 01 month for further consideration of the matter.

45. Clarification on Section 2 (5) of the 'Establishment of Medical College Regulations, 1999' - reg.

Read: the matter with regard to Clarification on Section2 (5) of the 'Establishment of Medical College Regulations, 1999'.

The Executive Committee of the Council observed that Director General, Employees' State Insurance Corporation, New Delhi had asked for certain clarifications as under:-

- "1. As you are aware, the Employees State Insurance Corporation(ESIC) has been established under the ESI Act, 1948, and administers a social security scheme providing among others, medical benefits to its beneficiaries. The medical benefits are provided through a network of own hospitals and Dispensaries and some 'tie-up' empanelled hospitals The ESI Corporations under the administrative control of the Ministry of labour& Employment, GOI.*
- 2. The ESIC has established 04 medical colleges with 100 annual admission at the following locations:*
 - a. Rajajinagar Bangalore, Karnataka commissioned in 2012-13.*
 - b. KK Nagar, Chennai (TN) commissioned in 2013-14*
 - c. Gulbarga, Karnataka commissioned in 2013-14*
 - d. Joka,Kotkata (W B) commissioned 2013-14*
- 3. The associated medical college hospital at these locations are the hospitals in the ESI system, except at Gulbarga, Karnataka where a MoU has been entered in to the State Government in term of the Notification published on 01.10.2012 in the Gazette of India, for running the medical college.*
- 4. Subsequently, the ESIC has, inter-alia taken decision is in respect of medical education at its 163rd meeting held of 4th December 2014, as under:-*
 - a. ESIC should exit the field of medical education entirely, as it is not the core function of the ESIC and the objective of section 59B of the Act is unlikely to be met.*
 - b. Hand over on-going medical colleges and other Medical Education institutions having separate infrastructure to State Governments willing for such transfer.*
 - c. ESIC may neither undertake further admissions in the medical colleges and other Medical Education institutions (PG, Nursing, Para-medical &Dental, including Dental College, Rohini) nor start new medical colleges . All ongoing Medical Education programs may continue till the admitted students pass out or (they) are adjusted as per provisions of the Essentiality Certificate issued by the State Government, whichever is earlier.*

5. Pursuant to the decision, the ESIC had initiated the process of discussion with the concerned State Governments regarding take-over of the ESIC institutions. During the said discussions, in event of takeover, the issue of transfer of ownership of assets, i.e. land and buildings, to the respective State Governments had been raised. Concern had been expressed that if the ownership of assets, was not transferred, it would amount to non-compliance to MCI 'Establishment of Medical College Regulation, 1997'. The State Government had accordingly sought clarification in the matter.
6. The students and faculty of ESIC Medical Colleges have expressed concerns regarding recognition of the course if admissions are not undertaken.
7. The MCI conducts year-wise inspections for "Scheme of Renewal of MBBS batches" after grant of Letter of Permission (LOP) till the point of recognition of the college. This permission, after grant of LOP, is given each year after the applicant colleges fulfill the MCI norms of the faculty, infrastructure and equipments during the inspections.
8. It is our understanding that after the approval of the scheme of renewal of MBBS batches, the college is at liberty to undertake or not to undertake admissions. Also, as long as the ESIC Colleges fulfill the MCI norms for approval of "Scheme of Renewal of MBBS batches", the recognition of MBBS course would not be Jeopardized, irrespective of the fact whether actual yearly admissions have been undertaken or not.
9. Presently, if the ESIC does not undertake fresh admissions, only 2-3 batches already admitted to these colleges as in para (2) would be appearing in the final exams.
10. In this regards, kind clarification is sought as under:-
In view of the issue elaborated in Para (8) above, whether it is essential for actual year-wise admissions to be undertaken by the ESIC Colleges for recognition of the course, provided all conditions for yearly approval of "Scheme of Renewal of MBBS Batches" are met with."

The Executive Committee of the Council perused the opinion of Law officer in the matter which reads as under:

"I have perused the correspondence dated 06.02.15 and 20.02.15 received from the ESIC regarding their policy decision to exit from the medical education. The facts are contained in the letter and for the sake of brevity are not being reproduced herein. The issues on which clarification from the Council has been sought are as under:-

One, whether it is essential for actual year-wise admissions to be undertaken by the ESIC Colleges for recognition of the course, provided all conditions for yearly approval of 'scheme of renewal of MBBS batches are met with. [Letter dated 06.02.15]

Two, whether the ownership and land and buildings of the medical college (including attached hospital) is mandatorily to be transferred by the ESIC to the State Government concerned or the facilities of the ESIC can be utilized by the State Government by entering into a MoU for the purpose?

Three, whether the Medical Colleges can be run by the Medical Education Department and the associated hospital by the Labour Department of the State Government.

My views on the three issues are as under:-

Firstly, the grant of letter of permission has two limbs, one is renewal of permission for the existing batch to move to the next year and two, permission for admission of fresh batch. The proposal of ESIC is to the effect of seeking permission of continuance of the existing batch but not to admit fresh batch. This is legally permissible. The precedent in this regard is of Army College of Medical Sciences, New Delhi. However, such a scenario would lead to loss of precious MBBS seats, as despite infrastructure and human resources available to train medical students the said facilities are not being utilized. It would be not out of place to mention that to encourage the ESIC to establish Medical College the Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998 was amended on 06.08.2012 to equate the Consultant/Specialist of ESIC Hospital as Medical Teachers. Such step was taken to augment the scarce medical faculty.

Secondly, the amendment to Establishment of Medical College Regulations, 1999 notified in the official gazette no. 211 of 1 October 2012 permits the appropriate

Government desirous of establishing a Medical College to utilize the facilities of the Hospital owned and managed by appropriate Government by entering into a MOU. Thus, such an arrangement as sought by ESIC is legally permissible.

Thirdly, the applicant before the Central Government for grant of permission is the concerned State Government. It is immaterial for the Council/Central Government as to which Department of the State Government is managing the Hospital/Medical College. The only requirement in this regard is to ensure that the requirement as laid down in MSR is fulfilled by the concerned Medical Colleges. "

The Executive Committee of the Council also perused opinion of Council Advocate Shri Gaurav Sharma which reads as under:

"The querist vide their note dated 19.03.2015, has sought my opinion on the letters dated 06.02.2015, 06.02.2015 & 20.02.2015 received from the Director General, Employee State Insurance Corporation, New Delhi, seeking clarification from the querist in respect of the medical colleges established and administered by the Employee State Insurance Corporation (hereinafter referred to as 'ESIC').

The ESIC at present is running four medical colleges with 100 MBBS admissions annually at the following locations:-

1. Rajajinagar Bangalore, Karnataka established in 2012-13.
2. KK Nagar, Chennai (TN) established in 2013-14
3. Gulbarga, Karnataka established in 2013-14
4. Joka, Kolkata (WB) established 2013-14

The Director General, Employee State Insurance Corporation, New Delhi vide their abovementioned letters had communicated their decision dated 04.12.2014, wherein it was decided to exit the field of medical education since it is not one of the core function of ESIC. It was also decided to handover the aforementioned medical colleges including other medical education institution to the State Government willing for the same. The ESIC shall neither undertake future admissions in the said medical colleges and other medical education institution (postgraduate, nursing, para-medical and dental colleges), nor start new medical colleges. It was decided that the currently ongoing medical education programmes may be continued till the already admitted students either pass out or admitted students are adjusted by the respective State Government and has sought clarification from the querist on the following issues:-

1. Whether it is essential for actual year wise admission to be undertaken by ESIC college for recognition of the course provided all conditions for yearly approvals of scheme of renewal of MBBS batch are met with.
2. Whether the ownership and land and building of the medical college (including attached hospital) is mandatorily to be transferred by the ESIC to the State Govt. concerned or the facilities of the ESIC can be utilized by the State Govt. by entering into a MOU for the purpose.
3. Whether the medical college can be run by the medical education department and the associated hospital by the labour department of the State.

The Querist was also informed that ESIC had initiated the process of discussions with the concerned State Government regarding takeover of the ESIC Medical Colleges. During these discussions, certain concerns about the issue of transfer of ownership of assets including lands and buildings to the State Government had been raised, in view of the Establishment of Medical College Regulations, 1999.

The Querist has been informed that the ownership of land and building of the various medical colleges established by ESIC, vests with the ESIC and that ESIC Hospitals are under the administrative control of the labour department of the concerned State Government.

In this background, the ESIC has raised certain concerns and sought clarification as to whether the ownership of land and building of the medical college needs to be mandatorily be transferred by the ESIC to the State Government or whether the facilities of the ESIC medical colleges could be utilized by the State Government by entering into a MOU with the State Government for the same. The concern of the ESIC is also whether the medical college could be administered by the medical education department of the State Government and the attached hospital could continue to be under the control of the labour department of the State Government.

As per the IMC Act, 1956 and the Regulations made thereunder, the scheme of a medical college under Section 10A of the IMC Act, 1956 is for a period of 5 years to ensure that the applicant medical college creates the additional infrastructure every year in order to ensure that the students undergoing the MBBS course will get the best of teaching and training. The medical college is required to apply for annual renewal of permission, every year till the time the MBBS degree granted by the college is recognized. In other words the college is required to seek annual renewal of permission till the time the students admitted in the first year MBBS course complete 5 years of teaching and training. The requirement of annual renewal of permission is for two reasons, firstly that the medical college should create additional infrastructure, teaching faculty as well as other physical facilities for the students who are currently undergoing the MBBS course in various years and would be promoted to the next year; secondly to create additional infrastructure for accommodating the fresh batch of MBBS students in 1st year.

The above requirement of annual renewal of permission, after creating the additional infrastructure as provided in the Minimum Standard Regulations, is of utmost importance since the same has a direct bearing on the standard of medical education in the medical college. Therefore, any medical college which is intending not to admit fresh batch of MBBS students, is required to create additional infrastructure and apply for renewal of permission for the existing batches who are undergoing MBBS course in the medical college, as required in the IMC Act and the Regulations made thereunder.

As far as the first question is concerned, the ESIC is entitled to stop admission of fresh batches of MBBS students but at the same time must apply for yearly renewal of permission and also create additional infrastructure towards the same, till such time as the already admitted MBBS students complete their course and their MBBS degree is recognized as per Section 11(2) of the IMC Act, 1956.

The other aspect, regarding the ownership of land and building of ESIC is concerned, the querist vide amendment dated 01.10.2012, amended Regulation 2(5) of the Establishment of Medical College Regulations, 1999, whereby the State Government is permitted to utilize the facilities of the hospital owned / managed by an appropriate Government by entering into a MOU with it. Since the land, building and the hospital of ESIC is under the control of the labour department of the State Govt. and the medical college, if taken over by the State Govt. shall be under the control of the medical education department, thus a MOU between the ESIC / labour department and the medical education department as provided under Regulation 2(5) of the Establishment of Medical College Regulations, 1999 is permissible.

Thus, the State Government which takes over the ESIC medical colleges could enter into a MOU with ESIC to utilize the land, building and the attached hospital, which could continue to be under the ownership of ESIC, being under the administrative control of the labour department.

The Querist would not be concerned as to which department of the State Government controls the medical college and whether a different department of the State Government has the administrative control of the land, building and the attached hospital since it shall be the State Government who would be the Applicant under the provision of Section 10A & 11(2) of the IMC Act, 1956....”

In view of above, the Executive Committee of the Council decided to accept opinion of Law Officer & Council Advocate and to inform Employees' State Insurance Corporation accordingly.

46. Recognition/approval of Chennai Medical College Hospital & Research Centre, Irungalur, Trichy for the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. M.G.R Medical University, Chennai u/s 11(2) of the IMC Act, 1956- Consideration of Compliance Verification Assessment.

Read: the matter with regard to recognition/approval of Chennai Medical College Hospital & Research Centre, Irungalur, Trichy for the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. M.G.R Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council considered the Compliance Verification Assessment Report (24th March, 2015) alongwith the previous assessment report (18th & 19th Feb., 2014) and noted the following:-

1. Deficiency of faculty is 17.21 % as detailed in the report.
2. Shortage of Residents is 63.38 % as detailed in report.
3. OPD attendance on day of assessment given by the institute is 1,218. This is inflated figure as observed. Data are manipulated & inflated.
4. Bed occupancy as given by the institute is 73 %; however, most of the patients were admitted for trivial reasons and for long duration as per case record and did not require admission. Proper investigations & treatment in view of clinical diagnosis were not advised as per case records. Actual bed occupancy as computed considering genuine cases is not more than 55 %.
5. There was only 1 normal delivery & NIL Caesarean section on day of assessment. There were total 46 deliveries conducted in last 25 days.
6. Occupancy in PICU was NIL on day of assessment. Healthy children who were found playing were kept as patients in PICU.
7. Attendance registers of General Medicine, Orthopaedics, ENT, Psychiatry, O.G., Tb & Chest are not maintained properly.
8. Casualty: Attendance data are manipulated & inflated.
9. Number of total Major & Minor operations for the whole hospital was only 9 & 7 respectively which is grossly inadequate.
10. Data of Laboratory investigations appear to be manipulated & inflated.
11. Histopathological & Cytopathological workload on day of assessment is only 4 & 5 respectively which is inadequate.
12. Other deficiencies as pointed out in the assessment report.

The Executive Committee of the Council also perused the opinion of Ld. Addl. Solicitor General of India, which reads as under:-

“The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.
2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.
PROVIDED that in respect of

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses....."

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required

to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt....."

"The Executive Committee of the Council further noted that the Institute has admitted students for 2014-2015 pursuant to order of Hon'ble Supreme Court after filing undertaking dated 20/09/2014 by the college authorities which states as under:

1. This undertaking is being filed pursuant to the order of this Hon'ble Court dated 18.09.2014 made in writ petition (Civil) No. 469/2014 and state that there is no defect in our medical college.
2. The Chennai Medical College & Hospital & Research Centre, Trichy, Tamilnadu undertakes that the deficiencies pointed out by the MCI by its communication in MCI No. 34(41)/(RG-9)/2013 dated 19.3.2014 shall be ratified within a period of 90 days from the date of the order of this Hon'ble Court.
3. In the event the institution, for any reason whatsoever, does not comply with this solemn undertaking, this Hon'ble Court may, if it so chooses, direct that the Bank Guarantee/Security furnished by this Institution to the MCI be forfeited.
4. The admissions to the academic year 2014-15 with respect to the seats to be filled will be in accordance with the norms of MCI. Candidates will be admitted from the list of selected candidates by virtue of the entrance test conducted (or by conselling) by the State Govt. in accordance with merit.
5. The fees to be charged from students admitted through this process in accordance with what is stated hereinabove shall be as prescribed by prevailing norms in the State.

In the event this Hon'ble Court comes to the conclusion that our institution has in any way failed to comply with the terms of this Undertaking pursuant to the order of this Hon'ble Court, this Hon'ble Court may, if it so chooses, initiate proceedings for contempt against the Institution."

In view of the deficiencies listed above, it is amply evident that the institute has failed to rectify previous deficiencies which are still persisting.

The Executive Committee of the Council also perused the order of Hon'ble Apex Court dt. 18/09/2014 & 25/09/2014, the operative part of which reads as under:

"The relevant portion of the order dated 18.09.2014 passed in W.P. (C) No. 469/2014 by the Hon'ble Supreme Court is reproduced hereunder:-

" Heard the learned senior counsel appearing for both the sides.

Looking at the peculiar facts and circumstances of the case and, especially, when several seats for medical admission are likely to remain vacant for the academic year 2014-15, we are of the view that these matters require urgent consideration and we are giving these interim directions under the provisions of Article 142 of the Constitution of India.

There is one more reason for passing this interim order. We are conscious of the fact that number of physicians in our country is much less than what is required and because of non-renewal of recognition of several medical colleges, our citizens would be deprived of a good number of physicians and therefore, we are constrained to pass this order, whereby at least there would be some increase in the number of physicians after five

years. We are running against time because the last date for giving admissions to MBBS Course for the academic year 2014-15 is 30th September, 2014.

We also desire to reconsider the directions given by this Court in the judgment of *Priya Gupta v. State of Chhattisgarh* [(2012) 7 SCC 433], but at this juncture, as we do not have sufficient time to decide all these petitions finally, we are passing this interim order and the matter with regard to reconsideration of the aforesaid judgment would be considered while finally disposing of this group of petitions.

It has been submitted on behalf of the learned senior counsel appearing for all the petitioners/ respondents, who are managing medical colleges, that the defects which had been recorded at the time of the last inspection by the representatives of the Medical Council of India have been duly rectified and at present, the defects pointed out in the reports do not exist. The said fact can be ascertained only by having a fresh Compliance Verification/Inspection. However, the stand taken by the Central Government and the Medical Council of India is to the effect that no such inspection can be undertaken in the present academic session because of paucity of time and it would violate the time schedule laid down by this Court in the case of *Priya Gupta* (supra).

The learned senior counsel appearing for the Medical Council of India has also submitted that the petitioners do not have any legal right for getting renewal of the recognition, especially in view of the fact that the Verification/Inspection Reports are not available for the period in question. The learned senior counsel has relied upon some of the Judgments to substantiate his case and according to him, it would not be just and proper to permit the said medical colleges to take fresh batch of students.

Looking at the peculiar facts of the case and the circumstances stated hereinabove, we direct the petitioners to file undertakings by President/Chairman and Secretary of the petitioners' institutions running medical colleges within 10 days from today, to the effect that there is no defect in the medical colleges run by them and they would also state that their deposit with the MCI, which is around Rs.10 Crores, be forfeited by way of penalty if the statement made in the undertaking is found to be incorrect at the time of the next inspection. A draft undertaking has been given to this Court. A copy of the undertaking, which might be filed by the institutions, shall be served upon the office of the Medical Council of India as well as to the Ministry of Health and Family Welfare, Govt. of India, New Delhi.

We also record the fact that in the recent past, the Medical Council of India has renewed recognition of Government Medical Colleges on the basis of undertakings and therefore, we see no reason not to permit the private colleges to admit students on the basis of undertakings given by their office bearer as a special case.

Notwithstanding any direction given in the case of *Priya Gupta* (supra), if undertakings as stated hereinabove are filed by the institutions managing medical colleges for the academic year 2014-15, admissions shall be given to the students from the merit list prepared by the States and they shall be charged fees prescribed by the Government Medical Colleges of their respective States. The State Authorities, i.e., the Directorate of Medical Education & Research, of the respective States shall send students, in order of their merit, to the medical colleges run by the petitioners, which are situated within their States, within one week from the date of receipt of a copy of this order and the said students shall be admitted to the MBBS Course in accordance with the rules and regulations of the MCI and also regulations dated 16.04.2010 framed by the Medical Council of India, provided undertakings as mentioned above are filed on behalf of the concerned institutions.

It is also clarified that there would be no further counseling in respect of the students who are to be given admission, even if it might result into some heartburning among other students, but in the peculiar facts of the case, we give this direction.

In no case, the admission shall be given after 30th September, 2014. This order shall also apply to all the institutions which had filed their petitions earlier for renewal of their recognition for the academic year 2014-15, but their petitions were rejected or withdrawn for whatever reason, provided undertakings as stated hereinabove are filed by President/Chairman and the Secretary of those institutions. All those petitions shall be deemed to have been revived and this order shall be deemed to have been passed in those cases also. This order shall only be in respect of renewal of recognition and not for creation of additional seats or for new colleges.

We also record that the Union of India has supported the petitioners in the interest of students. We also direct the Union of India to give wide publicity to this order in print as well as electronic media in the interest of the concerned students.

It is directed that the list of students getting admission in pursuance of this order shall be placed on record of this Court by 1st October, 2014 by the concerned institutions and a copy thereof shall also be sent to the MCI.

These matters shall be treated as part-heard and shall be notified for further hearing in the month of December, 2014."

The Hon'ble Supreme Court thereafter vide its order dated 25.09.2014 issued certain clarification in respect of the order dated 18.09.2014 in W.P. (C) No. 469/2014, which are reproduced hereunder:-

"After hearing the learned counsel for the parties we deem it appropriate to issue following clarifications with regard to our earlier order dated 18th September, 2014. These clarifications shall be read into the said order as if they were always part thereof:-

- 1. The order dated 18th September, 2014 shall also apply to cases where colleges or institutions were seeking increase in intake capacity and in the current year have been denied permission to admit students after first or second or third or fourth renewal/inspection. In our view such institutions where Renewal/Inspection with respect to increase in capacity were conducted in the present academic year are also entitled to the benefit under the order dated 18th September, 2014.*
- 2. We also clarify that fees chargeable from the students admitted pursuant to our order dated 18th September, 2014 shall be at the same rates as applicable to the students in Government medical colleges in respective States and such fees shall be at the same levels as that of the Government medical colleges till the students so admitted pass out from the private medical colleges or institutions.*
- 3. Our order shall also apply to all similarly situated institutions irrespective of the fact whether any petitions were or are pending in this Court or in any of the High Courts or even if they had not approached any court at all. This order shall also apply even in cases where there were orders of stay in favour of the Medical Council of India restraining the colleges from admitting students for the current academic session.*
- 4. The order shall not apply to colleges or institutions which have been disqualified by the Medical Council of India and/or the Central Government and have been prohibited from making any admissions for the current academic year 2014-15.*
- 5. In cases where two separate lists are prepared and sent by the State agencies one relating to State quota and the other relating to management quota in private institutions, we clarify that for the current academic year there shall be only one list and that shall be the "State quota" alone. There shall not be any management quota list to be sent to the private colleges or institutions taking the benefit under our order dated 18th September, 2014. The Management quota shall also be filled through the State list and the fees chargeable for the management quota shall also be charged at the same levels and rates as applicable to State quota list.*
- 6. We further clarify that private institutions taking benefit under our order dated 18th September, 2014 shall have to take students only from the State agencies and at fees chargeable for students in Government medical colleges as stated above, regardless of their status or claim as Minority Institutions or Deemed Universities."*

The Executive Committee of the Council in view of above mentioned opinion of Additional Solicitor General of India as well as the deficiencies mentioned above decided to recommend to Central Government not to recognise/approve Chennai Medical College Hospital & Research Centre, Irungalur, Trichy for the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. M.G.R Medical University, Chennai u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 01 month.

The Executive Committee of the Council further decided to invoke/forfeit the Bank Guarantee submitted by the Institute and directed the Institute to submit fresh bank guarantee within 2 weeks.

47. Sub-Committee of the Medical Council of India.

Read: the matter with regard to Sub-Committee of the Medical Council of India.

The Executive Committee of the Council noted that 03 members of the Council have ceased to be members and decided to nominate following members in the Committee:-

- | | |
|----------------------------------|-----------------------------|
| 1. Migration Committee : | Dr. Okram Ibomcha Singh |
| 2. Ethics Committee : | Dr. Nandakishore Dikkipatti |
| 3. Admn. & Grievance Committee : | Dr. Sanjeev Gupta |
| 4. TEQ Committee : | Dr. Arun Agarwal |
| 5. Regn. & Equiv. Committee : | Dr. Anil Chauhan |

48. Govt. Medical College, Srinagar – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

Read: the matter with regard to Govt. Medical College, Srinagar – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2015-16.

The Executive Committee of the Council considered the Council Assessors report (24th & 25th March, 2015) and noted the following:-

1. Deficiency of faculty is 13.42 % as detailed in the report.
2. Shortage of Residents is 14.49 % as detailed in the report. Residents' accommodation is inadequate. A large number of Residents is staying outside the hospital.
3. Dean's office is not available in the hospital.
4. OPD: Registration counters are not computerized. Teaching areas are grossly inadequate. Dressing room is common for males/females.
5. Wards: Demonstration room is not available in any ward.
6. Data of clinical material on day of assessment have not been provided by the institute in spite of repeated requests. Data provided for daily average clinical material appear to be exorbitantly high and false.
7. MRD: It is not computerized.
8. AERB approval for X-ray machines is not available.
9. Only 2 mobile X-ray machines are available against requirement of 6 machines as per Regulations.
10. Only 3 static X-ray machines are available against requirement of 5 machines as per Regulations.
11. PNDT approval is available for only 1 USG against 5 machines available & in use.
12. Examination Hall cum Auditorium: Against requirement of Examination hall cum Auditorium of 1,200 sq.m., only 1 Auditorium of 1,000 sq.m. area is available.
13. Lecture Theaters: Hospital lecture theatre is not available. Capacity of 1 Lecture theatre is 225 against requirement of 250.
14. Central Library: Area available is only 1,110 sq.m. against requirement of 2,400 sq.m. Capacity of Students' reading room (Inside) is only 80 against requirement of 150. Students' reading room (outside) & Staff reading room are not available. Only 17 Internet nodes are available against requirement of 40.
15. Common rooms for Boys & Girls are not available.
16. Students' Hostels: They are not adequately furnished. Toilet facilities are not adequate. Recreational facilities are minimal. Visitors' room has only chairs & no other furniture. Mess hygiene is poor.
17. Residents' Hostels: They are not adequately furnished. Toilet facilities are not adequate. Recreational facilities are minimal. Visitors' room is not available. Mess hygiene is poor.
18. Nurses' Hostels: They are not adequately furnished. Toilet facilities are not adequate. Recreational facilities are minimal. Mess hygiene is poor.
19. Residential Quarters: Only 24 quarters are available against requirement of 36 as per Regulations.
20. ETO sterilizer is not available.
21. Nursing staff: 701 Nurses are available against requirement of 809 Nurses.
22. Toll free number to report ragging is not available.
23. Anatomy department: Demonstration rooms are not available as per MCI guidelines.
24. Biochemistry department: Only 1 Demonstration room is available against requirement of 2 of 75 capacity each. Seminar room is not available.
25. Forensic Medicine department: Only 1 Demonstration room is available against requirement of 2 of 75 capacity each. Seminar room is not available.

26. RHTC is not available.
27. Separate hostel for Interns is not available. Only 6 rooms in Girls' hostel are available for accommodating Interns.
28. Central Research Laboratory is not available.
29. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 of Govt. Medical College, Srinagar under Kashmir University, Srinagar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

49. Sher-I-Kashmir Institute of Medical Sciences, Srinagar – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 50-100 for the academic session 2015-16 - regarding.

Read: the matter with regard to Sher-I-Kashmir Institute of Medical Sciences, Srinagar – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 50-100 for the academic session 2015-16.

The Executive Committee of the Council considered the Council Assessors report (24th & 25th March, 2015) and noted the following:-

1. Shortage of Residents is 27.6 % as detailed in the report.
2. Teaching beds are deficient as under:

#	Department	Beds		
		Required	Available	Deficit
1	General Medicine	120	96	24
2	Paediatrics	60	48	12
3	Tb & Chest	20	16	4
4	General Surgery	120	96	24
5	Orthopaedics	60	48	12
6	Ophthalmology	20	16	4
7	ENT	20	16	4
8	O.G.	60	48	12
	TOTAL			96

3. O.T.s: O.T.s in General Surgery, Ophthalmology, Orthopaedics have more than 1 table which is not as per norms.
4. Only 5 mobile X-ray machines are available against requirement of 6 as per Regulations.
5. PNDT approval is not available for USG.
6. College Council: No meeting has been held during the year.
7. Lecture Theaters: Space is not adequate for capacity 150 in 1 lecture theatre.
8. Central Library: Capacity of Students' reading room (inside) is only 50 against requirement of 100. Students' reading room (inside) is not available. Only 44 journals are available against requirement of 100. Only 6 Internet nodes are available.
9. Common rooms for Boys & Girls: Attached toilets are not available.
10. Students' Hostels: They are not adequately furnished. Visitors' room, A.C. study room with computer & Internet and Recreation room are not available.
11. Anatomy department: Only 50 mounted specimens are available. MRI/CT films are not available. Students' Lockers are not available. There are no cadavers. Band saw is not available. Space of Dissection Hall &

- Histopathology laboratory are inadequate for intake of 100 students. Number of microscopes are less than required.
12. Physiology department: There is no separate Demonstration room available. Mammalian laboratory is not available.
 13. Biochemistry department: Laboratory is small & cannot accommodate 50 students at a time. Demonstration room is not available.
 14. Pathology department: Only 50 mounted specimens are available. No catalogues are available.
 15. Microbiology department: Audio-visual aids are not available in Demonstration room. Laboratory is smaller than required. Museum is not available. Only 3 service laboratories are available against requirement of 7.
 16. Pharmacology department: Capacity of Demonstration room is smaller than required. There are no specimens in the museum. Museum facilities are inadequate.
 17. Forensic Medicine department: Capacity of Demonstration room is smaller than required. Autopsy room is not available.
 18. Community Medicine department: Practical laboratory for students is not available.
 19. RHTC: Residential accommodation is not available.
 20. Separate Interns' hostel is not available.
 21. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 50-100 of Sher-I-Kashmir Institute of Medical Sciences, Srinagar under Kashmir University, Srinagar u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

50. Recognition/ approval of Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melvaruvathur for the award of MBBS degree granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/ approval of Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melvaruvathur for the award of MBBS degree granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council observed that upon complaint/information an assessment was carried out on 24th March 2015. The members of the committee considered the compliance verification assessment report (24th March, 2015) alongwith previous compliance assessment reports dated 27th August, 2014 and 19th November, 2014 and noted the following:-

1. Deficiency of faculty is 47.94 % as detailed in report.
2. No faculty is available in Radiodiagnosis, Forensic Medicine and Tb & Chest departments.
3. Shortage of residents is 80.98 % as detailed in report.
4. Bed occupancy is 22 % against requirement of 75 % as per regulations on day of assessment which is grossly inadequate. In some wards, although patients are present, their case papers were not available.
5. Histopathological (3-6/day), Cytopathological (5-7/day) & FNAC (2-5/day) workload is inadequate.
6. OPD on day of assessment is 650 against requirement of 1,200 as per Regulations.
7. Casualty attendance is only 19 on day of assessment which is inadequate.
8. There were only 10 major & 4 minor Surgical operations on day of assessment for the whole hospital which is inadequate. There is no Endoscopy theater. One Minor O.T. is deficient.

9. In Radiodiagnosis, in spite of Nonavailability of faculty, investigations like USG, CT scan are reported done and list provided which indicates inflated data are provided.
10. Laboratory investigations: Inflated data are provided.
11. Wards: There is no Nursing station, no crash cart, no emergency drugs tray in several wards. In some wards, there are no facilities at all; only big rooms with beds are provided. In some wards, Nurses were not present.
12. Other deficiencies as pointed out in the assessment report.

The Executive Committee of the Council also perused the opinion of Ld. Addl. Solicitor General of India, which reads as under:-

"The querist MCI as sought my opinion on the interpretation of Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of the Establishment of Medical College Regulations, 1999 . My opinion has been sought on the following issues:-

- "1. Whether the Council should process the applications of the medical college for renewal of permission for admitting fresh batch of MBBS students for the academic session 2015-16 wherein the Council has invoked Regulations 8(3)(1)(a), 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulation, 1999.*
- 2. Whether the Council while applying Regulation 8(3)(1)(b) of Establishment of Medical College Regulation, 1999 can deny recognition of the MBBS degree granted by medical colleges for the students who have already completed their MBBS course or whether the same will be applicable while considering the case of a medical college for grant of renewal of permission for 5th batch of MBBS students."*

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter with Mr. Gaurav Sharma and Mr. T. Singhdev, Advocates for the querist.

The amendment notification dated 16.04.2010 inserting Clause 8(3)1 made it amply clear that the Central Govt. may at any stage convey the deficiencies found during the inspection of the applicant – medical college and provide them an opportunity to rectify the same. However, in case of renewal of permission at different stages, in case the deficiencies with regard to teaching faculty and bed occupancy are found in the medical college above the percentage provided in Regulation 8(3)1(a), 8(3)(1)(b) and 8(3)(1)(c) respectively of the Establishment of Medical College Regulation, 1999, the application of the medical colleges cannot be processed further since, considering the fundamental nature of the deficiencies in clause 8 the rectification is not statutorily contemplated. In such cases there is no provision to grant any time to the medical college for rectification of the deficiencies as the same cannot be rectified within a short span of time.

The relevant portion of the above Regulation are reproduced as under:-

".....

*(3)(1). The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal six months prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.
PROVIDED that in respect of*

(a) Colleges in the stage upto II renewal (i.e. Admission of third batch):

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is < 60 %, such an institute will not be considered for renewal of permission in that Academic Year.

(b) Colleges in the stage from III renewal (i.e. Admission of fourth batch) till recognition of the institute for award of M.B;B.S. degree:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 70 %, such an institute will not be considered for renewal of permission in that Academic Year.

(c) Colleges which are already recognized for award of M.B.B.S. degree and/or running Postgraduate Courses:

If it is observed during any regular inspection of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is < 80 %, such an institute will not be considered for processing applications for postgraduate courses in that Academic Year and will be issued show cause notices as to why the recommendation for withdrawal of recognition of the courses run by that institute should not be made for Undergraduate and Postgraduate courses which are recognized u/s 11(2) of the IMC Act, 1956 along with direction of stoppage of admissions in permitted Postgraduate courses.....”

I am informed that the assessment of MCI is carried out by the assessors who are Professors of eminence and high integrity belonging to various Govt. Medical Colleges of the Country and the assessment report is also acknowledged by the Dean/Principal of the concerned medical college. The truthfulness and veracity of the contents of the report which incorporates factual findings, therefore, cannot be doubted, since, it is done by independent persons in the presence of the Dean/Principal of the concerned medical college. The medical college is statutorily required to maintain minimum academic standards for the benefits of the medical education and the students so as to ensure that the MBBS students get best of teaching and training. The above Regulations are required to be and were notified with the prior approval of the Central Govt. to ensure that each medical college maintains atleast a minimum teaching faculty, infrastructure, clinical material and other physical facilities in their medical colleges.

The Regulations framed by the querist are statutory in nature and hence the Council as well as the Central Govt. is bound to follow the same in letter and spirit.

I am of the considered opinion that in cases of the medical colleges wherein the Council has invoked Regulation 8(3)(1)(a), 8(3)(1)(b) and 8(1)(c) of the Establishment of Medical College Regulation, 1999, after an inspection by the MCI assessors, there is no statutory provision either under the Acts or under the Regulations authorizing the querist to process the same further.

As far as the second question is concerned, I am of the opinion that the applicability of Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999 while considering the case of a medical college for grant of recognition of MBBS degree will directly affect the MBBS students who have already completed their MBBS course/studies. The language in Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999, clearly provides that in case the institute fails to provide minimum teaching faculty and bed occupancy, the institute shall not be considered for renewal of permission. The statutory scheme does not however bar an institute to be considered for the purpose of recognition of MBBS degree of the students who have successfully completed the course. Any such action on part of the querist will be too harsh on such students who have already completed their studies and had/have no control over either the college, the querist or the Central Govt.....”

In view of the above, the Executive Committee of the Council decided to recommend to the Central Government not to recognise/approve Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melvaruvathur for the award of MBBS degree granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956 and further decided that the Institute be asked to submit the compliance for rectification of the above deficiencies within 01 month for further consideration of the matter.

The Executive Committee also decided to withdraw the recommendation to permit the institute to admit fresh batch of students for Academic Year 2015-2016 and also to request Central Government to annul / withdraw the permission in case granted to the college to admit the students for 2015-16 batch.

51. **Review of suspension of Dr. P. Prasannaraj, Additional Secretary (Under suspension).**

Read: the mater with regard to suspension of Dr. P. Prasannaraj, Additional Secretary (Under suspension).

The Executive Committee of the Council ratified the decision of the President for constitution of the Review Committee for reviewing the suspension of Dr. P. Prasannaraj, Additional Secretary (Under suspension). The Committee approved the recommendations of the Review Committee which met in the Council office on 27/03/2015 at 10.30 a.m. recommending extension of suspension of Dr. P. Prasannaraj, Additional Secretary (U/S) for a further period of 90 days w.e.f. 28/04/2015 in the matter of FIR No. RC.22(A)/2014-BBS, dated 31.12.2014 - Sardar Rajas Medical College, Hospital and Research Centre, Jaring, Kalahandi under Selvam Educational Charitable Trust, Tamilnadu.

The minutes of the above item were read and confirmed in the meeting itself.

52. **Expansion of Panel of Assessors - Eligibility Requirements**

The Executive Committee observed that assessment cell is finding great difficulty in getting assessors, more particularly during certain periods like vacations, festival holidays, examination periods, etc. After due deliberations and considering all factors including Hon. Supreme Court directions from time to time on time schedule , the Executive Committee decided to obtain the services of Associate Professors with six years' experience as Associate Professor also from Government Medical Colleges for assessment of M.B;B.S. course only.

(Dr. Reena Nayyar)
Secretary I/c

New Delhi, dated 27th March, 2015

APPROVED

(Dr. Jayshree Mehta)
President