No. MCI-5(3)/2016-Med.Misc./

MEDICAL COUNCIL OF INDIA
NEW DELHI

EXECUTIVE COMMITTEE

Minutes of the meeting of the Executive Committee held on 30th June, 2016 at 11:00 a.m. 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. Anil Mahajan	Professor & HOD, General Medicine, Government Medical College, **Jammu, J&K.**
Dr. G.B. Gupta	Vice-Chancellor, Ayush & Health Sciences University, Raipur, **Chhattisgarh**
Dr. K K Gupta	Principal, LLRM Medical College Campus, Garh Road, **Meerut (UP)**
Dr. Radha Madhab Tripathy	Professor and Head, Department of Community Medicine, MKCG Medical College, **Berhampur**.
Dr. Vijay Prakash Singh	Professor & Head, Department Of Gastroenterology, Patna Medical College, **Patna, Bihar**

Dr. Reena Nayyar, Secretary I/c

Apology for absence was received from Dr. Baldev Singh Aulakh, Dr. Ravindra H.N. and Dr. V.N. Jindal.

1. Minutes of the Executive Committee Meeting held on 15th June, 2016 – Confirmation of.

The Executive Committee of the Council noted that the minutes of the Executive Committee meeting held on 15th June, 2016 have been sent to the Oversight Committee.

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

The Executive Committee of the Council noted that the action has not been taken on the minutes of the Executive Committee meeting held on 15th June, 2016 since the minutes of the Executive Committee meeting held on 15th

June, 2016 have been sent to the Oversight Committee and their report is awaited.

3. <u>Pending Items arising out of the decisions taken by the Executive Committee.</u>

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

4. <u>Admission of MBBS Student at Tezpur Medical College & Hospital, Tezpur for Academic year 2015-16</u>.

Read: the matter with regard to admission of MBBS Student at Tezpur Medical College & Hospital, Tezpur for Academic year 2015-16.

The Executive Committee of the Council noted that the Monitoring Sub-Committee has observed that ñ*regarding the admissions made after the cut-off date i.e. 30th September 2015, the admissions were made on the order dated 01.10.2015 of the Hon'ble Supreme Court."*

The Committee also perused the opinion of Law Officer, operative part of which reads as under:

> ñé *Thus, these admissions have been made by the college authorities within the one-week extension of time-period granted by the Hon'ble Supreme Court. Hence, the explanation of the College authorities in this regard may be accepted."*

After due deliberations, the Executive Committee of the Council decided to approve the opinion of the Law Officer and further decided that no action is required in the matter.

5. <u>Admission of MBBS Student at S. Nijalingappa Medical College & HSK Hospital & Research Centre, Bagalkot, Karnataka for Academic year 2015-16.</u>

Read: the matter with regard to admission of MBBS Student at S. Nijalingappa Medical College & HSK Hospital & Research Centre, Bagalkot, Karnataka for Academic year 2015-16.

The Executive Committee of the Council noted that the Monitoring Sub-Committee has observed that ñ*regarding the admissions made after the cut-off date i.e. 30th September 2015, the admissions were made on the order dated 01.10.2015 of the Hon'ble Supreme Court."*

The Committee also perused the opinion of Law Officer, operative part of which reads as under:

> ñé *Thus, these admissions have been made by the college authorities under allotment made by the Karnataka Government within the one-week extension of time-period granted by the Hon'ble Supreme Court. Hence, the explanation of the College authorities in this regard may be accepted."*

After due deliberations, the Executive Committee of the Council decided to approve the opinion of the Law Officer and further decided that no action is required in the matter.

6. <u>Admission of MBBS Student at Dr. B R Ambedkar Medical College, Bangalore, Karnataka for Academic year 2015-16</u>.

Read: the matter with regard to admission of MBBS Student at Dr. B R Ambedkar Medical College, Bangalore, Karnataka for Academic year 2015-16.

The Executive Committee of the Council noted that the Monitoring Sub-Committee has observed that ñ*regarding the admissions made after the cut-off date i.e. 30th September 2015, the admissions were made on the order dated 01.10.2015 of the Hon'ble Supreme Court."*

The Committee also perused the opinion of Law Officer, operative part of which reads as under:

> ñé *Thus, these admissions have been made by the college authorities under allotment made by the Karnataka Government within the one-week extension of time-period granted by the Hon'ble Supreme Court. Hence, the explanation of the College authorities in this regard may be accepted."*

After due deliberations, the Executive Committee of the Council decided to approve the opinion of the Law Officer and further decided that no action is required in the matter.

7. <u>Admission of MBBS Student at Khaja Bandanawaz Institute of Medical Sciences, Gulbarga, Karnataka for Academic year 2015-16</u>.

Read: the matter with regard to **a**dmission of MBBS Student at Khaja Bandanawaz Institute of Medical Sciences, Gulbarga, Karnataka for Academic year 2015-16.

The Executive Committee of the Council noted that the Monitoring Sub-Committee has observed that ñ*regarding the admissions made after the cut-off date i.e. 30th September 2015, the admissions were made on the order dated 01.10.2015 of the Hon'ble Supreme Court."*

The Committee also perused the opinion of Law Officer, operative part of which reads as under:

> ñé *Thus, these admissions have been made by the college authorities under allotment made by the Karnataka Government within the one-week extension of time-period granted by the Hon'ble Supreme Court. Hence, the explanation of the College authorities in this regard may be accepted."*

After due deliberations, the Executive Committee of the Council decided to approve opinion of Law Officer and further decided that no action is required in the matter.

8. <u>Admission of MBBS Student at Nilratan Sircar Medical College, Calcutta for Academic year 2015-16</u>.

Read: the matter with regard to admission of MBBS Student at Nilratan Sircar Medical College, Calcutta for Academic year 2015-16.

The Executive Committee of the Council noted that the Monitoring Sub-Committee has observed that ñ*regarding the admissions made after the cut-off date i.e. 30th September 2015, the admissions were made on the order dated 01.10.2015 of the Hon'ble Supreme Court."*

The Committee also perused the opinion of Law Officer, operative part of which reads as under:

Thus, these admissions have been made by the college authorities within the one-week extension of time-period granted by the Hon'ble Supreme Court. Hence, the explanation of the College authorities in this regard may be accepted."

After due deliberations, the Executive Committee of the Council decided to approve the opinion of the Law Officer and further decided that no action is required in the matter.

9. <u>Admission of MBBS Student at Bangalore Medical College and Research Institute, Bangalore for Academic year 2015-16</u>.

Read: the matter with regard to **a**dmission of MBBS Student at Bangalore Medical College and Research Institute, Bangalore for Academic year 2015-16.

The Executive Committee of the Council noted that the Monitoring Sub-Committee has observed that ñ*regarding the admissions made after the cut-off date i.e. 30th September 2015, the admissions were made on the order dated 01.10.2015 of the Hon'ble Supreme Court."*

The Committee also perused the opinion of Law Officer, operative part of which reads as under:

Thus, these admissions have been made by the college authorities within the one-week extension of time-period granted by the Hon'ble Supreme Court. Hence, the explanation of the College authorities in this regard may be accepted."

After due deliberations, the Executive Committee of the Council decided to approve the opinion of the Law Officer and further decided that no further action is required in the matter.

10. <u>Recognition/approval of Sree Gokulam Medical College and Research Foundation, Trivandrum for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur against the increased intake i.e. from 50 to 150 seats u/s 11(2) of the IMC Act, 1956</u>.

Read: the matter with regard to **r**ecognition/approval of Sree Gokulam Medical College and Research Foundation, Trivandrum for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur against the increased intake i.e. from 50 to 150 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council considered the assessment reports (27.04.2016) & (02.06.2016 & 03.06.2016) and noted the following:-

1. Shortage of Residents is 19.54 % as detailed in the report.
2. Most of Senior Residents do not stay on the campus.
3. NIL patient was admitted in Casualty till 11:30 a.m. on day of assessment.
4. Wards: Ancillary facilities are not available as per MSR Regulations in several wards. Wards of General Medicine department do not have attached Demonstration rooms.
5. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to recommend to the Central Government not to recognize/approve Sree Gokulam Medical College and Research Foundation, Trivandrum for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur against the increased intake i.e. from 50 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 continue the application of clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II) dated 16th April, 2010 and amended on 18.03.2016.

11. <u>Reply to Show Cause Notice for non-cooperation and misbehavior with the assessors</u>.

Read: the matter with regard to reply to Show Cause Notice for non-cooperation and misbehavior with the assessors.

The Executive Committee of the Council observed that the matter pertains to compliant made by Assessors against NIMS during assessment dt. 21/04/2016. In its reply, the Institute has denied all allegations & has made counter allegations. It was further observed that in its reply, it has not submitted any pointwise compliance to the deficiencies pointed out. The institute has stated as under:

- *Since the inspection was not conducted on 2nd day i.e. 22.4.2016, so as per law of natural justice this incomplete inspection stands null and void.*
- *Medical Council of India instead of issuing show cause notice to the college authorities, should have issued the show cause notice to the team of Assessors who did not inspect the institution on 22.4.2016. As mentioned in the remarks that Assessors had a feeling of insecurity, they should have taken the help of local police or they should have reported on the first day of inspection to Medical Council of India.*
- *Without completing assessment on day 2 i.e. 22.4.2016 and without proper documentation how the team of Assessors reached to the conclusion and raised the 34 deficiencies and same is accepted by MCI authorities since they did not report on 2nd day. These deficiencies are imaginary as they have not visited the defined areas. This also ensures the apprehension of Institute that MCI is prejudiced and biased against institution.*
- *It is very unfortunate on the part of MCI that one letter 109071 dated 15.5.2016 is issued to the institute to get compliance within one month, on the other hand MCI is issuing show cause notice to the institute vide letter 109662 dated 19.5.2016. It would have been fair and honest decision on the part of MCI to issue show cause notice to the Assessors who did not complete the said assessment. This act of MCI also predicts that MCI is biased against the institute to cause damage by issuing show cause notice to the institute not to Assessors.*
- *Therefore, the college authorities are of opinion that the said incomplete assessment and acceptance of such assessment by Executive Committee of MCI should be marked as a BLUR in the history of MCI whose functioning is in question by Hon'ble Supreme Court of India and Joint Parliamentary Committee on Health Affairs.*

CONCLUSIONS:

- *The assessment done by MCI team was incomplete and even on first day of assessment i.e. on 21.4.2016 the said procedure as per MCI norms was not followed. Therefore, such kind of incomplete assessment stands null and void.*
- *Without complete assessment of the institution the list of 34 deficiencies is not acceptable to the institute. These 34 deficiencies pointed out by the Assessors and Executive Committee are imaginary without complete assessment.*
- *Therefore, another assessment is warranted with appropriate team of Assessors at the National Institute of Medical Sciences & Research, Jaipur. We also expect that the assessment will be done in an appropriate manner as per Assessors' guidelines of MCI at earliest."*

After due deliberations, the Executive Committee of the Council decided that the contention of the institute that the assessment is incomplete, 34 deficiencies pointed out are imaginary and it stands null and void cannot be considered and is therefore rejected. The institute is further directed to submit

proper reply/explanation to the Show Cause Notice issued u/s 8(3)(1)(c) along with complete pointwise detailed assessment immediately for further necessary action in the matter.

12. (i) <u>Letters dated 29/04/2016 received from the Registrar, Tamilnadu Medical Council with regard to issue of Provisional Medical Registration to the students of (i)Dhanalakshmi Srinivasan Medical College, Perambalur, (ii) Madha Medical College, Chennai and (iii) Annapoorna Medical College, Salem.</u>

(ii) <u>Representation of students of Annapoorna Medical College, Salem batch (2011-2012).</u>

(iii) <u>Representations of students Sri Muthukumaran Medical College Hospital & Research Institute, Chennai batch (2010-2011.</u>

(iv) <u>Letter dated 24/05/2016 received from the Registrar, Tamilnadu Medical Council with regard to issue of Permanent Registration certificates to the 2010 batch of students of Sri Muthukumaran Medical College & Hospital.</u>

Read: the matter with regard to above mention subjects.

The Executive Committee of the Council observed that the matter pertains to provisional registration of doctors who have passed from above colleges who were admitted with due permissions granted by Govt. of India but who have failed to obtain recognition from MCI/Govt. of India.

The Committee perused the opinion of the Law Officer, operative part of which reads as under:

ñ3. *The common issue in respect of all these cases is that the students have been admitted on the strength of valid letter of permission under section 10A of the Indian Medical Council Act, 1956. However, during the course of recognition inspection deficiencies have been found and in all these the Executive Committee has recommended to the Central Government not to recognize/approve the College for the award of MBBS degree granted under section 11 (2) of the Indian Medical Council Act, 1956 and not to renew the permission for admission of fresh batch of 150 MBBS students. Further, the College Authorities have also been asked to submit compliance within one month as regards the rectification of deficiencies.*

4. The issue on which my opinion is sought for is regarding grant of provisional registration to the students admitted in the First Batch in these Medical Colleges. The Council Office has in respect of Annapoorna Medical College, Salem; Madha Medical College, Chennai; and Dhanalakshmi Medical College, Perambalur received communication dated 29.01.16 from the Tamil Nadu Medical Council seeking response of the Council whether the students admitted in these Colleges are entitled for the grant of provisional registration. Representation of students of Annapoorna Medical College and Sri Muthukumaran Medical College Hospital and Research Centre, Chennai are also on record. The students have inter alia pleaded that they require provisional registration in order to undergo one completed year of Compulsory Rotatory Residential Internship (CRRI).

5. In order to opine on the issue, it would be appropriate to refer to relevant statutory provisions. Section 25 of the Indian Medical Council Act, 1956 lays down the statutory framework for the grant of provisional registration. The aforesaid provision reads as under:

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

6. Sections 25 (2) (3) & (4) that pertain to Indian Medical Graduates and are relevant for the purpose of grant of provisional registration. In the aforesaid cases the student admitted in the first batch have passed the qualifying exam of the University and have pursued a course that enjoys valid letter of permission granted under Section 10A of the Indian Medical Council Act, 1956. Since, it is a permitted course the non-recognition as contemplated under section 10B is in my considered opinion is not attracted in such cases, and as the courses are permitted under the statutory scheme of the IMC Act, 1956 the students have a rightful expectation for the consideration of their case for grant of provisional registration enabling them to complete their Internship. In case, these students are not granted provisional registration they would not complete their MBBS qualification and there four years of study in permitted college would come to naught. These students have been admitted on the strength of valid letter of permission and after completion of their courses, the logical expectation on completion of their studies and internship would be to hold a recognized medical qualification, so that they can practice as Doctors or pursue higher education. The students, in my considered opinion cannot be left stranded with no recognized qualifications, for no fault of their own, having been admitted on the basis of valid letter of permission under section 10A of the IMC Act, 1956.

7. It may be recalled that the erstwhile Board of Governors in super-session of the Medical Council of India in the case of Sri SathyaSai Institute of Medical Sciences had recommended to the Central Government to grant recognition in respect of the already admitted batches.

8. It may be recalled that the opinion of LD. Additional Solicitor General had been obtained as regards the application of Regulation 8 (3) (1) (a) (b) (c) (d), while processing the applications for academic year 2015-16. This opinion was considered and accepted by the Executive Committee in its meeting held on 13.05.15. The relevant extract of the opinion of Ld. ASG is as under:

> *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….."

9. The Executive Committee in the case of MelmaruvathurAdhiprasakthi Institute of Medical Sciences, Tamil Nadu had decided to recommend batch-wise recognition to the students. This was done with objective of safeguarding the careers of the students.

10. It is to be further noted that in all the above instances, the failure of meeting the requirements of Regulations, in the cases of all the above Colleges has led to denial of permission to admit fresh batches. This in itself is a penalty imposed upon the College. For acts of omission by the College, the students cannot be penalized.

11. Thus, in my considered opinion, based upon the past precedents referred above, and the opinion of Ld. ASG, the Executive Committee may consider recommending to the Central Government grant of recognition in respect of the First Batch admitted in the aforesaid Medical Colleges/Medical Institutes, so that the qualifications awarded by the University to them are "recognized medical qualification." Consequently, on the strength of provisional registration they are able to complete their internship and thereafter obtain registration with the State Medical Council as provided for in section 15 of the Indian Medical Council Act, 1956. "

The Executive Committee of the Council also perused a letter dated 24/05/2016 from the Registrar, Tamilnadu Medical Council, Chennai stating therein as under:-

"In pursuance of the above High Court Order (Orders passed in W.P.No.9947 of 2015, dated 29.4.2016) I am forwarding the representation received from the 2010 batch of students of Sri Muthukumaran Medical College & Hospital, Chennai-600069.

On 29.4.2016 in W.P.No.9947 of 2015 & other connected writ petitions, the Hon'ble High Court of Madras has directed Medical Council of India, to take necessary steps to recognize their MBBS degree.(Xerox copy of the order is enclosed).

In this connection, it is pertinent to pointed out that the 2nd Respondent did consider the said issue with respect to Shri SatyaSai Medical College in the letter of the 2nd respondent dated 1.5.2014, the relevant port of which extracted hereunder:-

"The members of the Executive Committee of the Council considered that the students were admitted in the Medical College after the grant of permission by the Central Government on the recommendation of Council. It was also considered that the annual renewals of permission were granted to the Medical College on the students who were admitted from 2008-09 to 2012-13 on valid permission given by the Central Govt. on the recommendation of the MCI cannot be made to suffer at this hour for the misdeeds of the management of MelmaruvathurAdhiprasakthiInstt. Of Medical Sciences & Research. The members of the Executive committee observed that in the similar facts and circumstances in the case of Shri SatyaSai Medical College, the then Board of Governors in super-session of the Council to safeguard the interest of the students who were not at all at fault had decided and recommend to the Central Government to grant recognition to the Medical College. The Central Government accepted the recommendation of the Medical Council of India and issued Notification dated 27.11.2013 with respect the students who had been admitted on the strength of valid letter of permission of Central Government/Board of Governors.

Accordingly, the petitioners are called upon to submit the representation to this Council with in a period of two weeks. The petitioners are relied upon the orders

passed earlier in respect of Sri SatyaSai Medical College and Melmaruvathur Institute of Medical Science covered in the orders passed in W.P.No.16812 of 2015 dated 11.8.2015. The facts and circumstances under which orders were passed earlier are entirely different. Since the Hon'ble High Court has passed orders to take decision by the Medical Council of India in accordance with law in the lights of the orders passed in the earlier writ petitions. Hence you are requested to pass orders accordance with law."

In view of above, the Executive Committee of the Council decided to approve opinion of Law officer and decided to recommend to the Central Government grant of recognition in respect of the Batches already admitted in the aforesaid Medical Colleges/Medical Institutes pursuant to LOP/Renewal of permissions granted by Govt. of India, so that the qualifications awarded by the University to such students are ñrecognized medical qualification.ò Consequently, on the strength of provisional registration they are able to complete their internship and thereafter obtain registration with the State Medical Council as provided for in section 15 of the Indian Medical Council Act, 1956.

The Executive Committee of the Council further decided to place the matter before the General Body of the Council through circulation in the interest of the students.

13. <u>Reply/Explanation to the Show Cause Notice regarding renewal of permission for MBBS course for 3rd batch (150 seats) of P.K Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-17</u>.

Read: the matter with regard to reply/explanation to the Show Cause Notice regarding renewal of permission for MBBS course for 3rd batch (150 seats) of P.K Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council observed that vide letter dt. 28/05/2016, the institute has rendered unconditional apology for the same.

In view of above, the Executive Committee of the Council decided to accept the unconditional apology from the institute and it was further decided to direct the institute not to indulge in such activities in future.

14. <u>Continuance of recognition of MBBS degree granted by Rajasthan University of Health Sciences in respect of students being trained at Jawaharlal Nehru Medical College, Ajmer</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by Rajasthan University of Health Sciences in respect of students being trained at Jawaharlal Nehru Medical College, Ajmer.

The Executive Committee of the Council considered the assessment report (3rd and 4th June,2016) and noted the following:-

1. Deficiency of faculty is 16.3 % as detailed in the report.
2. Shortage of Residents is 67.30 % as detailed in the report.
3. OPD: Injection room is not separate for males/females. Dressing room is not separate for males/females. Teaching areas are inadequate.
4. Wards: Demonstration room & Examination cum treatment Room are not available in all the wards. Pantry is not available in any ward.
5. O.T.s: ENT O.T. has 3 tables & Ophthalmology O.T. has 2 tables which is not as per norms.
6. Audiometry room is not air-conditioned.

7. Lecture Theaters: E class facility is available only in 1 lecture Theater out of 4.
8. StudentsôHostels: Hygiene is poor.
9. ResidentsôHostels: Hygiene is poor.
10. RHTC: Specialistsôvisits are not organized.
11. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided not to recommend continuance of recognition of MBBS degree granted by Rajasthan University of Health Sciences in respect of students being trained at Jawaharlal Nehru Medical College, Ajmer and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month.

15. <u>Continuance of recognition of MBBS degree granted by Rajasthan University of Health Sciences in respect of students being trained at S.M.S. Medical College, Jaipur</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by Rajasthan University of Health Sciences in respect of students being trained at S.M.S. Medical College, Jaipur.

The Executive Committee of the Council considered the assessment report (6th and 7th June, 2016) and noted the following:-

1. Shortage of Residents is 33.3 % as detailed in the report.
2. CT Scan services are outsourced.
3. Examination Hall: Capacity of 1 Examination hall is 300 against requirement of 2 of 250 each.
4. Lecture Theaters: Capacity of Hospital Lecture Theater is 150 against requirement of 200.
5. Common Room for Boys is to be furnished.
6. Hostels: Cleanliness & Hygiene needs improvement.
7. RHTC: Residential accommodation for female Interns is of Dormitory type in 1 room having 6 beds which is not permissible. Toilets are not available.
8. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided not to recommend continuance of recognition of MBBS degree granted by Rajasthan University of Health Sciences in respect of students being trained at S.M.S. Medical College, Jaipur and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month.

16. <u>Continuance of recognition of MBBS degree granted by Padmashree Dr. D.Y. Patil University, Navi Mumbai in respect of students being trained at Padmashree Dr. D.Y. Patil Medical College, Navi Mumbai</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by Padmashree Dr. D.Y. Patil University, Navi Mumbai in respect of students being trained at Padmashree Dr. D.Y. Patil Medical College, Navi Mumbai.

The Executive Committee of the Council considered the assessment report (6th and 7th June, 2016) and noted the following:-

1. Deficiency of faculty is 15.82 % as detailed in the report.
2. Shortage of Residents is 23.25 % as detailed in the report.
3. Bed occupancy is 33.75 % (i.e. 243 out of 720) on day of assessment.
4. OPD: Minor O.T. is not available. Plaster Cutting room is not separate. Dark room is not available in Ophthalmology OPD. Injection rooms for Males/Females are not available. Child Welfare Clinic & Child Rehabilitation Clinic are not available in Paediatrics OPD.

5. Total number of Major operations is shown as 41; however on cross verification with Pathology department, it was observed that only 6 specimens have been sent for Histopathology examination.
6. Total specimens sent to Histopathology in June 2016 till date of assessment (i.e. 06/05/2016) is only 22 implying daily average of 4.4 which is grossly inadequate.
7. There is no record in individual OPDs of patients attending respective departmental OPDs. Hence it is not possible to cross verify the data submitted by Central records.
8. Anatomy department: Audio Visual aids are available in 1 Demonstration room only. Only 4 Lockers are available.
9. Biochemistry department: Audio Visual aids are available in 1 Demonstration room only.
10. Pathology department: Audio Visual aids are available in 1 Demonstration room only.
11. Pharmacology department: Audio Visual aids are not available any Demonstration room.
12. Forensic Medicine department: Audio Visual aids are available in 1 Demonstration room only.
13. Community Medicine department: Audio Visual aids are available in 1 Demonstration room only.
14. Lecture Theaters: Hospital Lecture Hall is like an Auditorium rather than like a Lecture Theater.
15. Dean has refused to sign the assessment report.
16. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided not to recommend continuance of recognition of MBBS degree granted by Padmashree Dr. D.Y. Patil University, Navi Mumbai in respect of students being trained at Padmashree Dr. D.Y. Patil Medical College, Navi Mumbai and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month and apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18.03.2016, which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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.

17. <u>Continuance of recognition of MBBS degree granted by West Bengal University of Health Sciences, Kolkata in respect of students being trained at Midnapore Medical College, Midnapore</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by West Bengal University of Health Sciences, Kolkata in respect of students being trained at Midnapore Medical College, Midnapore.

The Executive Committee of the Council defer the consideration of the matter.

18. <u>Continuance of recognition of MBBS degree granted by D.Y.Patil Education Society (deemed university) Kolhapur in respect of students being trained at D.Y. Patil Medical College, Kolhapur</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by D.Y.Patil Education Society (deemed university) Kolhapur in respect of students being trained at D.Y. Patil Medical College, Kolhapur.

The Executive Committee of the Council considered the assessment report (6th and 7th June, 2016) and decided to to revoke the clause 8(3)(1)(c) of Establishment of Medical College Regulations, 1999. The Executive Committee further decided to recommend that recognition of MBBS degree granted by D.Y.Patil Education Society (deemed university) Kolhapur in respect of students being trained at D.Y. Patil Medical College, Kolhapur be continued restricting the number of admission to 100 (One Hundred) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

> 8 (3) é
> (2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.
>
> (3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.
>
> (4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

19. <u>Pre-PG Assessment – Assessment of the physical and other teaching facilities available for starting of PG course at Narayan Medical College & Hospital, Sasaram, Bihar under Veer Kunwar Singh University,Bihar</u>.

Read: the matter with regard to Pre-PG Assessment ï Assessment of the physical and other teaching facilities available for starting of PG course at

Narayan Medical College & Hospital, Sasaram, Bihar under Veer Kunwar Singh University,Bihar.

The Executive Committee of the Council considered the assessment report (7th and 8th June, 2016) and noted the following:-

1. Shortage of Residents is 11.6 % as detailed in the report.
2. Wards: Separate wards for males/females are not available for Tb & Chest, Psychiatry and Skin & VD departments.
3. Only 3 Static X-ray machines were functional at time of assessment. 1 mobile X-ray of 100 mA is less. One USG machine is less.
4. Central Library: 24 foreign journals are available against requirement of 30. Total 98 journals are available against requirement of 100.
5. StudentsôHostels: Available accommodation is 256 against 375 required. A.C. Study Room is not available.
6. InternsôHostel: A.C. Study Room is not available.
7. Residentsô Hostel: Available accommodation is 42 against 67 required. Mess is not available.
8. NursesôHostel: Mess is not available.
9. Anatomy department: Only 76 specimens are available. Number of MRI & CT films available is only 1 which is inadequate.
10. RHTC is located in rented house. Residential accommodation is of Paying Gust type. Cold Chain equipment is not available.
11. Almost all research publications are in a journal located in Kolkata and published a few days before promotion & 2 papers are published in same issue. One such publication in ñOriginal & Researchò section was published without any material & methodology, result & analysis.
12. In respect of Dr. Arun Kumar, Junior Resident in Psychiatry, signature did not match.
13. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to grant 01(One) month time to the institute to submit the compliance on rectification of deficiencies to the Council and apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18.03.2016, which reads as under:-

> 8(3)(1)é ..
> (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses
>
> If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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 further decided to refer the matter before the Ethics Committee of the Council for consideration of case of Dr. Arun Kumar, Junior Resident in Psychiatry whose signature did not match.

20. <u>Pre-PG Assessment – Assessment of the physical and other teaching facilities available for starting of PG course at Dr. Ulhas Patil Medical College & Hospital, Jalgaon, Maharashtra under Maharashtra University of Health Sciences, Nashik</u>.

Read: the matter with regard to Pre-PG Assessment ï Assessment of the physical and other teaching facilities available for starting of PG course at Dr. Ulhas Patil Medical College & Hospital, Jalgaon, Maharashtra under Maharashtra University of Health Sciences, Nashik.

The Executive Committee of the Council considered the assessment report (6th and 7th June, 2016) and noted the following:-

1. Shortage of Residents is 10.44 % as detailed in the report.
2. Most of the faculty in clinical departments are drawing salary which is not commensurate with their designations as under:

(a) Professor: Rs. 21,000 p.m.;
(b) Asso. Prof.: Rs. 18,000 p.m. &
(c) Asst. Prof.: Rs. 15,000 p.m.

3. Stipend paid to Residents is between Rs. 10,000 & Rs. 12,000 p.m. which is too less.
4. Only 4 female Residents are staying in the hostel; No male Residents are staying in the hostel.
5. Several of admitted patients in Paediatrics, O.G. & Orthopaedics were routine OPD cases.
6. There was NIL Normal Delivery & NIL Caesarean Section on day of assessment. Monthly workload of Normal Deliveries is only 6-7 & of LSCS is only 8-9 which is grossly inadequate.
7. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to grant 01(One) month time to the institute to submit the compliance on rectification of deficiencies to the Council and apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18.03.2016, which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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.

21. <u>Continuance of recognition of MBBS degree granted by Ch. Charan Singh University, Meerut in respect of students being trained at Muzaffarnagar Medical College, Muzaffarnagar</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by Ch. Charan Singh University, Meerut in respect of students being trained at Muzaffarnagar Medical College, Muzaffarnagar.

The Executive Committee of the Council considered the assessment report (9th & 10th June, 2016) alongwith a letter dated 11th June, 2016 (received on 22nd June, 2016) from the Principal of the college and noted the following:-

1. Deficiency of faculty is 12.19 % on day of assessment.
2. Shortage of Residents is 23.18 % on day of assessment.
3. The faculties and resident doctors came after 11 AM and signed in late attendance sheet.
4. Faculties and residents doctors came after 11 am claimed during physical verification that they were in OT. OT visit was done by Dr. D. Abhivardhan with Medical Superintendent & HOD anesthesiology. Those were present in OT they signed in OT attendance sheet.
5. No night duty lists were provided to assessor on 9.6.2016. During physical vericiation clinical HODs claimed most of faculties and resident doctors were in day off and came before 12 noon.
6. HOD Anaesthesiology submitted emergency duty roster with his signature at 6.30 pm on9.6.2016 during verification. It was observed that correction was made by pen in the said copy from 1st June, 2016 to 30th June, 2016 in place of May. Name of three doctors was made correction by pen in the same copy.
7. Principal of the institute submitted the copy of reason who were absent before 11 am on 9.6.2016. Dr. Sanjiv Dave & Dr. Amit Kamboj were posted in RHTC. Dr. C. Maheswari posted in UHTC. But as per Principals declaration that Dr. Pradeep K. Kapoor and Dr. Shruti Seghal posted in RHTC and UHTC on 9.6.2016.
8. Bed occupancy was 52.63 % on day of assessment.
9. OPD: Injection room for male/female is common.
10. Wards: Examination cum treatment room, Pantry, Store room, are common for more than 2 wards on each floor.
11. In one Gynae ward two postoperative patients name Afsana & Zenith was available whose surgery had done 7 days back.
12. In second Gynae ward one patient of LUCS done on 1.6.2016, Cystocele repair on 31.5.2016, Post operated Ectopic pregnancy done on 30.5.2016 were available.
13. In obstetric ward patient Priyanke 22 years female CR No. 47593 was 4th month of pregnancy as told by on duty doctor but on examination of case sheet it was found EDD was written 15th August, 2016 and it was corrected by pen.

14. No separate Antenatal and Postnatal ward available. Even Gynae patients were kept in same ward.
15. In Paediatric ward most of the patients looks were healthy and case sheets of all patients were not available.
16. Female dermatology patients were kept in male determatology ward.
17. In Surgery ward patients were not genuine with normal look and casual dresses. Patient of urinary Tract infection admitted in Surgery ward. Case sheet of all patients were not available in the ward during visit. In Surgery ward it was found in case sheet IP No. 48561 name Anuj 24 yrs male diagnosis was UTI admitted on 8.6.2016 and date of discharge was already written as 12.6.2016. Another patient in Surgery ward name Ashis 25 yrs male without IP number admitted on 7.6.2016 and date of discharge on 12.6.2016 and Cholecystectomy done on 8.6.2016.
18. In ENT male ward patients admitted with chronic tonsillitis and DNS.
19. In Ophthalmology ward patient name Ramesh age 40 yrs old CR no. 48417, advised discharge on 6.6.2016 yet present in the ward.
20. In Ophthalmology the patient Mahendri without IP number date of admission is 18.2.2016 without any further treatment and case sheet was found blank.
21. In paediatric ward patient admitted but their case sheets were not available during time of visit. In the same ward patient Diagnosed a case of Malaria and admitted on 6.6.2016 but no investigation for Malaria was found on the day of inspection.
22. No postoperative ward in Surgery was available.
23. Data of clinical material provided by college authorities appear to be inflated.
24. There were only 05 Major operations for the whole hospital on day of assessment.
25. There was NIL Normal Delivery & only 01 LSCS on day of assessment.
26. Workload of CT Scan was only 08 on day of assessment.
27. Workload of Histopathology was only 06 on day of assessment.
28. In register of General Surgery O.T., it was observed that Cholecystectomy and Lap Appendicectomy were found to be done on previous day. However, no such patient was found in the wards. The answer given was that they were discharged in evening. No case sheets were found.
29. Casualty OT register was updated till 06/03/2016. It was brought from ENT OT by OT boy on demand during visit.
30. ICUs: There were only 2 patients in PICU/NICU on day of assessment.
31. There was no lady in Labour room at time of assessment.
32. CSSD: No register was available during assessment.
33. Speech therapy is not available.
34. Lecture Theaters: 3 Lecture Theaters are available in the institute against requirement of 4.
35. Central Library: Staff Reading room is not available. Seating capacity in Reading room (Outside) is 72 against requirement of 100.
36. Anatomy department: Number of cadavers is less.
37. Microbiology department: Media preparation room is not working.
38. RHTC: Cold chain equipment is inadequate.
39. Other deficiencies as pointed out in the inspection report.

In view of the above, the Executive Committee of the Council decided not to recommend continuance of recognition of MBBS degree granted by Ch. Charan Singh University, Meerut in respect of students being trained at Muzaffarnagar Medical College, Muzaffarnagar and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month and apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18.03.2016, which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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.

22. Pre-PG Assessment – Assessment of the physical and other teaching facilities available for starting of PG course at Chhattisgarh Institute of Medical Sciences, Bilaspur under Guru Ghasidas University.

Read: the matter with regard to Pre-PG Assessment ï Assessment of the physical and other teaching facilities available for starting of PG course at Chhattisgarh Institute of Medical Sciences, Bilaspur under Guru Ghasidas University.

The Executive Committee of the Council considered the assessment report (8th and 9th June, 2016) and noted the following:-

1. Deficiency of faculty is 16.19 % on day of assessment.
2. Shortage of Residents is 22.38 % on day of assessment.
3. OPD: Registration Counters are partially computerized. Cancer Detection clinic is not available in O.G. OPD.
4. Total number of Major operations for the whole hospital is only 11.
5. Special investigations like Ba, IVP are not carried out.
6. Workload of Histopathology is only 05 on day of assessment.
7. MRD: It is partially computerized. ICD X classification of diseases is partially followed.
8. No 100 mA mobile X-ray machine is available. 4 static X-ray machines are available against requirement of 5. Available USG machines are 2 against requirement of 3.
9. CT Scan is single slice against minimum 16 slice.
10. ETO Sterilizer is not available.
11. Demonstration rooms are not available in the departments of Tb & Chest, Skin & VD, Psychiatry, ENT and Ophthalmology.
12. Central Library: Available area is 650 sq.m. against requirement of 1,600 sq.m. Capacity of StudentsôReading room (Outside) & Studentsôreading Room (Inside) is 40 & 50 respectively against requirement of 100 each. Available Internet Nodes are only 10 which are inadequate.

13. Central Photography Section: Staff & Equipment are not available.
14. Residential Quarters for Teaching & non-teaching staff are not available in the campus.
15. Nursing Staff: 220 Nurses are available against requirement of 247.
16. Microbiology department: Museum is non-functional.
17. RHTC: Residential accommodation is not available. Survey/MCH/FP/Immunization registers are not available.
18. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to grant 01(One) month time to the institute to submit the compliance on rectification of deficiencies to the Council.

23. <u>Consideration of compliance verification assessment report with regard to continuance of recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Govt. Medical College, Miraj (Sangli)</u>.

Read: the matter with regard to consideration of compliance verification assessment report with regard to continuance of recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Govt. Medical College, Miraj (Sangli).

The Executive Committee of the Council considered the compliance verification assessment report (6th June, 2016) along with previous reports (18th December, 2015 & 1st & 2nd July, 2014) and noted the following:-

1. Deficiency of faculty is 16.37 % as detailed in the report.
2. Shortage of residents is 10.44 % as detailed in the report.
3. Only 3 static X-ray machines are available against requirement of 5.
4. Deficiency of inadequate area of Examination hall remains as it is.
5. Deficiency of inadequate area (Available 1,200 sq.m. against requirement of 2,400sq.m.) remains as it is.
6. OPD: Registrations counters are still not computerized. Deficiency remains as it is.
7. Other deficiencies as pointed out in the inspection report.

In view of the above, the Executive Committee of the Council decided not to recommend continuance of recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Govt. Medical College, Miraj (Sangli) and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month.

24. <u>Continuance of recognition of MBBS degree granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at SDM College of Medical Sciences & Hospital, Dharwad</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at SDM College of Medical Sciences & Hospital, Dharwad.

The Executive Committee of the Council considered the compliance verification assessment report (15th June, 2016) along with previous assessment report (26th Feb.,2016) & (Aug.,2014) and decided to recommend that recognition of MBBS degree granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at SDM College of

Medical Sciences & Hospital, Dharwad be continued restricting the number of admission to 100 (One Hundred) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

> 8 (3) é
> (2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.
>
> (3) The procedure for õRenewalôof recognition shall be same as applicable for the award of recognition.
>
> (4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

25. <u>Amendment in Establishment of Medical College Regulations, 1999</u>.

Read: the matter with regard to amendment in establishment of Medical College Regulations, 1999.

The Executive Committee of the Council perused the Gazette Notification dated 26th February, 2010 with regard to amendments in the Establishment of Medical College Regulations (Amendment), 2010 which reads as under:

> *ñ3. In Clause 1 under the heading ñeligibility Criteriaò the following shall be added after sub-clause (5):-:*
>
> Companies registered under Company Act may also be allowed to open medical colleges. Permission shall be withdrawn if the colleges resort to commercializationò

The Executive Committee also observed that the Joint Secretary to the Govt. of India, Ministry of Health & Family Welfare, New Delhi, vide his letter dated 30th May, 2016 has informed that amendment in the Eligibility Criteria stipulated under the õEstablishment of Medical College Regulations, 1999ò Point 6 of the Eligibility Criteria seems to indicate that no organization may be allowed to establish Medical Colleges for purpose of profit making. Various private organizations including companies have been representing to the Government requesting to allow private participation for establishment of medical colleges as a business venture. He has further stated that it is also felt that the medical colleges set up by Autonomous Bodies/Societies/Trust may be allowed to convert themselves into a Company.

The following proposed amendment in Point 6 in the Eligibility Criteria stipulated under the õEstablishment of Medical College Regulations, 1999ò alongwith the addition of a note may be considered by MCI:

(6) All Companies registered under the Companies Act, 1956.

Note: Provided further that any Medical College set up by an Autonomous Body/Society/Trust as at Sl. No. (3). (4) and (5) above can also be converted into a company.

In view of above, the Executive Committee of the Council decided to approve the proposal of the Government of India and make necessary amendments in the existing regulations as well as in Minimum Standard Requirements for the Medical College Regulations and be sent the same to the members of the General Body of the Council by circulation for its consideration.

26. <u>Continuance of recognition of MBBS degree granted Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Santhiram Medical College & General Hospital, Kurnool, A.P.</u>

Read: the matter with regard to continuance of recognition of MBBS degree granted Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Santhiram Medical College & General Hospital, Kurnool, A.P.

The Executive Committee of the Council considered the compliance verification assessment report (17th June,2016) along with previous assessment report (1st & 2nd March, 2016) and decided to revoke the clause 8(3)(1)(c) of Establishment of Medical College Regulations, 1999. The Executive Committee further decided to recommend that recognition of MBBS degree granted by Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Santhiram Medical College & General Hospital, Kurnool, A.P. be continued restricting the number of admission to 100 (One Hundred) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

8 (3) é
(2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

(3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.
(4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

27. <u>Continuance of recognition of MBBS degree granted Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Shadan Institute of Medical Sciences, Hyderabad, A.P.</u>

Read: the matter with regard to continuance of recognition of MBBS degree granted Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Shadan Institute of Medical Sciences, Hyderabad, A.P.

The Executive Committee of the Council considered the compliance verification assessment report (17th June,2016) along with the previous assessment report (4th to 6th March, 2016) and decided to revoke the clause 8(3)(1)(c) of Establishment of Medical College Regulations, 1999. The Executive Committee further decided to recommend that recognition of MBBS degree granted by Dr. NTR University of Health Sciences, Vijayawada in respect of students being trained at Shadan Institute of Medical Sciences, Hyderabad, A.P. be continued restricting the number of admission to 150 (One Hundred Fifty) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

> 8 (3) é
> (2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.
>
> (3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.
> (4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

28. <u>Continuance of recognition of MBBS degree granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at Belgaum Institute of Medical Sciences, Belgaum</u>.

Read: the matter with regard to continuance of recognition of MBBS degree granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at Belgaum Institute of Medical Sciences, Belgaum.

The Executive Committee of the Council considered the compliance verification assessment report (15th June, 2016) along with previous assessment report (22nd & 23rd Feb.,2016) and noted the following:-

1. Shortage of Residents is 13.43 % as detailed in the report.
2. O.T.: In Septic O.T., Boyleôs apparatus for General Anaesthesia is not available.
3. Bed occupancy is 73 % on day of assessment.
4. Radiological investigation workload is inadequate.
5. Histopathology workload is only 07 & Cytopathology workload is only 04 on day of assessment.
6. MRD is outsourced.
7. Lecture Theater: Hospital Lecture Theater is not of gallery type & it is not as per MSR Regulations.
8. Residentsô& Internsô Hostels: They are not yet functional.
9. RHTC: Residential accommodation is of Dormitory type which is not as per Regulations. No Interns & PGs are staying. Mess is not available.
10. Other deficiencies as pointed out in the inspection report.

In view of the above, the Executive Committee of the Council decided not to recommend continuance of recognition of MBBS degree granted by Rajiv Gandhi University of Health Sciences, Bangalore in respect of students being trained at Belgaum Institute of Medical Sciences, Belgaum and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month.

29. <u>Consideration of Compliance Verification Assessment report with regard to continuance of recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Terna Medical College, Navi Mumbai.</u>

Read: the matter with regard to consideration of Compliance Verification Assessment report with regard to continuance of recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Terna Medical College, Navi Mumbai.

The Executive Committee of the Council considered the compliance verification assessment report (17.06.2016) along with previous compliance verification assessment report (22.02.2016),(10.03.2015) and previous assessment report (11th & 12th September, 2014) and noted the following:-

1. Shortage of Residents is 10.6 % as detailed in the report.
2. Bed occupancy was 44 % at own hospital on day of assessment.
3. OPD attendance at own hospital was 199 at 12 noon. The figure of 451 given by institute at 2 p.m. is grossly inflated.
   (a) In the department of Medicine there were 17 patients which did not require admission (08 were admitted with the diagnosis of fever and the fever had not been seen in the temperature chart after admission. There were patients belonging to other departments with the diagnosis of Cataract, ovarian malignancy, Bellôs palsy and severe osteoporosis kept in the Medicine ward.
   (b) In the department of Obst. & Gynae, there were 16 patients who did not require admission. One patients of prolapse uterus had been awaiting for surgery since getting not require admission. One patient of prolapse uterus had been awaiting for surgery since getting admitted on 27.5.2016. Few patients of infertility had been admitted for work up. One patients of cervical cancer was admitted on 23.5.2016 had biopsy on 10.6.2016 and nothing had been planned for her till the day of inspection.
   (c) In the department of Surgical ward ï fifteen patients were not require admission were admitted, some of them had undergone surgery many day ago (inguinal hernia surgery on 4.6.2016, Breast abscess drainage on 2.6.2016, Gluteal abscess drainage 7.6.2016, Haemorrhoidectomy on 3.6.2016) One patients had been admitted on with Renal stone 25.5.2016, one for Colonoscopy admitted on 3.6.2016 their diagnosis varied from Gastritis, Pain abdomen.
4. Static X-ray machines are inadequate at own hospital as only 2 are available against requirement of 5. Mobile X-ray machines at own hospital are inadequate as only 2 are available against requirement of 4.
5. Data of admissions & discharges at NMMC Hospital on day of assessment duly signed by Medical Superintendent of NMMC Hospital was not provided.
6. In NMMC Hospital, as per MOU, OPD & admissions allotted to the institute are Tuesdays & Fridays. Apart from these days, treatment of patients is provided by staff of NMMC Hospital & not by faculty of institute which is not permissible.
7. Institute has no financial or administrative control over NMMC Hospital which is contrary to Regulations.

8. There was NIL Normal Delivery & NIL Caesarean Section at own hospital on day of assessment.
9. Workload of Microbiology investigations is very low.
10. There is discrepancy in the number of Major operations claimed by institute & Histopathology specimens received. While number of Major operations is shown as 14, number of Histopathology specimens is only 03.
11. Residential quarters for faculty available in the campus are only 12 against requirement of 21.
12. In Terna Medical College building, ground floor was occupied by schoolchildren. Their classes have been taken there. This is contrary to Regulations.
13. RHTC is in rented place. Deficiency remains as it is.
Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to reiterate its earlier decision not to recommend continuance of recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Terna Medical College, Navi Mumbai and further decided that the institute be asked to submit the compliance of rectification of the above deficiencies within 01 month.

The Committee further decided to continue the application of clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II) dated 16th April, 2010.

30. <u>Exemption from assessment for Continuance of Recognition for the medical colleges which are in the stage of reaching recognition status for the increased seats</u>.

Read: the matter with regard to exemption from assessment for Continuance of Recognition for the medical colleges which are in the stage of reaching recognition status for the increased seats.

The Executive Committee of the Council decided to accept the legal opinion of Council Advocate in the matter, the operative part of which reads as under:-

"……

6. Keeping in view, the aforesaid, it is clear that for increased intake under the scheme of IMC Act only permission of the Central Government is required as the degree awarded by the college is already included in the Ist Schedule of the IMC Act, 1956 that contains the "Recognized Medical Qualifications Granted by the University or Medical Institutions in India". Applications for increased intake are subject to grant of permission on the basis of assessment and thereafter for renewal also assessment is required. By these assessments, the availability of clinical material, human resources and other infrastructure required by the college is examined for higher requirements. Thus, the process of continuance of recognition of existing MBBS seat can be considered to be assimilated within the processing of applications for higher intake. Once, approval for increased intake has been granted, it, in my considered opinion, would include the continuance of recognition for the existing intake of MBBS seats also. Subjecting colleges for continuance of recognition in such cases would amount to duplication of work."

31. <u>Continuance of recognition of MBBS degree granted Utkal University in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar.</u>

Read: the matter with regard to continuance of recognition of MBBS degree granted Utkal University in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar.

The Executive Committee of the Council considered the compliance verification assessment report (20th June, 2016) along with the previous assessment report (4th & 5th March, 2016) and decided to recommend that recognition of MBBS degree granted by Utkal University in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar and decided to revoke the clause 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee further decided to recommend that recognition of MBBS degree granted by Utkal University in respect of students being trained at Hi-Tech Medical College & Hospital, Bhubaneswar be continued restricting the number of admission to 100 (One Hundred) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

> 8 (3) é
> (2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.
>
> (3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.
>
> (4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

32. <u>Continuance of recognition of MBBS degree granted Maharashtra University of Health Sciences, Nashik in respect of students being trained at Armed Forces Medical College, Pune .</u>

Read: the matter with regard to continuance of recognition of MBBS degree granted Maharashtra University of Health Sciences, Nashik in respect of students being trained at Armed Forces Medical College, Pune.

The Executive Committee of the Council considered the compliance verification assessment report (17th June, 2016) along with the previous assessment report (16th& 17th Feb., 2016) and decided to recommend that recognition of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Armed Forces Medical College, Pune be continued restricting the number of admission to 140 (One Hundred Forty) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

> 8 (3) é
> (2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

(3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.

(4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

33. <u>Continuance of recognition of MBBS degree granted by Manipal University, Manipal in respect of students being trained at Kasturba Medical College, Manipal.</u>

Read: the matter with regard to Continuance of recognition of MBBS degree granted by Manipal University, Manipal in respect of students being trained at Kasturba Medical College, Manipal.

The Executive Committee of the Council considered the compliance verification assessment report (20th June, 2016) along with the previous assessment report (4th & 5th March,2016) and decided to recommend that recognition of MBBS degree granted by Manipal University, Manipal in respect of students being trained at Kasturba Medical College, Manipal be continued restricting the number of admission to 250 (Two Hundred Fifty) students.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

8 (3) é
(2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

(3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.

(4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

34. <u>Approval of the proceedings of the Ethics Committee meetings held on 24th & 25th May, 2016 - reg.</u>

Read: the matter with regard to approval of the proceedings of the Ethics Committee meetings held on 24th & 25th May, 2016.

With respect to the individual item, the Executive Committee of the Council decided as under:-

1	Appeal dated 16.05.2015 filed by Dr. Arjun Kumar Assudani against Order dated 01.02.2015 passed by Madhya Pradesh Medical Council.	24th& 25th May, 2016

Matter pertains to appeal filed by Dr. A.K. Assudani against order of M.P. Medical Council.

Dr. A.K. Assudani (Complainant) had filed compliant of negligence against Dr. Sanjeev Jain & Dr. Rajesh Sharma. M.P. State Medical Council vide order dt. 01/02/2015 dismissed the complaint as no case of medical negligence was proved.

Hence Dr. A.K. Assudani has filed appeal before MCI. Ethics Committee has decided to uphold the decision of MPSMC & accordingly dismissed the appeal.

Approved.

2	Appeal dated 11.04.2015 filed by Mrs. Kiran Devi Bothra against Order dated 16.12.2014 passed by Rajasthan Medical Council	24th& 25th May, 2016

Matter pertains to appeal filed by Mrs. Kiran Devi Bothra against order of Rajasthan Medical Council.

Mrs. Kiran Devi Bothra had filed compliant of medical negligence against Dr. Ajay Bapna. Rajasthan Medical Council vide order dt. 16/12/2014 dismissed complaint as no case of medical negligence was proved.

Hence Mrs. Kiran Devi Bothra has filed appeal before MCI.

Ethics Committee has decided to uphold the decision of MPSMC & accordingly dismissed the appeal.

Approved.

3	Working of Dr. H.S. Somasekhar, Professor, Pharmacology and Vice Principal, Oxford Medical College, Hospital & Research Centre, Bangalore, more than one Medical College simultaneously.	24th& 25th May, 2016

Matter pertains to appearance at 2 colleges in the same Academic year.

Ethics Committee after verification all records & D.F. have found that Dr. H.S. Chandrasekhar has clearly mentioned in the D.F. of 2nd college ï i.e. Oxford Medical College that he has appeared for assessment at 1st college ï viz., JJM Medical college, Davangere during the Academic Year. This has been acknowledged by assessor also in her statement before Ethics Committee. Hence Ethics Committee has disposed off the matter.

Not Approved. It is the duty of both the teacher & Dean not to present any faculty who has appeared for assessment in another medical college during the same Academic Year. After due deliberations, members of the Executive Committee decided as under:

(1) Dr. H.S. Somasekhar be issued Warning not to repeat such action in future;

(2) Dr. B. Viajykumar, Dean be issued Warning not to present any such faculty for assessment who has appeared at another medical college for assessment during the same Academic Year and he is further debarred from working as Dean / principal or in any other administrative post for a period of 3 years.

4	Appeal dated 01.05.2015 filed by Sh. Gaurav	24th& 25th May, 2016

	Mahajan against Dr. Najeeb-ur-Rehman, Asian institute of Medical Sciences, Faridabad ï regarding.	

Matter pertains to compliant filed by Shri Gaurav Mahajan against Dr. Najeeb-urRehman. The complaint was sent to Haryana Medical Council. As HMC failed to decide within 6 months, Sh. Mahajan filed appeal before MCI.

Presently, Sh. Mahajan vide letter dt. 08/01/2016 has decided to withdraw his appeal. Hence Ethics Committee has decided that matter be treated as closed.

Approved.

5	Appeal filed by Smt. Sangeeta Agrawal against order dated 06.07.2015 passed by Uttar Pradesh Medical Council - reg.	24th& 25th May, 2016

Matter pertains to complaint filed by Smt. Sangeeta Agarwal against Dr. VinayBhat&Narendra Mohan Hospital before UP Medical Council. UPMC has dismissed the complaint. In the appeal filed before MCI, Ethics Committee had directed hospital to provide records within 72 hours; no decision was taken regarding medical negligence. Hence E.C. decided to refer back for appropriate decision.

Presently Ethics Committee has observed the original complaint was related with providing medical records only; no complaint regarding medical negligence is received from complainant. In Para 3 of appeal the complainant has categorically stated that ñ*as &when the documents will be received by her, a detailed complaint will be filed."* Hence no decision is required to be taken in the matter of medical negligence.

Approved.

6	Appeal dated 13.12.2014 filed by Sh. Kushal Bhargava against Dr. M. Balasubramanium, Dr. Nozer K. Sherian, Dr. AjitGajendragadkar& Dr. Amit Jagtap.	24th& 25th May, 2016

Matter pertains to complaint filed by Shri Kushal Bhargava against Dr. M. Balasubramanium, Dr. Nozer K. Sherian, Dr. AjitGajendragadkar& Dr. Amit Jagtap before Maharashtra Medical Council in February 2014. As it was not concluded within 6 months, appeal was filed before MCI.

Ethics Committee after detailed hearing & based upon expert opinion has decided to exonerate the doctors as there was no case for medical negligence. It has further observed that Dr. Amit Jagtap has acquired qualification which is not recognized. Hence it has decided to issue warning to him & also directed to him not to call himself ñNeonatologistò

Approved.

7	Appeal dated 27.03.2015 filed by Dr. Priti Jain against Order dated 16.03.2015 passed by Delhi Medical Council.	24th& 25th May, 2016

Matter pertains to suomoto action taken by Delhi Medical Council on anonymous complaint received by it regarding Dr. Preeti Jain. The allegation was that she is visiting multiple laboratories & signing reports. Vide order dt. 14/11/2014 DMC found her not guilty. However it revised its order and issued another order dt.

15/03/2015 finding her guilty & decided to remove her name for 15 days. Hence the appeal.

Ethics Committee has observed that Dr. Preeti Jain has already filed FIR regarding fake/forged signatures. It also observed that DMC has found her guilty u/s 1.4.2 of Ethics Regulations which in fact pertains to display of recognized medical degrees or certificates/diplomas, etc. which does not apply to the present case. Hence it has decided to set aside decision of DMC, exonerating Dr. Preeti Jain.

Approved.

8	Appeal filed by Dr. Pankaj Kumar Jaiswal against the order dated 26.12.2014 passed by Chhattisgarh Medical Council, Raipur - reg.	24th& 25th May, 2016

Matter pertains to appeal filed by Dr. PankajJaiswal against order of Chhatisgarh Medical Council.

Ethics Committee has dismissed appeal as being time barred (filed after 1 year against maximum 120 days)

Approved.

9	Appeal filed by Sh. Mahesh Chand Sharma against Dr. SerwarEqbal& others of Max Hospital, SushantLok, Gurgaon- reg.	24th& 25th May, 2016

Matter pertains to complaint filed by Smt. Nisha Sharma against Dr. SerwarEqbal. The matter was referred to Haryana Medical Council on 28/01/2014. As no decision was taken by HMC within 6 months, the appeal was filed by Shri Mahesh Chand Sharma before MCI. As he was not the original complainant, it was dismissed by Ethics Committee.

This was approved by E.C. at its meeting dt. 22/03/2016.

Presently Smt. Nisha Sharma has sent a letter authorizing Shri Mahesh Chand Sharma to file the appeal. Ethics committee has observed that the appeal has already been disposed off. Hence it has advised Smt. Nisha Sharma to send authorization letter in proper affidavit form along with a fresh appeal. It has also recorded that ñ*After receipt of the proper authorization letter from the complainant's side, the matter will be taken up by the Committee on merit."*

Approved with the modification that the words ñalong with a fresh appealò after the words ñò*proper authorization letter"* in the above sentence to sync with the decision of Ethics Committee.

10	Appeal dated 26.09.2014 filed by Sh. SomrajSen against Dr. Samir Roy, Dr. JyotsnaBasu, Dr. Pritha Data, Dr. NirmalaJaiswal, Dr. MrinalKanti Das of Kothari Medical Centre, Kolkata alongwith Sh. Barun Das Gupta (OT Technician) and Ms. IlaSardar (Staff Nurse) ï reg.	24th& 25th May, 2016

Matter pertains to complaint filed by Shri SomrajSen against Dr. Samir Roy, Dr. JyotsnaBasu, Dr. Pritha Data, Dr. NirmalaJaiswal, Dr. MrinalKanti Das of Kothari Medical Centre, Kolkata alongwith Sh. Barun Das Gupta (OT Technician) and Ms. IlaSardar (Staff Nurse) with West Bengal medical Council. As no decision was taken by WBMC within 6 months, appeal was filed before MCI. As Dr.

PrithaDatta& Dr. NirmalaJaiswal failed to appear before Ethics Committee, it was decided to invoke Section 8.5 of Ethics Code & to debar them from practice. This decision was approved by E.C. at its meeting dt. 22/03/2016. However, the matter was referred back in respect of others as no decision was recorded regarding them.

Presently Ethics Committee has observed after due deliberations & hearings that no case of medical negligence is made out against Dr. Samir Roy, Dr. JyotsnaBasu& Dr. MrinalKanti Das and therefore decided to exonerate them.

Approved.

11	Appeal dated 04.08.2014 filed by Ms. NandiniNimeshSuchade, Maharashtra against Dr. MurarilalNagarmalSaraf, Dr. Borges,(Cardiologist), Dr. E. Bharucha (Neurologist), Dr. Parekh (Dermatologist), Dr. Asmita S. Sakhale (Pathology MD), Dr. AnandGokhani (Endocrinologist), Dr. KunjalBhatija (Gynaecologist), Dr. SujataMeheta (Insetivist) of Medical Research Centre, Bombay Hospital. ï reg.	24th& 25th May, 2016

Matter pertains to appeal filed by Smt. NandiniNimeshSuchade against Dr. MurarilalNagarmalSaraf, Dr. Borges,(Cardiologist), Dr. E. Bharucha (Neurologist), Dr. Parekh (Dermatologist), Dr. Asmita S. Sakhale (Pathology MD), Dr. AnandGokhani (Endocrinologist), Dr. KunjalBhatija (Gynaecologist), Dr. SujataMeheta (Insetivist).

With regard to Dr. M.N. Saraf, it was observed that he was registered with Maharashtra Medical Council in 1971. As he did not apply for renewal of registration, his registration was suspended from 1988-89 by MMC. He applied for fresh registration in 2013 & was granted fresh registration by MMC in 2013.

Law Officer of MCI has opined that as per IMC Act, there is no provision for renewal of registration and in case of conflict , law passed by Parliament shall prevail upon that passed by State Legislature. However he advised for obtaining opinion from Council Advocate.

Council Advocate has taken a position that entry in IMR is contingent upon entry in State Medical Register & if any State Medical Council has removed the name of a Doctor from SMR, it will have an effect on IMR as well. He has held that Dr. M.N. Saraf was not a registered practitioner during the period his name was removed from SMR. He has not touched upon the conflict between Central & State law at all in his opinion.

Ethics Committee has recommended to refer the matter to appropriate law enforcing authority to take proper action against Dr. M.N. Saraf for function as a registered medical practitioner.

Not approved. It is observed that there is divergence of opinion of Law Officer & Council Advocate. Also, Council Advocate has not touched upon the issue of conflict between Law passed by Parliament & by State Legislature. If renewal of Registration is not prescribed by Central Act, can it be prescribed by a State Legislature ? This is the moot question to answer. Hence it was decided to obtain opinion from Ld. Addl. Solicitor General and resubmit the matter.

35. Grant of Registration for Additional Qualifications i.e. Doctor of Medicine of Radio Diagnosis awarded by the International University of the Health Sciences, St. Christopher and Nevis in respect of Dr. Rachamallu Aparna u/s 26(1) of the IMC Act, 1956.

Read: the matter with regard to grant of Registration for Additional Qualifications i.e. Doctor of Medicine of Radio Diagnosis awarded by the International University of the Health Sciences, St. Christopher and Nevis in respect of Dr. Rachamallu Aparna u/s 26(1) of the IMC Act, 1956.

The Executive Committee of the Council decided that a meeting of Chairman REC Sub-Committee & Chairman Academic Committee be convened and the matter be resubmitted after taking appropriate decision.

36. Recognition/approval of Sri Muthukumaran Medical College, Hospital & Research Institute, Chennai for the award of MBBS degree (150 seats) 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 Sri Muthukumaran Medical College, Hospital & Research Institute, Chennai for the award of MBBS degree (150 seats) granted by The Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council considered the compliance verification assessment report (17th June, 2016) along with previous assessment report (4th May, 2016, 6th Jan., 2016, 11th Sept., 15, 28thApril 15 , 17th April, 2015 and 18th & 19th Feb., 2015) as well as the letter dated 20/06/2016 received from the Member Secretary, Chennai Metropolitan Development Authority, Chennai and decided to recommend to the Central Government for recognition/approval of Sri Muthukumaran Medical College, Hospital & Research Institute, Chennai for the award of MBBS degree (150 seats) granted by The Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

> 8 (3) é
> (2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.
>
> (3) The procedure for ôRenewalôof recognition shall be same as applicable for the award of recognition.
>
> (4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

37. Removal of prefix "Padmashree" from the name of Dr. D.Y. Patil Medical College Hospital and Research Centre, Pimpri, Pune.

Read: the matter with regard to removal of prefix ñPadmashreeò from the name of Dr. D.Y. Patil Medical College Hospital and Research Centre, Pimpri, Pune.

The Executive Committee of the Council considered the letter dated 9/6/16 of the Dean, Dr. D.Y. Patil Medical College Hospital and Research Centre, Pimpri, Pune requesting to remove the title ñPasmashreeò from their college name, keeping in view, judgement of Hon'ble Supreme Court of India and the resolution passed in their Board of Management in 2014 and decided to accept the request of the college and directed to place the matter before the General Body of the Council.

38. <u>Compliance Verification Assessment of the physical and the other teaching facilities available for 100 MBBS seats at Sri Aurobindo Institute of Medical Sciences, Indore, Madhya Pradesh under Devi Ahilya Vishwa Vishwa Vidyalaya, Indore.</u>

Read: the matter with regard to compliance verification assessment of the physical and the other teaching facilities available for 100 MBBS seats at Sri Aurobindo Institute of Medical Sciences, Indore, Madhya Pradesh under Devi Ahilya Vishwa Vishwa Vidyalaya, Indore.

The Executive Committee of the Council considered the compliance verification assessment report (17th June, 2016) along with previous assessment reports (27th & 28th April, 2016 & 29th & 30th December, 2014) as well as letter dated 17.06.2016 from the Council assessor Dr. Karabi Baral, Bankura (Co-ordinator) and letter dated 18.06.2016 from the Dean of the college and noted the following:-

1. In Histopathology laboratory, all the tissues were not fresh or looked like fresh tissues.
2. In Casualty ward, only 06 patients were available.
3. In OPD, very few patients were seen at 09:10 a.m.
4. Out of total list of 67 Major operations, only 18 cases, which included 6 Superspecialty operations not to be considered for UG teaching, were operated till 02:30 a.m.
5. With regard to complaints against doctors, it was observed as under:

Sl.No.	Name	Designation & department	Remarks
1.	Dr. Ashok Bajpai	Professor Medicine	He is practicing in his own clinic Alankar Point from 6 pm to 8 pm since 1978. He admitted patient in hospital and visit the patient Apollo hospital on emergency.
2.	Dr. Kailash Bhatia	Professor Skin VD	As per submitted letter head pad he practice in Bhatia Skin Clinic timing from 4.30 to 5.30 with prior appointment and Bhatia Skin Centre from 5.30 pm to 8.30 pm. Address of these two clinics is different as per writing pad. In his writing he wrote that he practices in Bhatia Skin Clinic from 5.30 to 8.30 pm daily.
3.	Dr. Rajesh Kataria	Assoc.Prof. Skin VD	He submitted the letter head pad where no timings for his practice is mentioned.
4.	Dr. Manoj Kela	Assoc.Prof. Surgery	His clinic Girvar Health Futures Clinic time is from 5 pm to 9 pm

			He stated that the photo of his clinic the mentioned timings is fabricated.
5.	Dr. Pradeep Choudhry	Orthopaedics	He submitted original letter head pad timings is mentioned from 6 pm to 8.30 pm. To the written statement he stated that the photo of the board was in 2015 and it is 5 yrs old. Now there is new board with new timings but no photo of new board submitted with his statement. His statement he did not mention the time clearly.
6.	Dr. Saket Jati	Assoc.Prof. Orthopaedics	He submitted his letter head pad where timings mentioned from 4.30 pm to 8.30 pm. He submitted the photo of his new name plate where timings written from 5 pm to 8 pm not matching with letter head pad.
7.	Dr. Shainal Kothari	Professor ENT	She stated that she is not practicing. Very occasional she may be required to attend patient for expert opinion. She had no clinic and the display board her husbands and the board has been replaced. No proof of that given.
8.	Dr. Shailendra Karnawat	Assoc.Prof. ENT	He submitted his letter head pad where timings mentioned from 6 pm to 8 pm. In his writing he stated that timing is from 6.30 pm to 8.30 pm.
9.	Dr. Neeta Natu	Assoc.Prof. OBGY	She stated that she was practiced with his husband at home and after his death she stopped practice. Now she is doing practice with her mother after 5.30 pm. No letter head pad submitted to assessor.
10.	Dr. Mahendra Tilkar	Assoc.Prof. Medicine	In letter pad the timing is written 6 to 9 pm. He stated that the photograph of display board is fabricated.

6. Other deficiencies as pointed out in the assessment report.

In view of the above, the Executive Committee of the Council decided to revoke the clause 8(3)(1)(c) of Establishment of Medical College Regulations, 1999 and to give an opportunity to the college authorities for submission of compliance for rectification of the above deficiencies within 01 month for further consideration of the matter.

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

39. <u>Recognition/approval of Sri Aurobindo Institute of Medical Sciences, Indore for the award of MBBS degree granted by Devi Ahilya vishwavidyalaya, Indore against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to Recognition/approval of Sri Aurobindo Institute of Medical Sciences, Indore for the award of MBBS degree granted by Devi Ahilya vishwavidyalaya, Indore against the 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 compliance verification assessment report (17th June, 2016) along with previous assessment reports (27th & 28th April, 2016) as well as letter dated 17.06.2016 from the Council assessor Dr. Karabi Baral, Bankura (Co-ordinator) and letter dated 18.06.2016 from the Dean of the institute and noted the following:-

1. Bed occupancy is 70.55 % at 10 a.m. on day of assessment.
2. In Histopathology laboratory, all the tissues were not fresh or looked like fresh tissues.
3. In Casualty ward, only 06 patients were available.
4. In OPD, very few patients were seen at 09:10 a.m.
5. Out of total list of 67 Major operations, only 18 cases, which included 6 Superspecialty operations not to be considered for UG teaching, were operated till 02:30 a.m.
6. With regard to complaints against doctors, it was observed as under:

Sl.No.	Name	Designation & department	Remarks
1.	Dr. Ashok Bajpai	Professor Medicine	He is practicing in his own clinic Alankar Point from 6 pm to 8 pm since 1978. He admitted patient in hospital and visit the patient Apollo hospital on emergency.
2.	Dr. Kailash Bhatia	Professor Skin VD	As per submitted letter head pad he practice in Bhatia Skin Clinic timing from 4.30 to 5.30 with prior appointment and Bhatia Skin Centre from 5.30 pm to 8.30 pm. Address of these two clinics is different as per writing pad. In his writing he wrote that he practices in Bhatia Skin Clinic from 5.30 to 8.30 pm daily.
3.	Dr. Rajesh Kataria	Assoc.Prof. Skin VD	He submitted the letter head pad where no timings for his practice is mentioned.
4.	Dr. Manoj Kela	Assoc.Prof. Surgery	His clinic Girvar Health Futures Clinic time is from 5 pm to 9 pm He stated that the photo of his clinic the mentioned timings is fabricated.
5.	Dr. Pradeep Choudhry	Orthopaedics	He submitted original letter head pad timings is mentioned from 6 pm to 8.30 pm.

			To the written statement he stated that the photo of the board was in 2015 and it is 5 yrs old. Now there is new board with new timings but no photo of new board submitted with his statement. His statement he did not mention the time clearly.
6.	Dr. Saket Jati	Assoc.Prof. Orthopaedics	He submitted his letter head pad where timings mentioned from 4.30 pm to 8.30 pm. He submitted the photo of his new name plate where timings written from 5 pm to 8 pm not matching with letter head pad.
7.	Dr. Shainal Kothari	Professor ENT	She stated that she is not practicing. Very occasional she may be required to attend patient for expert opinion. She had no clinic and the display board her husbands and the board has been replaced. No proof of that given.
8.	Dr. Shailendra Karnawat	Assoc.Prof. ENT	He submitted his letter head pad where timings mentioned from 6 pm to 8 pm. In his writing he stated that timing is from 6.30 pm to 8.30 pm.
9.	Dr. Neeta Natu	Assoc.Prof. OBGY	She stated that she was practiced with his husband at home and after his death she stopped practice. Now she is doing practice with her mother after 5.30 pm. No letter head pad submitted to assessor.
10.	Dr. Mahendra Tilkar	Assoc.Prof. Medicine	In letter padthe timing is written 6 to 9 pm. He stated that the photograph of display board is fabricated.

7. 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 Sri Aurobindo Institute of Medical Sciences, Indore for the award of MBBS degree granted by Devi Ahilya vishwavidyalaya, Indore against the 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 Executive Committee of the Council further decided to refer the matter before the Ethics Committee of the Council.

40. <u>Annual Report of Medical Council of India for the academic year 2015-16.</u>

Read: the matter with regard to annual report of Medical Council of India for the academic year 2015-16.

The Executive Committee of the Council approved the annual report of Medical Council of India for the academic year 2015-16.

41. Recognition/Approval of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh for the award of MBBS degree (150 seats) granted by Barkatullah University, Bhopal u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh for the award of MBBS degree (150 seats) granted by Barkatullah University, Bhopal u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council considered the compliance verification assessment report (17th June, 2016) alongwith previous assessment report (20th & 21st April, 2016) as well as letter dated 18/06/2016 received from the college authorities and and decided to recommend to the Central Government for recognition/approval of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh for the award of MBBS degree (150 seats) granted by Barkatullah University, Bhopal u/s 11(2) of the IMC Act, 1956.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

8 (3) é
(2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

(3) The procedure for ôRenewalôof recognition shall be same as applicable for the award of recognition.

(4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

42. Recognition/approval of Punjab Institute of Medical Sciences, Jalandhar, Punjab for the award of MBBS degree(150 seats) granted by Baba Farid University of Health Sciences, Faridkot u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Punjab Institute of Medical Sciences, Jalandhar, Punjab for the award of MBBS degree(150 seats) granted by Baba Farid University of Health Sciences, Faridkot u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council considered the compliance verification assessment report (22nd June, 2016) alongwith previous assessment report (22nd April, 2016 and 15th & 16th February, 2016) and decided to recommend to the Central Government for recognition/approval of Punjab Institute of Medical Sciences, Jalandhar, Punjab for the award of MBBS

degree(150 seats) granted by Baba Farid University of Health Sciences, Faridkot u/s 11(2) of the IMC Act, 1956.

The Executive Committee further decided that the attention of the institute be drawn to Sections 8(3)(2), 8(3)(3) & 8(3)(4) of the Establishment of Medical Colleges Regulations (Amendment), 2010 (Part II) dated 16th April 2010 and act accordingly at appropriate time, which reads as under:-

8 (3) é

(2) The recognition so granted to an Undergraduate Course for award of MBBS degree shall be for a maximum period of 5 years, upon which it shall have to be renewed.

(3) The procedure for ôRenewalô of recognition shall be same as applicable for the award of recognition.

(4) Failure to seek timely renewal of recognition as required in sub-clause (a) supra shall invariably result in stoppage of admissions to the concerned Undergraduate Course of MBBS at the said institute.ò

The Committee decided to place the matter before the General Body of the Council.

Medical Council Of India

43. <u>Establishment of new medical college at Gajaroula, Dist. Amroha, Uttar Pradesh by Shri Venkateshwara University, Meerut (Trust name - Shri Bankey Bihari Educational & Welfare Trust) with an annual intake of 150 MBBS students under Shri Venkateshwara University, Gajroula, Amroha u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Gajaroula, Dist. Amroha, Uttar Pradesh by Shri Venkateshwara University, Meerut (Trust name - Shri Bankey Bihari Educational & Welfare Trust) with an annual intake of 150 MBBS students under Shri Venkateshwara University, Gajroula, Amroha u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.06.2016 of the Chairman, Venkateshwara Institute of Medcial Sciences, Shri Venkateshwara Univeristy, Gajraula, Amroha, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item, which reads as under:-

"It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Gajaroula, Dist. Amroha, Uttar Pradesh by Shri Venkateshwara University, Meerut (Trust name - Shri Bankey Bihari Educational & Welfare Trust) with an annual intake of 150 MBBS students under Shri Venkateshwara University, Gajroula, Amroha u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 18th & 19th December, 2015. The assessment report (18th & 19th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (18th & 19th December, 2015) and noted the following:

1) *Hospital was locked.*
2) *Deficiency of faculty is 98.46 % as detailed in report.*
3) *Shortage of Residents is 100 % as detailed in report.*
4) *Bed Occupancy was ZERO % on day of assessment.*
5) *OPD attendance was ZERO on day of assessment.*
6) *Teaching Beds: As wards were locked, they could not be verified.*
7) *Ancillary facilities could not be verified as the wards were locked. There were NIL Manor & Minor operations on day of assessment.*
8) *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9) *Radiological & Laboratory investigations workload was NIL on day of assessment.*
10) *Casualty: No doctors or Nurses are posted. Separate Casualty for O.G. is not available. Ventilator is not available.*
11) *O.T.: Only 3 O.T.s are available against requirement of 4. One O.T. contains 2 tables which is not as per norms.*
12) *There was NIL patient in ICCU or any ICU.*
13) *Labour room was locked.*
14) *Radiodiagnosis department: Mobile & Static X-ray machines were not functional. Only 1 USG is available against requirement of 2.*
15) *Blood Bank is not functional.*
16) *Central Photography Section: Staff & Equipment are not available.*
17) *No staff and patients were available at Registration counter or in OPD. Only empty rooms were seen.*
18) *MRD: It was available but locked.*
19) *No staff is available in Pharmacy.*
20) *NIL Nurses are available against 175 required.*
21) *Only 15 Paramedical & Nursing staff are available against 100 required.*

22) *Anatomy department: NIL cadavers are available. Cold storage for dead bodies is not available. Embalming room is not available. Only 84 Lockers are available.*
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 Gajaroula, Dist. Amroha, Uttar Pradesh by Shri Venkateshwara University, Meerut (Trust name - Shri Bankey Bihari Educational & Welfare Trust) under Shri Venkateshwara University, Gajroula, Amroha to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 31/12/2015. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 by the Chairman, Venkateshwara Institute of Medcial Sciences, Shri Venkateshwara Univeristy, Gajraula, Amroha for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

"…..31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals* ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance*

reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.

é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Gajaroula, Dist. Amroha, Uttar Pradesh by Shri Venkateshwara University, Meerut (Trust name - Shri Bankey Bihari Educational & Welfare Trust), in the assessment carried out by MCI, that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Gajaroula, Dist. Amroha, Uttar Pradesh by Shri Venkateshwara University, Meerut (Trust name - Shri Bankey Bihari Educational & Welfare Trust) with an annual intake of 150 MBBS students under Shri Venkateshwara University, Gajroula, Amrohado not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

44. <u>Establishment of new medical college at Chittoor, Andhra Pradesh by Srinivasa Educational Academy, Chittoor, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Chittoor, Andhra Pradesh by Srinivasa Educational Academy, Chittoor, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.06.2016 of the Dean, RVS Institute of Medical Sciences, Chittoor, Andhra Pradesh, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Chittoor, Andhra Pradesh by Srinivasa Educational Academy, Chittoor, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 6th & 7th January, 2016. The assessment report (6th & 7th January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (6th and 7th January, 2016) and noted the following:

1. *Deficiency of faculty is 96.90 % as detailed in the report.*
2. *Shortage of residents is 97.80 % as detailed in the report.*
3. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	72	48	24
2	Paediatrics	24	16	08
3	Tb & Chest	08	05	03
4	Skin & VD	08	05	03
5	Psychiatry	08	05	03
6	General Surgery	90	60	30
7	Orthopaedics	30	20	10
8	Ophthalmology	10	05	05
9	O.G.	40	20	20
	TOTAL			106

4. *OPD attendance was only 35 on day of assessment which is grossly inadequate.*
5. *Bed Occupancy is 02 % on day of assessment.*

6. *Radiological & Investigative workload is grossly inadequate.*
7. *Casualty: Separate Casualty for O.G. is not available.*
8. *Central Clinical laboratory: Separate sections are not available.*
9. *ICUs: ICCU & ICUs are yet to be made functional.*
10. *Labour Room is under construction.*
11. *OPD: Minor O.T. is yet to be furnished. Special clinics in Paediatrics & OG OPD are not available.*
12. *Audiometry & Speech therapy are not equipped.*
13. *Blood Bank is not available.*
14. *ETO Sterilizer is not available.*
15. *MRD: ICD X classification of diseases is not followed for indexing.*
16. *Nursing staff: Only 89 Nurses are available against requirement of 175.*
17. *Paramedical & Non-teaching staff: 94 Paramedical & Non-teaching staff are available against requirement of 100.*
18. *College building is under construction.*
19. *College Council, Pharmaco vigilance Committee are not constituted.*
20. *Lecture Theaters: They are under construction.*
21. *Central Library is under construction.*
22. *Students', Residents' & Nurses' Hostels are under construction.*
23. *Residential Quarters are under construction.*
24. *Gender Harassment Committee as required by order of Hon'ble Supreme Court is not constituted.*
25. *Website: it is not available.*
26. *Preclinical departments of Anatomy, Physiology, Biochemistry are under construction.*
27. *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 Chittoor, Andhra Pradesh by Srinivasa Educational Academy, Chittoor, A.P. under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 further decided to seek an explanation from the Secretary (ME) of Andhra Pradesh as to how the Essentiality Certificate had been issued when the hospital does not have the requisite number of beds as per Establishment of Medical College Regulations,1999."

The decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

The Council vide its another letter dated 31/01/2016 also communicated the decision of the Executive Committee to the Principal Secretary, Department of Health & Family Welfare, Govt. of Andhra Pradesh with the request to intimate as to how they have issued the Essentiality Certificate dated 30.09.2013 when the hospital does not have the requisite number of beds as per Establishment of Medical College Regulations,1999.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not

notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Dean, RVS Institute of Medical Sciences, Chittoor, Andhra Pradesh for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government.

In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*
> é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Chittoor, Andhra Pradesh by Srinivasa Educational Academy, Chittoor, A.P. in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***"…..31.*** *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned.*

…….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Chittoor, Andhra Pradesh by Srinivasa Educational Academy, Chittoor, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

45. <u>Establishment of new medical college at Durgapur, Dist. Burdwan, West Bengal by Durgapur Institute of Advance Technology and Management Society, Durgapur, West Bengal with an annual intake of 150 MBBS students under the West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Durgapur, Dist. Burdwan, West Bengal by Durgapur Institute of Advance Technology and Management Society, Durgapur, West Bengal with an annual intake of 150 MBBS students under the West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.06.2016 of the President, Durgapur Institute of Advanced Technology & Management, Kolkata, West Bengal, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Durgapur, Dist. Burdwan, West Bengal by Durgapur Institute of Advance Technology and Management Society, Durgapur, West Bengal with an annual intake of 150 MBBS students under the West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 12th & 13th January, 2016. The assessment report (12th & 13th January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (12th and 13th January, 2016) and noted the following:

1. *Deficiency of faculty is 89 % as detailed in the report.*
2. *Shortage of residents is 100 % as detailed in the report.*
3. *Hospital building is under construction. No OPD or IPD is yet started.*
4. *Blood Bank is not available.*
5. *No Nursing staff or paramedical & Non-teaching staff are available.*
6. *Only space is identified for Staff room & College Council room.*
7. *College Council & Pharmaco Vigilance Committee are not constituted.*
8. *Lecture Theaters are under construction.*
9. *Central Library is under construction.*
10. *Students', Residents' & Nurses' Hostels are under construction.*
11. *Residential Quarters are under construction.*
12. *Gender Harassment Committee as required by orders of Hon'ble Supreme Court is not constituted.*
13. *Website is not available.*
14. *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 Durgapur, Dist. Burdwan, West Bengal by Durgapur Institute of Advance Technology and Management Society, Durgapur, West Bengal under the West Bengal University of Health Sciences, Kolkata to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 further decided to seek an explanation from the Secretary (ME) of West Bengal as to how the Essentiality Certificate had been issued when the hospital is still under construction."

The decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

The Council vide its another letter dated 31/01/2016 also communicated the decision of the Executive Committee to the Principal Secretary, Department of Health & Family Welfare, Kolkata, West Bengal with the request to intimate as to how they have issued the Essentiality Certificate dated 24.08.2015 when the hospital is still under construction.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.6.2016 forwarded by the President, Durgapur Institute of Advanced Technology & Management, Kolkata, West Bengal for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Durgapur, Dist. Burdwan, West Bengal by Durgapur Institute of Advance Technology and Management Society, Durgapur, West Bengal, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***"…..31.*** *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If*

there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the

concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Durgapur, Dist. Burdwan, West Bengal by Durgapur Institute of Advance Technology and Management Society, Durgapur, West Bengal with an annual intake of 150 MBBS students under the West Bengal University of Health Sciences, Kolkata do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

46. <u>Establishment of new medical college at Mirzapur, Poll, Saharanpur by Abdul Waheed Educational and Charitable Trust, Mirzapur, Saharanpur with an annual intake of 150 MBBS students under Glocal University, Saharanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Mirzapur, Poll, Saharanpur by Abdul Waheed Educational and Charitable Trust, Mirzapur, Saharanpur with an annual intake of 150 MBBS students under Glocal University, Saharanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the agenda item, letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.06.2016 of the Secretary, Abdul Waheed Educational & Charitable Trust, Mirzapur, Saharanpur and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college Mirzapur, Poll, Saharanpur by Abdul Waheed Educational and Charitable Trust, Mirzapur, Saharanpur with an annual intake of 150 MBBS students under the Glocal University, Saharanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 11th & 12th December, 2015. The assessment report (11th & 12th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (11th & 12th December, 2015) and noted the following:

1. *Deficiency of teaching faculty is 36.92 % as detailed in the report.*
2. *Shortage of Residents is 36.95 % as detailed in report.*
3. *Teaching beds are inadequate as under:*

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	72	36	36
2	Paediatrics	24	10	14
3	Tb & Chest	8	0	8
4	General Surgery	90	13	77
5	Orthopaedics	30	17	13
6	Ophthalmology	10	4	6
7	O.G.	40	0	40
	TOTAL			194

4. *Wards: Female patients' ward of General Medicine, General Surgery & O.G. are combined in 1 ward. Nursing station, Examination cum treatment room, Demonstration room, pantry are not available. Male & Female patients are kept in the same ward in Ophthalmology, ENT and Skin & VD.*
5. *OPD attendance is 325 against 600 required. It was only 55 at 11 a.m.*
6. *Bed occupancy was 27.66 % at 10:30 a.m. All patients in all wards were admitted on day of assessment without definite symptoms. Indoor tickets are blank. In Ophthalmology, 3 patients were admitted with general complaints without any Ophthalmic problem. In Skin & VD ward, all patients were admitted without any Skin problem.*
7. *OPD: Separate Registration counters for OPD/IPD are not available. Waiting area is inadequate. Teaching areas are not available. Enquiry desk is not available. Examination rooms are inadequate. Injection room is common for males/females & is non-functional. ECG room is not available. Dressing room is not available. Minor O.T. is not available. Plaster room & Plaster cutting room are not available. In Ophthalmology OPD, Dark room, Refraction room & Dressing room are not available. Specialty clinics are not available in Paediatrics & OG OPD. ENT OPD is not in functional state.*
8. *Audiometry & Speech therapy are not available.*
9. *In Radiodiagnosis department, there were fake entries of patients. Total 91 X-rays are shown but there is no X-ray plate, dark room & no reports.*
10. *In Laboratory, there is no functional equipment. There is only sample collection center with fake entries. Registers for testing & reports are not available.*
11. *MRD: ICD X classification of diseases is not followed for indexing.*
12. *Casualty: Separate Casualty for O.G. is not available. Central O_2 & Central Suction are not available. Resuscitation equipment is inadequate.*

Medical Council of India

13. *Central Clinical laboratory runs only as Pathology laboratory. There is no functional equipment.*
14. *O.T.s: Only 2 Major O.T.s are available against 4 required. Out of these, 2nd O.T. is non-functional. Minor O.T.s are not available. They are not air-conditioned. Central O_2 & Central Suction are not available. Resuscitation equipment is inadequate. Preoperative beds are not available.*
15. *ICUs: MICU & SICU are not available. There was NIL patient in NICU/PICU. Beds in NICU were adult beds. In ICCU, all 5 patients were general patients without any IV channel for any patient.*
16. *Radiodiagnosis department: Only static X-ray machine is available against 2 required. Only 1 mobile X-ray patient is available against 2 required. AERB approval is not available. Only 1 USG is available against 2 required; even this is not functional. Valid PNDT approval is not available.*
17. *Blood Bank is not available.*
18. *CSSD is not available.*
19. *College Council is not constituted.*
20. *Lecture Theaters: Capacity of 1 lecture theater is 160 & of another is 90 which is less than 180 required. They are not of gallery type. E class facility is not available.*
21. *Central Library: Students' Reading room (Outside) is not available. Staff reading room is not available. Only 2,255 books are available against 3,000 required.*
22. *Common Rooms for Boys & Girls are not available.*
23. *Students' Hostels: There are no separate hostels for medical students. Engineering students stay in 1 wing of Boys' hostel.*
24. *Residents' Hostel: It is in 1 wing of Engineering hostel.*
25. *Nurses' Hostel: It is under construction.*
26. *Intercom is not available.*
27. *Anatomy department: Laboratory seats are inadequate. NIL specimens are available. MRI/CT films are not available. Cold storage for dead bodies is not available. Embalming room is not available. No wash basins are available in Dissection Hall, Histology laboratory.*
28. *Physiology department: Clinical Physiology & Haematology laboratories are under construction. Mammalian laboratory is not available.*
29. *Biochemistry department: Practical Laboratory is under construction.*
30. *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 Mirzapur, Poll, Saharanpur by Abdul Waheed Educational and Charitable Trust, Mirzapur, Saharanpur with an annual intake of 150 MBBS students under Glocal University, Saharanpur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 further decided to write a letter to the Secretary (ME) of State Govt. of U.P. requesting to intimate as to how they have issued the Essentiality Certificate certifying that the applicant owned and managed a functional hospital of 300 beds having adequate clinical material when on inspection it has been found that the teaching beds are only 106 against the requirement of 300 beds."

The decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 05.02.2016 had disaproved the application of the college for the academic year 2016-17.

The Council vide its another letter dated 31/12/2015 also communicated the decision of the Executive Committee to the Principal Secretary, Department of Health & Family Welfare, Govt. of Uttar Pradesh with the request to intimate as to how they have issued the Essentiality Certificate dated 28.08.2015 when on

inspection it has been found that the teaching beds are only 106 against the requirement of 300 beds.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Secretary, Abdul Waheed Educational & Charitable Trust, Mirzapur, Saharanpur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Mirzapur, Poll, Saharanpur by Abdul Waheed Educational and Charitable Trust, Mirzapur, Saharanpur, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

*"…..**31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the

inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Mirzapur, Poll, Saharanpur by Abdul Waheed Educational and Charitable Trust, Mirzapur, Saharanpur with an annual intake of 150 MBBS students under Glocal University, Saharanpur do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

47. <u>Establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.06.2016 of the Honorary President, Society for the Advancement of

Environmental Sciences, Lucknow, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the file with regard to grant of Letter of Intent/Letter of Permission for establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic session 2016-2017 was referred to Assessment Cell for Assessment.

Accordingly, the Council appointed the assessors to carry out the above assessment on 20th & 21st Jan., 2016.

In this regard the Council office had received a letter dated 20/01/2016 from the appointed team of the Council assessors stating therein as under:-

"1. College refused the assessment.
2. Hospital –OPD was empty at time we reached. Assessors met Dean & went to few wards for Bed occupancy. The wards visited were empty. No faculty/Residents were seen in hospital.
3. The Chairman, Dr. M.C Saxena came to hospital & started shouting & abusing the Assessors. He asked us to stop the assessment.

4. While leaving the hospital first MBBS students were made to stand in the waiting area. They wished us & followed us to Taxi which was videographed by Institute.

5. Assessors asked Dean to provide the list of admitted students. She refused to give the same."

The letter dated 20/01/2016 received from the appointed team of assessors with regard to establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council perused the letter dated 20/01/2016 of the Dean of the Institute which reads as under-

"With reference to your visit 20.1.2016 on the subject cited above, please be informed that we have filed an IA no. 4/2015 in Medical Council of India SLP no. 28100 of 2015 which has been put up before the 3 judges bench of Hon'ble Supreme Court and date was fixed by the court on 19.1.2015 for hearing and matter was listed on item no.1 of the cause list. However, in supplementary list the item has been deleted and shall be put up on next possible date. It may be noted that we have sought clarification from the Hon'ble Supreme Court as to whether the application submitted to Ministry of Health & F.W., on dated 31.8.2015 shall be treated as renewal application after the High Court and Supreme Court order or as fresh application.
We have been instructed by our legal counsel not to allow any inspection and maintain status quo as on 29.9.2015 till any further order of Supreme Court. Hence, we would not like to disturb the status quo till we received any order from Supreme Court."

The Executive Committee of the Council further noted that legal opinion of the Standing Counsel had been sought which reads as under:-

"The querist has sought my opinion on the application dated 28.08.2015 submitted by applicant - Society for the Advancement of Environmental Sciences, Lucknow, U.P. (hereinafter referred to as the 'Society') for the establishment of new medical college from the academic year 2016-17. The said

application dated 28.08.2015 had been forwarded to the querist by the Central Govt. vide its letter dated 15.09.2015.

I have gone through the file of the querist along with the application and communications made by the applicant college. Before giving any specific opinion in the matter, it would be appropriate to consider the following facts:-

1. *The applicant Society vide letter dated 30.09.2013 had submitted their application/scheme for establishment of a new medical college for the academic session 2014-15. After the scrutiny of the said application/scheme, it was found that the Society has not submitted the letter of consent of affiliation along with their application for the academic year 2014-15 which is mandatory required as per the statutory Regulations of the querist.*
2. *Since, the application/scheme dated 30.09.2012 was incomplete, thus the Scrutiny Committee of the querist, in its meeting held on 10/11.02.2014 had decided to return the application of the Society for the establishment of new medical college for the academic year 2014-15. The aforesaid recommendations of the querist were forwarded to the Government of India vide letter dated 14.02.2014.*
3. *The Society being aggrieved by the recommendation of the querist dated 14.2.2014, had approached the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, by way of W.P.(C) No. 1605 of 2014(M/B), thereby praying for directions to the querist to consider the application/scheme of the Society and grant permission for establishing medical college for the academic year 2014-15.*
4. *The W.P. 1605 (M/B)/2014, came up for hearing before the Hon'ble High Court of Judicature at Allahabad, on 26.05.2015, whereupon, the Hon'ble High Court, after hearing the parties, had directed to consider the application of the Society for establishment of new medical college from academic year 2014-15.*
5. *The querist being aggrieved by the order dated 26.05.2014 passed in W.P. 1605 (M/B)/2014, by the Hon'ble High Court of Judicature at Allahabad, had approached the Hon'ble Supreme Court by way of SLP (C) No. 14759 of 2014, titled MCI vs. Society For Advancement Of Environmental Science. The Hon'ble Supreme Court vide its order dated 02.07.2014 passed in Civil Appeal No. 5933 of 2014 arising out of SLP (C) No. 14759 of 2014, was pleased to dispose of the Civil Appeal with direction to the querist to consider the application of Society for establishment of new medical college for the next academic year i.e. 2015-16 and inspect the respondent medical college on or before 31.10.2014, if, the medical college submits all relevant documents as per the existing practice.*
6. *Since, the Society was able to furnish all the requisite documents for consideration of their application for starting of a new medical college by 10th October, 2014, the querist had moved an application for direction being I.A. No. 2/2015, in the above mentioned C.A. No. 5933/2014, for extension of time to comply with order dated 02.07.2014 passed by the Hon'ble Supreme Court. The above application came for hearing before the Hon'ble Supreme Court on 17.11.2014, wherein, after hearing the parties, the Hon'ble Supreme Court was pleased to grant 4 weeks' time to the querist to comply with order dated 02.07.2014.*
7. *In compliance with the order dated 02.07.2014 and 17.11.2014 passed by the Hon'ble Supreme Court, the querist, after considering the application of the Society had carried out the inspection of the infrastructure, teaching faculty, clinical material and other physical facilities available with the medical college on 09/10.12.2014.*
8. *The assessment report dated 09th& 10th of December, 2014, was placed before the Executive Committee of the querist in its meeting held on 13.01.2015, wherein, apart from other gross deficiencies found in the medical college it was found that the medical college has failed to fulfill the qualifying criteria of having 300 bedded hospital. The inspection team found only 240 beds in the medical college. In view of the grave deficiencies pertaining to infrastructure, teaching faculty, residents, clinical material and other physical facilities in the medical college it was*

decided to return the application of the Society as the respondent medical college had failed to fulfil the eligibility criteria as per Regulation 3(2)(5) of Establishment of Medical College Regulation, 1999 – own or manage 300 bedded hospital. The decision of the querist was communicated to the Central Government vide letter dated 21.1.2015.

9. *The medical college had furnished a compliance to the Central Govt. vide their letter dated 10.02.2015 and the Central Govt. had granted a hearing to the Society on 12.02.2015. The Central Government vide its letter dated 20.02.2015, had requested the querist to review its recommendations in light of the documents submitted by the medical college. The case of the medical college was re-considered by the Executive Committee of the querist in its meeting held on 29.04.2015 wherein it was decided to reiterate its earlier decision to recommend to the Central Government to return the application of the Society for establishment of a new medical college for the academic year 2015-16 and the same was communicated to the Central Govt. vide letter dated 11.05.2015.*
10. *The Govt. of India, after considering the recommendations of the querist, vide its decision dated 15.06.2015**,** had disapproved the application of the Society for the establishment of new medical college from academic year 2015-16.*
11. *Aggrieved by the above-mentioned decision of the Govt. of India the Society had approached the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow by way of W.P. No. 6703(M/B)/2015 inter-alia, praying for directions to the Govt. of India to reconsider the application of the Society for permission for establishment of new medical college from academic year 2015-16 and to quash the recommendation of the querist dated 11.05.2015 and Govt. of India decision dated 15.06.2015.*
12. *The Hon'ble High Court of Allahabad, Lucknow Bench, Lucknow, vide its interim order dated 29.07.2015, had directed the querist to carry out the inspection of the respondent medical college within a period of 4 weeks. The querist being aggrieved by the above-mentioned interim order passed by the Hon'ble High Court, approached the Hon'ble Supreme Court by way of SLP (C) No. 26006/2015 which is pending adjudication before the Hon'ble Supreme Court.*
13. *The writ petition being W.P. No. 6703(M/B)/2015 came up for hearing before the Hon'ble High Court of Judicature at Allahabad, Lucknow Bench, Lucknow on 24.09.2015, when the Hon'ble High Court after hearing the parties, vide interim order dated 24.09.2015 had allowed the medical college to make provisional admission of 150 M.B.B.S students for academic year 2015-16, without there being any formal permission from the Central Govt., subject to the outcome of the writ petition.*
14. *The querist being aggrieved by the aforesaid interim order dated 24.09.2015 whereby the medical college had been granted permission to make provisional admission of 150 MBBS students for the academic year 2015-16, had approached the Hon'ble Supreme Court by way of SLP (C) No.28100 of 2015.*
15. *The Hon'ble Supreme Court after hearing the parties vide its order dated 29.09.2015 passed in SLP (C) No. 26006/2015 had directed the querist in view of the peculiar facts of the case to carry out an inspection of the medical college as directed by the Hon'ble High Court on or before 10.10.2015 and to keep the report of the inspection in a sealed cover.*
16. *The Hon'ble Supreme Court after hearing the parties vide its order dated 29.09.2015 passed in SLP (C) No. 28100/2015 had observed that in view of the interim order dated 24.09.2015 the medical college had granted admission to 150 MBBS students on 28.09.2015 but in view of the fact the medical college had only 240 beds against the statutory requirement of 300 beds, the Hon'ble Supreme Court had directed that status quo as on 24.09.2015 shall be maintained and admission granted to 150 MBBS students shall not be given effect to. The relevant portion of the order dated 29.09.2015 is reproduced as under:*

"…It is an admitted fact that the respondent-institute had been given permission to start the college by the High Court by virtue of an order dated 24th September, 2015, an interim order. The respondent-institute

was permitted to give admission to the students and in pursuance of the said order, an advertisement inviting students for admission had been published on 27th September, 2015 and on 28th September, 2015 admissions had been given to 150 students.

It has been submitted by the learned counsel for the petitioner that the requirement of beds in the Department of Surgery was 300 at the time when the initial inspection had taken place and application for commencement of a medical college was made but at the time of inspection, only 240 beds were found.

Though, the said submission of fact has been objected to by the learned counsel for the respondent institute. Looking at the peculiar facts of the case, we direct that status quo as on 24th September, 2015, shall be maintained. Admission of students, if any, shall not be given effect to..."

17. *The Hon'ble Supreme Court on 26.10.2015 was informed that in pursuance of the order dated 29.09.2015 an inspection of the medical college had been conducted and the inspection report has been placed before the Hon'ble Court in a sealed cover. The Hon'ble Supreme Court vide its order dated 26.10.2015 had directed that the inspection report shall be considered by the Executive Committee of the querist and its recommendations shall be placed before the Hon'ble Court before 20.11.2015. It was further directed that a copy of the inspection report shall be supplied to the advocate of the medical college so that the comments of the medical college could be furnished. The relevant portion of the order dated 26.10.2015 is reproduced as under:*

"…It has been submitted by the learned counsel for the petitioners that in pursuance of the order passed by this Court on 29th September, 2015, inspection of the Medical College has taken place and the Report of the inspection has been kept in a sealed cover and the same has been placed before this Court.

We direct that the Report of the inspection be placed before the Executive Committee of the petitioner-MCI and the Committee shall consider the said report in accordance with law and forward its remarks to this Court on or before 20th November, 2015.

A copy of the Report shall be forwarded to the respondents–colleges through their counsel in two days and respondents-colleges to give their comments on the Report within one week from the receipt of the Report…"

18. *The above SLPs filed by the querist are pending adjudication before the Hon'ble Supreme Court. In the above SLPs the college has also made an application for review / recall of order dated 29.09.2015 passed by the Hon'ble Apex Court and the same is also pending adjudication.*

19. *In the meanwhile, the Society vide its letter dated 28.08.2015 had submitted to the Central Govt. a fresh application / scheme for the establishment of a new medical college for the academic session 2016-17. The aforesaid application / scheme dated 28.08.2015 has been forwarded to the querist by the Central Govt. vide its letter dated 15.09.2015.*

20. *The querist after the receipt of the application/scheme dated 28.08.2015 for the establishment of a new medical college for the academic session 2016-17, vide its letter dated 04/09.12.2015 had requested the Society to submit the CD/DVD of the Declaration Forms as well as the Standard Inspection Forms A & B within 7 days of the dispatch of the said letter.*

21. *Since the querist did not receive the information / documents as had been requested vide letter dated 04/09.12.2015, the querist vide its letter dated 17.12.2015 requested the Society to submit the desired documents on or before 22.12.2015 failing which the querist would proceed as per the provision of the Regulations.*

22. *The Society vide its letter dated 15.12.2015, received on 22.12.2015, had informed the querist that since SLP No.26006/2015 was pending before the Hon'ble Supreme Court thus it would be desirable to keep the action on your letter in abeyance.*

23. *The querist vide its letter dated 28.12.2015 yet again requested the society to submit the desired documents on or before 31.12.2015 since the cases pending before the Hon'ble Supreme Court were relating to the*

academic year 2015-16 and the same did not have any bearing on the fresh application dated 28.08.2015 submitted by the Society for the establishment of a new medical college for the academic session 2016-17.

24. *The Society vide letter dated 29.12.2015 received on 01.01.2016 informed the querist that an application had been filed in SLP No.28100 / 2015 seeking a clarification in respect of the processing of the application for the academic session 2016-17 and thus in terms of the legal advice rendered to the Society, the querist was requested not to proceed with the fresh application dated 28.08.2015 submitted by the Society for the establishment of a new medical college for the academic session 2016-17.*
25. *The querist vide its letter dated 06.01.2016 had informed the Society that its letter dated 29.12.2015 had been considered by the Competent Authority and it had been decided to reiterate the earlier decision which had been communicated to the Society vide letter dated 28.12.2015.*
26. *In view of the binding time schedule as have been upheld by the Hon'ble Supreme Court, since the last date to send the 1st round of recommendations to the Central Govt. being 31st January 2016 was fast approaching and in order to avoid any delay in the matter, the inspection of the medical college was scheduled on 20th & 21st of January 2016 for assessing the physical and other teaching facilities available for the establishment of a new medical college for the academic year 2016-17. The assessors appointed by the querist reached the medical college on 20.01.2016 but were prevented by the Chairman and the Dean of the medical college from conducting an inspection of the medical college.*
27. *The assessors in their report dated 20.01.2016 have stated that the OPD of the hospital was empty, the few wards that they visited to assess the bed occupancy were also empty and no faculty or resident were seen in the hospital. Whereafter the Chairman of the medical college came and started shouting & abusing the assessors and had asked to stop the assessment.*
28. *The Dean had given a letter dated 20.01.2016 to the assessors stating that an application being IA No.4/2015 had been filed in SLP No.28100/2015 seeking a clarification on the application submitted to the Central Govt. for the academic year 2016-17 for the establishment of a new medical college to be treated as an application for renewal of permission or a fresh application. The letter states that in terms of the legal advice rendered to the Society no inspection of the medical college shall be allowed in order to maintain status quo as on 29.09.2015 till further order from the Hon'ble Supreme Court.*

In view of the above factual matrix, it is clear that even though the Hon'ble Supreme Court vide its order dated 29.09.2015 passed in SLP (C) No.28100/2015 had directed the Society to maintain status quo as on the date of the passing of the interim order for granting provisional admission i.e. 24.09.2015 and that the admissions granted on 28.09.2015 shall not be given effect to, the Society in blatant violation of the aforesaid order of the Hon'ble Supreme Court has not discharged the students admitted on 28.09.2015. The Society is illegally permitting the students admitted on 28.09.2015 to continue in the medical college.

It is also relevant to point out that the Society vide their application dated 28.08.2015 had submitted a fresh application for the establishment of a new medical college for the academic year 2016-17, the processing of which in terms of the time schedule of the querist did not have any bearing on the pending cases before the Hon'ble Supreme Court i.e. SLP (C) Nos. 26006/2015 & 28100/2015. The cases pending before the Hon'ble Supreme Court pertain to the application submitted by the Society for the establishment of a new medical college for the academic year 2015-16 whereas the Society vide their fresh application dated 28.08.2015 had now submitted an application for the establishment of a new medical college for the academic year 2016-17.

In any case no medical college can be allowed to prevent querist assessors from inspecting the medical college or disrupt any ongoing inspection. Thus I am of

the opinion that the querist may place the inspection report dated 20.01.2016 before its Executive Committee which may take a decision on the fresh application dated 28.08.2015 submitted by the Society for the establishment of a new medical college for the academic year 2016-17."

In view of above, 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, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 31/01/2016. Thereafter, Council had not received any compliance/communication from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Honorary President, Society for the Advancement of Environmental Sciences, Lucknow for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their*

part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed*

*decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. – (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise. The members of the Executive Committee in this case of the application of establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh, observed that during the assessment the hospital was completely non functional – OPD was empty at time when assessors reached the hospital. The wards visited were empty. No faculty/Residents were seen in hospital.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Lucknow, Uttar Pradesh by Society for the Advancement of Environmental Sciences, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case

of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

48. <u>Establishment of new medical college at Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi with an annual intake of 150 MBBS students under Pandit B.D Sharma University of Health Sciences, Rohtak, Haryana u/s 10A of the IMC Act, 1956 for the academic year 2016-17</u>.

Read: the matter with regard to establishment of new medical college at Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi with an annual intake of 150 MBBS students under Pandit B.D Sharma University of Health Sciences, Rohtak, Haryana u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.06.2016 of the Founder & Chairman, Amma Chandravati Educational & Charitable Trust, New Delhi, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi with an annual intake of 150 MBBS students under Pandit B.D Sharma University of Health Sciences, Rohtak, Haryana u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on on 12th & 13th January, 2016. The assessment report (12th & 13th January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (12th and 13th January, 2016) and noted the following:

1. *Deficiency of faculty is 93.85 % as detailed in the report.*
2. *Shortage of Residents is 97.83 % as detailed in the report.*
3. *Many Residents are not staying in the campus.*
4. *Medical Superintendent is not available.*
5. *OPD: It is under construction / development. Examination rooms are not occupied by the respective departments. Equipment is not available.*
6. *Hospital is under construction/development. Rooms are allotted in wards but they are not occupied and non-functional. Equipment are not available.*
7. *Bed occupancy was 01 % on day of assessment.*
8. *There was NIL Major & NIL Minor operation on day of assessment.*
9. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
10. *Radiological & Laboratory investigation workload was NIL on day of assessment.*
11. *MRD: It is not available.*
12. *Casualty: Separate Casualty for O.G. is not available. Central O_2 & Central Suction are not available. Defibrillator, Ventilator are not available.*
13. *Central Clinical laboratory is non-functional.*
14. *O.T.s: They are under construction.*
15. *ICUs: ICCU & ICUs are not occupied & non-functional. There was NIL patient in ICCU or any ICU. Major equipment is not available.*
16. *Labour Room: It is under construction / development.*
17. *Radiodiagnosis department: Only 1 mobile & 1 static X-ray machine are available against requirement of 2 each. No USG is available. AERB approval is not available.*
18. *Blood Bank is not available.*
19. *CSSD, Intercom, Laundry, Kitchen, Canteen are not available.*

20. *No arrangements have been made for disposal of Bio-Medical waste.*
21. *Nursing staff: Only 34 Nurses are available against requirement of 175.*
22. *Paramedical & Non-teaching staff: Only 10 Paramedical & Non-teaching staff are available against requirement of 100.*
23. *Dean's office & Administrative office are located in hospital.*
24. *MEU, College Council, Pharmaco Vigilance Committee are not constituted.*
25. *Lecture Theaters are under construction.*
26. *College building is under construction.*
27. *Students', Residents', Nurses' Hostels are under construction.*
28. *Residential Quarters are under construction.*
29. *Gender Harassment Committee as required by order of Hon'ble Supreme Court is not constituted.*
30. *Preclinical departments of Anatomy, Physiology, Biochemistry are under construction.*
31. *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 Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi under Pandit B.D Sharma University of Health Sciences, Rohtak, Haryana to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 further decided to seek an explanation from the Secretary (ME) of Haryana as to how the Essentiality Certificate had been issued when the hospital is still under construction."

The decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016.

As per decision of the Executive Committee, the Council Office has also requested the State Government of Haryana to intimate as to how the State Govt. has issued the Essentiality Certificate dated 08/09/2014 in favour of the applicant when the hospital is still under construction.

The Council had received a letter dated 11/05/2016 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 06th May, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

The Central Govt. had forwarded a copy of compliance dated 06/05/2016 received from the Settlor & Founder Trustee, Amma Chandravati Educational & Charitable Trust, New Delhi, Kolar Dist., Karnataka which reads as under:-

S.No	***Deficiencies pointed out by MCI***	***Submission of College on Deficiencies***	***Annex. No***
1	*Deficiency of Faculty is 93.85% as detailed in the report.*	*Most of the Teaching Staff are available. However, some of them were not present at the time of assessment, i.e. before 11.00 AM on the Date of January, 2016 was a cold and unusually foggy day having visibility barley upto 50-60 meters. Hence Faculty could not reach on*	*Annexure - 1*

<table>
<tr><td></td><td></td><td>appointed time. A list of Faculty & Residents employed by the Institute is enclosed.</td><td></td></tr>
<tr><td>2</td><td>Shortage of Residents is 97.83 % as detailed in the report</td><td>All the Residents are available. However, some of them were not present at the time of assessment, i.e. before 11.00 AM on the Date of inspection as they were appearing in PG Entratnce Examination.

Nominal Road is as per Annexure -1.</td><td></td></tr>
<tr><td>3</td><td>Many Residents are not staying in the campus.</td><td>In campus Residents Hostel is available having capacity for 46 Doctors and they are staying in campus. Photo evidence is enclosed.</td><td>Annexure - II</td></tr>
<tr><td>4</td><td>Medical Superintendent is not available.</td><td>Dr. Surender Kumar of Dept. of Anaesthesiology is appointed Medical Superintendent, his Appointment Letter & Joining Report are enclosed.</td><td>Annexure- III</td></tr>
<tr><td>5</td><td>OPD: It is under construction / development. Examination rooms are not occupied by the respective departments. Equipment is not available.</td><td>The Hospital is fully functional in Ground +03 Floors, and respective Consultants are providing care to the Patients. Photo Evidence is enclosed.</td><td>Annexure - IV</td></tr>
<tr><td>6</td><td>Hospital is under construction/development. Rooms are allotted in wards but they are not occupied and non-functional. Equipment are not available.</td><td>The Hospital is functioning from 2014 and accordingly State Govt. granted NOC / Essentiality Certificate vide No. 21/46/2014-2HB-IV dated 08th August 2014 to the Institute (copy enclosed Annx –V(a).

The trust has purchased 300 Hospital Beds & related Hospital Furniture for 300 Beds through Anand Surgical Industries Limited vide details below:- (Bill/invoice enclosed Annx –V(b).
<table>
<tr><td>Bill/Invoice Nos.</td><td>Date</td><td>Quant</td></tr>
<tr><td>000284</td><td>21/07/2014</td><td>100 G</td></tr>
<tr><td>000287</td><td>26/07/2014</td><td>60 Ge</td></tr>
<tr><td>000288</td><td>26/07/2014</td><td>46 Ge</td></tr>
<tr><td>001649</td><td>20/08/2014</td><td>30 Se Paed.</td></tr>
<tr><td>000928</td><td>20/08/2014</td><td>40 Se</td></tr>
<tr><td>000931</td><td>26/08/2014</td><td>30 Se</td></tr>
</table>
To support the above argument copy of the supply order issued to M/s Anand Surgical Industries Limited vide letter No. WCTM/09/PO/2014 dated 30th June 2014 is enclosed. The supply order amounted to Rs.30,14,350/- Annx-V(C).

It may be noted that Page No.13 of MCI Assessors Report dated 12th January 2016 duly authenticated by all 03 Assessors and Dean of the Institute states that required beds are 300, whereas demonstrated beds are 304. This further supports the view that 330 beds were purchased by the Insitute, some being non-teaching beds have not been accounted in this total. Copy of relevant page of MCI Assessors Report is enclosed Annx-V(d).</td><td></td></tr>
</table>

		The Hospital is functioning in 04 floors covering an area of 202841.8172 Sq.ft. (18851.47 Sq.mt.) which is self evident that the Hospital is in existence and is functional from 2014 onwards.	
7	*Bed occupancy was 01 % on day of assessment.*	*The fact has been misrerepresented as on the day of assessment sufficient Clinical Material was available and the Bed Occupancy now touches over 60% Inpatients Admission/Discharge Data, including BOR for last 03 months is enclosed. Appropriate Photographs of Inpatients are enclosed.*	*Annexure - VI*
8	*There was NIL Major & NIL Minor operation on day of assessment.*	*The operation list of Surgeries (Major & Minor) conducted in the Hospital and supporting Photographs of procedure in progress are enclosed.*	*Annexure - VII*
9	*There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*	*On the date of Assessment sufficient clinical material was available as shown in Inpatient Picturs.*	*Annexure - VIII*
10	*Radiological & Laboratory investigation workload was NIL on day of assessment.*	*The workload of Dept. of Radio Diagnosis and Hospital Lab for a period of last 03 months is appended.*	*Annexure - IX*
11	*MRD: It is not available.*	*MRD is functional since inception of the Hospital. The Trust also purchased Software for Management of Medical Record. Copy of the Bill is enclosed.*	*Annexure - X*
12	*Casualty: Separate Casualty for O.G. is not available. Central O_2 & Central Suction are not available. Defibrillator, Ventilator are not available.*	*A separate Casualty for OBG is available and fully functional and all required equipements are available. Purchase Order & Installation Certificates for Central Oxygen & Central Suction by MPS Medical Products service vide Letter No.MPS/2016/1419 dated 21st March, 2016 is enclosed. Copy of supply order for Defibrillator & Ventilators are enclosed. Appropriate photographs of the same showing their availability are enclosed.*	*Annexure - XI*
13	*Central Clinical laboratory is non-functional.*	*Central Clinical Laboratory is functional since inception of the Hospital with the required equipments. Photographs are attached at Annexure –IX*	*Annexure - IX*
14	*O.T.s: They are under construction.*	*On the day of assessment hospital (in G+3 Floors) construction was completed and furnishing was in progress. Now all 04 Major OTs & 02 Minor OTs are available and are functional with necessary Instruments & Equipments, Bills for OT Light & Table purchased from V-Care Industries vide their Invoice No.23 dated 19th August, 2014 is attached.*	*Annexure - XII*
15	*ICUs: ICCU & ICUs are not occupied & non-functional. There was NIL patient in ICCU or any ICU. Major equipment is not available.*	*Photographs depiciting Patients under care at ICU are enclosed.*	*Annexure - XIII*
17	*Radiodiagnosis department: Only 1 mobile & 1 static X-ray machine are available against requirement of 2 each. No USG is available. AERB*	*The Hospital is functioning with 02 Static X Ray Machines (300 mA & 600 mA) and 02 Mobile X-Ray Machines are available. Copies of the Pruchase Orders and*	*Annexure - XIV*

	approval is not available.	*Photographs of the Machines are enclosed as well copy of AERB approval is enclosed.*	
18	*Blood Bank is not available.*	*Application for obtaining Blood Bank License has been processed vide E-challan GRN No. 0017416062 dated 22nd January 2016 at the office of District Drug & Food Control Officer, Jhajjar (1163 District). Infrastructural facilities & equipments are available. Copies of supply order and delivery note are enclosed.*	*Annexure – XV*
19	*CSSD, Intercom, Laundry, Kitchen, Canteen are not available.*	*CSSD, Intercom, Laundry, Kitchen, Canteen are available now. Purchase Order & Installation Certificates for CSSD, Intercom, Laundry, Kitchen, Canteen are enclosed and photographs of the same showing their availability are enclosed.*	*Annexure – XVI*
20	*No arrangements have been made for disposal of Bio-Medical waste.*	*The Hospital has tie-up arrangement for with approved agency having license from Haryana State Pollution Control Board. Copy of agreement with S.D. Bio-Medical Waste Management Co. Based at Rohtak is enclosed.*	*Annexure – XVII*
21	*Nursing staff: Only 34 Nurses are available against requirement of 175.*	*At present there are 181 Nursing Staff against total requirements of 175 Nos. A list showing existing Nursing Staff strength of various categories is enclosed.*	*Annexure – XVIII*
22	*Paramedical & Non-teaching staff: Only 10 Paramedical & Non-teaching staff are available against requirement of 100.*	*A list showing the Paramedical & Non-Teaching Staff strength of the Medical College & Hospital is enclosed.*	*Annexure – XIX*
23	*Dean's office & Administrative office are located in hospital.*	*Dean of the Institute is the administrative head, therefore he is supposed to have office at College as well in the Hospital, both are located along with Offices of Medical Superintendent, Nursing Superintendent and Hospital Committee Room. Relevant sketches/photographs are enclosed. The Dean's Office is also available in the Admin Block of Medical College.*	*Annexure – XX*
24	*MEU, College Council, Pharmaco Vigilance Committee are not constituted.*	*The desired Units like Medical Education Unit (Annex – XXI(a), Pharmaco Vigilance Committee (Annex – XXI(b) and college Council (Annex – XXI(c) have been constituted. The orders on the same are enclosed.*	*Annexure – XXI(a) Annexure – XXI(b) Annexure – XXI(c)*
25	*Lecture Theaters are under construction.*	*There are 02 Lecture Theaters available in the Ground Floor and Library is located at Third Floor. Lecture Theaters have seating capacity of 180 students each. The said Digital Lecture Theatre is provided with AC and to satisfy the requirements of e-class/virtual class for Teaching. Photographs of Lecture Theatres & Library are enclosed.*	*Annexure – XXII*
226	*College building is under construction.*	*The construction work of College Building has been completed. It has utilized an area of 97792 Sq.ft. Distributed in 03 Floors. Relevant Pictures are attached.*	*Annexure – XXIII*

27	*Students', Residents', Nurses' Hostels are under construction.*	*The Girls Hostel is constructed in an area of 12297 Sq.ft. and Boys Hostel in an area of 12297 sq.ft. along with a separate mess for them measuring an area of 12079 Sq.ft.* *The Nurses Quarters Block is constructed in an area of 10547 Sq.ft. and Residents Quarters Block is constructed in an area of 10547 Sq.ft.* *The Residential Blocks for Housing Students Hostel, Residents and Nursing Staff has been completed and fully furnished. Photographs of the Building are enclosed.*	*Annexure – XXIV*
28	*Residential Quarters are under construction.*	*The construction of the essential Staff Residential Quarters for 14 Doctors constructed in an area of 11966 Sq.ft. and 20 Non-Teaching Staff in an area of 14173 Sq.ft. are completed and are in occupation. Allotment list of Quarters is appended along with Photographs of the Building.*	*Annexure – XXV*
29	*Gender Harassment Committee as required by order of Hon'ble Supreme Court is not constituted.*	*Gender Harassment Committee has been constituted and copy of the order is enclosed.*	*Annexure – XXVI*
30	*Preclinical departments of Anatomy, Physiology, Biochemistry are under construction.*	*These Departments are available and the statement is supported with photographs & List of the item available in the established Labs of Anatomy, Physiology & Bio-Chemistry.*	*Annexure – XXVII*
31	*Other deficiencies as pointed out in the assessment report.*	*1. In terms MCI Regulation Para Clinical Departments have been established.* *2. Also Govt. of Haryana has allocated 03 Primary Health Centres Rural and 01 Urban Health Centre which are located in the radius of 30 Kms. Copy of application submitted to CMO, Jhajjar vide letter no. WCMSR&H/Ext/2016/01 dated 03rd February, 2016 & Photographs are enclosed.*	*Annexure – XXVIII*

The observations/recommendations of the Committee constituted by the Ministry in the matter reads as under:--

> *"In view of the compliance and documents furnished by the college, recommended for review by MCI.".*

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The matter was placed before the Legal Officer for his opinion. The opinion of Law Officer reads as under:-

"The file of Undergraduate Section for establishment of new Medical College at Gurawar, Jhajjar, Haryana by Amma Chandrawati Educational and Charitable Trust, New Delhi for establishment of new Medical College has been referred for my opinion in context of Central Government letter dated 11.05.16. The Central

Government has in view of the compliance and documents furnished by the college, recommended for review by Medical Council of India.

2. It may recalled that the Council vide communication dated 31.01.2016 has recommended to the Central Government to disapprove the application as the applicant had failed to meet the qualifying criteria under Regulations 3(2)(5) of Establishment of New Medical College Regulations, 1999 pertaining to the person owing and managing a hospital of not lets then 300 beds.

3. In this regard, it may be noted the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

> *27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*
>
> *(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.*

5. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

> *14. In this context, we may profitably refer to the decision in **D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51** wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in*
>
> ***Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474**, **Royal Medical Trust** (supra) and various other decisions and, after anaylsing the scheme of the Act, has held:-*
>
> > *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*
>
> *15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a*

conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016- 17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

6. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An applicant is required to own and manage a hospital of 300 beds at the time of making application. The Assessment conducted on 12-13 January 2016 and the recommendation of the Executive Committee dated 31.01.16 to the Central Government brings out that the applicant has failed to meet the qualifying criteria regarding owning and managing Hospital of 300 beds at the time of making application. Therefore, on this count of Hospital alone, apart from the deficiencies as stated in the earlier communication of the Council the application is liable to be rejected. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that Hospital is part of qualifying criteria and thus when during assessment Hospital is found to be under construction/development the application becomes incomplete and such applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of for establishment of new Medical College by Amma Chandrawati Educational and Charitable Trust, New Delhi as it has failed to fulfill the qualifying criteria of owning and managing 300 bed Hospital at the time of making application."

The matter with regard to Establishment of new medical college at Gurawar, Jhajjar, Haryana (Word College of Medical Sciences & Research, Jhajjar, Haryana) by Amma Chandravati Educational & Charitable Trust, New Delhi u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council perused the opinion of Law Officer which reads as under:

"The file of Undergraduate Section for establishment of new Medical College at Gurawar, Jhajjar, Haryana by Amma Chandrawati Educational and Charitable Trust, New Delhi for establishment of new Medical College has been referred for my opinion in context of Central Government letter dated 11.05.16. The Central Government has in view of the compliance and documents furnished by the college, recommended for review by Medical Council of India.

2. It may recalled that the Council vide communication dated 31.01.2016 has recommended to the Central Government to disapprove the application as the applicant had failed to meet the qualifying criteria under Regulations 3(2)(5) of Establishment of New Medical College Regulations, 1999 pertaining to the person owing and managing a hospital of not lets then 300 beds.

3. In this regard, it may be noted the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported

in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

5. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

14. In this context, we may profitably refer to the decision in ***D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51*** *wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in*

Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474, ***Royal Medical Trust*** *(supra) and various other decisions and, after anaylsing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an*

inspection for the academic year 2016-17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

6. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An applicant is required to own and manage a hospital of 300 beds at the time of making application. The Assessment conducted on 12-13 January 2016 and the recommendation of the Executive Committee dated 31.01.16 to the Central Government brings out that the applicant has failed to meet the qualifying criteria regarding owning and managing Hospital of 300 beds at the time of making application. Therefore, on this count of Hospital alone, apart from the deficiencies as stated in the earlier communication of the Council the application is liable to be rejected. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that Hospital is part of qualifying criteria and thus when during assessment Hospital is found to be under construction/development the application becomes incomplete and such applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of for establishment of new Medical College by Amma Chandrawati Educational and Charitable Trust, New Delhi as it has failed to fulfill the qualifying criteria of owning and managing 300 bed Hospital at the time of making application."

Further , the Committee also observed that the Council Office has also requested the State Government of Haryana to intimate as to how the State Govt. has issued the Essentiality Certificate dated 08/09/2014 in favour of the applicant when the hospital is still under construction. The Reply of the State Govt. in this regard is still awaited.

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 while making an application, the Executive Committee of the Council decided to reiterate its earlier decision to return the application for establishment of a new medical college at Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi under Pandit B.D Sharma University of Health Sciences, Rohtak, Haryana to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 15/05/2016. The Central Government vide its letter dated 08.06.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 20/06/2016 forwarded by the Founder & Chairman, Amma Chandravati Educational & Charitable Trust, New Delhi for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*
> é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Establishment of new medical college at Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***"…..31.*** *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……
16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Gurawar, Jhajjar, Haryana by Amma Chandravati Educational & Charitable Trust, New Delhi with an annual intake of 150 MBBS students under Pandit B.D Sharma University of Health Sciences, Rohtak, Haryana do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

49. <u>Establishment of new medical college at Patancheru, Medak Dist., Telangana by St. Augustin Educational Society, Hyderabad, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Patancheru, Medak Dist., Telangana by St. Augustin Educational Society, Hyderabad, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.06.2016 of the Chairman, TRR Institute of Medical Sciences & President, St. Augustin Educational Society, Hyderabad and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Patancheru, Medak Dist., Telangana by St. Augustin Educational Society, Hyderabad, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 6th& 7th January, 2016. The assessment report (6th& 7th January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (6th and 7th January, 2016) and noted the following:

1. *Deficiency of faculty is 90.76 % on day of assessment.*
2. *Shortage of Residents is 100 % as detailed in the report.*
3. *Dr. A.A. Majid, Medical Superintendent has administrative experience of only 01 year 08 months against requirement of 10 years; hence not eligible to hold the post.*
4. *Audiometry room is not soundproof.*
5. *OPD attendance was only 80 on day of assessment which is grossly inadequate.*
6. *Bed occupancy was 0 % on day of assessment.*
7. *There was NIL Major & Minor operation on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigation workload was NIL on day of assessment.*
10. *MRD: It is manual. ICD X classification of diseases is not followed for indexing.*
11. *Casualty: No doctor was available. Separate Casualty for O.G. is not available. Disaster Trolley, Ventilator are not available.*
12. *Central Clinical Laboratory is under control of Dean and not under one of the participating departments.*
13. *ICUs: There was NIL patient in ICCU or any ICU on day of assessment.*
14. *There was no woman in Labour Room.*
15. *Only 1 mobile X-ray machine is available against requirement of 2. Only 2 static X-ray machines are available against requirement of 3. AERB approval is not available for 1 of them.*
16. *Blood Bank is not functional.*
17. *CSSD is non-functional.*
18. *No meeting of Pharmaco Vigilance Committee was held during the last year.*
19. *Lecture Theaters: Only 1 lecture theater out of 2 is of Gallery type against requirement of both of Gallery type.*
20. *Central Library: Many non-medical popular press periodicals were found on journal racks.*
21. *Common Rooms for Boys & Girls are smaller than required. Attached toilets are not available.*
22. *Central Photography Section: Only vacant room is available. There is neither any staff nor any equipment.*
23. *Students' hostels: They are partially furnished. Only beds with mattresses are available in some rooms. Mess is not available. Visitors' room, A.C. Study room with Computer & Internet & Recreation room are not available.*
24. *Residents' Hostel: They are partially furnished. Only beds with mattresses are available in some rooms. Mess is not available. Visitors' room, A.C. Study room with Computer & Internet & Recreation room are not available. Presently it is unused.*
25. *Residential Quarters: One locked & unused building was shown as quarters for faculty & non-teaching staff against requirement of 14 quarters for faculty & 20 for non-teaching staff.*
26. *Gymnasium, Playground are not available.*
27. *Anatomy department: Only 95 specimens are available. There were only 2 cadavers who were not kept in formalin. Number of Dissection Tables is less than required. Storage tank is leaking & badly debilitated. No equipment is available in Embalming room.*
28. *Inside roads – i.e. Hospital to college are not developed.*
29. *Faculty rooms in all Preclinical departments are partly furnished.*
30. *Some of faculty & Residents are shown as working in the institute for last several months; however they have not been paid salary / stipend till date.*
31. *None of Residents are staying in campus.*
32. *Website: No information as required is posted on website.*
33. *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 Patancheru, Medak Dist., Telangana by St. Augustin Educational Society, Hyderabad, A.P. under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 31/01/2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 17/06/2016 forwarded by the Chairman, TRR Institute of Medical Sciences & President, St. Augustin Educational Society, Hyderabad for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply*

with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh*

*assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Patancheru, Medak Dist., Telangana by St. Augustin Educational Society, Hyderabad, A.P., in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon0le Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Patancheru, Medak Dist., Telangana by St. Augustin Educational Society, Hyderabad, A.P. with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawadado not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs

Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

50. <u>Establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 11/21.06.2016 of the Treasurer, Apollo Hospitals Educational & Research Foundation, Hyderabad and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 22nd & 23rd January 2016. The assessment report 22nd & 23rd January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (22nd and 23rd January, 2016) and noted the following:

1. *Deficiency of faculty is 18.46 % as detailed in the report.*
2. *Shortage of Residents is 17.39 % as detailed in the report.*
3. *Hospital proposed to be affiliated to medical college is still under control of Government of Andhra Pradesh. It has not been handed over to the college as yet.*
4. *Units are not organized as per Regulations.*
5. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Deficit
1	Psychiatry	08	NIL	08
	TOTAL			08

6. *OPD: Registration counters are not computerized. Teaching areas are not available. Enquiry desk is not available. Dressing room is not available in Ophthalmology OPD. Special clinic facilities are inadequate in Paediatrics & O.G. OPD.*
7. *Casualty: Central O_2 & Central Suction are not available. Separate Casualty for O.G. is not available. There is no life saving equipment in Casualty.*
8. *Workload of Microbiology, Histopathology & Cytopathology is NIL.*
9. *MRD: It is partly computerized. ICD X classification of diseases is not followed for indexing.*

10. *Central Clinical laboratory is outsourced to Medall Healthcare Limited which is not permissible. Separate sections are not available.*
11. *O.T.s: Central O_2 & Central Suction are not available.*
12. *ICUs: Central O_2 & Central Suction are not available. Ventilator, ABG are not available.*
13. *ETO Sterilizer is not available.*
14. *Nursing Staff: List is not provided.*
15. *Paramedical & Non-teaching staff: List is not provided.*
16. *Audiometry & Speech therapy are not available.*
17. *AERB approval is not available.*
18. *Medical Education Unit, College Council, Pharmaco Vigilance Committee are not constituted.*
19. *Lecture Theaters: They are not functional. Audio Visual aids are not available. E class facility is not available.*
20. *Central Library is under construction.*
21. *College building is under construction.*
22. *Central Photography Section is not available.*
23. *Students' Hostels are under construction. Hired accommodation is provided 2.5 kms. away from campus which is not permissible.*
24. *Residents' Hostel is provided as 14 rooms, each being 4 bedded room which is not permissible.*
25. *Nurses' Hostel is not available.*
26. *Residential Quarters are under construction. Hired accommodation is provided 2.5 kms. away from campus which is not permissible.*
27. *Recreational facilities are not available.*
28. *Anatomy department: Dissection Hall, Embalming room are under construction. Cold storage for dead bodies, Storage tank are not available. Practical Laboratory is not furnished. Microscopes are not available. Audio Visual aids are not available. Seating arrangement is not made in museum. Available specimens are 125. MRI & CT films are not available. Band saw is not available. Lockers are not available.*
29. *Physiology department is under construction.*
30. *Biochemistry department: Demonstration rooms are not furnished. Audiovisual aids are not available. Only 1 Demonstration room is available against requirement of 2. Practical laboratory is not furnished & non-functional.*
31. *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 Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 31/01/2016.

The Council Office had received a letter dated 16/03/2016 from the Central Govt., Ministry of Health & Family Welfare, New Delhi stating therein 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 24th & 25th February, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

From perusal of the documents, it was noted that the compliance was not attached with the letter/documents received from the Central Govt., therefore, the Council vide letter dated 21/03/2016 followed by the subsequent reminder dated 31/03/2016 requested the Central Govt. to furnish the compliance as submitted by the college authorities for perusal and further necessary action in the matter.

In response to above, the Central Govt. vide its letter 12/04/2016 had forwarded the compliance of Apollo Institute of Medical Sciences & Research, Chittor, which reads as under:-

Sl. No.	***Deficiencies Pointed out by MCI***	***Submission of college on deficiencies***	***Annexure No.***
1.	*Deficiency of faculty is 18.46 % as detailed in the report.*	*We have 62 of the overall 65 faculty required. Enclosed are the faculty declaration forms of those who were not counted (10); six had come late and four had taken leave. (Letters enclosed).* *We have shortlisted names of three faculty one Prof (Medicine) and two Assoc Prof in (Medicine and Radiology). They will join us on or before March 15th 2016*	*Annexure -1 faculty declaration forms, Leave letter,*
2.	*Shortage of Residents is 17.39 % as detailed in the report.*	*There is no shortage of residents. We have the 46 residents as required. Enclosed is the staff declaration forms and leave letters of the ten residents who were absent on the day of inspection.*	*Annexure -2 faculty declaration forms, List of residents*
3.	*Hospital proposed to be affiliated to medical college is still under control of Government of Andhra Pradesh. It has not been handed over to the college as yet.*	*AP Govt. GO – Permission for utilizing the facilities of government district hospital, Chittoor on lease basis for establishment of a unique integrated camps" The Apollo Health and Knowledge City" – orders- Issued was issued on Jan 4th 2016 The M o U between AHERF AND A.P. Commissioner Vaidhya Vidhana Parishad was signed on Jan 18th 2016, for taking over the district hospital from Feb 1st 2016.* *Based on the agreement (clause 1) the civil work as required for the teaching hospital has commenced and will be fully completed by April 25th 2016*	*Annexure -3a* *Annexure-3b*
4	*Units are not organized as per Regulations.*	*The departmental faculty for the clinical sciences have been distributed into units, as per regulation (See List Enclosed).*	*Annexure -4*
5.	*Teaching beds are deficient as under:*	*Overall, we have 385 beds in the District hospital, 310 in the Main hospital, and 75 in the Women and Children's block Enclosed is the department – wise distribution of beds, indexed by wards.* *A special ward area for Psychiatry patients has been earmarked, and required*	*Annexure-5*

		space and beds for this ward is available.	
6.	*OPD: Registration counters are not computerized.* *Teaching areas are not available.* *Enquiry desk is not available.* *Dressing room is not available in Ophthalmology OPD.* *Special clinic facilities are inadequate in Paediatrics & O.G. OPD.*	*As it was functioning as a District hospital earlier, such provisions for the patient details and census were not available previously. Space for 8 cubicles, as required, has been instituted, and computers with LAN cable enabling the computerization is being provided.* *As there is space available, 20 demo rooms for teaching, both in the wards (10) are being constructed and in the OPD(10). Each demo room is equipped with AV aids and could seat 30 students.* *Enquiry desk is available.* *Dressing room is available.* *Space for special clinics have been allotted, and the civil work will be completed by April, 24th, 25th, 2016. We have added the needed following two rooms for special clinics in Paediatrics (Child Rehabilitation Clinic), and in Obs-Gyn (Cancer Detection Clinic).*	*Annexure-6*
7.	*Casualty: Central O_2 & Central Suction are not available.* *Separate Casualty for O.G. is not available.* *There is no life saving equipment in Casualty.*	*The work for the laying the pipe lines (Central O2 Central Suction) has commenced and will be concluded by April 25th, 2016.* *There is a separate Mother and Child block with 11 labour rooms, Therefore a separate casualty area for OG was not built in the new casualty that we are modifying we have a special area provided, with protocols for medico-legal care of victims of Sexual Violence (see enclosed).* *All life saving equipment- Ventilator, nebulizer, infusion pumps, defibrillator, emergency crash cart, mobile x-ray – have been obtained. Disaster Management protocols have also been instituted. They will be placed as soon as the building is constructed.*	*Annexure - 7* *Annexure -3b*
8.	*Workload of Microbiology, Histopathology & Cytopathology is NIL.*	*The Microbiologist, Biochemist and Pathologist have been appointed. The laboratory workload is enclosed.*	*Annexure-8*
9.	*MRD: It is partly computerized. ICD X*	*It will be computerized by April 25th 2016 ICD X classification*	

Medical Council Of India

	classification of diseases is not followed for indexing.	*system will be included. Medical record staff have been appointed and are on the rolls.*	
10.	*Central Clinical laboratory is outsourced to Medall Healthcare Limited which is not permissible. Separate sections are not available.*	*Due to shortage of staff and funds the District hospital was requested to send investigations to Medall, for which a contract was executed. We will set up our own lab infrastructure and our faculty and staff will man the laboratories and offer patients in house service* *Separate sections for Microbiology (Serology, Pathology, Histopathology, Cytopathology), and Clinical Biochemistry is being established, both in the hospital and college. Enclosed is the list of equipments purchased and investigations that can be done in the teaching hospital, we have appointed technical staff to man the laboratory. The installation of new equipment will be done soon after the civil works, lines (for gases & O2) and AC, in the existing laboratory space is completed before April 25th 2016.*	*Annexure -9*
11.	*O.T.s: Central O_2 & Central Suction are not available.*	*Laying these pipe lines in OTs have commenced and will be completed before April 25th April 2016*	*Annexure-7*
12.	*ICUs: Central O_2 & Central Suction are not available. Ventilator, ABG are not available.*	*Laying pipe lines in ICU's will be completed before April 25th 2016 Ventilators & ABG machine have been procured.*	*Annexure-7*
13.	*ETO Sterilizer is not available.*	*Has been procured.*	*Annexure-10*
14.	*Nursing Staff: List is not provided.*	*List provided.*	*Annexure-11*
15.	*Paramedical & Non-teaching staff: List is not provided.*	*List provided.*	*Annexure-12*
16.	*Audiometry Speech therapy are not available.*	*The equipment has been purchased. Audiometry & speech therapists have been appointed and are on our rolls*	*Annexure -13*
17.	*AERB approval is not available.*	*-*	*-*
18.	*Medical Education Unit, College Council, Pharmaco Vigilance Committee are not constituted.*	*They have been constituted, and we enclose the list of members of the respective committees and the minutes of meetings held*	*Annexure-14*
19.	*Lecture Theaters: They are not functional. Audio Visual aids are not*	*The Classrooms and Library will be Wifi enabled, with e-learning facility established,*	*Annexure – 15*

	available. E class facility is not available.	*before April 25th April,2016. Audiovisual aids have been purchased.*	
20.	*Central Library is under construction.*	*Completed; Book list enclosed (3000 books in 22 racks), Chairs and tables to seat 150 students inside the library, and 150 outside, have been arranged.*	*Annexure – 16*
21.	*College building is under construction.*	*Construction process was stopped, due to heavy rains and flooding in Chittoor (restarted as of Jan 15th 2016). Letter to the MCI about this enclosed. It will be completed well before April 25th April,2016.*	*Annexure – 17*
22.	*Central Photography Section is not available.*	*Audiovisual sections with studio, dark room, enlarging and Photostat work are available.* *Accommodation is being provided for Artist and Medical illustrators and Modellers etc. facilities for microphotography and mounting will be provided.*	
23.	*Students' Hostels are under construction. Hired accommodation is provided 2.5 kms. away from campus which is not permissible.*	*The hostel building will be completed by April 25th, 2016. There will be a total of 113 rooms for the students accommodation.*	*Annexure -18*
24.	*Residents' Hostel is provided as 14 rooms, each being 4 bedded room which is not permissible.*	*We have 46 additional rooms for the Residents (1 room/person).*	
25.	*Nurses' Hostel is not available.*	*Nurses Hostel (for 35 nurses) has been provided.*	
26.	*Residential Quarters are under construction. Hired accommodation is provided 2.5 kms. away from campus which is not permissible.*	*Until our own building is completed by April, 25th 2016, 20 staff are being accommodated in the rented buildings.*	
27.	*Recreational facilities are not available.*	*Will be completed by April end 2016.*	

28.	*Anatomy department: Dissection Hall, Embalming room are under construction.* *Cold storage for dead bodies,* *Storage tank are not available.* *Practical Laboratory is not furnished.* *Microscopes are not available.* *Audio Visual aids are not available.* *Seating arrangement is not made in museum.* *Available specimens are 125.* *MRI & CT films are not available.* *Band saw is not available.* *Lockers are not available.*	*Dissection Hall is available, Embalming room construction has been completed.* *Available for 6 bodies.* *Available for 4 bodies.* *The practical laboratory has been furnished.* *Microscopes are available and installed.* *AV aids are available and installed.* *Seating arrangement has been provided in the Museum.* *Over 200 specimens are available now.* *Available.* *Available.* *Lockers are Available.*	*Annexure – 19*
29.	*Physiology department is under construction.*	*Construction will be completed by April 25th 2016 and will have a Mammalian lab, Hematology lab, Clinical Physiology lab, Amphibian lab, and a Research lab.*	*Annexure – 20*
30.	*Biochemistry department: Demonstration rooms are not furnished.* *Audiovisual aids are not available.* *Only 1 Demonstration room is available against requirement of 2.* *Practical laboratory is not furnished & non-functional.*	*The demo rooms have been furnished* *AV aids are available.* *Two demo rooms are available.* *Practical laboratory has been furnished, and will be fully functional by April end 2016.*	*Annexure-21*
31	*Other deficiencies as pointed out in the assessment report.*	*Disaster Protocols and Medico-legal care for victims of sexual violence has been instituted.* *No other deficiencies have been pointed out in the Assessment report.*	*Annexure - 22*

The observations/recommendations of the Committee constituted by the Ministry in the matter reads as under:-

> *"In view of the compliance and documents furnished by the college, recommended for review by MCI ."*

Medical Council Of India

The Central Govt. requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The matter alongwith legal opinion of the Law Officer with regard to Establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee at its meeting held on 28/04/2016 and it was decided as under:-

"The Executive Committee of the Council considered the letter dated 12.04.2016 received from the Central Govt., Ministry of Health & Family Welfare, New Delhi forwarding the representation/compliance submitted by the Apollo Institute of Medical Sciences & Research, Chittor.

The Executive Committee of the Council noted the observations/recommendations of the Committee constituted by the Ministry which is as under:-

> *"In view of the compliance and documents furnished by the college, recommended for review by MCI ."*

The Executive Committee also perused the opinion of Law Officer which reads as under:

"The file of M/S. Apollo Hospitals Educational and Research Foundation for establishment of new Medical College has been referred for my opinion on the issue as to whether the MOU entered into between the Government of Andhra Pradesh and the Apollo Hospitals Educational and Research Foundation is as per the requirement of MCI Regulations.

2. In this regard, it may be noted that terms and conditions that has to form part and parcel of the MOU between the Appropriate Government and Person/Agency has been set out in the Amendment to the Establishment of Medical College Regulations, 1999 notified in the official gazette on 14.01.2016 and 02.02.2016.

3. The copy of the MOU regarding utilization of Hospital of the State Government that has been submitted with the Compliance Report furnished by the College and received through Central Government's letter dated 12.04.16 as noted on pre-page note 16 are Annexure 3 (a) and 3 (b). The documents that have been submitted are:

(i) Government of Andhra Pradesh, Abstract – Permission for utilizing the facilities of Government District Hospital, Chittoor on lease basis for establishment of a Unique Integrated Campus 'The Apollo Health and Knowledge City'- Orders – Issued' Health, Medical and Family Welfare (D) Department dated 04.01.2016. Paragraph 4 of this Order brings out that the Apollo Hospitals Educational and Research Foundation (AHERF) has sought the permission of the State Government to use the existing Chittoor district Government Hospital as a Teaching Hospital for Clinical Training for a period of 3 years through a Memorandum of Understanding as required by the Medical Council of India. Further, perusal of paragraph 8, shows that the "Govt. after careful examination hereby accord permission for lease of the Government District Hospital, Chittoor to Apollo Hospitals Educational and Research Foundation for upgradation facilities and utilization in response to their unsolicited offer on lease basis for a period of (5) years (one full-fledged batch) from the date of entering into MOU to enable to start Medical College from 2016 academic year, extendable by mutual consent." Further, the recommendations are required to be incorporated in the MOU that is be entered into by the

Commissioner, A.P. Vaidya Vidhana Parishad, Hyderabad on behalf of the Govt. of AP with AHERF.

(ii) The second document is the Memorandum of Understanding dated 18.01.16 entered between the Government of AP and AHERF. This documents is analyzed herein below in terms of Establishment of Medical College Regulations, 1999 as under:

S.No.	***Position in Regulations***	***Position as in MOU between State Government of Andhra Pradesh and M/S AHERF***	***Remarks***
1.	*MOU between the appropriate Government and the "person" for allowing the utilization of the facilities of a hospital owned and managed by an appropriate Government for establishing a Medical College by a person/agency should be in existence at the time of making application.*	*The MOU between the Government of Andhra Pradesh and M/S AHERF for the utilization of District Headquarters has been entered into on 18.01.2016. Further, paragraph 1 of the MOU states that the State Government has agreed to allow the utilization of services of the Hospital by M/S AHERF from 01.02.16.*	*This is not as per the requirement of Regulations.*
	That the Hospital owned and managed by the appropriate Government should be minimum 300 bedded hospital with necessary infrastructural facilities capable of being developed into a teaching institution situated on a plot of land having an area not less that prescribed under the Regulations. The medical college shall provide free transportation facilities for students and staff. The said Hospital would be on one piece of land and the building of the College including library and hostel for students/interns, PGs/Residents, nurses may be housed on any of the two pieces of land.	*Paragraph 4 of the Preamble provides that "District Headquarters Hospital Chittoor" is a 320 bedded Hospital which is wholly managed and financed by the State Government.* *Paragraph 1 of the MOU states that the State Government has agreed to has agreed to allow the utilization of services of the Hospital by M/S AHERF from 01.02.16 including permitting AHERF to develop the existing infrastructure, thereby meeting the requirement of running a teaching Institution. By same clause M/S. AHERF have inter alia undertaken to create and strengthen all ICUs like AMC, CCU, RICU and casualty departments and equip with state of art infrastructure and facilities; strengthen OTs by providing additional equipment and monitoring facilities – the total number of OTs shall be increased to meet the requirement of MCI; strengthen the trauma care services by providing additional facilities for Neurosurgery, Intensive Care, Critical Care and reconstructive surgery; provide and maintain the unit with around hemodialysis 10 machines; strengthen the wards of existing broad specialities like General Medicine, Orthopaedics, ENT, Ophthalmology, and OBG by providing good cots, bedside lockers etc.* *By paragraph 7 of the MOU M/s AHERF has undertaken to provide separate OTs and Labour Rooms for OBG and strengthen the diagnostic*	*Resolve of the Parties to develop the Hospital into a teaching Institution appears to be in consonance with the requirement of MCI norms, provided they meet the requirement of MCI Regulations for facilities required by the Hospital at the time of establishment.* *Meets the requirement of land for Hospital being above 5 acres, however, the MOU is silent on the aspect of land for the other piece as also the provision of free transportation facilities for students and staff.*

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
		facilities. *Paragraph 7 of the MOU provides that Hospital is constructed in 6.3 Acres land and there is vacant area of 9.8 Acres.*	
	The minimum 300 bedded hospital has to be transferred by the Government to the applicant Trust/Society/company through an appropriate MOU of minimum of 33 years or by way of lease upto 99 years, preferably but in any case not less than 33 years. While transferring the Hospital facility, the State Government may safeguard the interest of State particularly in respect of admission of students under Government Quota in the medical College and patient care in affiliated Hospital(s) of the Medical College.	*Paragraph 15 of the MOU provides that MOU will be in force for a period of 05 years from the date on which AHERF starts operating the District Headquarters Hospital, Chittoor, and by consensus/mutual consent it is further extendable. Paragraph 16 provides that the minimum lock in period is 05 years and the MOU cannot be terminated during the lock-in period of 05 years and can only be terminated with 06 months' notice by either parties after the minimum lock in period.* *Paragraph 11 of the MOU provides that "all services so provided by the hospital should be made available free of cost to the public"*	*The Council Regulations provides for the minimum period of 33 years. Hence, hence it is not permissible.* *The MOU is silent as to the seat sharing between State and M/S AHERF.*
	The hospital must be suitably altered through appropriate modifications into a teaching hospital specially with reference to the breakup of 300 beds into 120 beds for Surgical Specialities and 60 for OBG and also capable of forming clinical units of 30 beds each with required ward size, teaching and training space and other prescribed requirements as per the Governing Regulations before the application is made for starting the new Medical College.	*Paragraphs 2 to 8 of the MOU set out the modalities through which the State Government and AHERF have agreed on the modalities for converting the District Headquarters Hospital into a teaching institution, including upgradation of the facilities, so as to conform to the requirements of MCI Regulations.* *The MOU is entered into on 18.01.2016 and the utilization of the services by AHERF commences from 01.02.16.*	*This aspect is subject to physical verification by Assessors.* *It is clear that at the time of making application there is no MOU for the utilization of the District Hospital between the State Government and M/S AHERF.*
	The hospital should have all the feasibility for it being periodically upgraded including the augmentation	*Paragraphs 2 to 8 of the MOU set out the modalities through which the State Government and AHERF have agreed on the*	

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
	of the number of beds and commensurate teaching compliment as prescribed by the Governing Regulations with respect to the permitted annual intake for the College of 50/100/150/200/250 as the case may be.	*modalities for converting the District Headquarters Hospital into a teaching institution, including upgradation of the facilities, so as to conform to the requirements of MCI Regulations.*	
	The personnel working in the said hospital, technicians, para clinical staff including nurses and the menial staff, if transferred to the medical college, upon their transfer shall be under the administrative control of the Dean of the Medical College ensuring that there is no "duality" of administrative control of any type.	*By paragraph 9 of the MOU the State has constituted a committee consisting with one from Dr. NTRUHS representative, Director of Medical Education, Commissioner of Andhra Pradesh Vaidya Vidhana Parishad, Medical Superintendent, DH, Chittoor and One Representative from AHERF. The Committee will monitor the progress of developmental activities of the hospital and functioning of hospital and eventual conversion of this hospital into a teaching hospital. Suitable remedial action will be initiated by the Committee if there are any deviations regarding time line, maintenance of standards of teaching hospital and delivery of quality services throughout the lease period. The service problem of all government staff shall be dealt with by the committee.*	*There is no reference to the role of the Dean of the Medical College in the MOU.*
	The administrative control so envisaged would include "Academic", "Clinical" and "Financial" aspects as well.		*The MOU is silent on this aspect.*
	The clinical staff working at the said hospital other than those who conform to the prescribed eligibility for being designated as Assistant Professor, Associate Professor, Professor of the concerned subject, as the case may be prescribed by the Teachers' Eligibility Qualifications Regulations will have to be replaced by full time appointment of the requisite number of duly qualified full time medical teachers, such replacement will not apply to non-teaching position like Casualty Medical Officer, Hospital Administrators etc. in accordance with the prescribed requirements under the governing Regulations. In order to ensure that the binding		*The MOU is silent on this aspect.*

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
	operational dictum that "teaching physician has to be the treating physician" meaning thereby that the "treating" personnel would be the one who would be the "teaching" personnel.		

The above comparative study brings out that the MOU entered between the Govt. of Andhra Pradesh and AHERF is not in accordance with the provisions of Establishment of Medical College Regulations, 1999 that set out the condition for Memorandum of Understanding between the Government and Private entity for utilization of Hospital owned and managed by the Government. "

The Committee also perused the opinion of Law Officer dated 28.04.2016 which reads as under:

"The file of M/S. Apollo Hospitals Educational and Research Foundation for establishment of new Medical College has been referred for my opinion on the issue of availability of Hospital at the time of making application by the Apollo Institute of Medical Sciences & Research. In this regard, it is pertinent to point out that the Essentiality Certificate dated 28.08.2015, inter alia states that the "applicant owns Ac. 40 land and manages a 320 bedded hospital."

2. The Hospital on the basis of which the applicant is seeking to establish the Medical College is the District Hospital Chittoor. The permission for entering into an MOU to hand over the said Hospital was granted by the Government of Andhra Pradesh on 04.01.2016. Subsequently, on 18.01.2016, the State Government and M/S. AHERF have entered into an MOU. The date of commencement of MOU is stated in the MOU as 01.02.2016. Thus, it is evident that at the time of making application the applicant does not fulfill the qualifying criteria regarding Hospital as required in the Establishment of Medical College Regulations, 1999. Further, while Regulations provide that the MOU should be for a minimum period of 33 years, whereas in this case it is for a period of 05 years only. Moreover, as per Regulations, the Dean of the Medical College is required to have the administrative control over the personnel working in the said Hospital, herein this case a Committee has been constituted by the State to look into the service problems of the employees. There is no mention in the MOU about the administrative control of the Dean.

3. It may be recalled that the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment has laid down as under:-

> *27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. ….*
>
> *(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.*

4. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

*14. In this context, we may profitably refer to the decision in **D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51***

wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in ***Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474****,* ***Royal Medical Trust*** *(supra) and various other decisions and, after anaylsing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

1. *The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in* ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

5. The above factual matrix clearly brings out that at the time of making application there was no MOU in existence between the Government of Andhra Pradesh and Apollo Hospitals Educational and Research Foundation for establishment of new Medical College for establishment of new Medical College at Chittoor. The judgment of the Hon'ble Supreme Court are loud and clear to the effect that an applicant is required at the time of making application to fulfil the qualifying criteria. As per MCI Regulations Hospital is a necessary requirement at the time of making application and an application that does not meet the necessary requirement of Hospital is to be rejected. Therefore, it would be appropriate in my considered view to recommend to the Central Government to disapprove the application of M/s Apollo Hospitals Educational and Research Foundation for establishment of new Medical College at Chittoor amongst other grounds on the ground that it has failed to meet the qualifying criteria regarding owning and managing Hospital at the time of making application. Further, the MOU on which the applicant has placed reliance is also not in accordance with the norms laid down in Regulations.

In view of above,the Executive Committee of the Council decided to reiterate its earlier decision taken at its meeting held on 30.01.2016 recommending to the Central Government for disapproval of the scheme and to return the application for establishment of a new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 04/05/2016.

The Council Office had received a letter dated 12/05/2016(received on 13/05/2016) from the Central Govt., Ministry of Health & Family Welfare, New Delhi which reads as under:-

"I am directed to refer to the Council's letter No. MCI-34(41)(E-4)/2015/-Med. 107174, dated 04.05.2016 thereby recommending to disapprove the scheme of Establishment of new Medical College at Chittoor, by Apollo Hospitals Educational & Research Foundation, Telangana for the academic year 2016-17 on technical ground. The matter has been re-considered in light of both the recommendations of the MCI and representation of the College dated 12.05.2016 and found that the MCI cannot take the plea of technical rejection when earlier an inspection of the college was conducted. Further, the intent of State Government to provide for attachment of District Hospital, Chittoor for setting up of the Medical College is substantiated by its letter dated 30.06.2015 as well as the Essentiality Certificate dated 28.08.2015.

2. The MCI is therefore, requested to consider the case on the basis of inspection conducted by MCI as well as Ministry's letter no. 12012/577/2015-ME-1 (pt-3 & pt-ii) dated 16.03.2016 and 05.04.2016 (copy enclosed)."

The matter with regard to Establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 2017was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered the fax letter dated 13th May, 2016 of the Central Government, Ministry of Health & F.W. for reconsideration of the case on the basis of inspection conducted by MCI as well as Ministry's letters No. 12012/577/2015-ME-I(Pt.3 & pt.ii) dated 16.03.2016 and 05.04.2016 and decided to reiterate its earlier decision dated 28.04.2016 which is as under:-

"…….The Executive Committee also perused the opinion of Law Officer which reads as under:

"The file of M/S. Apollo Hospitals Educational and Research Foundation for establishment of new Medical College has been referred for my opinion on the issue as to whether the MOU entered into between the Government of Andhra Pradesh and the Apollo Hospitals Educational and Research Foundation is as per the requirement of MCI Regulations.

2. In this regard, it may be noted that the terms and conditions that terms and conditions that has to form part and parcel of the MOU between the Appropriate Government and Person/Agency has been set out in the Amendment to the Establishment of Medical College Regulations, 1999 notified in the official gazette on 14.01.2016 and 02.02.2016.

3. The copy of the MOU regarding utilization of Hospital of the State Government that has been submitted with the Compliance Report furnished by the College and received through Central Government's letter dated 12.04.16 as noted on pre-page note 16 are Annexure 3 (a) and 3 (b). The documents that have been submitted are:

(iii) Government of Andhra Pradesh, Abstract – Permission for utilizing the facilities of Government District Hospital, Chittoor on lease basis for establishment of a Unique Integrated Campus 'The Apollo Health and Knowledge City'- Orders – Issued' Health, Medical and Family Welfare (D) Department dated 04.01.2016. Paragraph 4 of this Order brings out that the Apollo Hospitals Educational and Research Foundation (AHERF) has sought the permission of the State Government to use the existing

Chittoor district Government Hospital as a Teaching Hospital for Clinical Training for a period of 3 years through a Memorandum of Understanding as required by the Medical Council of India. Further, perusal of paragraph 8, shows that the "Govt. after careful examination hereby accord permission for lease of the Government District Hospital, Chittoor to Apollo Hospitals Educational and Research Foundation for upgradation facilities and utilization in response to their unsolicited offer on lease basis for a period of (5) years (one full-fledged batch) from the date of entering into MOU to enable to start Medical College from 2016 academic year, extendable by mutual consent." Further, the recommendations are required to be incorporated in the MOU that is be entered into by the Commissioner, A.P. Vaidya Vidhana Parishad, Hyderabad on behalf of the Govt. of AP with AHERF.

(iv) *The second document is the Memorandum of Understanding dated 18.01.16 entered between the Government of AP and AHERF. This documents is analyzed herein below in terms of Establishment of Medical College Regulations, 1999 as under:*

S.No.	***Position in Regulations***	***Position as in MOU between State Government of Andhra Pradesh and M/S AHERF***	***Remarks***
1.	*MOU between the appropriate Government and the "person" for allowing the utilization of the facilities of a hospital owned and managed by an appropriate Government for establishing a Medical College by a person/agency should be in existence at the time of making application.*	*The MOU between the Government of Andhra Pradesh and M/S AHERF for the utilization of District Headquarters has been entered into on 18.01.2016. Further, paragraph 1 of the MOU states that the State Government has agreed to allow the utilization of services of the Hospital by M/S AHERF from 01.02.16.*	*This is not as per the requirement of Regulations.*
	That the Hospital owned and managed by the appropriate Government should be minimum 300 bedded hospital with necessary infrastructural facilities capable of being developed into a teaching institution situated on a plot of land having an area not less that prescribed under the Regulations. The medical college shall provide free transportation facilities for students and staff. The said Hospital would be on one piece of land and the building of the College including library and hostel for students/interns, PGs/Residents, nurses may be housed on any of the two pieces of land.	*Paragraph 4 of the Preamble provides that "District Headquarters Hospital Chittoor" is a 320 bedded Hospital which is wholly managed and financed by the State Government.* *Paragraph 1 of the MOU states that the State Government has agreed to has agreed to allow the utilization of services of the Hospital by M/S AHERF from 01.02.16 including permitting AHERF to develop the existing infrastructure, thereby meeting the requirement of running a teaching Institution. By same clause M/S. AHERF have inter alia undertaken to create and strengthen all ICUs like AMC, CCU, RICU and casualty departments and*	*Resolve of the Parties to develop the Hospital into a teaching Institution appears to be in consonance with the requirement of MCI norms, provided they meet the requirement of MCI Regulations for facilities required by the Hospital at the time of establishment.* *Meets the requirement of land for Hospital being above 5 acres,*

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
		equip with state of art infrastructure and facilities; strengthen OTs by providing additional equipment and monitoring facilities – the total number of OTs shall be increased to meet the requirement of MCI; strengthen the trauma care services by providing additional facilities for Neurosurgery, Intensive Care, Critical Care and reconstructive surgery; provide and maintain the unit with around hemodialysis 10 machines; strengthen the wards of existing broad specialities like General Medicine, Orthopaedics, ENT, Ophthalmology, and OBG by providing good cots, bedside lockers etc. *By paragraph 7 of the MOU M/s AHERF has undertaken to provide separate OTs and Labour Rooms for OBG and strengthen the diagnostic facilities.* *Paragraph 7 of the MOU provides that Hospital is constructed in 6.3 Acres land and there is vacant area of 9.8 Acres.*	*however, the MOU is silent on the aspect of land for the other piece as also the provision of free transportation facilities for students and staff.*
	The minimum 300 bedded hospital has to be transferred by the Government to the applicant Trust/Society/company through an appropriate MOU of minimum of 33 years or by way of lease upto 99 years, preferably but in any case not less than 33 years. While transferring the Hospital facility, the State Government may safeguard the interest of State particularly in respect of admission of students under Government Quota in the	*Paragraph 15 of the MOU provides that MOU will be in force for a period of 05 years from the date on which AHERF starts operating the District Headquarters Hospital, Chittoor, and by consensus/mutual consent it is further extendable. Paragraph 16 provides that the minimum lock in period is 05 years and the MOU cannot be terminated during the lock-in period of 05 years and can only be terminated with 06 months' notice by either parties after the minimum lock in period.* *Paragraph 11 of the MOU*	*The Council Regulations provides for the minimum period of 33 years. Hence, hence it is not permissible.* *The MOU is silent as to the seat sharing between State and M/S AHERF.*

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
	medical College and patient care in affiliated Hospital(s) of the Medical College.	*provides that "all services so provided by the hospital should be made available free of cost to the public"*	
	The hospital must be suitably altered through appropriate modifications into a teaching hospital specially with reference to the breakup of 300 beds into 120 beds for Surgical Specialities and 60 for OBG and also capable of forming clinical units of 30 beds each with required ward size, teaching and training space and other prescribed requirements as per the Governing Regulations before the application is made for starting the new Medical College.	*Paragraphs 2 to 8 of the MOU set out the modalities through which the State Government and AHERF have agreed on the modalities for converting the District Headquarters Hospital into a teaching institution, including upgradation of the facilities, so as to conform to the requirements of MCI Regulations.* *The MOU is entered into on 18.01.2016 and the utilization of the services by AHERF commences from 01.02.16.*	*This aspect is subject to physical verification by Assessors.* *It is clear that at the time of making application there is no MOU for the utilization of the District Hospital between the State Government and M/S AHERF.*
	The hospital should have all the feasibility for it being periodically upgraded including the augmentation of the number of beds and commensurate teaching compliment as prescribed by the Governing Regulations with respect to the permitted annual intake for the College of 50/100/150/200/250 as the case may be.	*Paragraphs 2 to 8 of the MOU set out the modalities through which the State Government and AHERF have agreed on the modalities for converting the District Headquarters Hospital into a teaching institution, including upgradation of the facilities, so as to conform to the requirements of MCI Regulations.*	
	The personnel working in the said hospital, technicians, para clinical staff including nurses and the menial staff, if transferred to the medical college, upon their	*By paragraph 9 of the MOU the State has constituted a committee consisting with one from Dr. NTRUHS representative, Director of Medical Education, Commissioner of Andhra*	*There is no reference to the role of the Dean of the Medical College in the MOU.*

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
	transfer shall be under the administrative control of the Dean of the Medical College ensuring that there is no "duality" of administrative control of any type.	*Pradesh Vaidya Vidhana Parishad, Medical Superintendent, DH, Chittoor and One Representative from AHERF. The Committee will monitor the progress of developmental activities of the hospital and functioning of hospital and eventual conversion of this hospital into a teaching hospital. Suitable remedial action will be initiated by the Committee if there are any deviations regarding time line, maintenance of standards of teaching hospital and delivery of quality services throughout the lease period. The service problem of all government staff shall be dealt with by the committee.*	
	The administrative control so envisaged would include "Academic", "Clinical" and "Financial" aspects as well.		*The MOU is silent on this aspect.*
	The clinical staff working at the said hospital other than those who conform to the prescribed eligibility for being designated as Assistant Professor, Associate Professor, Professor of the concerned subject, as the case may be prescribed by the Teachers' Eligibility Qualifications Regulations will have to be replaced by full time appointment of the requisite number of duly qualified full time medical teachers, such replacement will not apply to non-teaching position like Casualty Medical Officer, Hospital Administrators etc. in accordance with the prescribed requirements under the governing Regulations. In order to ensure that the binding operational dictum that "teaching physician has to		*The MOU is silent on this aspect.*

S.No.	Position in Regulations	Position as in MOU between State Government of Andhra Pradesh and M/S AHERF	Remarks
	be the treating physician" meaning thereby that the "treating" personnel would be the one who would be the "teaching" personnel.		

The above comparative study brings out that the MOU entered between the Govt. of Andhra Pradesh and AHERF is not in accordance with the provisions of Establishment of Medical College Regulations, 1999 that set out the condition for Memorandum of Understanding between the Government and Private entity for utilization of Hospital owned and managed by the Government. "

The Committee also perused the opinion of Law Officer dated 28.04.2016 which reads as under:

"The file of M/S. Apollo Hospitals Educational and Research Foundation for establishment of new Medical College has been referred for my opinion on the issue of availability of Hospital at the time of making application by the Apollo Institute of Medical Sciences & Research. In this regard, it is pertinent to point out that the Essentiality Certificate dated 28.08.2015, inter alia states that the "applicant owns Ac. 40 land and manages a 320 bedded hospital."

2. The Hospital on the basis of which the applicant is seeking to establish the Medical College is the District Hospital Chittoor. The permission for entering into an MOU to hand over the said Hospital was granted by the Government of Andhra Pradesh on 04.01.2016. Subsequently, on 18.01.2016, the State Government and M/S. AHERF have entered into an MOU. The date of commencement of MOU is stated in the MOU as 01.02.2016. Thus, it is evident that at the time of making application the applicant does not fulfill the qualifying criteria regarding Hospital as required in the Establishment of Medical College Regulations, 1999. Further, while Regulations provide that the MOU should be for a minimum period of 33 years, whereas in this case it is for a period of 05 years only. Moreover, as per Regulations, the Dean of the Medical College is required to have the administrative control over the personnel working in the said Hospital, herein this case a Committee has been constituted by the State to look into the service problems of the employees. There is no mention in the MOU about the administrative control of the Dean.

3. It may be recalled that the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment has laid down as under:-

> *27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. ….*
>
> *(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.*

4. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

14. In this context, we may profitably refer to the decision in ***D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51***

wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in

***Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474**, **Royal Medical Trust** (supra) and various other decisions and, after anaylsing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

*15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities.The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in **Educare Charitable Trust** (supra) and **Royal Medical Trust** (supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016- 17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

5. The above factual matrix clearly brings out that at the time of making application there was no MOU in existence between the Government of Andhra Pradesh and Apollo Hospitals Educational and Research Foundation for establishment of new Medical College for establishment of new Medical College at Chittoor. The judgment of the Hon'ble Supreme Court are loud and clear to the effect that an applicant is required at the time of making application to fulfil the qualifying criteria. As per MCI Regulations Hospital is a necessary requirement at the time of making application and an application that does not meet the necessary requirement of Hospital is to be rejected. Therefore, it would be appropriate in my considered view to recommend to the Central Government to disapprove the application of M/s Apollo Hospitals Educational and Research Foundation for establishment of new Medical College at Chittoor amongst other grounds on the ground that it has failed to meet the qualifying criteria regarding owning and managing Hospital at the time of making application. Further, the MOU on which the applicant has placed reliance is also not in accordance with the norms laid down in Regulations."

In view of above ,the Executive Committee of the Council decided to reiterate its earlier decision taken at its meeting held on 30.01.2016 recommending to the Central Government for disapproval of the scheme and to return the application for establishment of a new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 15/05/2016. The Central Government vide its letter dated 15.06.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre &Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 11/06/2016 and 21/06/2016 forwarded by the Treasurer, Apollo Hospitals Educational & Research Foundation, Hyderabad for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January.

Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme /

application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***".....31.*** *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> *(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.*
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold

requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Chittoor, Andhra Pradesh by Apollo Hospitals Educational & Research Foundation, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawadado not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

51. <u>Establishment of new medical college at Mulugu (Mandal), Medak Dist., Telangana by RVM Charitable Trust, Karimnagar, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Mulugu (Mandal), Medak Dist., Telangana by RVM Charitable Trust, Karimnagar, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated nil of the Chairman, R.V.M. Charitable Trust, Karimnagar and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Mulugu (Mandal), Medak Dist., Telangana by RVM Charitable Trust, Karimnagar, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 18th& 19th January 2016. The assessment report 18th& 19th January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (18th and 19th January, 2016) and noted the following:

1. *Deficiency of faculty is 70.80 % as detailed in the report.*
2. *Shortage of Residents is 100 % as detailed in the report.*
3. *No Resident is staying in campus.*
4. *No proof of payment of salary to staff was available as it was paid in cash as reported by faculty or Residents.*
5. *Dr. Jagannadha Reddy, appointed as regular Dean was not available on day of assessment. Dr. Mohammad Rafi was appointed as i/c Dean in his absence.*
6. *Dean's office is makeshift only. Staff room & Council room are not available.*
7. *Medical Superintendent is not available.*
8. *Medical Superintendent's office & Administrative office are not available.*
9. *Hospital building is in various stages of construction. No indoor facilities are available. There are no beds in any ward functional.*
10. *OPD: It is run Registration Counters are not separate for males/females. Separate counters are not available for OPD/IPD. They are not computerized. No staff for Registration is available. Waiting area is not available. Total 7 examination rooms are available against requirement of 4 rooms for each major department. No facility is available in any departmental OPD.*
11. *OPD attendance was 20-25 on first day of assessment; on 2nd day of assessment it was only 10.*
12. *No patient was admitted.*
13. *Data of clinical material of last 3 months as provided by institute are made up & grossly overstated and do not concur with facilities actually observed on day of assessment.*
14. *No Radiological or Laboratory facility is available.*
15. *Casualty: Neither staff nor equipment are available.*
16. *Central Clinical laboratory is not available.*
17. *O.T.s, ICCU & all ICUs, Labour Room are not available.*
18. *No static or mobile X-ray machines or USG are available.*
19. *Blood Bank is not available.*
20. *CSSD, Intercom, Laundry, Kitchen, Canteen are not available.*
21. *No arrangements have been made for disposal of Biomedical waste.*
22. *Nursing staff: Only 09 Nurses are available against 175 required.*
23. *Paramedical & Non-teaching staff: None available.*
24. *MRD is manual. ICD X classification of diseases is not followed for indexing.*
25. *College Council, Pharmaco Vigilance Committee are not constituted.*
26. *College building is initial stage of construction.*
27. *Central Library is under construction.*
28. *Students', Residents' & Nurses' Hostels are under construction.*
29. *Residential Quarters are under construction.*
30. *Gender Harassment Committee is not constituted.*
31. *Preclinical departments are not functional as the college building is under construction.*

32. Connected load of electric supply is inadequate as detailed in report.
33. Website is not available.
34. 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 Mulugu (Mandal), Medak Dist., Telangana by RVM Charitable Trust, Karimnagar, Telangana under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 further decided to seek an explanation from the Secretary (ME) of Telengana as to how the Essentiality Certificate had been issued when the hospital is still under construction."

The decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 08.06.2016 had disaproved the application of the college for the academic year 2016-17.

The Council vide its another letter dated 31/01/2016 also communicated the decision of the Executive Committee to the Principal Secretary, Department of Health & Family Welfare, Kolkata, West Bengal with the request to intimate as to how they have issued the Essentiality Certificate dated 27.08.2015 when the hospital is still under construction.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated nil forwarded by the Chairman, R.V.M. Charitable Trust, Karimnagar for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……...The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

The members of the Executive Committee of the Council observed that :

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Mulugu (Mandal), Medak Dist., Telangana by RVM Charitable Trust, Karimnagar, Telangana, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……
16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Mulugu (Mandal), Medak Dist., Telangana by RVM Charitable Trust, Karimnagar, Telangana with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

52. <u>Establishment of new medical college at Lucknow, Uttar Pradesh by G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Lucknow, Uttar Pradesh by G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Chairman, G.C.R.G. Memorail Trust, Lucknow, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Lucknow, Uttar Pradesh by G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 20th& 21st January 2016. The assessment report 20th& 21st January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (20th and 21st January, 2016) and noted the following:

1. *Deficiency of faculty is 73.84 % as detailed in the report.*
2. *Shortage of Residents is 78.26 % as detailed in the report.*
3. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Deficit
1	Tb & Chest	08	04	04
2	Skin & VD	08	04	04
3	General Surgery	90	84	06
3	O.G.	40	39	01
	TOTAL			15

4. *OPD attendance was 461 on day of assessment which is inadequate.*
5. *Bed occupancy was 36 % on day of assessment.*

6. *OPD: There were very few patients in OPD at time of visit by assessors at 10:30 a.m. & again at 12:30 p.m. Most of the rooms were empty with no doctors or patients. Registers were not maintained or had inaccurate data.*
7. *Wards: All wards did not have Pantry. Paediatrics ward did not have facility for heating milk for babies.*
8. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigation workload is grossly inadequate.*
10. *Data of clinical material given by Dean are highly inflated.*
11. *Casualty: Separate Casualty for O.G. is not available.*
12. *ICUs: There was NIL patient in ICCU or any of ICUs on day of assessment. There is no Ventilator in PICU/NICU.*
13. *Labour Room: There was no woman at time of visit. There is no Parturition register.*
14. *Paramedical & Non-teaching staff: Only 39 Paramedical & Non-teaching staff are available against requirement of 100.*
15. *Pharmaco Vigilance Committee: No meeting is held till date.*
16. *Central Library: Reading rooms for students appear to be congested.*
17. *Central Photography Section is not available.*
18. *Residents' Hostel: All rooms are locked; no register is maintained for the inmates of the hostel. Not even a single off call or night duty Resident was found in the hostel.*
19. *Nurses' Hostel: All rooms were locked.*
20. *Anatomy department: Available specimens are 115.*
21. *Biochemistry department: In Practical laboratory, there is no water supply, no gas connections and distance between 2 tables is congested.*
22. *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 G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 31/01/2016.

The Council Office received a letter dated 21/04/2016 from the Central Govt., Ministry of Health & Family Welfare, New Delhi stating therein 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee given personal hearing to the authorised representatives of the medical colleges/applicants on 18th April, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

In view of above, the Central Govt. had forwarded a copy of compliance dated 13/04/2016 submitted by the Chairman, G.C.R.G Memorial Trust, Lucknow which reads as under:-

Sr. No.	***Deficiencies pointed out by MCI***	*Department*	***Designation***	***Compliance***	***Annexure***
1	*Deficiency of faculty is 73.84 % as detailed in the report.*	*Anatomy*	*Professor*	***Dr. Rama Shankhdhar** had signed before 11:00 AM so has been shown present.*	

			Asso. Prof	***Dr. Ajay Kumar Rajput** was appointed as Associate Professor on 01st October 2015. He is working in the College since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 25004, Dated- 13/09/2003 Medical Council of India New Delhi & MS Reg. No. 009369 Dated 27/11/09 Rajasthan Medical Council)***	
			Asstt Prof	***Dr. Ruchi Jain & Dr. Gargi Yadu** were appointed as Assistant Professor on 12th December 2015 & 26 November 2015. They are working in the college since then. Their appointment letter and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 61149, Dated-13/04/11 & MD Reg. No. 6827 Dated-18/12/15 Uttar Pradesh Medial Council) (MBBS & MD Reg. No. 2007/05/1707 Dated 18/05/07 Maharashtra Medical Council Mumbai)***	
			Tutor	*Dr. Sandeep Kumar Sharma had signed before 11:00 AM so has been shown Present. Dr. Pankaj Kumar & Dr. Meenu Yadav were appointed on 26th November 2015 & 06th January 2016 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons*	

				mentioned in the covering letter. ***(MBBS Reg. No. 70659 Dated 08/04/15 Uttar Pradesh Medial Council)*** ***(MBBS Reg. No. 67605 Dated 04/04/14 Uttar Pradesh Medical Council)***	
		Physiology	*Professor*	***Dr. C.B. Singh*** *was appointed as Professor on 08th December 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 54183 Dated 01/05/07 & MD Reg. No. 658 Dated-03/05/07 Uttar Pradesh State Medical Council)***	
			Asso. Prof	***Dr. Ratan Prabha Gupta*** *was appointed as Associate Professor on 05th November 2015 and is working since then. Her Appointment letter and Declaration form are attached. She was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 13578 Dated 13/08/70 & MD & DCP Reg. No. 353 Dated 05/09/06. Uttar Pradesh Medical Council)***	
			Asstt Prof	***Dr. Mahtabudin*** *had signed before 11:00 AM so has been shown Present.* *Dr. Somesh Raju was appointed as Assistant Professor on 12th December 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.*	

				(MBBS Reg. No. 46078 Dated-12/04/02 & MD Reg. No. 5359 Dated-30/06/14 Uttar Pradesh Medical Council)	
			Tutor	***Dr. Tapas Tripathi, Dr. Kuldeep Mishra and Dr. Ashutosh Mishra*** *were appointed on 21st November 2015, 04th January 2016 and 04th January 2016 respectively, they are working since then. Their appointment letter and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 69869 Dated 31/04/14 Uttar Pradesh Medical Council)*** ***(MBBS Reg. No. 70305 Dated 06/04/15 Uttar Pradesh Medical Council)*** ***(MBBS Reg. No. 70301 Dated 06/04/15 Uttar Pradesh Medical Council)***	
		Biochemistry	*Professor*	***Dr. Anand Mishra*** *had sign before 11:00 AM so has been shown Present.*	
			Associate professor	***Dr. S.C. Puri*** *was appointed as Associate Professor on 03rd November 2015. He is working in the College since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00AM for reasons mentioned in the covering letter.* ***(He is M.Sc, Ph.D).***	
			Assistant Professor	***Dr. Afreen Hasan &Dr. Manish Kumar Singh*** *were appointed on 26th November 2015 & 06th January 2016 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus*	

				but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. ***(MBBS Reg. No. 54081 Dated 17/04/07 & MD Reg. No. 15-20271 Medical Council of India)*** ***(He is M.Sc, Ph.D)***	
			Tutor	***Dr. Pratibha Tripathi*** *had signed before 11:00 AM so has been shown Present.* ***Dr. Anubhuti Shukla, Dr. Sonali Srivastava and Dr. C.R. Agarwal*** *were appointed on 24th November 2015, 23rd November 2015 and 2nd November 2015 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 67832 Dated 10/04/14 Uttar Pradesh Medical Council)*** ***(MBBS Reg. No. 67932 Dated 11/04/14 Uttar Pradesh Medical Council)*** ***(MBBS Reg. No. 18536 Dated 05/02/75 Uttar Pradesh Medical Council)***	
		Pharmacology	*Associate Professor*	***Dr. Narayan Deshpande*** *was appointed as Associate Professor on 01st December 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 726 Dated 02/02/72 & MD Reg. No. 726 dated May 1979 Hyderabad State Medical Council).***	

			Tutor	***Dr. S.P. Ojha** was appointed as Tutor on 01st January 2016. He is working in the College since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reason mentioned in the covering letter.* ***(MBBS Reg. No. 18380 Dated 20/01/1975 Uttar Pradesh Medical Council)***	
		Pathology	*Associate Prof*	***Dr. B. Narasimha Rao** was appointed as Associate Professor on 26th December 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 10441 Dated 11/08/1983 & MD Reg. No. 10441 Dated 14/07/1997 Andhra Pradesh Medical Council)***	
			Asstt Prof	*Dr. Abhishek Gupta had signed before 11:00 AM so has been shown Present.*	
			Tutor	***Dr. Garima Sharma** was appointed as Tutor on 01st October 2015. She is working in the college since then. Her appointment letter and Declaration form are attached. She was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 028705 Dated 22/04/2010 Rajashtna Medical Council)***	
		Microbiology	*Associate Prof*	***Dr. Anil Kumar Sinha** was appointed as Professor on 05th December 2015. He is working in the College since then. His appointment letter and*	

				*Declaration form are attached (**Annexure-22)** He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 12890 Dated 19/04/1977 & MD Reg. No. 12890 Dated 24/05/207 Bihar Medical Council)***	
			Tutor	***Dr. Prem Prakash Singh** had signed before 11:00 AM so has been shown Present.*	
		Forensic Medicine	*Asstt Prof*	***Dr. Sacida Nand Roy** was appointed as Assistant Professor on 03rd November 2015. He is working in the College since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 34-350 Dated 04/08/2003 & MD Reg. No. 34-350 dated April 2015 Bihar Medical Council)***	
			Tutor	***Dr. Pallavi** was appointed as Tutor on 06th January 2016. She was working in the college then. Her appointment letter and Declaration form are attached. She was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 68377 Dated 07/05/14 Uttar Pradesh Medical Council)***	
		Comm. Medicine	*Asstt Prof*	***Dr. Manoj Verma** was appointed as Assistant Professor on 17th October 2015 is working since then. Her appointment letter and Declaration form are attached. She was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.*	

				(MBBS Reg. No. 34803 Dated 02/04/2004 & MD Reg. No. 34803 Dated 25/02/2011 Bihar Medical Council)	
			Tutor	***Dr. Pawan Kumar Verma** was appointed as Tutor on 01st October 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 68232 Dated 23/04/2014 Uttar Pradesh Medical Council)***	
		General Medicine	*Prof*	***Dr. Praveen Chaudhary** was appointed as Professor on 06th January 2016. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS & MD Reg. No. HN3382 Dated 15/02/2008 Haryana Medical Council)***	
			Asst Prof	***Dr. Shilpa B. Sutariya, Dr. Kanhya Prasad** were appointed on 01st December 2015, 02nd December 2015 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. G-34586 Dated 27/08/2004 & MD Reg. No. G-15803 dated 30/06/2008 Gujarat Medical Council)*** ***(MBBS Reg. No. 48047***	

				dated 07/08/2003 & MD Reg. No. 1487 dated 02/01/2009 Uttar Pradesh Medical Council)	
			Asstt Prof	***Dr. Avinash Krishna & Dr. Purushottam Singh yadav*** *had signed before 11:00 AM so have been shown Present.* ***Dr. Arun Kumar Sigh*** *was appointed as Assistant Professor on 13th November 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 51706 dated 19/01/2006 & MD Reg. No. 3017 dated 06/06/2011 Uttar Pradesh Medical Council***	
		General Surgery	*Prof*	***Prof. Ramakant*** *had signed before 11 AM so has been shown Present.* ***Prof. Anup Kumar Wahal*** *was appointed as Professor and Medical Superintend of hospital on 02nd November 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 14804 dated 21/03/1972 & MS Reg. No. 11084 dated 02/01/2015 Uttar Pradesh Medical Council)***	
			Associate Prof	*Col. (Dr.)* ***Satendra Sabhlok*** *had signed before 11AM so has been shown Present.* ***Dr. Avdhesh Dixit*** *was appointed as Associate Professor on 27th November 2015. He is*	

				working in the in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. ***(MBBS Reg. No. 28524 dated 01/08/1984 & MS Reg. No. 5869 dated 26/02/2015 Uttar Pradesh Medical Council)***	
			Assistant Prof	***Dr. Sumeet Seth** had signed before 11 AM so has been shown Present.* ***Dr. Santosh K Gupta** was appointed as Assistant Professor on 20th November 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 38824 dated 28/04/1995 & MS Reg. No. 05016 dated 06/02/2014 Uttar Pradesh Medical Council)***	
		Peditrics	*Asso Prof*	***Dr. Sanjay Kumar Chaurasia** was appointed as Associate Professor on 02nd January 2016. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 49968 dated 22/11/2004 & MD Reg. No. 49968 dated 11/08/2009 Delhi Medical Council)***	
			Asstt Prof	***Dr. Sachin Verma** was appointed as Assistant Professor on 02nd November 2015. He is*	

				working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. ***(MBBS Reg. No. 51372 dated 10/10/2005 & MD Reg. No. 3721 dated 15/06/2012 Uttar Pradesh Medical Council)***	
		TB & Chest	*Asstt Prof*	***Dr. Harendra Yadav** was appointed as Assistant Professor on 01st October 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 55397 dated 08/04/2008 & MD Reg. No. 3786 dated 28/06/2012 Uttar Pradesh Medical Council)***	
		Skin & VD	*Assistant Prof*	***Dr. Sumit Gupta** was appointed on 11th November 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 61768 dated 10/10/2011 Uttar Pradesh Medical Council & MD Reg. No. 12-12852 dated 16/11/2012 Medical Council of India, New Delhi)***	
		Psychiatry	*Asstt Prof*	***Dr. Simmi Kumari** was appointed on 16th November 2015. She is working in the college since then. Her appointment letter and Declaration form are attached. She was*	

				present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. ***(MBBS Reg. No. DMC/R/03018 dated 08/03/2011 Delhi Medical Council)***	
		Orthopedics	*Asso Prof*	***Dr. K.K Goal** was appointed as Associate Professor on 10th November 2015. He is working in the College since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 3246 dated 15/04/2013 Delhi Medical Council)***	
			Asstt. Prof	***Dr. Manish Yadav** was appointed as Assistant Professor on 02nd November 2015. He signed before 11.00 A.M.. He didn't the copy of his local address proof at the time of head counting and therefore could not be counted.*	
		ENT	*Asstt Prof*	***Dr. Sanjay Kumar Dohare** was appointed on 30th October 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 59339 dated 12/05/2010 Uttar Pradesh Medical Council & MS Reg. No. 10758 dated 03/11/2010 Madhya Pradesh Medical Council)***	
		Ophthalmology	*Asstt Prof*	***Dr Siddharth Agarwal** had signed before 11AM so has been shown Present.*	
		Dentistry	*Asstt Prof*	***Dr. Monu Yadav** had signed before 11AM so has been shown Present.*	
		Radio	*Asstt*	***Dr. Dhiren S Shah** was*	

		diagnosis	*Prof*	*appointed as Associate Professor on 10th November 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. G-12663 dated 30/11/1982 & MD Reg. No. G-2831 dated 21/10/1985 Gujarat Medical Council)***	
			Asstt Prof	***Dr. Alok Singla** was appointed as Assistant Professor on 28th December 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 40383 dated 31/12/2010 & MD Reg. No. 40383 dated 31/01/2011 Punjab Medical Council)***	
		(20) Obs & Gynae	*Prof*	***Prof. Indu Tandon** was appointed as Professor on 16th October 2015. She is working in the college since then. Her appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 13372 dated 21/03/1970 & MS Reg. No. 417 dated 01/12/2006 Uttar Pradesh Medical Council)***	
			Asso Prof	***Dr. Surendra Gamhbir** was appointed as Professor on 06th January 2016. She is working in the college since then. Her appointment letter and Declaration form are*	

				attached. She was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. ***(MBBS Reg. No. 7260 dated 23/01/1979 Rajasthan Medical Council & MS Reg. No. 19342 dated 23/02/2014 Punjab Medical Council)***	
			Asstt Prof	***Dr. Archana Verma & Dr. Wariza Seth*** *had signed before 11 AM so has been shown Present.*	
		(21) Anesthesia	*Asso Proof*	***Dr. Dushyant Nijhawan and Dr. Pankaj Sagar*** *were appointed on 07th December 2015 & 07th December 2015 respectively. They are working in the college since then. Their appointment letter and Declaration form are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 0023 dated 07/07/1977 & MD 0023 dated 17/10/2007 Medical Council of of India, New Delhi) (MBBS Reg. No. 045248 dated 24/12/2001 Uttar Pradesh Medical Council & MD Reg. 4826 dated 07/02/2007 Medical Council of of India, New Delhi)***	
			Asstt Prof	***Dr. Manish Kumar Agarwal*** *had signed before 11 AM so has been shown present.* ***Dr. Lav Kush Pandey*** *was appointed as Assistant Professor on 08th December 2015. He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the*	

				covering letter. ***(MBBS Reg. No. MCI/21305 dated 15/12/2000 & DNB Reg. No. 14-15930 dated 02/12/2014 Medical Council of India, New Delhi)***	
2	*Shortage of Residents is 78.26% as detailed in the report.*	*Gen Medicine*	*SR*	*Dr. Mona Rajput and Dr. Deepali Mohanty were appointed on 01st December, 2015 and 12th December 2015 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg No. 1738 dated 31/08/1998 Madhya Pradesh Medical Council & MD REg No. 56097 dated 14/11/2008 Uttar Pradesh Medical Council* *Dr. Saran Singh was appointed on 6th January 2016. He signed attendance sheet before 11.00 am. He lives in the residing hostel. At the time of head count and checking declaration form and other documents, the concerned assessor asked him whether you stay in the resident hostel or not. He said that yes. I very much stay in the hostel. Then she said can you show me your room in the hostel for that the he replied that yes mam, you come with me to the hostel, it will show my room. Then she insisted him to write on the declaration form tha he does not live in the hostel. Initially he resisted to write, then she virtually forced him to write on the declaration form that he does not stay 24X7 days in a week which wrote under duress. Dr. Sarnash has given this fact in writing to me which is annexed.*	*A-31* *A-32* *A-33*

Medical Council of India

			JR	*Dr. Poonam Pal, Dr. Medha Pandey Dr. Rohit Chaurasia & Dr. Shivam rai had signed before 11 am so have been shown Present.* *Dr. Sudhir Kumar and Dr. Ashish Kanojiya were appointed on 30th September 2015 and 19th December 2015 respectively. They are working in the college since then. Their appointment letter and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11 AM for reasons mentioned in the covering letter.* *(MBBS Reg. No. 69281 dated 03/11/2014 (Uttar Pradesh Medical Council)* *MBBS Reg. No. 72106 dated 03/12/2015 (Uttar Pradesh Medical Council)*	
		General Surgery	*SR*	*Dr. Shyam Singh, Dr. Nitin Malik and Dr. Hariom Gupta were appointed on 13th November 2015, 01st December 2015 and 26th November 2015 resepectively. They are working in the college since then. These appointment letter and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* *(MBBS Reg. No. 0045782 dated 10/03/2002 & MS Reg. No. 591 dated 04/04/2007 Uttar Pradesh Medical Council)* *(MBBS Reg. No. 59366 dated 18/05/2010 Uttar Pradesh Medical Council & MS Reg. No. DMC/R/04812 dated 17/06/2014 Medical Council of India, New Delhi)* *(MBBS Reg. No. 52352 dated 13/04/2006 & MS Reg. No. 3426 dated*	

				11/01/2012 Uttar Pradesh Medical Council)	
			JR	***Dr. Garima Singh, Dr. Kunwar Gavrav Singh, Dr. Nitin Kumar Kala, Dr. Rohan Verma & Dr. Gajendra Singh Verma*** *had signed before 11AM so have been shown Present.* ***Dr. Sailendra K Verma*** *was appointed on 30th September 2015. He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 69785 dated 10/03/2015 Uttar Pradesh Medical Council)***	
		Paediatrics	*SR*	*Dr. Mohd Tahazzul was appointed on 25th Nov.,2015. He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 51936 dated 3/4/2006 & MD Reg.No. 2240 dated 12/5/2010 Uttar Pradesh Medical Council).*	
			JR	*Dr. Ritu Jaiswal had signed before 11 AM so has been shown present.* *Dr. Nitin Kumar Srivastava was appointed as J.R. on 3rd Oct.,2015 He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 68119 dated 17/4/2014 Uttar Pradesh Medical Council).*	

		TB & Chest	*SR*	*Dr. Krishan Gopal was appointed on 2nd Nov., 2015 He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 043311 dated 17/10/1999, MCI, New Delhi& DTDC Reg.No. MP-1902 dated 26/9/2002, Madhya Pradesh Medical Council).*	
			JR	*Dr. Vinay Kumar was appointed on 1st Oct., 2015 He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 18485 dated 3/2/1975 Uttar Pradesh Medical Council).*	
		Skin & VD	*SR*	*Dr. Asma Praveen was appointed on 6th Jan.,2016 She is working in the college since then. Her appointment letter and Declaration forms are attached. She was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 60510 dated 31/3/2011 & MD Reg. No. Uttar Pradesh Medical Council).*	
			JR	*Dr. Bipin Kumar Singh was appointed on 2nd Nov.,2015 He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 67040 dated 26/3/2014 Uttar Pradesh Medical*	

				Council).	
		Psychiatry	SR	Dr. Ajay Kumar Vashishtha was appointed on 14th Dec.,2015 He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS & MD Reg.No. 64316 dated 5/12/2013 Delhi Medical Council).	
			JR	Dr. Varun Sharma was appointed on 5th Jan.,2016 He is working in the college since then. His appointment letter and Declaration forms are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 72394 dated 4/1/2016 Uttar Pradesh Medical Council).	
		Orthopaedics	SR	Dr. Vinay Kumar Tripathi was appointed on 16th Nov.,2015 He is working in the college since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg.No. 55321 dated 08/4/2018 & MS Reg No. 4762 dated 26/08/2013 Uttar Pradesh Medical Council).	
			JR	Dr. Dileep Kumar Gupta was appointed on 14th December 2015. He signed attendance sheet before 11.00 AM. He lives in the resident hostel. At the time of head count and checking declaration form and other documents, the concerned assessor asked him whether you stay in the resident hostel or not. He said that yes. I very much stay in the hostel. Then	

				she said can you show me your room in the hostel for that he replied that yes mam you come with me to the hostel, I will show my room. Then she insisted him to write on the declaration form that he does not live in the hostel, initially he resisted to write, then she virtually forced him to write on the declaration form that he does not stay 24X7 days in a week which wrote under duress. Dr. Dileep Kumar Gupta has given this fact in writing to me which is annexed. Dr. Abhishek Kumar Singh hs signed before 11 AM so has been shown Present.	
		ENT	*SR*	*Dr. Nitin Joshi was appointed on 02nd December 2015. He lives in the resident hostel. At the time of head count and checking declaration form and other documents, the concerned assessor asked him whether you stay in the resident hostel or not. He said that yes. I very much stay in the hostel. Then she said can you show me your room in the hostel for that he replied that yes mam you come with me to the hostel, I will show my room.. Then she insisted him to write on the declaration form that he does not live in the hostel, initially he resisted to write, then she virtually forced him to write on the declaration form that he does not stay 24X7 days in a week which wrote under duress. Dr. Nitin Joshi has given this fact in writing to me which is annexed.*	*A-59*
			JR	*Dr. Abhishek Chandra and Dr. Ashish Kumar were appointed on 4th January 2016 & 18th January, 2016 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus*	

				but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg No. 71392 dated 26/05/2015 Uttar Pradesh Medical Council).	
		Ophthalmology	*SR*	*Dr. Daman Preettkaur G was appointed on 01st December 2015. She is working in the College since then. Her appointment letter and Declaration form are attached. She was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS & DNB Reg. No. 43165 dated 19/05/2009 Delhi Medical Council).*	
			JR	*Dr. Praveen Kumar Yadav was appointed on 7th January 2016. He is working in the College since then. His appointment letter and Declaration form are attached. He was present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter. (MBBS Reg. No. 70560 dated 08/04/2015 Uttar Pradesh Medical Council).*	
		Radio diagnosis	*SR*	***Dr. Sunil Kumar Agarwal and Dr. Nisha Singh** were appointed on 30th October 2015 & 07th January 2016 respectively. They are working in the college since then. Their Appointment letters and Declaration Forms are attached. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. **(MBBS Reg. No. 90234 dated 28/02/2011 Karnataka Medial Council & MD Reg. No. 9526 dated 14/09/2015***	

				Haryana Medical Council) ***(MBBS Reg. No. 52598 dated 08/05/2006 & Diploma in Radio-Diagnosis Regi No. 3127 dated 24/06/2011 Uttar Pradesh Medical Council)***	
		Obst. & Gynae	*SR*	*Dr. Ekta Chaudhary & Dr. Asha Mishra were appointd on 30th May 2014 & 01st December 2015. They signed attendance sheet before 11.00 AM. They live in the resident hostel. At the time of head count and checking declaration form and other documents the concern assessor asked him whether you stay in the resident hostel or not. They said that yes. We very much stay in the hostel. Then she said can you show me your room in the hostel for that they replied that yes mam you come with me to the hostel, We will show my room.. Then she insisted them to write on the declaration form that they do not live in the hostel, initially he resisted to write, then she virtually forced them to write on the declaration form that they do not live in the hostel initially they resist to write then she virually forced them to write on the declaration form that they do not stay 24X7 days in a week which wrote under duress. Dr. Asha Mishra has given this fact in writing to me which is annexed.*	
			JR	*Dr. Avantika Singh, Dr. Qudsiya Anjum and Dr. Nidhi Kamal were appointed on 5th January 2016, 26th November 2015 & 23rd November 2015 respectively. They are working in the college since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11.00 AM for reasons mentioned in the covering letter.*	

				(MBBS Reg No. 72289 dated 21/12/2015 Uttar Pradesh Medical Council). *(MBBS Reg No. 70832 dated 09/04/2015 Uttar Pradesh Medical Council).* *(MBBS Reg No. 71115 dated 21/04/2015 Uttar Pradesh Medical Council).*	
		Anaesthesia	*SR*	***Dr. Purnendu Mishra** was appointed on 01st December 2015. He signed attendance sheet before 11:00 AM. He lives in the resident hostel. At the time of head count and checking declaration form and other documents, the concerned assessor asked him whether you stay in the resident hostel or not. He said that yes. I very much stay in the hostel. Then she said can you show me your room in the hostel, I will show my room. Then she insisted him to write on the declaration form that he does not live in the hostel. Initially he resisted to write, then she virtually forced him to write on the declaration form that he does not stay 24x7 days in a week which wrote under durss. Dr. Purnendu Mishra has given this fact in writing to me which is annexed.* ***Dr. Mahendra Singh** was appointed 02nd November 2015. He was working in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter.* ***(MBBS Reg. No. 55264 dated 04/04/2008 & DNB Reg. No. 6575 dated 14/10/2015 Uttar Pradesh Medical Council)***	
			JR	***Dr. Ashish Naresh and Dr. Apil Singh** were appointed on 02nd January 2016 and 02nd January 2016 respectively. They are working in the college*	

				since then. Their Appointment letters and Declaration forms are attached. They were present in the campus but could not sign on the attendance sheet before 11:00 AM for reasons mentioned in the covering letter. ***(MBBS Reg. No. 70183 dated 06/04/2015 Uttar Pradesh Medical Council)*** ***(MBBS Reg. No. 70251 dated 06/04/2015 Uttar Pradesh Medical Council)***	
3.	*Teaching beds are deficient as under:* *Deptt* / *Beds Req* / *Beds Available* *1 TB & Chest — 08 — 04* *2 Skin & VD — 08 — 04* *3 Gen Surgery — 90 — 84* *4 O.G. — 40 — 39* *Total*			*The reported deficiency of beds is just shocking. We are continuosly running a full fledged 300 bedded hospital since 2010. Documentary proof for that are as under:-* *A. While sending our application to MCI for the establishment of 150 seats medical college, State government inspected our hospital and gave us Essentiality Certificate dated 25 September 2013. Department of medical education has certified that GCRG Memorial Trust is owning and managing a 300 bedded hospital since 2010. Copy of EC is annexed.* *B. MCI assessors first time inspected our college on 19th and 20th May 2014 for the assessment of academic year 2014-15. In this assessment they reported certain deficiencies but they did not find any deficiency regarding required no of 300 beds Assessment report is annexed.* *C. When we did not get approval in academic year 2014-15, we applied for the approval of college for academic year 2015-16. For this year MCI assessors first visited our college on 16th& 17th January 2015. In their assessment report they reported certain deficiencies but they did not find and find any deficiencies regarding required no of 300 beds. Assessment report is annexed.* *D. For the compliance verification of deficiencies of the assessment dated 16th and 17th January 2015. MCI assessors again inspected our college on 24th and 25th April 2015. During this assessment they reported certain deficiencies but they did not find any deficiencies regarding no of 300 beds. Assessment report is annexed.* *E. When we did not get approval for academic years 2015-16. We again applied for 2016-17 session. For this year's assessment, MCI assessors visited our campus on 20th January 2016 and they have reported this outrageous and shocking deficiencies of 15 bed in 4 departments. Actually there is no deficiency of number of beds. Photographs of the beds in these 4 departments.* *F. Union Bank of India Kapoorthala Branch Lucknow has financed Rs. 14.00 crores for the strengthening of our hospital as per MCI norms. Bank officials regularly visit our hospital. In the latest inspection date 18.02.2016 bank has certified that our hospital is having 350 beds in the hospital. Which proves that there is no deficiency of beds in the hospital.* *I will humbly like to submit before you that the Trust which is continuously running a 300 full fledged hospital since 2010 to present time, will we remove 15 beds from the four department to put ourselves in such a situation that MCI assessors come and reject our college by not full filling the qualifying criteria for the establishment of a new college. The fact of the matter is that either the assessors have deliberately mentioned this shortage. In fact there is no shortage of even a single bed which can be again*	

		checked at any point of time by any authority. When we asked through our letter NO. 115/A/GCRG/CO/2015-16 dated 08.02.2016, Dean/ Principal as to why and in which conditions he had signed this untrue & wrong assessment report, he has submitted his explanation in detail through his letter no. dated 15.02.2016. He has also owned his moral responsibility for singing, incorrect & untrue assessment report & submitted his resignation letter from the post of Dean/Principal. Both Letters are annexed.	
4	*OPD attendance was 461 on day of assessment which is inadequate*	*OPD has been reported as 461 at 2 PM. Our OPD timing is 9 A.M to 4 P.M. actual OPD by 4 PM was 653. MRD record is annexed.*	*B-8*
5	*Bed occupancy was 36% on day of assessment.*	*The 20th January was the coldest day in Lucknow. It was foggy and night temperature was 4.2 c, the whole week was very cold. Our college is situated in the rural area of Lucknow and the patients are usually poor. Whenever they feel little better they insist to be discharged from the hospital to earn their livelihood and women to look after their household work. In the preceding there – four days of the inspection date, a large number of the patients got themselves discharged from the hospital. That is why bed occupancy was less than 60% on the day of assessment, normally bed occupancy in our hospital remains around 70%.*	*B-8(a)*
6	*OPD: There was very few patients in OPD at time of visit by assessors at 10.30 a.m and again at 12.30 p.m. Most of the rooms were empty with no doctors or patients. Registers were not maintained or had inaccurate data.*	*As has earlier mentioned that 20th Jan 2016 was the coldest day of Lucknow with minimum temperature 4.2 c and our college /hospital being situated in rural area of Lucknow. The arrival of patients in morning was slow and late i.e. why at 10.30 A.M. patients in the OPD were less. As the day progressed and cold was less patients started in large numbers during the day and that is why OPD attendance at 2.00 p.m. was 461 and up to 4.00 p.m. it reached 653. It's absolutely wrong to say that at 12.30 p.m. there were no doctors in the rooms. If doctors were not there then who managed the OPD of 653 and IPD of 108.*	
7	*Wards: All ward did not have Panty Paediatrics ward did not have facilities for heating milk for babies.*	*This deficiency is totally untrue. All wards have their own pantries, i.e. why no deficiencies regarding pantry has ever been reported in the three previous assessments in the year 2014 and 2015 by the MCI assessors themselves. Photograph of Pantry are annexed. A comparative chart of all the four inspections are being annexed. Hot milk for babies is brought from the nearby the canteen but now the facility for heating milk has been provided in the paediatrics ward.*	*B-9* *B-10 (Sr. No. 15)*
8	*There was only 1 Normal Delivery and Nil Caesarean Section on day of assessment.*	*On the day of inspection there was only one delivery & no caesarean deliveries. In the month of January upto 19th, 13 Normal & 16 Caesarean deliveries were there. MRD data is annexed*	*B-11*
9	*Radiological & Laboratory investigation workload is grossly inadequate.*	*The deficiency is untrue. The workload is adequate. Radiological and laboratory investigation conducted in the hospital fir three months data is annexed.*	*B-12*
10	*Data of clinical material given by Dean are highly inflated.*	*The data given by the dean regarding clinical material is correct. The assessors have not mentioned the basis/ reason to prove that given data is inflated.*	
11	*Casualty: Separate Casualty for O.G is not available.*	*Since the beginning of the hospital, we have the separate casualty for O.G. and i.e. why in three previous inspections of the MCI, deficiency of O.G. casualty was never reported.* *Comparative chart of inspection is annexed. Photograph of O.G. Casualty is annexed.*	*B-13 (Sr. No.11)* *B-14*
12	*ICUs: There was NIL patient in ICCU or any of ICUs on day of*	*At the time of inspections in the morning there were no patients in ICU/NICU but in the afternoon 1 patient in ICU, 1 patient in ICCU & 3 patients in NICU were*	*B-15*

	assessment. There is no ventilator in PICU/NICU.	*admitted. Patients are kept on ICU/NICU only when they are very critical otherwise they are managed in the ward itself. In previous inspection no deficiency of ventilator in PICU/NICU was reported. Now we have placed purchased order for the same.*	
13	*Labour Room: There was no women at time of visit: There is no Parturition register.*	*Parturition register is regularly maintained. Deficiency is untrue.*	*B-15 (a)*
14	*Paramedical & Non teaching staff: Only 39 Paramedical & Non-teaching staff are available against requirement of 100.*	*The deficiency is untrue. We have above hundred paramedical and non teaching staff in the hospital. The list of staff annexed.*	*B-16*
15	*Pharmaco Vigilance Committee : No meeting is held till date.*	*This deficiency is untrue. The meeting of Pharmaco Vigilance Committee was held on 27/12/2015. The Committee Report annexed. Now regular meetings are being held.*	*B-17*
16	*Central Library : Reading rooms for students appear to be congested.*	*As per the MCI norms a college needs to have a Library of 6000 sq ft. We have the Central Library of 10,000 sq ft. So for the deficiency that reading room appear to be congested. It's purely subjective version since we have the sufficient space in the Library. Why we will make reading tables congested?. Now we have further spread the reading room tables and chairs in already existing Library space. Photographs are annexed.*	
17	*Central Photography Section is not available.*	*This deficiency is untrue. We have a fully furnished Central Photography section in the department of Anatomy and i.e. why no deficiency was ever mentioned by the inspectors in the 2 inspections in the year 2015.* *Photographs are also attached.*	*B-19 (Sr. No 13)* *B-20*
18	*Residents Hostel : All rooms are locked, no register is maintained for the inmates of the hostel. Not even a single off call or night duty Resident was found in the hostel.*	*We have full furnished resident hostel in the Campus. All the residents live in the hostel. During inspection time when one of the assessors visited the resident's hostel, all the resident were in the hospital or head counting in the college building. Naturally in such a situation rooms will be found to be locked. Off call or night duty residents were also in the hospital and college during the inspection time and i.e. why no one was present in the hostel.*	
19	*Nurses Hostel : All rooms were locked*	*During the inspection time all nurses were in the hospital to their rooms were locked.*	
20	*Anatomy department: Available specimens are 115.*	*Specimen in the anatomy department are 115. As per my understanding this is sufficient No. of Specimen. This No. of 115 was the same in the year 2015 but assessors that year did not find any deficiency in this regard.*	
21	*Biochemistry department : In Practical laboratory, there is no water supply, no gas connections and distance between 2 tables is congested.*	*This deficiency is untrue. This is well laid down water, supply and gas connection. In the Practical Laboratories. Other deficiency has been rectified. Photographs are attached.*	
22	*Other deficiencies as pointed out in the assessment report.*	*There is now no deficiency which can be at any point of time.*	

The observations/recommendations of the Committee constituted by the Ministry in the matter reads as under:--

> *The college has contended that they were given only 30 minutes to assemble the faculty & residents. Declaration forms have been submitted."*

The college pointed out that in the inspection conducted by MCI on 24.04.2015 many facilities were confirmed available by the assessors but the same have been noted as deficient in the last inspection. Their contention was that facilities once made available are not likely to disappear in one year. Infrastructure has only improved over time. The deficiency of faculty was 20% in the last inspection. The deficiency of residents is attributable to their not staying in the campus which is claimed now to be rectified. The deficiency of clinical material was acknowledged by the representative.

The deficiencies regarding faculty, residents and clinical material is of high order but the compliance submitted by the college may be reviewed by MCI.".

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The matter with regard to Establishment of new medical college at Lucknow, Uttar Pradesh by G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 28/04/2016 and it was decided as under:-

"The Executive Committee of the Council considered the letter dated 21.04.2016 received from the Central Govt., Ministry of Health & Family Welfare, New Delhi forwarding the representation/compliance dated 13.04.2016 submitted by the Chairman, G.C.R.G Memorial Trust, Lucknow.

The Executive Committee also noted the observations/recommendations of the Committee constituted by the Ministry which is as under:-

"The college has contended that they were given only 30 minutes to assemble the faculty & residents. Declaration forms have been submitted.

The college pointed out that in the inspection conducted by MCI on 24.04.2015 many facilities were confirmed available by the assessors but the same have been noted as deficient in the last inspection. Their contention was that facilities once made available are not likely to disappear in one year. Infrastructure has only improved over time. The deficiency of faculty was 20% in the last inspection. The deficiency of residents is attributable to their not staying in the campus which is claimed now to be rectified. The deficiency of clinical material was acknowledged by the representative.

The deficiencies regarding faculty, residents and clinical material is of high order but the compliance submitted by the college may be reviewed by MCI."

The Executive Committee of the Council further noted the following deficiencies:-

1. *Deficiency of 15 teaching beds in the teaching hospital is as per the report of assessors in the present assessment which is a fact as the report has also been signed by the Principal without raising any objection at that time. Hence the previous history of the college having 300 beds in previous assessments is of no relevance for the present assessment. Even the college has acknowledged that the Principal has signed the assessment report in its compliance. Subsequent act of the Principal to own up his moral responsibility for signing the report and resigning from the post of Principal have no relevance.*

   In this view of the matter, as the institute did not have teaching beds required as per Establishment of Medical College Regulations, Qualifying Criteria as per Section 3(2)(5) of these Regulations are not fulfilled.

2. *With regard to OPD attendance, contention of the institute that the OPD runs upto 4 p.m. is not acceptable as the OPD attendance has to be considered*

upto 2 p.m. This was communicated to all colleges by way of circular well in advance before the assessments commenced.

3. *Bed occupancy was 36 % on day of assessment. Explanation of the institute that it was because of the coldest day in Lucknow is not convincing as the patients who are really sick would not like to be discharged due to cold weather. In fact only those patients who were not sick but admitted just to fill in the beds would like to be discharged in such circumstances.*

4. *With regard to deficiency of faculty & Residents, in most of the cases the college in its compliance has acknowledged that the concerned faculty / Resident could not sign before 11:00 a.m. The Council has issued a circular well in advance that only those faculty / Residents who sign the attendance sheet before 11:00 a.m. will be considered for subsequent verification. Hence the explanation is not tenable. Further this practice is in vogue for last many years.*

In view of above, the Executive Committee of the Council decided to reiterate its earlier decision to return the application recommending disapproval of the scheme as the qualifying criteria 3(2)(5) of Establishment of Medical college Regulations is not fulfilled."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/04/2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 08.06.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20/06/2016 forwarded by the Chairman, G.C.R.G. Memorail Trust, Lucknow for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

"…..31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance*

*reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Establishment of new medical college at Lucknow, Uttar Pradesh by G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to hospital as prescribed under Regulation 3(2)(5) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Lucknow, Uttar Pradesh by G.C.R.G Memorial Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Dr. Ram Manohar Lohiya Awadh University, Faizabad, Uttar Pradeshdo not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

53. <u>Establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad u/s 10A of the IMC Act, 1956 for the academic year 2016-17.</u>

Read: the matter with regard to establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Chairman, Jassar Dental Medical Education Health Foundation, Ghaziabad and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the matter with regard to establishment of new medical college at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council noted that in the academic year 2014-15, the Principal/Dean of Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad vide letter dated 27.3.2014 had stated

"…….... approved building plans will be produced for verification at the time of inspection".

On the basis of the said letter, an assessment was conducted on 8 & 9th May, 2014 for issuance of LOP to the said Institute. The Dean has mentioned in SA-I Pg. 3 of assessment report that Building plan approval from the Competent Authority i.e. GDA, Ghaziabad is awaited. On 14.10.2014, a compliance verification assessment was carried out in compliance of the orders of the Hon'ble Supreme Court dated 25.9 2014. There was no mention in the report whether GDA approval had been obtained or not. Thereafter, another assessment of compliance verification was conducted on 9.4.2015 but again there was no mention of GDA approval.

The Committee further noted that on 27.8.2015, the Central Government, Ministry of Health & F.W., vide letter dated 11.9.2015 had forwarded a fresh application for establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad for the academic year 2016-17. The certificate from Tahsildar dated 12.11.2014 enclosed alongwith the land documents states that permission from GDA is being obtained for building plan approval.

The Executive Committee of the Council further noted that the office vide its various communications had requested the clarifications/documents from the

college authorities. The Committee further noted the response dated 13.11.2015, 07.12.2015 and 21.12.2015 (received on 28.12.2015) received from the Chairman, Jassar Dental Medical Education Health Foundation, Modinagar, Ghaziabad as well as the legal opinion on the matter which reads as under:-

"5. It is pertinent to note that the applicant has in its letter dated 07.12.15 had sought for two-week time to furnish the letter from Ghaziabad Development Authority. This letter was received in the Council office on 10.12.15. Thus the time limit sought by the applicant itself gets exhausted on 21.12.15. In case, any communication/correspondence by virtue of which the approval of GDA has been furnished by the applicant is received by that date as sought by the applicant, then it may be further processed.

6. Failing which, keeping in view the aforesaid proceedings, in Sri Muthukumaran Medical College in the Hon'ble High Court of Madras as well as by the Executive Committee, in my considered opinion, the prudent course of action is to place the matter before the Executive Committee. It is open in my view for the Executive Committee to recommend the application for disapproval as the applicant had despite being granted sufficient opportunity failed to submit the requisite permission from the Ghaziabad Development Authority for its building plans."

The Executive Committee of the Council further observed that applicant has not submitted any approval of GDA till date.

In view of above, the Executive Committee of the Council accepted the above legal opinion and decided to recommend to the Central Government to disapprove the scheme and return the application for establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabadu/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015.

The Council Office had received a letter dated 28.01.2016 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 18th, 19th, & 20th January, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

In view of above, the Central Govt. had forwarded the representation dated 20/01/2016 submitted by Chairman, Jassar Dental Medical Education Health Foundation, Modinagar, which is self explanatory alongwith the observations/recommendations of the Committee constituted by the Ministry in the matter, which is as under:-

"The contention of the foundation is that they wish to avail the benefits of Govt. of U.P. , G.O. dated 20.01.2013 which would mean savings to the tune of Rs. 10 crore approximately by way of waiver of fee/charges etc. For this reasons the approval of GDA is pending. They have the ownership of land and land use

Change has already been permitted. It is further contended that building plan approval is not specifically mentioned in MCI regulations as a requirement. The contention of the Foundation is not tenable as the land, building etc. should have all necessary clearances as required under law.

MCI has given multiple opportunities to the Foundation to submit the building plan approvals.

As the matter relates to procedure adopted by MCI, it may be refereed to MCI for reconsideration, if any."

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The matter with regard to Establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences &Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee of the Council at its meeting held on 27/02/2016 and it was decided as under:-

"The Executive Committee of the Council considered the letter dated 28.01.2016 received from the Central Govt., Ministry of Health & Family Welfare, New Delhi forwarding the representation/compliance dated 20.01.2016 submitted by the Chairman, Jassar Dental Medical Education Health Foundation, Modinagar for review and observed that there is no change in the position so far as plan approval is concerned.

The Executive Committee of the Council also observed that Reviewing Committee appointed by Ministry of Health & Family Welfare has also held as under:

" ….. Change has already been permitted. It is further contended that building plan approval is not specifically mentioned in MCI regulations as a requirement. The contention of the Foundation is not tenable as the land, building etc. should have all necessary clearances as required under law.

MCI has given multiple opportunities to the Foundation to submit the building plan approvals."

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in W.P.(C) No. 705/2015-Royal Medical Trust(Regd.) and Another Vs. Union of India and Anrs.:-

"……(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent of affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage…."

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in SLP.(C) No. 15043/2015-Padmashree Dr. D.Y. Patil Medical College Vs. Medical Council of India & Anr..:-

16. In W.P. (C) No.705/2014 – Royal Medical Trust (Regd.) and Anr. V. Union of India & Anr. decided on 20.8.2015, this Court has observed that the Schedule must take care of following aspects:

"(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

(B) <u>Inspection</u> should then be conducted by the Inspectors of the MCI. By very nature such inspection must have an element of surprise. Therefore, sufficient time of about three to four months ought to be given to the MCI to cause inspection at any time and such inspection should normally be undertaken

latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the concerned Medical College should be given requisite permission/renewal. However if there are any deficiencies or shortcomings, the MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, the MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of the MCI and the Central Government. In cases where actual physical verification is required, the MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the Medical College concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so fare as that academic year is concerned."

It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 01.03.2016. Thereafter, Council had not received any compliance/comunication from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 22/06/2016 forwarded by the Chairman, Jassar Dental Medical Education Health Foundation, Ghaziabad for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the

processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……...The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad during the processing of the application, it was found that approval of Ghaziabad Development Authority for building plan had not been submitted.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after

pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……...It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold

itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of New Medical College at Modinagar, District Ghaziabad, Uttar Pradesh (Divya Jyoti Institute of Medical Sciences & Research) by Jassar Dental Medical Education Health Foundation (JDMEHF) Modinagar, Ghaziabad do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

54. <u>Establishment of New Medical College at Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) by Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, M.P u/s 10A of the IMC Act, 1956 for the academic year 2016-17.</u>

Read: the matter with regard to establishment of New Medical College at Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) by Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, M.P u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Secretary, Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the Central Govt., Ministry of Health & Family Welfare, New Delhi vide letter dated 14.09.2015 forwarded an application dated 28/08/2015 submitted by the Secretary, Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal for establishment of new medical college at Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

On perusal of the application/documents submitted by the applicant, it was noted that the applicant had not enclosed Consent of Affiliation from the affiliating university i.e. "Madhya Pradesh Medical Science University, Jabalpur" which is prerequisite document at the time of submission of the application to the Central Govt.

However, the applicant enclosed Consent of Affiliation dated 28/08/2014 issued by Barkatullah University, Bhopal. The Consent of Affiliation has a note appended to it which reads as under:-

"If Medical University comes into force affiliation will be granted from the said University. "

Accordingly, the Council Office vide its letter dated 19/10/2015 informed the Central Govt. as under:-

"…It is to inform you that on perusal of the application/documents submitted by the applicant, it is noted that the applicant has not enclosed Consent of Affiliation from the affiliating university i.e. "Madhya Pradesh Medical Science University, Jabalpur" which is prerequisite document at the time of submission of the application to the Central Govt.

However, the applicant has enclosed Consent of Affiliation dated 28/08/2014 issued by Barkatullah University, Bhopal. The Consent of Affiliation has a note appended to it which reads as under:-

"If Medical University comes into force affiliation will be granted from the said University. "

It may be noted that the Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011 has come into force w.e.f. 25.09.2014 and it inter alia provides that from that date onwards all Medical Colleges in Madhya Pradesh have to obtain Consent of Affiliation from the said University. Further, it may be noted that from the Academic Year 2016-17, the Central Govt. has forwarded following 10 applications of the State of Madhya Pradesh:-

1. *Establishment of New Medical College at Khandwa, M.P.(Govt. Medical College, Khandwa) by Govt. of Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
2. *Establishment of New Medical College at Jabalpur, Madhya Pradesh (Sukh Sagar Medical College & Hospital) by Gyanjeet Sewa Mission Trust, Jabalpur, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
3. *Establishment of New Medical College at Dewas, Madhya Pradesh (Amaltas Institute of Medical Sciences) by Amaltas Educational Welfare Society, Indore, MP u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
4. *Establishment of New Medical College at Myana, Guna, Madhya Pradesh (Sakshi Medical College & Research Centre and Research Centre) by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
5. *Establishment of New Medical College at Vidhisa, Madhya Pradesh (Govt. Medical College, Vidisha) by Government of Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
6. *Establishment of new medical college at Datia by Government of Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
7. *Establishment of New Medical College at Madhya Pradesh (Advanced Institute of Medical Sciences, Bhopal) by Advance Medical Science & Educational Society, New Delhi u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
8. *Establishment of New Medical College at Indore, Madhya Pradesh(Modern Institute of Medical Sciences, Indore) by Shri Astha Foundation for Education Society, Indore, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
9. *Establishment of New Medical College at Ratlam Madhya Pradesh(Govt. Medical College, Ratlam) by Government of Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*
10. *Establishment of New Medical College at Shahdol, Madhya Pradesh(Govt. Medical College, Shahdol) by Government of Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-17.*

In all these cases, the Consent of Affiliation is issued by Madhya Pradesh Medical Science University, Jabalpur. Copies of these Consent of Affiliation are enclosed.

In this case, the note appended to the Consent of Affiliation issued by Barkatullah University, Bhopal makes it clear that it is the Madhya Pradesh Medical Science University, Jabalpur that has to issue the Consent of Affiliation. Accordingly, as on date in view of the note appended in Consent of Affiliation of Barkatullah University and coming into force of Madhya Pradesh Ayurvigyan Vishwavidyalaya Adhiniyam, 2011, this application is without Consent of Affiliation.

In this regard, it is further to inform you that the Hon'ble Supreme Court vide its judgment dated 20/08/2015 in W.P.(C) No. 705/2015-Royal Medical Trust(Regd.) and Another Vs. Union of India and Anrs. has passed the following Order:-

"……(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent of affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage…."

In view of the above, the Council Office has decided to return the application for establishment of new medical college at Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) by Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, M.P to the Central Govt. recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17, as the application filed by the applicant without Consent of Affiliation from the concerned university i.e. "Madhya Pradesh Medical Science University, Jabalpur" is incomplete."

In this regard, the Council Office received a letter/representation dated 29/02/2016 from the Secretary, Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal stating therein as under:-

*"Our Institute had submitted an application for Letter Of Permission (LOP) along with consent of affiliation from Barkatullah University, Bhopal in Form-3 dated 28-8-2014 duly signed by the Registrar of the Barkatullah University, copy enclosed as **Annexure-1.** It is clearly mentioned that if Medical University comes into force affiliation will be granted from the said University.*

Accordingly, we had submitted our application, complete in all respects earlier in the year 2014 and thereafter, on 28-08-2015 along with requisite application fee of Rs. 7.0 lakhs vide DD No. 001109 drawn on Central Bank of India dated 27-08-2015. At the time of submission of the said application, we were not aware of the fact that the State Government has notified Madhya Pradesh Ayur Vigyan Vishwavidyalaya Adhiniyam, 2011 w.e.f. 25-9-2014. Accordingly, on discovering this fact, we had applied for consent of affiliation with the said Madhya Pradesh Medical Science University, Jabalpur in respect to which, even the Madhya Pradesh Medical Science University has been pleased to issue consent of affiliation valid for a period of one year on 20-02-2016 for opening of Mahaveer Institute of Medical Sciences and Research" established by "Jain Sarvodaya Vidhya Gyanpith Samiti" Bhopal with 150 seats.

*We have been informed that there is some hesitation due to the fact that Madhya Pradesh Medical Science University has granted consent on 20-2-2016, **Annexure-II** i.e., after submission of application dated 28-8-2015 **Annexure-III.***

It is respectfully submitted that on the date of making of the application dated 28-8-2015, there was a valid consent of affiliation from Barkatullah University, Bhopal in as much as before formation of a separate and distinct Medical Science University by the State Government of M.P., the Medical colleges were required to seek affiliation from the University under whose territorial jurisdiction, medical college is to be operationalized.

In the light of this fact and also the note appended with the consent of affiliation dated 28-8-2014 that if Medical University comes into force affiliation will be granted from the said University, our Institute had fulfilled all the necessary formalities at the time of submission seeking LOP.

*It will not be out of place to mention that the Madhya Pradesh Medical Science University has taken over the University jurisdiction of all the Medical colleges which were situated under different Universities and were affiliated to different Universities. Therefore, there a sense of continuity in the consent of affiliation granted by Barakatullah University, Bhopal on 28-8-2014 vis-à-vis consent of affiliation granted by Madhya Pradesh Medical Science University, Jabalpur. I am also enclosing copy of my communication dated 13-11-2015 **Annexure-IV** giving comparative statement of the position which was obtaining as on that date with a request to grant time to produce consent of affiliation from Madhya Pradesh Science University, Jabalpur.*

In view of this fact, I am enclosing copies of consent of affiliation granted by Barkatullah University, one granted by Madhya Pradesh Medical Science University, earlier letter of request for LOP dated 28-8-2015 to request the government to direct the Medical Council of India to carry out inspection of our college for the session 2016-17 so that timely statutory permissions are granted and name of our college is included in the list of colleges eligible for admitting the students at the time of conduct of unified entrance examination to be conducted for the session 2016-17.

I hope and trust that this clarification will find favour from your good office and future of the Medical College and the students will be safeguarded overlooking the technicalities which are in fact not of the making of the Institute. Sir, you will also appreciate that our Institute is different from other medical colleges in as much as it has been established as a charitable Institute and has high ideals and inspiration of Shri Vidya Sagar Ji Maharaj to serve the cause of humanity. Looking to the special status of being a charitable Institution run by minority Jain community let technicalities do not defeat the noble purpose of serving the humanity. With this trust, we are submitting this representation for early inspection and Letter of Permission for the session 2016-17.

After consideration of the said representation by the competent authority, the Council vide its letter dated 18/03/2016 had informed the applicant that "…. the Council vide its letter dated 19/10/2015 has already returned their original application to the Central Govt. recommending disapproval of scheme for establishment of new medical college at Mangalwara Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) by Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, M.P u/s 10A of the IMC Act, 1956 for the academic year 2016-17, as the application was incomplete without Consent of Affiliation from the Registrar Madhya Pradesh Medical Science University, Jabalpur.

In view of above, since the Consent of Affiliation dated 20/02/2016 issued by the Registrar, Madhya Pradesh Medical Science University, Jabalpur is after the cut off date of submission of application to the Central Govt. i.e. 31/08/2015, the Council cannot take any action on the representation to consider the application for the academic year 2016-2107 at this Stage."

The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 18/06/2016 forwarded by the Secretary, Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……...The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of New Medical College at Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) by Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, M.P, during the processing of the application, it was found that Consent of Affiliation from the concerned university i.e. Madhya Pradesh Medical Science University, Jabalpur had not been enclosed alongwith the application and the institution had failed to meet the mandatory requirement of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon0ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal.

However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold

itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of New Medical College at Mangalwara, Bhopal (Mahaveer Institute of Medical Sciences & Research) by Jain Sarvodaya Vidhya Gyanpith Samiti, Bhopal, M.P do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

55. <u>Establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-17.</u>

Read: the matter with regard to establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Vice-Chairman, Sambharam Charitable Trust, Bangalore and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

The Central Govt., Ministry of Health & Family Welfare, New Delhi vide letter dated 23/09/2015 forwarded an application dated 28/08/2015 submitted by the Vice-Chairman & Managing Trustee, Sambharam Charitable Trust, Bangalore for establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

On perusal of the application/documents submitted by the applicant, it was noted that the applicant had enclosed a copy of Consent of Affiliation dated 26.06.2014 issued by the Registrar, Rajiv Gandhi University of Health Sciences, Bangalore which was valid for the academic year 2015-2016 only and not for 2016-2017. The said COA was also applicable for 1 year from the date of issuing of the same.

Accordingly, the Council Office vide its letter dated 19/10/2015 informed the Central Govt. as under:-

"….It is to inform you that on perusal of the application/documents submitted by the applicant, it is noted that the applicant has enclosed a copy of Consent of Affiliation dated 26.06.2014 issued by the Registrar, Rajiv Gandhi University of Health Sciences, Bangalore which was valid for the academic year 2015-2016 only and not for 2016-2017. The said COA was also applicable for 1 year from the date of issuing of the same.

In this regard, it is further to inform you that the Hon'ble Supreme Court vide its judgment dated 20/08/2015 in W.P.(C) No. 705/2015-Royal Medical Trust(Regd.) and Another Vs. Union of India and Anrs. has passed the following Order:-

"……(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent of affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage…."

In view of the above, the Council Office has decided to return the application for establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore to the Central Govt. recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17, as the application filed by the applicant without valid Consent of Affiliation issued by the Registrar, Rajiv Gandhi University of Health Sciences, Karnataka, Bangalore is incomplete. "

The Council had received a letter dated 11/05/2016 from the Central Govt., Ministry of Health & Family Welfare, New Delhi stating therein 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 06th May, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

The Central Govt. had forwarded a copy of compliance dated 05/05/2016 received from the Vice Chairman, Sambharam Institute of Medical Science & Research, Kolar Dist., Karnataka which reads as under:-

Sl. No.	***Deficiencies pointed out by MCI***	***Submission of college on deficiencies***	***Annexure No.***	***Remarks***
1	*Applicant has enclosed a copy of Consent of Affiliation dated 26.06.2014 issued by the Registrar, Rajiv Gandhi University of Health Sciences, Bangalore which was valid for the academic year 2015-2016 and not for 2016-2017. The said COA was also applicable for 1 year from the date of issuing the same.*	*We had applied to the Ministry of Health & Family Welfare for establishment of new medical college with 150 admissions for the year 2016-2017, complete in all aspects except for Consent of Affiliation, well within the time frame of MOHFW and MCI. There was certain inordinate delay from the University in issuing the Renewal of Consent of Affiliation for the academic year 2016-17, which leads to our delay in submitting the same to the Ministry. Now attached Consent of Affiliation (Under Form-3) vide letter No.ACA/M-98/2016-17, dated 02/05/2016.*	*Annexure -1.*	*Request Ministry of Health and Family Welfare to kindly condone the delay and accept the consent of affiliation for 2016-17 in prescribed format (form-3) and forward to MCI for conduction inspection and necessary action since the delay was purely from the University and not from the college whatsoever and also since the application already submitted is complete in all respect except for the renewal consent of affiliation for 2016-17(We have received consent of affiliation earlier for 2 years 2014-15 and 2015-16).*

The observations/recommendations of the Committee constituted by the Ministry in the matter reads as under:--

> *"Rajiv Gandhi University of Health Sciences (RGUHS) has given consent of affiliation for two years 2014-15 & 2015-16.*
>
> *For 2016-17 the University has delayed issuing of consent affiliation without giving any reason to the college.*
>
> *College approached Hon'ble High Court of Karnataka. The Court in its order dated 31.03.2016 issued direction to RGUHS to immediately conduct re-inspection and issue orders.*
>
> *Revalidated consent of affiliation for the year 2016-17 has been issued by RGUHS on 02.05.2016.*
>
> *Recommended for review by MCI."*

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The matter was placed before the Legal Officer for his opinion. The opinion of Law Officer reads as under:-

"The file of Undergraduate Section for establishment of new Medical College at Kolar, Karnataka by Sambharam Charitable Trust, Bangalore for establishment of new Medical College has been referred for my opinion in context of letter dated 11.05.16 of the Central Government. The Central Government has vide this letter which is quoted on pre-page note has informed that the applicant has been issued re-validated consent of affiliation for the year 2016-17 by the RGUHS and therefore the case has been recommended for review by MCI.

2. In this regard, the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the

application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

5. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

14. In this context, we may profitably refer to the decision in ***D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51*** *wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in*

Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474, ***Royal Medical Trust*** *(supra) and various other decisions and, after anaylsing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

6. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An application without a valid consent of affiliation at the time of making an application is incomplete. Therefore, the submission of revalidated consent of affiliation by RGUHS issued on 02.05.2016, by the applicant at this juncture is of no consequence and cannot form the basis for any review. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that incomplete applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of Sambharam Charitable Trust, Bangalore for establishment of new Medical College as the consent of affiliation issued by the RGUHS on 02.05.16 cannot be considered for processing the application for academic year 2016-17."

The matter with regard to Establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore u/s 10A of the

IMC Act, 1956 for the academic year 2016-17was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council perused the opinion of Law Officer which reads as under:

"The file of Undergraduate Section for establishment of new Medical College at Kolar, Karnataka by Sambharam Charitable Trust, Bangalore for establishment of new Medical College has been referred for my opinion in context of letter dated 11.05.16 of the Central Government. The Central Government has vide this letter which is quoted on pre-page note has informed that the applicant has been issued re-validated consent of affiliation for the year 2016-17 by the RGUHS and therefore the case has been recommended for review by MCI.

2. In this regard, the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

5. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

14. In this context, we may profitably refer to the decision in ***D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51*** *wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in****Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474****,* ***Royal Medical Trust*** *(supra) and various other decisions and, after analyzing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are*

liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."

15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

6. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An application without a valid consent of affiliation at the time of making an application is incomplete. Therefore, the submission of revalidated consent of affiliation by RGUHS issued on 02.05.2016, by the applicant at this juncture is of no consequence and cannot form the basis for any review. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that incomplete applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of Sambharam Charitable Trust, Bangalore for establishment of new Medical College as the consent of affiliation issued by the RGUHS on 02.05.16 cannot be considered for processing the application for academic year 2016-17."

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 perused the opinion of Law Officer which reads as under:

"The file of Undergraduate Section for establishment of new Medical College at Kolar, Karnataka by Sambharam Charitable Trust, Bangalore for establishment of new Medical College has been referred for my opinion in context of letter dated 11.05.16 of the Central Government. The Central Government has vide this letter which is quoted on pre-page note has informed that the applicant has been issued re-validated consent of affiliation for the year 2016-17 by the RGUHS and therefore the case has been recommended for review by MCI.

2. In this regard, the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the

mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

5. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

14. In this context, we may profitably refer to the decision in ***D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51*** *wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in* ***Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474***, ***Royal Medical Trust*** *(supra) and various other decisions and, after analyzing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

6. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An application without a valid consent of affiliation at the time of making an application is incomplete. Therefore, the submission of revalidated consent of affiliation by RGUHS issued on 02.05.2016, by the applicant at this juncture is of no consequence and cannot form the basis for any review. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that incomplete applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of Sambharam Charitable Trust, Bangalore for establishment of new Medical College as the consent of affiliation issued by the RGUHS on 02.05.16 cannot be considered for processing the application for academic year 2016-17."

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 15/05/2016. The Central Government vide its letter dated 08.06.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 20/06/2016 forwarded by the

Vice-Chairman, Sambharam Charitable Trust, Bangalore for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……...The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant***

colleges for furnishing compliance to the deficiencies noticed in the inspections"*. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore during the processing of the application, it was found that Consent of Affiliation from the concerned university was not valid for the academic year 2016-17 at the time of submission of application and the institution had failed to meet the mandatory requirement of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Kolar Gold Field (KGF), Kolar District, Karnataka (Sambharam Institute of Medical Sciences & Research) by Sambharam Charitable Trust, Bangalore do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

56. <u>Establishment of new medical college at Saharsa, Bihar(Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2016-17.</u>

Read: the matter with regard to establishment of new medical college at Saharsa, Bihar(Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Managing Trustee, Shree narayan Foundation, Saharsha, Bihar, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item, which reads as under:-

It may be stated that the matter with regard to Establishment of new medical college at Saharsa, Bihar (Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council noted that the office vide its various communications had requested the clarifications from the college authorities. The Committee further noted the response dated 05.12.2015 received from the Managing Trustee/Secretary, Shree Narayan Foundation, Bihar as well as the legal opinion on the matter which reads as under:-

"…

8. It is stated that Shree Narayan Medical Institute and Hospital; Shree Narayan Foundation and Smt. Kameshwari Kumari are distinct legal entities in the eyes of law. This implies that any legal document pertaining to one entity cannot be interchangeably used in relation to another and hence a registered deed in the name of Smt. Kameshwari Kumari or Shree Narayan Medical Institute and Hospital cannot be considered to be a registered deed in the name of Shree Narayan Foundation.

9. On the basis of the above, it is stated that one of the qualifying criteria of the Establishment of Medical College Regulations, 1999 is that the applicant should own and possess 20 acres of single and contiguous piece of land. It is evident that the land under reference in this case is owned by three distinct legal entities, namely, Sri Narayan Foundation, Shree Narayan Medical Institute and Hospital and Smt. Kameshwari Kumari.

10. In view of the above, the applicant Sri Narayan Foundation fails to fulfil the qualifying criteria of owning and possessing 20 acres of land. Hence, the application may be recommended for disapproval."

In view of above and as the applicant has failed to meet the qualifying criteria u/s 3(2)(2) of Establishment of Medical College Regulations, 1999 pertaining to the owing and possessing 20 acres of land, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Saharsa, Bihar (Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 31/12/2015.

The Council Office had received a letter dated 28.01.2016 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 by the Ministry in case of disapproval/ non- renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 18th, 19th, & 20th January, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee has recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

The Central Govt. had also forwarded the representation/compliance dated Nil submitted by the Sri Narayan Medical College & Hospital, Saharsa, Bihar which reads as under:-

SS L.No.	***Deficiency pointed out by Medical Council of India***	***Action Taken against deficiency***	***Annex. No.***	***Remarks***
11	*Shree Narayan foundation Shree Narayan Medical Institute & Kameshwari kumari are three distinct legal Entities.*	*Shree Narayan medical institute & hospital (SNMI & H) and Kameshwari Kumari owe their existence to the Bye laws of applicant trust "Shree Narayan foundation". In the bye laws under the section objectives of the trust (Annex I)it is stated that Shree Narayan foundation would establish a medical college in the name of Shree Narayan medical institute & Hospital.* *Kameshwari Kumari on the other hand is Managing trustee for life or till voluntary retirement as stated in the bye laws of the trust (Annex II). In totality they are not only a part but the same as Shree Narayan Foundation. The land that the foundation has acquired over a long period of time from semi literate land owners required a face to negotiate the selling of the land on a day basis. It is here that Kameshwari Kumari the managing trustee was more tangible for the land sellers to understand. As it was hard for them to comprehend that a trust is interested in buying their land.* *Therefore SNMIH & Kameshwari kumari (Managing trustee) are instrument used by the applicant trust to act as an interface between individual land owners and the Registry office. The three party being the same have entered into a 'registered lease deed for 99 years' to put an end to presence of three distinct legal entity as envisaged by MCI. With execution of this registered lease deed in favour of Lessee applicant Sri Narayan foundation the Lessor*	*I , II , III , IV, V and VI*	*Deficiencies Rectified*

		Kameshwari kumari and Shree Narayan medical Institute have once and for all put an end to question regarding land ownership thus fulfilling the qualifying criteria. Certified Title deed by the registrar is in Annexure III Circle officer(Tahsildar) Certificate is annexed in the format of Form -5 which certifies that the 20 acre land is owned and possessed by the trust.The land being single contiguous and free from all encumbrances with all necessary clearances has also been certified along with khata and khesra.(Annex.IV). CO certificate is followed by Due diligence certificate by Advocate Munna Kumar Registration No. 1986/98.(Annex.V).		
22	*Establishment of medical college regulation, 1999 of owning & possessing 20 acres of single, contiguous piece of land is not followed.*	*The applicant is well aware of Establishment of medical college regulation, 1999 and the certificate of circle officer (Tahsildar equivalent in Bihar) is testimony to that (Annexure III). Circle officer after going through and individually inspecting each and every khesra and registration document on the site came to conclusion that the aforesaid land of 20 acres is owned & possessed by the applicant with all necessary clearances. As could be very well verified by hearing committee with the Annexed document of Circle officer (Annex IV) and Due Diligence certificate of the advocate.*	*Annex III and IV*	*Land owned & possessed*
33	*In view of the above two criteria applicant fails to fulfil the qualifying criteria of owning and possessing 20 acres of land hence disapproved*	*By fulfilling the above two condition applicant fulfils the qualifying criterial of owning and possessing 20 acres of land details of the required land is given in certified title deed. Hence the trust fulfils the qualifying criteria as laid down in Establishment of medical college regulation,1999(amendment incorporated).*	*Annex IV*	*Condition fulfilled*

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

"The Trust should have furnished requisite documents while making the application for establishment of new medical college.

But they have now submitted Form-5 certified by Circle Officer which mentions that land measuring 20.99 acres is registered in the name of the Trust.

The document furnished by the college may be referred to MCI."

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The said representation of the college was placed before the Law Officer to furnish his opinion in the matter. The Law Officer has furnished his opinion which reads as under:-

"The file of Undergraduate Section has been referred for my opinion in the context of letter dated 28.01.16 of the MOHFW by which the Ministry has referred

back the matter after grant of hearing to the Council for review assessment. The specific remark in respect of the applicant Trust is as under:-

"The Trust should have furnished requisite documents while making the application for establishment of new Medical College.

But they have now submitted Form-5 certified by Circle Office which mentions that land measuring 20.99 Acres is registered in the name of Trust.

The documents furnished by the college may be referred to MCI."

2. I have perused the documents furnished by the applicant Trust. The Trust has accepted the contention of the Council that the land owned by it is in the name of Shree Narayan Medical Institute & Hospital; Shri Narayan Foundation and Smt. Kameshwari Kumari. This it states is as Shree Narayan Institute & Hospital (SNMI &H) and Kameshwari Kumari owe their existence to the Bye laws of the applicant Trust "Shree Narayan Foundation" Further, to put an end to the presence of three distinct legal entities, a lease deed has been executed for 99 years in favour of the applicant Trust. A perusal of the photocopy of the certificate in Form 5 dated 15.01.16 issued by Circle Officer, Saharasa demonstrates that certain lands are registered in the name of K. Kumari, R.K. Singh and R.K. Mukund. The date of registration in respect of these lands is stated in the certificate to be 12.01.16. Further, in the photocopy of the Due Diligence Certificate issued by Advocate on 15.01.16 against these entries a footnote is added stating that "Registered lease deed of 99 years to SNF Trust". The date of registration is stated to be 12.01.16.

3. The above clearly brings out that on the date of making application Sri Naryan Foundation Trust did not own and possess 20 acres of single and contiguous piece of land as required by the Establishment of Medical College Regulations, 1999. Thus, the submission made by the applicant Sri Narayan Foundation during the course of hearing is unacceptable and it fails to fulfill the qualifying criteria of owning and possessing 20 acres of land at the time of making application. Hence, the application may be recommended for disapproval. "

The matter with regard to Establishment of new medical college at Saharsa, Bihar(Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee at its meeting held on 27/02/2016 and it was decided as under:-

"The Executive Committee of the Council considered the letter dated 28.01.2016 received from the Central Govt., Ministry of Health & Family Welfare, New Delhi forwarding the representation/compliance dated nil submitted by the Sri Narayan Medical College & Hospital, Saharsa, Bihar for review.

The Executive Committee of the Council also noted the observations/recommendations of the Committee constituted by the Ministry which is as under:-

"The Trust should have furnished requisite documents while making the application for establishment of new medical college.

But they have now submitted Form-5 certified by Circle Officer which mentions that land measuring 20.99 acres is registered in the name of the Trust.

The document furnished by the college may be referred to MCI."

The Executive Committee of the Council further noted the legal opinion of the Law Officer of the Council which reads as under:

"……

2. I have perused the documents furnished by the applicant Trust. The Trust has accepted the contention of the Council that the land owned by it is in the name of Shree Narayan Medical Institute & Hospital; Shri Narayan Foundation

and Smt. Kameshwari Kumari. This it states is as Shree Narayan Institute & Hospital (SNMI &H) and Kameshwari Kumari owe their existence to the Bye laws of the applicant Trust "Shree Narayan Foundation" Further, to put an end to the presence of three distinct legal entities, a lease deed has been executed for 99 years in favour of the applicant Trust. A perusal of the photocopy of the certificate in Form 5 dated 15.01.16 issued by Circle Officer, Saharasa demonstrates that certain lands are registered in the name of K. Kumari, R.K. Singh and R.K. Mukund. The date of registration in respect of these lands is stated in the certificate to be 12.01.16. Further, in the photocopy of the Due Diligence Certificate issued by Advocate on 15.01.16 against these entries a footnote is added stating that "Registered lease deed of 99 years to SNF Trust". The date of registration is stated to be 12.01.16.

3. The above clearly brings out that on the date of making application Sri Naryan Foundation Trust did not own and possess 20 acres of single and contiguous piece of land as required by the Establishment of Medical College Regulations, 1999. Thus, the submission made by the applicant Sri Narayan Foundation during the course of hearing is unacceptable and it fails to fulfill the qualifying criteria of owning and possessing 20 acres of land at the time of making application. Hence, the application may be recommended for disapproval. "

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in W.P.(C) No. 705/2015-Royal Medical Trust(Regd.) and Another Vs. Union of India and Anrs.:-

"……(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent of affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage…."

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in SLP.(C) No. 15043/2015-Padmashree Dr. D.Y. Patil Medical College Vs. Medical Council of India & Anr..:-

16. In W.P. (C) No.705/2014 – Royal Medical Trust (Regd.) and Anr. V. Union of India & Anr. decided on 20.8.2015, this Court has observed that the Schedule must take care of following aspects:

"(A) <u>Initial assesment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

(B) <u>Inspection</u> should then be conducted by the Inspectors of the MCI. By very nature such inspection must have an element of surprise. Therefore, sufficient time of about three to four months ought to be given to the MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) <u>Intimation of the result or outcome of the inspection</u> would then be communicated. If the infrastructure and facilities are in order, the concerned Medical College should be given requisite permission/renewal. However if there are any deficiencies or shortcomings, the MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) <u>If compliance</u> is reported and the applicant states that the deficiencies stand removed, the MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of the MCI and the Central Government. In cases where actual physical verification is required, the MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the Medical College concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so fare as that academic year is concerned."

It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."

In view of above and after due & detailed deliberations, the Executive Committee of the Council decided to approve the opinion of the Law officer and reiterated earlier decision conveyed to the Central Government vide letter dated 31.12.2015 to return the application for establishment of new medical college at Saharsa, Bihar (Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar to the Central Govt. recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 as the applicant trust was not having 20 acres of land in the name of the trust at the time of making the application required as per section 3(2)(2) of Establishment of new medical college regulations 1999."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 01/03/2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through Central Government. The Central Government vide its letter dated 26.05.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 22/06/2016 forwarded by the Managing Trustee, Shree narayan Foundation, Saharsha, Bihar for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

*"…..**31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

> *To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports***

for 2016-17", *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*
é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of establishment of new medical college at Saharsa, Bihar (Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar during the processing of the application, it was found that the institution had failed to meet the Qualifying Criteria pertaining to land as prescribed under Regulation 3(2)(2) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……
16……...It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Saharsa, Bihar (Shree Narayan Medical College, Saharsa, Bihar) by Shree Narayan Foundation, Saharsa, Bihar do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

57. <u>Establishment of New Medical College at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand u/s 10A of the IMC Act, 1956 for the academic year 2016-17.</u>

Read: the matter with regard to establishment of New Medical College at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean/Principal, Dr. Jagat Narain Subharati Charitable Trust, Dehradun, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the Central Govt., Ministry of Health & Family Welfare, New Delhi vide letter dated 24.09.2015 forwarded an application dated 31.08.2015 received from the Managing Trustee,Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand for establishment of new medical college (Shridev Suman Subharti Medical College) at Subhartipuram, Kotda Santaur, Prem Nagar, Tehsil Vikas Nagar, Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhandu/s 10A of the IMC Act, 1956 for the academic year 2016-17 .

As per practice & procedure, the file was placed before the Law Officer to furnish his opinion on the land documents.

As per the Legal opinion of Law Officer, the Council Office vide its letter dated 10/11/2015 and 23/11/2015 invited the attention of the State Govt. of Uttarakhand to the Council's letter dated 21/05/2015 by which the State Govt. was requested to get examine the complaints regarding the land owns and possessed by the applicant Trust for establishing the medical college by the concerned authorities of the State Govt.

The Council Office vide its letter dated 10/11/2015 followed by the subsequent reminder dated 23/11/2015 also forwarded the certain complaints received in the Council Office pertaining to dispute of the land to the Chairman/Director, Dr. Jagat Narain Subharati Charitable Trust, Dehradun with the request to furnish their urgent comments for further necessary action in the matter.

In response to the above, the Council Office received a letter /reply dated 24/11/2015 from the Managing Trustee, Dr. Jagat Narain Subharati Charitable Trust, Dehradun and the same was again placed before the Law officer to furnish his opinion in the matter. The Law officer opined as under:-

"I have perused the comments received from the College Authorities vide their letter dated 24.11.2015 and in sum and substance they have stated the allegations made in the complaints are baseless and frivolous. It has Reports from the State Government as sought for by the Council have not been received till date. In view of this it would be appropriate to adopt the following course of action:-

Firstly the applicant be called upon to furnish certification regarding land from District Magistrate/Additional Magistrate, Dehradun, i.e., the certificate should be

from District Authority, higher in rank than the Tahsildar who had issued the certificate dated 16.12.2014.

Secondly, the current status alongwith brief of the litigation of Sri Sri 1008 Narayan Swami Charitable Trust in the Hon'ble District Court, Dehradun be obtained from Shri Rajpal Singh, Advocate who had appeared on behalf of the Council in litigation in Dehradun.

Thirdly, reminder may be sent to the State Government requesting them to expedite their reply in the matter, as the applications under section 10A of the Indian Medical Council Act, 1956 are required to be processed in a time-bound manner. "

In view of the above legal opinion of Law Officer, the Council Office vide its letter dated 14/12/2015 sent a reminder to the State Government of Uttarakhand with the request to expeditiously furnish the response of the State Govt. in the matter.

The Council Office vide its letter dated 14/12/2015 also requested the Chairman/Director, Dr. Jagat Narain Subharati Charitable Trust, Dehradun to submit the certification regarding land from District Magistrate/Additional Magistrate, Dehradun i.e. the certificate should be from District Authority, Higher in the rank than the Tahsildar who had issued the certificate dated 16/12/2014 as per the format in annexure I of the advisory in original. The applicant was requested to submit the said certificate on or before 21/12/2015 positively for further necessary action in the matter.

In response to the above, the Administrative Officer, Dr. Jagat Narain Subharati Charitable Trust, Dehradun vide his letter dated 14/12/2015 and 21/12/2015 informed the Council as under:-

"....it is bring to your kind notice, we are applying to the District Magistrate for the issue of letter regarding land on the prescribed format as per your instruction. We will submit the certificate as soon as it is granted by the District Magistrate. However, we will like to submit that the Govt. machinery works in its own way and we have got no control over their system of working. Therefore, we cannot assure, that the DM/ADM, Dehradun will issue the certificate by 21/12/2015. In case, it is delayed, we request you in advance to extend the time appreciating our helplessness."

In this regard, the Council office vide its letter dated 22/12/2015 informed the applicant that the competent authority has granted them further time to submit the required information/certificate as sought by the Council vide letter dated 14/12/2015 on or before 28/12/2015, failing which the MCI will proceed further as per provision of the regulations.

In response to above, the Administrative Officer, Dr. Jagat Narain Subharati Charitable Trust, Dehradun vide his letter dated 24/12/2015 informed the Council as under:-

"... we wish to thank you for extending time upto 28/12/2015 from 21/12/2015 for submitting the required land certificate from the District Magistrate/ADM .

We had informed you that the Govt. machinery works at its own pace and therefore, we cannot guarantee that DM/ADM issue us the certificate as required by you within your time framed. It is to further to inform you that all the Govt. Offices are closed from 23rd to 27th December, 2015. Thus, it may not be possible for us to get the certificate by 28th December.

We are trying our best to get the certificate as early as possible. We will submit the certificate as soon as get the same."

In this regard, the Council Office vide its letter dated 29/12/2015 informed the applicant that the competent authority has decided to grant them last and final opportunity to submit the required information/certificate as sought by the Council vide letter dated 14/12/2015 on or before 04/01/2016, failing which the Council shall be constrained to recommend to the Central Govt. for disapproval of their

scheme for establishment of new medical college at Dehradun, Uttarakhand for the academic year 2016-2017.

In response to above, the Administrative Officer, Dr. Jagat Narain Subharati Charitable Trust, Dehradun vide his letter dated 04/01/2016 had informed the Council as under:-

". ...we are thankful for giving us another extension of date for submitting the required information/certificate, but we are sorry to inform you that inspite of our best efforts and continuous reminders to the Office of DM/ADM, the Certificate has not been issued till date. In view of this, it is once again requested that since, we have not control over the way the Govt. machinery works some more time may be given. We will submit the certificate as soon as, it is issued."

Thereafter, as per directions of the competent authority, the Council sent a letter dated 27/01/2016 to Sh. Om Prakash, Principal Secretary (Medical, Health & F.W.,) Government of Uttarakhand, which reads as under:-

"With reference to the telephonic conversation the undersigned had with you 3-4 times with regard to land of Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand, it was informed to the undersigned that the reply of the State Govt. is almost ready and the State Govt. is in the process of taking legal opinion from the Law Department with regard to non availability of mutation of some part of land which is not in the name of the applicant Trust.

In this regard, it is informed that till date, the Council Office has not received any reply from the State Govt.

Since, the MCI has to conduct the assessment of the colleges within a time bound manner as per regulations and directions of the Hon'ble Supreme Court, you are requested to send your response in the matter at the earliest."

In response, the Council Office had received a letter dated 27/01/2016 from the Principal Secretary, Govt. of Uttarakhand which reads as under:-

"This is with reference to your letter MCI-34(41)(E-104)/2015-Med./162690-91 dated 27.01.2016. In this regard in pursuance of telephonic conversation with you, I am directed to inform you that 2.0658 hectre of land is not entered in the name of Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand in land revenue records. This land is entered in the name of Sri Sri 1008 Narayan Swami Charitable Trust, Dehradun which is evident from the contents of the enclosed letter No. 990/12A-126(2014-17) of DM, DLRC dated 19/11/2015. Further in this regard, the correspondence was forwarded to the Department of Justice for opinion, however, the Department of Justice in view of the facts that there are several court cases pending in various Hon'ble courts between the two Trust and as the orders of the Hon'bel Court were not available to them, hence, they have refrained from rendering any opinion in the matter. The Department of Justice has sought for orders of various courts in respect of pending cases for rendering any opinion. The position in regard to the pending court case is clear from letter bearing no. 26P/ME/Court case/2012/399, dated 23.01.2016 of DME.

Therefore, in the light of above, it is not possible to reply to your letter dated 27.01.2016 and earlier letter NO.MCI-34(41)(E-104)/2015-Med./148298(received on 17.11.2015), in absence of opinion from Department of justice. Further, in this regard for appropriate action the letter bearing No. 9990/12A-126(2014-17) dated 19.11.2015 of D.M. Dehradun and Director, ME, Deptt., Directorate Dehradun Letter No.26P/ME/ dated 23/01/2016 and comments dated 25/01/2016 of Department of Justice is enclosed and is being forwarded to you. After information in respect of pending cases of complied and opinion of department of justice has been obtained. The final report in this matter would be sent to you expeditiously after compelling the information in respect of pending cases and opinion of department of justice has been obtained on it.

The said reply received from the Principal Secretary, Govt. of Uttarakhand was placed before the Law Officer to give his opinion in the matter. The Law officer opined as under:-

"I have perused the letter dated 27.01.16 received from the Principal Secretary, Govt. of Uttarakhand on the issue of ownership of land of Dr. Jagat Narain Subharti Charitable Trust, Dehradun. It is clear from the perusal of this letter that:

Firstly, land to the extent of 2.6508 hectare has not been entered till date in revenue records in the name of Dr. Jagat Narain Subharti Charitable Trust and the said land is registered in the name of Sri Sri 1008 Narayan Swami Charitable Trust, Dehradun;

Secondly, there are several litigations pending between the two Trusts in various Hon'ble Courts, and in absence of availability of Orders of the Hon'ble Courts in these matters the Department of Justice of the Uttarakhand Government has refrained from opining on the issue.

3. Furthermore, the Council has also sought from the applicant certification from the District Magistrate regarding its land holdings. Despite repeated reminders the applicant has still not furnished the said certification.

4. In view of the aforesaid, it appears that the land holding of the applicant is not undisputed. Accordingly, the appropriate course of action in my considered opinion is to recommend to the Central Government for disapproval of the application on the ground that the land owned by the applicant Trust is disputed. Copies of the documentation received from the State Government may be also forwarded to the Central Government, as and when recommendation of the Council is conveyed in the matter. "

The Council Office had also received various complaints dated nil (received on 27/11/2015 from Sh. Ranvir Singh Malik & Ram Singh, Jind Haryana and complaint dated 20.11.2015 from Sh. Harish Chandra, Hissar with regard to dispute of land.

As the Council Office had not received the certification regarding land from the District Magistrate/Additional Magistrate, Dehradun from the applicant as sought by the Council vide letter dated 14/12/2015 and subsequent reminders dated 22/12/2015 and 29/12/2015, the matter with regard to Establishment of New Medical College at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee of the Council at its meeting held on 27/02/2016 and it was decided as under:-

"The Executive Committee noted that the Government of Uttarakhand vide its letter dated 27.01.16 has in response to Council letters informed that a part of land that the applicant Dr. Jagat Narain Subharti Charitable Trust is claiming to be owned and possessed by it is in the name of Sri Sri 1008 Narayan Swami Charitable Trust. Further, the State Government has also informed that there are several litigations pending in various Hon'ble Courts between Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust. In addition, certain complaints with regard to land owned by the applicant has also been received in the Council office. Furthermore, despite repeated opportunities the applicant Trust has failed to furnish a certificate from District Magistrate/Additional District Magistrate, Dehradun, i.e., the certificate from a District Authority, higher in rank than the Tahsildar who had issued the Certificate dated 16.12.14 in favour of the applicant Trust regarding the land owned and possessed by it.

The Executive Committee noted that one of the qualifying criteria for establishment of new Medical College is that the applicant fulfils the requirement of land as prescribed in the Establishment of Medical College Regulations, 1999. Further, the Committee recalled that the Hon'ble Supreme Court of India in its judgment dated 20.08.15 in Royal Medical Trust Vs. Union of India & Ors. – WP (C) No. 705/2014 and connected matters has held as under:-

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

Therefore, keeping in view the fact that all the land is not entered in the name of Dr. Jagat Narain Subharti Charitable Trust, there are several litigations pending, and complaints regarding land dispute have been received, the Executive Committee holds that that the title of land on which the applicant Dr. Jagat Narain Subharti Charitable Trust seeks to establish the new Medical College is disputed. Thus, applicant Trust has failed to fulfill the qualifying criteria regarding land as prescribed by the Establishment of Medical College Regulations, 1999.

In view of failure to meet the qualifying criteria regarding land as prescribed in Regulations and the binding dictum of the Hon'ble Supreme Court in Royal Trust case, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 01/03/2016.

Thereafter , the Council Office had received a letter dated 03/03/2016 from the Principal & Dean, Dr. Jagat Narain Subharti Charitable Trust, Dehradun stating therein as under:-

> *"In response to your requirement for providing a certificate regarding the ownership of the land by the applicant Trust by an authority higher than the Tehsildar and in continuation of letter no.JNSCT/2016/01/1993 dated 19.01.2016. It is to inform you that finally the District Magistrate of Dehradun has issued us a letter certifying that we have got 20 acres of land in our ownership. In addition to the above, it has also been certified by the DM of Dehradun that the land is encumbrance free.*
>
> *The DM has also annexed with his letter, a letter issued by the State Government no. 3937/xxviii(1)/2014/05/2012 dated 03.01.2015 stating that Dehradun is considered as Hill area.*
>
> *The letter of the District Magistrate no. 116/12-159(2014-17)D.L.R.C. dated 1.3.2016, along with the annexures, in total consisting of 14 pages, is attached with this letter for your kind consideration of our scheme for the academic session 2016-2017."*

The said letter was placed before the Law Officer to give his opinion in the matter. The Law Officer has opined as under:-

> *"The Council has already as noted on pre-page note forwarded its recommendation to the Central Government in the matter. Hence, at this stage in my view it is not open to consider the communication received from the applicant Trust. "*

The Council had received a letter dated 11/05/2016 from the Central Govt., Ministry of Health & Family Welfare, New Delhi stating therein 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 06th May, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee has recommended that the cases may be referred back to

MCI for review/assessment with their respective recommendations in respect of the schemes.

The Central Govt. had forwarded a copy of compliance dated 06/05/2016 received from the college authorities of Dr. Jagat Narain Subharti Charitable Trust, Dehradun which reads as under:-

S.No.	***Deficiencies pointed out by MCI***	***Submission of College on deficiencies***	***Annexure No.***	***Remarks***
1.	*A part of land that the applicant Dr. Jagat Narain Subharti Charitable Trust is claiming to be owned and possessed by it is in the name of Sri Sri 1008 Narayan Swami Charitable Trust.*	*(a) The Trust was created on 12-08-2002 with the name of Sri Sri 1008 Narayan Swami Charitable Trust.* *(b) The name of the trust was changed to Dr. Jagat Narain Subharti Charitable Trust vide amended Trust Deed dated 15-09-2011 with unanimous consent of all the Trustees. In the same amended Trust Deed it is mentioned that Mrs. Neetu Verma and Mr. Sanjeev Verma resigned from the trust and in their places Dr. Atul Krishna, Mr. Yashverdhan and four more trustees were incorporated. The amended Trust Deed was registered with the office of the Sub-Registrar, Vikas Nagar, Dehradun on Bahi no. 4, Jild 109, pages 235-246, serial no. 146 dated 15-09-2011.* *(c) Since, both names are of the same trust, the land entered in the name of Sri Sri 1008 Narayan Swami Charitable Trust and/or in the name of Dr. Jagat Narain Subharti Charitable Trust belong to the applicant. This fact has also been certified by the certificate of the DM in his certificate dated 01-03-2015. It was also certified by the Tahsildar, Vikas Nagar, Dehradun in his certificate dated 16-12-14.*	*A copy of the Trust Deed is* ***Enclosure No. 1.*** *A copy of the Trust Deed dated 15-09-2011 is* ***Enclosure No. 2.*** *A copy of the certificate of the Tahsildar dated 16-12-14 is* ***Enclosure No. 3.*** *A copy of the certificate of the D.M dated 17-11-15 is Enclosure No. 9.*	*The contention of MCI that there are two trusts in the name of Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust is misconceived and worth rejection. The land in either in the name of Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust belongs to the applicant. This has been certified by the Tehsildar and the DM in their certificates.*
2.	*There are several litigations pending in various Hon'ble Courts between Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust.*	*(a) The trust deed was further amended and Mr. Manish Verma resigned from the Trust and in his place Km. Avani Kamal was incorporated in the trust. The amended Trust Deed was registered at the office of the Registrar, Vikas Nagar, Dehradun on on Bahi no. 4, Jild 109, pages 297-306, serial no. 153 dated 23-*	*A copy of the Trust Deed dated 23-09-2011 is* ***Enclosure No. 4.***	*(a)The contention of the MCI or any other authority that there are several litigations pending between Dr. Jagat Narain Subharti Charitable*

		09-2011. *(b) It has been clarified in point no. 1 that both Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust, are the names of one and the same Trust. That is why there is no question of having any litigation between the two trusts.* *(c) It is agreed that one person in the name of Manish Verma who is an established cheat and against whom charge sheets have been filed in the Hon'ble Courts in several Civil & Criminal cases/FIRs lodged by different persons; has filed a suit no. 60 at the Dehradun Civil Court claiming Sri Sri 1008 Narayan Swami Charitable Trust, himself his brother Mr. Sanjeev and his wife Mrs. Neetu Verma as Trustees of the said Trust and complainants against Dr. Jagat Narain Subharti Charitable Trust and its present trustees. The case is based on fraud and wrong facts and the Civil Court has not given him any interim or final relief. It is clear from the fact that the suit has been filed fraudulently because 09-03-2012, there was no trust in the name of Sri Sri 1008 Narayan Swami Charitable Trust separate from Dr. Jagat Narain Subharti Charitable Trust and none of the persons Mr. Manish Verma, his wife Mrs. Neetu Verma, and Mr. Sanjeev were the trustees of the trust.* *(d) That there is no other case, true or false, between the Dr. Jagat Narain Subharti Charitable Trust Sri Sri 1008 Narayan Swami Charitable Trust, which are the names of one and the same trust.*	*Copies of relevant pages of the suit no. 60 are **Enclosure No. 5.***	*Trust and Sri Sri 1008 Narayan Swami Charitable Trust is not only factually incorrect but is also misconceived because Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust are one and the same trust and not separate ones.* *(b)The authorities have made vague allegation without giving the details of 'several cases' and the names of the Hon'ble courts where those are pending, thus the allegation is baseless and worth rejection.*
3.	*Certain complaint with regard to land owned by the applicant has also been received in the*	*(a) MCI sent us a letter no. MCI-34(41)(E-104)/2015-Med./148296-97 dated 10-11-2015, sending us copies of*	*A copy of the letter of MCI no. MCI-34(41)(E-104)/2015-Med./148296-97 dated 10-11-2015, is*	*The allegation is baseless because the applicant has*

	council office.	*certain complaints received by the council and asked us to give our explanations regarding them.* *(b) The trust explained vide its letter dated 24-11-2015 that the complaints do not relate with the land shown by the trust to the MCI for establishing the Medical College.*	*attached as* ***Enclosure No. 6.*** *A copy of the letter no. JNSCT/2015/954 dated 24-11-2015 is attached as* ***Enclosure No. 7***	*not shown only that part of the land for the development of the Medical College which is absolutely free from any litigation. This fact has also been mentioned in the certificate issued by the Tahsildar and DM.*
4.	*Despite repeated opportunities the applicant Trust has failed to furnish a certificate from District Magistrate / Addl. District Magistrate, Dehradun i.e. the certificate from a District authority higher in rank than the Tahsildar who had issued the certificate dated 16-12-14 in favor of the applicant Trust regarding the land owned and possessed by it.*	*(a) The MCI wrote a letter on 14-12-2015 for the first time asking us to submit a certificate regarding the land from district authority higher in rank than the Tahsildar who had issued the certificate on 16-12-2014, latest by 21-12-2015. The last date for submission of the certificate was extended to 04-01-2016 by the letter of MCI dated 29-12-2015.* *(b) We had applied to DM to provide us the certificate at the earliest, however since the District Administration is not under control of applicant trust, it was not possible for the applicant to force the DM to provide us the certificate by 04-01-2016. However, we kept on perusing the matter with the DM.* *(c) We were informed by the DM that he had already submitted the certificate on 17-11-2015 regarding the land of the Trust to the Secretary, Medical Education, Section 1, Uttrakhand Government, Dehradun in reply to the letter of MCI dated 21-05-2015. He provided us the copy of the certificate which we submitted to the MCI vide our letter dated JNSCT/2016/01/993 dated 19-01-2016.* *(d) The DM finally issued one letter to the applicant also dated 01-03-2016 which was submitted to the MCI on 03-03-2016*	*A copy of the letter of MCI no. MCI-34(41)(E-104)/2015-Med./155591 dated 14-12-2015, is attached as* ***Enclosure No. 8.*** *Copies of our letter dated 19-01-2016 along with the certificate of the DM dated 17-11-2015 are* ***Enclosure No. 9 (Colly)****.* *Copies of our letter dated 03-03-2016 along with the certificate of the DM dated 01-03-2016 are*	*The allegation is wrong because the applicant submitted the certificate of the DM on 19-01-2016 much before the Executive Committee of the MCI decided to reject our application in its meeting held on 27-02-2016. Another certificate of DM was again submitted on 03-03-2016.*

		vide letter no. DJNSCT/2016/03/1011.	***Enclosure No. 10 (Colly)**.*	
5.	*Failure to meet the qualifying criteria regarding land as prescribed in regulations. One of the qualifying criteria for established of new Medical College is that the applicant fulfils the requirement of land as prescribed in the Establishment of Medical College Regulation 1999.*	*(a) As per the norms of the MCI published in the Establishment of Medical College Regulation 1999, the requirement was to submit the certified copies of the title deeds of the land owned by the trust. There was no requirement to submit any certificate by any authority.* *(b) On 04-08-2015 there was a notification placed on the website of the MCI in which it had placed "Advisory regarding land requirement for establishment of a New Medical College". As per the Advisory it was provided that a certificate from the DM or SDM or Tahsildar on a prescribed Performa enclosed as Enclosure no. 1 was to be submitted.* *(c) The applicant submitted the certificate issued by the Tahsildar on the said Performa as was directed in the "Advisory" while applying on 31-08-2015. Therefore, the application was complete in all respects.* *(d) Since, the time was passing fast, we requested the MCI vide letter no. JNSCT/2016/01/993 dated 19-01-2016 to conduct the inspection of the college.* *(e) The MCI replied to us vide letter no. MCI-34(41)(E-104)/2016-Med./161970 dated 20-01-2016 that the last date of sending recommendation to the Central Government by MCI was 15th May as per notification published on 26-08-2009 in the Gazette of India.*	*Copies of the relevant pages of the MCI regulation is **Enclosure No. 11.*** *A copy of the advisory as shown at the website of MCI on 04-08-2015 is **Enclosure No. 12.*** *A copy of the letter no. JNSCT/2016/01/993 dated 19-01-2016 is attached as Enclosure No. 9* *A copy of the letter of MCI no. MCI-34(41)(E-104)/2016-Med./161970 dated 20-01-2016, is attached as **Enclosure No. 13.***	*(a)The contention of the MCI is misconceived because the applicant had fulfilled all the criteria for submission of the application as were provided in the Establishment of Medical College Regulation 1999 on the date of submission of the application. Any modification in the regulation after 31.08.2015 cannot be applied retrospectively on any applicant.* *(b)A simple question is that if we did not fulfill the criteria of applying and the application was to be rejected than why the MCI was doing all the correspondences with us continuously.* *(c)Furthermore the MCI itself accepted in its letter dated 20.01.2016 that it could conduct inspection anytime before 15.05.2016 as the last date of sending the recommendat*

				ion was 15.05.2016. By this it is absolutely clear that we were meeting the qualifying criteria at the time of applying.
6.	*The MCI has quoted from the Judgment passed by the Hon'ble Supreme Court in the matter of Royal College Trust, the binding dictum as follows:* *<u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an application fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.* *In view of failure to meet the qualifying criteria regarding land as prescribed in Regulations and the binding dictum of the Hon'ble Supreme Court in Royal Trust case, the Executive Committee of the Council decided to return the application for establishment of a new Medical College at Dehradun.*	*(a) The MCI wrote another letter no. MCI-34(41)(E-104)/2015-Med./158422 dated 31-12-2015 asking us to submit the form A & B and copies of declaration forms on CD. It was also mentioned in the said letter that on perusal of documents it was found that the year wise time bound program was not found by the MCI along with the application. We were asked to send the same within 5 days the assessment of the College would not be taken for the academic year 2016.* *(b) The contents of the letter clearly show that the MCI was satisfied with our clarifications to the letters of complaints sent to us along with the letter dated 10-11-2015 which included the land issue also because otherwise the MCI would not have asked us to submit the declaration forms and Standard Inspection Forms A & B.* *(c)We submitted the Declaration Forms as well as the Standard Inspection Forms A and B along with the Year wise Time bound Program as was demanded by the MCI vide our letter no. JNSCT/2016/01/985 dated 05.01.2016.*	*A copy of the letter of MCI dated 31.12 2015 is attached as* ***Enclosure No. 14*** *A copy of the letter no. JNSCT/2016/01/985 dated 05-01-2016 is attached as* ***Enclosure No. 15***	*(a) The contention of the MCI is baseless because it has already been explained in point no. 5 that at the time of submitting the application the applicant fulfilled the eligibility criteria regarding the land. Later on the MCI demanded land certificate from the DM which was not as per the requirement to be fulfilled at the time of submission of the application.* *(b) The letter of MCI dated 31-12-2015 itself makes it clear that the MCI was satisfied that the applicant fulfilled all the criteria required to be fulfilled to be eligible for consideration at the time of submission of the application. Only year wise time bound program was not found by the MCI along with the application although the*

				same was also submitted at the time of submission of the application by the applicant. *(c) Demanding the declaration form and the standard inspection forms from the applicant itself shows that the applicant had fulfilled all the eligibility criteria for initial assessment and that is why the MCI planned the inspection of the College.* *(d) The present allegation is an afterthought and only an effort to somehow reject the application of the applicant.*

The observations/recommendations of the Committee constituted by the Ministry in the matter reads as under:--

"Detailed explanation furnished by the college representative against the litigations and complaints regarding land dispute.

Committee opined that since, the matter is under subjudice regarding litigations pending against the Trust on land issue matter may be referred back to MCI to verify the land deed and property card of the Trust and with consultation of legal cell. May take further suitable action."

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

In this regard, it is stated that the Council Office had received complaints dated 29/02/2016 and 13/04/2016 from Sh. Abhishek Pareek, Authorized Singnatory on behalf of Sri Sri 1008 Narayan Swami Charitable Trust addressed to members of the Executive Committee and Mrs. Meenu Pathak Uttarakhand against establishment of new medical college at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand.

The matter was placed before the Legal Officer for his opinion. The opinion of Law Officer reads as under:-

"The file of Undergraduate Section for establishment of new Medical College at Dehradun, Uttrakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun for establishment of new Medical College has been referred for my opinion in context of Central Government letter dated 11.05.16. The Central Government has referred back the matter to Medical Council of India to verify the land deed and property card of the trust and with consultation of Legal Cell called upon the Council to take further suitable action.

2. In this regard the representation dated 06.05.2016 of the authorized representative of the Principal and Dean of the college has been also forwarded. The applicant has refuted the Council objections that a part of land that the applicant Dr. Jagat Narain Subharti Charitable Trust is claiming to be owned and possessed by it is in the name of Sri Sri 1008 Narayan Swami Charitable Trust. It has stated that the land is either in the name of Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust belongs to the applicant. In this regard reliance is placed on the certificates dated 16.12.2014 of Tehsildar (Enclosure No. 3 of the representation) and 17.11.2015 of the District Magistrate (Enclosure No. 9 of the representation).

3. The first certificate of Tehsildar contains details in respect of 44 pieces of land in Table – A and Eight pieces of land in Table – B. Nine pieces of land in Table – A are shown to be registered in the name of Sri Sri 1008 Narayan Swami Charitable Trust. It also contains a line to the effect that the land is registered in the name of Dr. Jagat Narain Subharti Charitable Trust and in the name of its previous name Sri Sri 1008 Narayan Swami Charitable Trust. Further in the letter dated 17.11.2015 of the District Magistrate that is addressed to Secretary, Medical Education, Government of Uttrakhand, details of land are provided in a Table as under:

Sr. No.	*Name of the Village*	*Ownership as per records*	*Area (in Hect.)*
1.	*Kotda Santaur*	*Sri Sri 1008 Narayan Swami Charitable Trust*	*2.6058*
		Dr. Jagat Narain Subharti Charitable Trust	*2.3161*
2.	*Kolhupani Jhajhra*	*Dr. Jagat Narain Subharti Charitable Trust*	*0.855*
3.	*Jhajhra*	*Dr. Jagat Narain Subharti Charitable Trust*	*2.3335*
		Total	*8.1108Hect.*

4. Both above certificates are clear to the effect that ownership in respect of 2.6058 Hectare of land is vested with Sri Sri 1008 Narain Swami Charitable Trust. Thus, partly the land is registered in the name of another Trust.

5. Further, the applicant has also enclosed certificate dated 01.03.2016 issued by the District Magistrate, Dehradun and addressed to the Administrative Officer of the applicant Trust wherein the table in respect of land in the certificate issued by the Tehsildar referred above are reproduced. Further the District Magistrate has also stated in his letter that the Administrative Officer of the applicant had appeared on 27.02.2016 in his office and produced before him registered "Amended Trust Deed" dated 15.09.2011 In paragraph 6(A) of this trust deed it is stated that the name of Sri Sri 1008 Sri Narain Swami Charitable Trust has been changed to Dr. Jagat Narain Subharti Charitable Trust. Therefore, as per amended trust deed dated 15.09.2011 the total extent of land in the name of the trust is 8.1108 Hectare or 20 Acre of land. Furthermore, the said certification also states that as per revenue records the land is free from any encumbrance.

6. The Council office is also in receipt of complaint dated 06.05.2016 made by Sh. Manish Verma addressed to Joint Secretary, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi with copies marked to President, Secretary, Medical Council of India and Director, CBI. The complaint contains various allegations and as regards land there is reference that the dispute between the two trusts is pending in the court of Hon'ble District Judge, Dehradun. Further, it

is alleged that till date any application for mutation in respect of land registered in the name of Sri Sri 1008 Narain Swami Charitable Trust has not been made by the trustees of Dr. Jagat Narain Subharti Trust. The complainant has also annexed copy of note sheet dated 27.01.2016 in which the Joint Secretary, Home and Medical Education Department Govt. of Uttrakhand has stated that 2.6058 Hectare land is not entered in revenue records in the name of Dr. Jagat Narain Subharti Charitable Trust. It is in the name of Sri Sri 1008 Narain Swami Charitable Trust. Further, in the said note sheet there is a reference to Suit No. 60/2012 between the two trusts is pending in the Hon'ble District Court.

7. The Council is a respondent in the litigation pending in the Hon'ble District Court. It is represented by Sh. Rajpal Singh, Advocate who has informed that the case between the two trusts is as on date pending.

8. After perusal of the above documents, it is evident that land to the extent of 2.6058 Hectare is registered in the name of Sri Sri 1008 Narain Swami Charitable Trust i.e. evident from the certificate issued by Tehsildar as well as District Magistrate. The contention of college that the Dr. Jagat Narain Subharti Charitable Trust owns the land of Sri Sri 1008 Narain Swami Charitable Trust is unacceptable in view of the pending litigation between the parties as well as the fact, it has till date not been entered in the revenue records in the name of Dr. Jagat Narain Subharti Charitable Trust.

9. In this regard, it may be noted the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

10. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

*14. In this context, we may profitably refer to the decision in **D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51** wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in*

Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474, ***Royal Medical Trust*** *(supra) and various other decisions and, after anaylsing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in ***Educare Charitable Trust*** *(supra) and* ***Royal Medical Trust*** *(supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-*

17. Therefore, the directions issued by the learned Single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

11. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An applicant is required to own and possess clear and undisputed title to the land. In this case the facts as stated as above brings out the title is not clear and it is disputed.

12. Therefore, in my considered opinion the applicant has failed to fulfill the qualifying criteria regarding land as required in accordance with the Regulations. Hence, on this count of the application is liable to be rejected. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that Land is part of qualifying criteria and thus when the title of land is not clear and disputed the application becomes incomplete and such applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of for establishment of new Medical College by Dr. Jagat Narain Subharti Charitable Trust as it has failed to fulfill the qualifying criteria of owning and possessing land as required by Regulations at the time of making application.

13. It is also brought to notice that the applicant trust has filed writ petition bearing no. 1125 of 2016 before the Hon'ble High Court of Uttrakhand. In this petition the petitioner has inter-alia prayed for directions to conduct assessment by independent observers appointed by the Hon'ble High Court and processing of its application uninfluenced by complaints regarding land. Sh. Parikshit Saini, Standing Counsel of Medical Council of India in the Hon'ble High Court of Uttrakahand has telephonically informed of the order passed on 12.05.2016, that reads as under:

"Learned counsel for respondent no. 2-MCI has come up with the instructions that the MCI will hold the meeting, and then decide what to do with the directions issued by the Central Government vide letter dated 06.05.2016 in respect of the petitioner.

The only direction, which the Court deems fit is that the decision, if any taken up MCI shall be communicated to the Union of India as well as to the petitioner, at

an earliest possible, keeping in view the time schedule prescribed by the authority concerned.

Let a certified copy of this order be supplied to the learned counsel for the petitioner, today itself, on payment of usual charges."

14. In view of the above order of the Hon'ble High Court, the decision taken by the Executive Committee on the directions of Central Government is required to be communicated to the Central Government as well as to the petitioner keeping in view the time schedule regarding processing of application.

The matter with regard to Establishment of New Medical College at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council perused the opinion of law Officer which reads as under:

"The file of Undergraduate Section for establishment of new Medical College at Dehradun, Uttrakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun for establishment of new Medical College has been referred for my opinion in context of Central Government letter dated 11.05.16. The Central Government has referred back the matter to Medical Council of India to verify the land deed and property card of the trust and with consultation of Legal Cell called upon the Council to take further suitable action.

2. In this regard the representation dated 06.05.2016 of the authorized representative of the Principal and Dean of the college has been also forwarded. The applicant has refuted the Council objections that a part of land that the applicant Dr. Jagat Narain Subharti Charitable Trust is claiming to be owned and possessed by it is in the name of Sri Sri 1008 Narayan Swami Charitable Trust. It has stated that the land is either in the name of Dr. Jagat Narain Subharti Charitable Trust and Sri Sri 1008 Narayan Swami Charitable Trust belongs to the applicant. In this regard reliance is placed on the certificates dated 16.12.2014 of Tehsildar (Enclosure No. 3 of the representation) and 17.11.2015 of the District Magistrate (Enclosure No. 9 of the representation).

3. The first certificate of Tehsildar contains details in respect of 44 pieces of land in Table – A and Eight pieces of land in Table – B. Nine pieces of land in Table – A are shown to be registered in the name of Sri Sri 1008 Narayan Swami Charitable Trust. It also contains a line to the effect that the land is registered in the name of Dr. Jagat Narain Subharti Charitable Trust and in the name of its previous name Sri Sri 1008 Narayan Swami Charitable Trust. Further in the letter dated 17.11.2015 of the District Magistrate that is addressed to Secretary, Medical Education, Government of Uttrakhand, details of land are provided in a Table as under:

Sr. No.	*Name of the Village*	*Ownership as per records*	*Area (in Hect.)*
1.	*Kotda Santaur*	*Sri Sri 1008 Narayan Swami Charitable Trust*	*2.6058*
		Dr. Jagat Narain Subharti Charitable Trust	*2.3161*
2.	*Kolhupani Jhajhra*	*Dr. Jagat Narain Subharti Charitable Trust*	*0.855*
3.	*Jhajhra*	*Dr. Jagat Narain Subharti Charitable Trust*	*2.3335*
		Total	*8.1108Hect.*

4. Both above certificates are clear to the effect that ownership in respect of 2.6058 Hectare of land is vested with Sri Sri 1008 Narain Swami Charitable Trust. Thus, partly the land is registered in the name of another Trust.

5. Further, the applicant has also enclosed certificate dated 01.03.2016 issued by the District Magistrate, Dehradun and addressed to the Administrative Officer of the applicant Trust wherein the table in respect of land in the certificate issued by the Tehsildar referred above are reproduced. Further the District Magistrate has also stated in his letter that the Administrative Officer of the applicant had appeared on 27.02.2016 in his office and produced before him registered "Amended Trust Deed" dated 15.09.2011 In paragraph 6(A) of this trust deed it is stated that the name of Sri Sri 1008 Sri Narain Swami Charitable Trust has been changed to Dr. Jagat Narain Subharti Charitable Trust. Therefore, as per amended trust deed dated 15.09.2011 the total extent of land in the name of the trust is 8.1108 Hectare or 20 Acre of land. Furthermore, the said certification also states that as per revenue records the land is free from any encumbrance.

6. The Council office is also in receipt of complaint dated 06.05.2016 made by Sh. Manish Verma addressed to Joint Secretary, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi with copies marked to President, Secretary, Medical Council of India and Director, CBI. The complaint contains various allegations and as regards land there is reference that the dispute between the two trusts is pending in the court of Hon'ble District Judge, Dehradun. Further, it is alleged that till date any application for mutation in respect of land registered in the name of Sri Sri 1008 Narain Swami Charitable Trust has not been made by the trustees of Dr. Jagat Narain Subharti Trust. The complainant has also annexed copy of note sheet dated 27.01.2016 in which the Joint Secretary, Home and Medical Education Department Govt. of Uttrakhand has stated that 2.6058 Hectare land is not entered in revenue records in the name of Dr. Jagat Narain Subharti Charitable Trust. It is in the name of Sri Sri 1008 Narain Swami Charitable Trust. Further, in the said note sheet there is a reference to Suit No. 60/2012 between the two trusts is pending in the Hon'ble District Court.

7. The Council is a respondent in the litigation pending in the Hon'ble District Court. It is represented by Sh. Rajpal Singh, Advocate who has informed that the case between the two trusts is as on date pending.

8. After perusal of the above documents, it is evident that land to the extent of 2.6058 Hectare is registered in the name of Sri Sri 1008 Narain Swami Charitable Trust i.e. evident from the certificate issued by Tehsildar as well as District Magistrate. The contention of college that the Dr. Jagat Narain Subharti Charitable Trust owns the land of Sri Sri 1008 Narain Swami Charitable Trust is unacceptable in view of the pending litigation between the parties as well as the fact, it has till date not been entered in the revenue records in the name of Dr. Jagat Narain Subharti Charitable Trust.

9. In this regard, it may be noted the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the

requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

10. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

*In this context, we may profitably refer to the decision in **D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51** wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in **Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474**, **Royal Medical Trust** (supra) and various other decisions and, after analyzing the scheme of the Act, has held:-*

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

*15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in **Educare Charitable Trust** (supra) and **Royal Medical Trust** (supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-17. Therefore, the directions issued by the learned Single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.*

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

11. It is to be noted that in accordance with the time-schedule for establishment of new Medical College, an applicant is required to submit a complete application to the Central Government. An applicant is required to own and possess clear and undisputed title to the land. In this case the facts as stated as above brings out the title is not clear and it is disputed.

12. Therefore, in my considered opinion the applicant has failed to fulfill the qualifying criteria regarding land as required in accordance with the Regulations. Hence, on this count of the application is liable to be rejected. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that Land is part of qualifying criteria and thus when the title of land is not clear and disputed the application becomes incomplete and such applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of for establishment of new

Medical College by Dr. Jagat Narain Subharti Charitable Trust as it has failed to fulfill the qualifying criteria of owning and possessing land as required by Regulations at the time of making application.

13. It is also brought to notice that the applicant trust has filed writ petition bearing no. 1125 of 2016 before the Hon'ble High Court of Uttrakhand. In this petition the petitioner has inter-alia prayed for directions to conduct assessment by independent observers appointed by the Hon'ble High Court and processing of its application uninfluenced by complaints regarding land. Sh. Parikshit Saini, Standing Counsel of Medical Council of India in the Hon'ble High Court of Uttrakhand has telephonically informed of the order passed on 12.05.2016, that reads as under:

"Learned counsel for respondent no. 2-MCI has come up with the instructions that the MCI will hold the meeting, and then decide what to do with the directions issued by the Central Government vide letter dated 06.05.2016 in respect of the petitioner.

The only direction, which the Court deems fit is that the decision, if any taken up MCI shall be communicated to the Union of India as well as to the petitioner, at an earliest possible, keeping in view the time schedule prescribed by the authority concerned.

Let a certified copy of this order be supplied to the learned counsel for the petitioner, today itself, on payment of usual charges."

14. In view of the above order of the Hon'ble High Court, the decision taken by the Executive Committee on the directions of Central Government is required to be communicated to the Central Government as well as to the petitioner keeping in view the time schedule regarding processing of application.

The Executive Committee of the Council decided to approve the opinion of law officer and it was further decided to reiterate earlier decision to return the application as the applicant has failed to meet the qualifying criteria u/s 3(2)(2) of Establishment of Medical College Regulations, 1999 for establishment of a new medical college at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15/05/2016 and copy to the applicant Trust. The Central Government vide its letter dated 08.06.2016 had disaproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which

have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21/06/2016 forwarded by the Dean/Principal, Dr. Jagat Narain Subharati Charitable Trust, Dehradun for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals* ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> > *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Establishment of New Medical College at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand during the processing of the application, it was found that 20 acres of land was not in the name of the applicant trust and thus the applicant had failed to meet the Qualifying Criteria pertaining to land as prescribed under Regulation 3(2)(2) of Establishment of Medial College Regulations, 1999 and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***"…..31.*** *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the

application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter,

there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of Establishment of New Medical College at Dehradun, Uttarakhand by Dr. Jagat Narain Subharti Charitable Trust, Dehradun, Uttarakhand do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

58. <u>Establishment of new medical college at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Secretary, Nimra Institute of Medical Sciences, Nimra Nagar (A.P.), the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda itemwhich reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th December, 2015. The assessment report (29th& 30th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th& 30th December, 2015) and noted the following:

1. *Deficiency of faculty is 10.77 % as detailed in the report.*
2. *Shortage of Residents is 6.52 % as detailed in the report.*
3. *Bed occupancy was 51.67 % on day of assessment.*

4. *ICUs: There was NIL patient in NICU & only 2 in ICCU on day of assessment.*
5. *Hostels: Facilities in recreation Rooms are not adequate.*
6. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Nimra Institute of Medical Sciences, Andhra Pradesh had submitted the Compliance report dated 10.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 11th March, 2016.

The compliance verification assessment report (11th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) as well as complaint dated 21/03/2016 received from Sh. P. Srinivasa Murthy, Hyderabad against the said college with regard to grant of Letter of Permission for establishment of New Medical College at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (11th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) as well as complaint dated 21/03/2016 received from Sh. P. Srinivasa Murthy, Hyderabad against the said college and noted the following:-

1. *On verification of admitted patients, some patients in General Surgery ward were admitted for very minor complaints like Gastritis, Urinary Tract infections, etc. Some patients were admitted for minor Surgical procedures. 8 patients were kept in the wards even after removal of sutures. In Orthopaedics ward, majority of patients were admitted for Implant removal, backache & Osteoarthritis. There were NIL patients in Psychiatry & Ophthalmology wards.*
2. *ICUs: There was only 1 patient in ICCU. Out of 4 patients in MICU, 3 did not require intensive care.*
3. *No patient was seen in Labour room during the round.*
4. *Data of clinical material provided by the institute appear to be inflated.*
5. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Secretary, Nimra Institute of Medical Sciences, Nimra Nagar (A.P.) for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 10.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 11.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January.

Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise

inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Jupudi, Krishna Dist., Andhra Pradesh by Nimra Educational Society, Hyderabad does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in

the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

59. <u>Establishment of new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by Gayatri Vidya Parishad Society, Andhra Pradesh with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by Gayatri Vidya Parishad Society, Andhra Pradesh with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Dean,GayatriVidyaParishad Institute of Health Care and Medical Technology, Visakhapatnam, A.P., the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by GayatriVidyaParishad Society, Andhra Pradesh with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th December, 2015. The assessment report (29th& 30th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th& 30th December, 2015) alongwitha letter/representation dated 09/01/2016 from the Dean, GayatriVidyaParishad Institute of Health Care and Medical Technology, Vishakhapatnam, A.P. and noted the following:

1. *Deficiency of faculty is 9.23 % as detailed in the report.*
2. *Shortage of Residents is 23.91 % as detailed in the report.*
3. *Most of Senior Residents are aged and not staying in hostel except during emergency duty.*
4. *There is no separate ward for Skin & VD. The beds are accommodated in General medicine wards.*
5. *Wards: Procedure room in General Medicine ward is non-functional & not equipped with emergency drugs. Demonstration Room is not available in some wards. There is no Nursing station in female Surgical ward. Treatment room, Pantry, Demonstration room & Store room are not available in female Surgical ward. Examination room, Demonstration room, Duty room, Store room are not available in Male Orthopaedics ward. Treatment room & Store room are not available in female Orthopaedic ward. Ancillary facilities are not available in Eye & ENT wards.*
6. *Most of patients admitted in Orthopaedics& Eye wards are not genuine. E.g. patients of Pterygion, Preoperative patients of cataract are admitted in Eye ward. In General Medicine wards, tickets are not completed with diagnosis. Most of the case papers are without proper diagnosis.*
7. *Radiological & Laboratory investigations workload is inadequate.*
8. *No Histopathology sample was received till 12:30 p.m. on day of assessment.*
9. *Casualty: Central O_2 and Central Suction are not available. Crash Cart is not available.*

10. *ICUs: There were NIL patient in PICU & only 1 patient each in MICU & NICU and 2 patients each in ICCU & SICU on day of assessment.*
11. *Septic O.T. is not available.*
12. *PNDT certificate is issued in names of 3 doctors, of whom 2 have left the institute.*
13. *Speech Therapy is not available.*
14. *Nursing Staff: 168 Nurses are available against 175 required.*
15. *Pharmaco Vigilance Committee: No meeting has been held during the last year.*
16. *Lecture Theater: E class facility is not available.*
17. *Central Library: It is partly air-conditioned. Nurses' Hostel: There is overcrowding as 4 or more Nurses are accommodated in a room.*
18. *Anatomy department: Specimens available are 120.*
19. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Marikavalasa, Vishakhapatnam, Andhra Pradesh by GayatriVidyaParishad Society, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Gayatri Vidya Parishad Institute of Health Care and Medical Technology, Visakhapatnam, Andhra Pradesh had submitted the Compliance report dated 22.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 11th March, 2016.

In this regard, it is stated that the Council Office had received a letter dated 12/03/2016 from the Dean, Gayatri Vidya Parishad Institute of Health Care & Medical Technology, Visakhapatnam.

The compliance verification assessment report (11th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) as well as letter dated 12/03/2016 received from the college authorities with regard to grant of Letter of Permission for establishment of new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by GayatriVidyaParishad Society, Andhra Pradesh with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered thecompliance verification assessment report (11th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) as well as letter dated 12/03/2016 received from the college authorities and noted the following:

1. *Shortage of Residents is 28.26 % as detailed in the report.*
2. *Some Senior Residents are not staying in the campus except on emergency day.*
3. *Bed Occupancy is 56.49 % on day of assessment.*
4. *Wards: Male Medicine ward, Skin & VD, Tb & Chest, Psychiatry, Paediatrics, O.G., Male & female General Surgery, Orthopaedics, Ophthalmology, ENT wards are not as per MSR Regulations, like, there is no Examination cum Treatment room, Pantry, Store Room, Demonstration, Duty room.*
5. *Most of the patients admitted in General Medicine wards did not require admission. They had minor vague complaints like Bodyache, weakness, etc.*
6. *Casualty: Central O_2 and Central Suction are not available. Pipeline was shown to assessors but it was not functional. Emergency Drug Tray is not available. Portable X-ray machine is not available. Patients admitted in*

Casualty had minor non-specific complaints like headache, weakness, etc.

7. *ICUs: NICU is practically non-functional. There was only 1 patient in PICU.*
8. *O.T.: Septic O.T. is not functional.*
9. *Speech Therapy room is too small.*
10. *Nursing Staff: GNM Nursing students doing their internship are shown as Staff Nurses. Resultantly, deficiency of inadequate number of Staff Nurse remains.*
11. *Nursing Hostel: In 1 room, 5-7 Nurses are staying which is not as per Regulations.*
12. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
13. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by GayatriVidyaParishad Society, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 21.06.2016 and 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Dean,GayatriVidyaParishad Institute of Health Care and Medical Technology, Visakhapatnam, A.P.for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the

assessment report of the Council.The said compliance report of the college which was submitted by the college on 22.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 11.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. .....The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their

compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by Gayatri Vidya Parishad Society, Andhra Pradesh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification

inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Marikavalasa, Vishakhapatnam, Andhra Pradesh by Gayatri Vidya Parishad Society, Andhra Pradesh does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

60. <u>Establishment of new medical college at Patancheru, Medak Dist., Telangana by Alleti Shrunitha Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Patancheru, Medak Dist., Telangana by Alleti Shrunitha Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, Maheshwara Medical College, ChitkulPatancheru, Medak Dist., Telangana, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Patancheru, Medak Dist., Telangana by AlletiShrunitha Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th December, 2015. The assessment report (29th& 30th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th& 30th December, 2015) and noted the following:

1. *Deficiency of faculty is 10.76 % as detailed in report.*
2. *Shortage of residents is 26.08 % as detailed in the report.*
3. *Wards: Ancillary facilities are not available in wards of Tb & Chest, Psychiatry and Skin & VD as detailed in the report.*
4. *There was only 1 Major & NIL Minor operation on day of assessment.*
5. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*

6. *Radiological & Laboratory investigation workload is inadequate.*
7. *Workload of Histopathology & Cytopathology is NIL.*
8. *Casualty: Ventilator, Disaster Trolley are not available.*
9. *ICUs: There was NIL patient in MICU, NICU/PICU & only 2 patients each in ICCU & SICU on day of assessment.*
10. *Blood Bank is not functional.*
11. *Boys' Common Room does not have attached toilet.*
12. *Students' Hostels: Available accommodation is 63 against requirement of 113. Hostel for Girls' is not yet completed.*
13. *Residents' Hostel: Available accommodation is 38 against requirement of 46.*
14. *Residential Quarters are under construction.*
15. *Speech Therapy is not available.*
16. *Anatomy department: Available specimens are only 139. Band Saw is not available.*
17. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Patancheru, Medak Dist., Andhra Pradesh by Alleti Shrunitha Educational Society, Hyderabad under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Maheshwara Medical College & Hospital, Patancheru, Telangana had submitted the Compliance report dated 22.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 16th March, 2016.

The compliance verification assessment report (16th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) as well as letter dated 17.03.2016 received from the college authorities with regard to grant of Letter of Permission for Establishment of new medical college at Patancheru, Medak Dist., Telangana by AlletiShrunitha Educational Society, Hyderabad with an annual intake of 150 MBBS students under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee meeting at its held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (16th March, 2016) along with previous assessment report (29th& 30th December, 2015) as well as letter dated 17.03.2016 received from the college authorities and noted the following:

1. *Shortage of Residents is 100 % as detailed in the report.*
2. *All the assessors visited the Residents' hostel & found that not a single resident was staying in the rooms.*
3. *Deficiency of faculty is 6.15 % as detailed in the report.*
4. *Bed occupancy was 43,33 % on day of assessment against requirement of 60 %.*
5. *OPD attendance on day of assessment was 584 against requirement of 600. There were not many patients at OPD counters around 10:25 a.m.*
6. *Wards: Wards of Tb & Chest, Skin & VD, Ophthalmology are not as per MSR Regulations as ancillary facilities are not available. Deficiency remains as it is.*
7. *There was only 1 Major & NIL Minor operation on day of assessment till 11:00 a.m. on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigation workload is inadequate. Deficiency remains as it is.*
10. *Histopathology & Cytopathology workload is NIL on day of assessment.*

11. Casualty: Patients in Casualty were having minor complaints like giddiness, bodyache, weakness which did not require admission in Casualty.
12. ICUs: There were only 1 patient in NICU & 2 in ICCU on day of assessment.
13. Students' Hostels: rooms are not furnished.
14. Residential Quarters: They are not furnished.
15. Data of clinical material provided by institute are inflated.
16. In Orthopaedics ward, not a single patient with POP or Back slab was found. Many patients with minor complaints like fever, Bodyache were admitted in General Medicine, Paediatrics, Orthopaedics.
17. In Male General Surgery ward, patient name B. Raju, M/28, OPD # 1601314019, IPD # 16020809, admitted in Unit I was given fake diagnosis of Lipoma of Abdominal wall; on examination it was observed it was not a Lipoma at all.
18. Medical Superintendent does not have relieving order from previous institute.
19. Many wards are manned by Student Nurses.
20. Dean refused to sign SAF after reading the same.
21. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Patancheru, Medak Dist., Andhra Pradesh by Alleti Shrunitha Educational Society, Hyderabad under Dr. NTR University of Health Sciences, Vijayawada to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the

Principal, Maheshwara Medical College, ChitkulPatancheru, Medak Dist., Telangana for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 22.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 16.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) &Anr. Vs Union of India- (2015) 10 SCC 19.

In the last compliance verification assessment conducted on 16.03.2016 of Maheshwara Medical College, Chitkul Patancheru, Medak Dist., Telangana, apart from other deficiencies, the deficiency of residents was 100% and the bed occupancy was found to be 43.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India &Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals*

*for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Patancheru, Medak Dist., Telangana by Alleti Shrunitha Educational Society, Hyderabad, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every

possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Patancheru, Medak Dist., Telangana by Alleti Shrunitha Educational Society, Hyderabad, during the compliance verification inspection carried out on 16.03.2016 the deficiency of Resident was found to be 100% and the Bed Occupancy was found to be only 43.33%. Thus the deficiencies of Residents and Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..”

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*“……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the*

Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Patancheru, Medak Dist., Telangana by Alleti Shrunitha Educational Society, Hyderabad does not fall within the ambit of the directions issued by the Oversight Committee or

the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

61. <u>Establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur with an annual intake of 150 students under Chhattisgarh Ayush and Health Sciences University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur with an annual intake of 150 students under Chhattisgarh Ayush and Health Sciences University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Director, Lord Buddha Educational Society, Raipur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur with an annual intake of 150 students under Chhattisgarh Ayush and Health Sciences University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 3rd& 4th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (3rd& 4th December, 2015) and noted the following:

1. *Deficiency of faculty is 81.54 % as detailed in the report.*
2. *Shortage of Residents is 78.26 % as detailed in the report.*
3. *OPD: Separate Registration counters for OPD & IPD are not available. IN Ophthalmology OPD, Dark room is not available. Specialty clinic facilities are not available in Paediatrics OPD.*
4. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Shortage
1	Tb & Chest	08	04	04
2	Psychiatry	08	04	04
3	Skin & VD	08	04	04
	TOTAL			12

5. *Wards: Ancillary facilities like Examination / Treatment room, Demonstration room are not available in some wards. Pantry is not available in any ward.*
6. *OPD attendance is 331 on day of assessment against 600 required.*
7. *Bed occupancy is 32.7 % on day of assessment.*
8. *There were only 3 Major & NIL Minor operations on day of assessment.*
9. *There were NIL Normal Deliveries & NIL Caesarean Sections on day of assessment.*
10. *Histopathology & Cytopathology workload was NIL on day of assessment.*
11. *Laboratory investigation workload was inadequate on day of assessment.*

12. *Casualty: No Medical Officer was available in Casualty. Central Suction facility is not available. Crash Cart, Defibrillator, Ventilator are not available. Register is not available.*
13. *ICUs: There was NIL patient in ICCU, SICU & PICU/NICU & only 1 in MICU on day of assessment.*
14. *ETO Sterilizer is not available.*
15. *Students' Hostels: They are partially furnished.*
16. *Residents' Hostel: It is partially furnished.*
17. *Nurses' Hostel: Hostel: It is partially furnished.*
18. *Residential Quarters: Only 08 quarters are available for non-teaching staff against 20 required.*
19. *Anatomy department: Available Lockers are only 54. Only 35 specimens are available. NIL cadaver is available.*
20. *Audiovisual aids are not available in Demonstration rooms of Physiology & Biochemistry departments.*
21. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur, Chhatisgarh under Chhattisgarh Ayush and Health Sciences, University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean/Director, Raipur Institute of Medical Sciences, Raipur had submitted the Compliance report dated 29.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 5th February, 2016.

The compliance verification assessment report (5th February 2016) alongwith previous assessment report (3rd& 4th December, 2015) with regard to grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur with an annual intake of 150 students under Chhattisgarh Ayush and Health Sciences University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee meeting at its held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (5th February 2016) along with previous assessment report (3rd& 4th December, 2015) and noted the following:

1. *Deficiency of faculty is 73.84 % as detailed in the report.*
2. *Shortage of Residents is 67.39 % as detailed in the report. The list of Residents on night duty was provided to assessors after 11:30 a.m. i.e. after completion of signature during attendance.*
3. *At 09:45 a.m., OPD was closed. At 10:30 a.m., total number of patients in OPD was only 04.*
4. *Bed occupancy is 17 % on day of assessment.*
5. *There was NIL Major operation & 1 Minor operation on day of assessment.*
6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
7. *There was NIL Histopathological&Cytopathological workload till 12 noon on day of assessment.*
8. *Workload of Radiological & Laboratory investigations on day of assessment was poor.*
9. *ICUs: There was only 1 patient in MICU & NIL in SICU, PICU, NICU on day of assessment. There is no Ventilator in NICU.*
10. *ETO Sterilizer is not available.*
11. *OPD: Specialty clinic rooms in Paediatrics OPD were locked at time of assessment.*

12. *Blood bank license is issued in the name of a person who has left the institute on 28/03/2014.*
13. *Ophthalmology patients were kept in female General Medicine ward. Postoperative Hernioplasty patients were kept in male General Medicine ward.*
14. *Wards: Demonstration rooms are smaller than required. Deficiency is partially rectified.*
15. *Residents' Hostel is yet to be completed. Presently they are staying in Students' hostel.*
16. *Nurses' Hostel is partially furnished.*
17. *Anatomy Department: Specimens are less. Cadavers are not available.*
18. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur under Chhattisgarh Ayush and Health Sciences University, Raipur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Director, Lord Buddha Educational Society, Raipur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college

which was submitted by the college on 29.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 05.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 81.54%, residents was 78.26% and the bed occupancy was found to be 32.7%. Similarly in the last compliance verification assessment conducted on 05.02.2016 of Raipur Institute of Medical Sciences, Chhattisgarh, apart from other deficiencies, the deficiency of teaching faculty was found to be 78.84%, residents was 67.39% and the bed occupancy was found to be 17%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).

Ifit is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science &Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society &Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been*

*notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified

by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur, during the compliance verification inspection carried out on 05.02.2016 the deficiency of Faculty was found to be 73.84%, the deficiency of Resident was found to be 67.39% and the Bed Occupancy was found to be only 17%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers

must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. ……... After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

> ***30.*** *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

62. <u>Establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh with an annual intake of 150 MBBS students under Chhattisgarh Ayush and Health Sciences, University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh with an annual intake of 150 MBBS students under Chhattisgarh Ayush and Health Sciences, University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the President, Shri Gangajali Education Society, Bhilai, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda itemwhich reads as under:-

It may be stated that, the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh with an annual intake of 150 MBBS students under Chhattisgarh Ayush and Health Sciences, University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 15th& 16th January 2016. The assessment report 15th& 16th January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (15th and 16th January, 2016) and noted the following:

1. *Deficiency of faculty is 64.80 % as detailed in report.*
2. *Shortage of Residents is 45.6 % as detailed in report.*
3. *OPD attendance was 204 on day of assessment.*
4. *Bed occupancy was 15.33 % on day of assessment. Orthopaedics& O.G. wards were totally empty.*
5. *OPD: Separate Registration counters for OPD/IPD are not available. Plaster room & Plaster cutting room are common. In Ophthalmology OPD, Dressing room is not available.*
6. *Audiometry & Speech Therapy are not available.*
7. *There was NIL Major & Nil Minor operation on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigation workload is inadequate.*
10. *O.T. complex was shown as closed on day of assessment. It was informed that it is because of infection detected in the O.T.s Major O.T.s are shared by different departments.*
11. *ICUs: Life saving equipment is inadequate. There was NIL patient in ICCU or in NICU/PICU & only 1 patient in MICU & 2 patients in SICU.*
12. *There was no woman in Labour room.*
13. *MRD: It is partly computerized. ICD X classification of diseases is not followed for indexing.*
14. *Central Library: It is not air-conditioned.*
15. *Central Photography section is not available.*
16. *Students' Hostels: A.C. study room with Computer & Internet is not available. Recreation room is not available.*
17. *Residential Quarters: Non-teaching quarters are not available. There is MOU signed with a private party which is not permissible.*
18. *Anatomy department: Available specimens are 120. There were empty jars without models.*
19. *Physiology department: There were only 6 beds in Clinical Physiology laboratory against requirement of 10.*
20. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College atBhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh under Chhattisgarh Ayush and Health Sciences, University, Raipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the President, Shri Gangajali Education Society, Bhilai, Chhattisgarh had submitted the Compliance report dated 29.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 17th March, 2016.

The assessment form part A-III (17th March, 2016) alongwith compliance verification assessment report(17th March, 2016) and previous assessment report(15th& 16th January, 2016) as well as letter dated 20/04/2016 received from the college authorities with regard to grant of Letter of Permission for establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh with an annual intake of 150 MBBS students under Chhattisgarh Ayush and Health Sciences, University, Raipur u/s 10A of the IMC Act, 1956 for the academic session 2016-2017 was considered by the Executive Committee meeting at its held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (17th March, 2016) along with previous assessment report(15th&16th January, 2016) as well as letter dated 20/04/2016 received from the college authorities and noted the following:-

1. *Deficiency of faculty is 6.35 % as detailed in the report.*
2. *It appeared that teaching faculty were just called for assessment. They are allotted staff quarters situated at their technical campus.*
3. *No doctor was available in Paediatrics ward, female General Medicine ward.*
4. *No Senior or Junior Resident was staying in the hostel. All the rooms were empty with a single bed, mattress & pillow. There was no other furniture.*
5. *Not a single Resident is staying in Residents' Hostel.*
6. *OPD attendance was 340 till 12 noon on day of assessment. Most of OPD were empty till 09:30 a.m. after which patients were seen to be brought, most of whom were females. Genuineness of these patients is doubtful.*
7. *Bed occupancy is 37 % on day of assessment.*
8. *Patients of other specialties were found to be admitted in General Medicine & General Surgery wards. There were patients of low backache & knee joint problems in General Surgery. Patients of low backache were found in Gynaecology ward also. Many were such who did not require admission.*
9. *Data of Radiological & Laboratory investigations provided by institute appears to be exaggerated.*
10. *OPD: Optometrist is not available in Ophthalmology OPD. Dark room is not functional. IN ENT OPD, instruments & examination system is not proper.*
11. *There was only 1 Major operation planned on day of assessment but that was postponed; resultantly there was NIL Major operation on day of assessment. There was NIL Minor operation on day of assessment.*
12. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
13. *Radiological & Laboratory investigation workload is grossly inadequate.*
14. *O.T.: There was no activity in O.T. I, III & IV on day of assessment. O.T. list was not in proper format.*

15. *ICUs: There were 3 patients in ICCU who were non-Cardiac patients. There was no referral for 2 of them. In PICU/NICU, 2 patients were admitted out of whom 1 did not merit admission. In MICU, out of 3 patients, 2 did not merit admission. There was NIL patient in SICU.*
16. *Casualty: There were 6 patients out of whom 4 were non-genuine.*
17. *MRD: It is partly computerized.*
18. *Speech Therapist is not available.*
19. *Residential Quarters: In the quarters for Non-teaching staff, there is no facility for cooking in quarters. Except in 5 quarters, there are common bath rooms.*
20. *Anatomy Department: NIL Specimens are available.*
21. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh under Chhattisgarh Ayush and Health Sciences, University, Raipur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the President, Shri Gangajali Education Society, Bhilai for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 29.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 17.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 64.80%, residents was 45.6% and the bed

occupancy was found to be 15.33%. Similarly in the last compliance verification assessment conducted on 17.03.2016 of Shri Shankaracharya Institute of medical Sciences, Junwani, Bhilai, Chhattisgarh, apart from other deficiencies, the bed occupancy was found to be 37%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India &Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree ChhatrapatiShivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the***

inspections"*. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified

by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh, during the compliance verification inspection carried out on 17.03.2016 the deficiency of the Bed Occupancy was found to be only 37%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High

Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

> ***30.*** *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Bhilai, Chhattisgarh by Shri Gangajali Education Society, Bhilai, Chhattisgarh does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

63. <u>Establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Chairman, Kanachur Institute of Medical Sciences, Deralakatte, Mangaluru, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that, the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 7th& 8th January, 2016. The assessment report (7th& 8th January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (7th and 8th January, 2016) alongwithan email dated 13/01/2016 from the Dean, Kanachur Institute of Medical Sciences, Mangalore and noted the following:

1. *Shortage of Residents is 41.30 % as detailed in the report.*
2. *Deficiency of faculty is 7.69 % as detailed in the report.*
3. *OPD attendance was 486 on day of assessment against requirement of 600.*
4. *Bed occupancy was 50.90 % on day of assessment as observed by assessors during the round. Figures provided by institute are highly inflated.*
5. *Wards: General Medicine & General Surgery wards are split into 2 sections on 2 different sides. But Nursing station is provided on only one side. There is no Nursing Station, No Doctors' Duty room, No Demonstration room, No pantry in another section. Ancillary facilities are not available in many wards.*
6. *There was NIL Normal Delivery & only 1 Caesarean Section on day of assessment.*
7. *Casualty: Separate Casualty for O.G. is not available.*
8. *ICUs: There were only 2 patients each in ICCU & MICU on day of assessment.*
9. *Physiology department: Audiovisual aids are available only in 1 Demonstration room.*
10. *There is no lift in OPD or in Hospital.*
11. *Ward register showed cases but case paper of the patient or the patient himself was not there; this was particularly observed in Male Medical & Male Surgical wards.*
12. *In Casualty, on 1st day of assessment, most patients came during the period of 08 minutes from 8:12 a.m. to 8:20 a.m. On day 2, there was NIL patient in Casualty.*
13. *No Histopathology sample was found till 2 p.m. on 1st day of assessment.*
14. *No register or record was found in Cancer Detection clinic.*
15. *15 Senior & Junior Residents as detailed in report do not stay on campus.*
16. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.01.2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Kanachur Institute of Medical Sciences, Mangalore had submitted the Compliance report dated 27.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 30th March, 2016.

The compliance verification assessment report (30th March, 2016) alongwith previous assessment report (07th& 08th January, 2016) as well as letter/representation dated 31/03/2016 received from the college authorities with regard to grant of Letter of Permission for establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee meeting at its held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (30th March, 2016) along with previous assessment report (07th& 08th January, 2016) as well as letter/representation dated 31/03/2016 received form the college authorities and a DO letter dated 27/04/2016 from Hon'bleVajubhaiVala, Governor of Karnataka forwarding therewith a representation dated 28/04/2016 received from the Chairman of the college and noted the following:-

1. *Shortage of Residents is 43.48 % as detailed in the report.*
2. *All Senior Residents are not staying within campus. None of the Senior Residents was able to provide proof of previous experience as Junior Resident. One Senior Resident of Skin & VD was doing private practice in evening which is not permissible.*
3. *OPD attendance was 548 against requirement of 600 on day of assessment.*
4. *Bed occupancy was 38.33 % against requirement of 60 % on day of assessment.*
5. *Wards: In the wards of General Medicine & General Surgery, Nursing Station is provided only on 1 side although wards are into 2 sides. Ancillary facilities are not available in many wards. Male patients of General Medicine and Tb & Chest and also female patients of General Medicine and Tb & Chest are kept together in the respective wards.*
6. *There was NIL Caesarean Section on day of assessment.*
7. *ICUs: There was NIL patient in SICU.*
8. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore under Rajiv Gandhi University of Health Sciences, Bangalore to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Chairman, Kanachur Institute of Medical Sciences, Deralakatte, Mangaluru for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 27.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 30.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) &Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January.

Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 7.69%, residents was 41.30% and the bed occupancy was found to be 50.90%. Similarly in the last compliance verification assessment conducted on 30.03.2016 of Kanachur Institute of Medical Sciences, Deralakatte, Mangaluru, apart from other deficiencies, the deficiency of Residents was found to be 43.48% and the bed occupancy was found to be 38.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree ChhatrapatiShivaji Education Society & Anr. Vs. Union of India &Anr., vide its judgment dated 28.05.2015, had

upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science &Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(i) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(ii) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that

such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgemenst of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore, during the compliance verification inspection carried out on 30.03.2016 the deficiency of Resident was found to be 43.48% and the Bed Occupancy was found to be only 38.33%. Thus the deficiencies of Residents and Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

(a) <u>Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).</u>

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered*

for issue of Letter of Permission (LOP)/renewal of permission in that Academic Yearé ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*
>
> ***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*
>
> ***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in

the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Deralakatte, Mangalore, D.K., Karnataka by Kanachur Islamic Education Trust, Mangalore does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

64. <u>Establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 20.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 14.6.2016 of the Secretary, Akash Education & Development Trust, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item,which reads as under:-

It may be stated that, the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 7th& 8th January, 2016. The assessment report (7th& 8th January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (7th and 8th January, 2016) alongwith letter dated 08.01.2016 of the Coordinator (Assessor) and noted the following:

1. *OPD attendance is 508 on day of assessment against requirement of 600.*
2. *Bed occupancy is 52.33 % on day of assessment against requirement of 60 %. It appears that some of the patients have been admitted without any serious reason. E.g. in both male & female Surgical wards, about 50 % of patients were admitted without any Surgical disorder requiring hospital admission.*
3. *Although it has been reported by the institute that there were 58 X-rays done, during round of assessors, at 10:30 a.m., no X-ray machine was found to be engaged with work.*
4. *ICUs: For ICCU, MICU & SICU, there is only 1 sister i/c. For NICU & PICU there is only 1 sister i/c. There were only 2 patients in SICU on day of assessment.*
5. *There was no woman in Labour Room during round of assessors at 11:30 a.m.*
6. *OPD: Half of examination rooms are lying vacant.*
7. *Wards: In General Surgery & allied wards, 1 Nurse looks after 2 wards.*
8. *Shortage of Residents is 6.52 % as detailed in the report.*
9. *It appears that some Residents are not staying in the campus.*
10. *Central Kitchen: During round, not more than 50 trays could be shown for serving food to patients at 10:45 a.m. when food was not served to patients.*
11. *Anatomy department: Only 83 specimens are available in the department. MRI & CT films are not displayed in the museum. There is no drainage system in Dissection Hall.*
12. *Physiology department: Equipment for Human Physiology laboratory has been kept in Amphibian Laboratory & not in Human Physiology laboratory.*
13. *Residential Quarters: Quarters for faculty are not up to standard for a medical teacher.*
14. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Director, Akash Institute of Medical Sciences & Research Centre, Bangalore, Karnataka had submitted the Compliance report dated 11.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 11th March, 2016.

The compliance verification assessment report (11th March, 2016) alongwith previous assessment report (7th & 8th January, 2016) with regard to grant of Letter of Permission for establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka with an annual intake of 150 MBBS students under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (11th March, 2016) along with previous assessment report (7th& 8th January, 2016) and noted the following:

1. *Deficiency of faculty is 6.15 % as detailed in the report.*
2. *OPD attendance on day of assessment is 485 against 600 required.*
3. *Bed occupancy was 48 % on day of assessment.*
4. *Many patients who were not genuine and did not require admission were admitted in wards of General Medicine, General Surgery, O.G., Tb & Chest, Skin & VD and Orthopaedics.*
5. *In General Medicine ward, a patient named Satish (Reg.# 51007) was admitted on 24/02/2016 without diagnosis and treatment till 11/03/2016. He looked healthy.*
6. *ICUs: Nursing staff in ICUs is inadequate and is not properly qualified. Past record is not available.*
7. *Labour Room: There was no woman in labour room. There was NIL Normal Delivery till 4 p.m.*
8. *OPD: Examination rooms were vacant as the number of patients was very less at time of taking round as compared with data generated by computer.*
9. *Wards: In General Surgery, 1 Nurse is looking after 2 wards. Nursing stations are not as per norms. Many wards do not have Demonstration Rooms.*
10. *Nursing staff is inadequate.*
11. *It appears that some Residents are not staying in the campus.*
12. *Central Kitchen is not hygienic. No record of food trays dispatched is available.*
13. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 20.06.2016 has forwarded a copy of the compliance/representation/documents dated 14.06.2016 forwarded by the Secretary, Akash Education & Development Trust for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 11.02.2016 in the Council Office and was verified by physical verification assessment by the Council on11.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that

assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

In the last compliance verification assessment conducted on 11.03.2016 of Akash Institute of Medical Sciences & Research Centre, Devanhalli, apart from other deficiencies, the bed occupancy was found to be 48%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India &Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be granted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India &Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science &Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(i) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(ii) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had

verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been

removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka, during the compliance verification inspection carried out on 11.03.2016 the Bed Occupancy was found to be only 48%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated

29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.

(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Devanhalli, Bangalore, Karnataka by Akash Education & Development Trust, Karnataka does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

65. <u>Establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala with an annual intake of 150 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala with an annual intake of 150 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 20/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Chairman & Managing Trustee, Royal Medical Trust, Palakkad, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that, the First assessment of the physical and the other teaching facilities available for grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala with an annual intake of 150 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 16th & 17th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (16th & 17th December, 2015) and noted the following:

1. *OPD: In Orthopaedics OPD, Plaster room & Plaster cutting room are common.*
2. *Both Audiometry & Speech therapy are in one room which is not permissible.*
3. *There was only 1 Normal delivery & NIL Caesarean Section on day of assessment.*
4. *Casualty: Some of the patients in Casualty were not of serious nature.*
5. *ICUs: There were only 2 patients each in ICCU, MICU, SICU& NICU/PICU.*
6. *Anatomy department: NIL cadavers are available.*

7. *Demonstration rooms in the hospital are small and many do not have teaching table; space between each row of chairs is less & congested. Some do not have Audiovisual aids.*
8. *Some of the patients admitted in General Medicine, Paediatrics, Psychiatry, Tb & Chest, General Surgery, Orthopaedics& Ophthalmology could have been managed on OPD basis.*
9. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala under Kerala University of Health Sciences, Thrissuru/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Royal Medical Trust, Kerala had submitted the Compliance report dated 29.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 10th February, 2016.

In this regard, the Council office had also received a letter dated 10/02/2016 from the Dean, Kerala Medical College Hospital, Palakkad.

The compliance verification assessment report (10th February 2016) alongwith previous assessment report (16th& 17th December, 2015) as well as a letter dated 10/02/2016 received from the Dean, Kerala Medical College Hospital, Palakkad with regard to grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala with an annual intake of 150 students under Kerala University of Health Sciences, Thrissuru/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (10th February 2016) along with previous assessment report (16th& 17th December, 2015) as well as a letter dated 10/02/2016 received from the Dean of the college and noted the following:-

1. *OPD attendance was only 350 at 2 p.m. against requirement of 600.*
2. *Bed occupancy was 55.33 % against requirement of 60 % on day of assessment.*
3. *There were only 5 Major operations for the whole hospital on day of assessment.*
4. *Makeshift arrangements have been done in Orthopaedics OPD for Plaster cutting room & Dressing room. Deficiency is not fully rectified.*
5. *Audiometry & Speech Therapy rooms are not actually rooms but only partitions. Deficiency is not fully rectified.*
6. *Casualty: In Casualty, there were only 3 patients admitted upto 2:30 p.m.; these patients were such who did not really require admission in Casualty as they had minor complaints like abdominal pain, headache, Psychiatric observation, etc.*
7. *ICUs: 3 patients with insignificant complaints were admitted in ICU. 2 patients with insignificant complaints were admitted in MICU. 3 patients with insignificant complaints like Postoperative cataract surgery, old fracture implant removal, postoperative Haemorrhoidectomy were admitted in SICU. 3 recently delivered normal babies were kept in NICU. Only 1 patient in PICU was of Down's syndrome with no other complaint.*
8. *Wards: Most of the wards are not as per MSR Regulations. Ancillary facilities are not available inside the wards.*
9. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
10. *Cytopathology workload was NIL on day of assessment.*
11. *In female ENT ward, female Psychiatry patients were admitted.*

12. *In Ophthalmology ward, patient with unrelated minor complaint like Headache was admitted.*
13. *In ENT male ward, one female patient by name of Shifa (IP # 44436/16, Hospital # 476/16) was admitted since 08/02/2016.*
14. *In Orthopaedics ward, admitted patients had minor complaints like backache, nonspecific limb pain.*
15. *In female General Medicine ward, patient named Thangamma, age 80 y, (IP # 44355/16, Hospital # 11315/16) was admitted on 05/02/2016 with complaint of Right Lower Limb pain evaluation with Diabetes & Hypertension. On examination, it was found that she can move both limbs.*
16. *In male General Surgery ward, patient named Abu Bacr Siddiqui was shown as having Head injury but on examination, she was found to have no complaint at all.*
17. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 20.06.2016 and 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 16.06.2016 forwarded by the Chairman & Managing Trustee, Royal Medical Trust, Palakkad for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 29.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 10.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) &Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their

compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) &Anr. Vs Union of India- (2015) 10 SCC 19.

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society &Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after

pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Palakkad, Kerala by Royal Medical Trust, Palakkad, Kerala does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

66. <u>Establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical

Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Dean, Amaltas Institute of Medcial Sciences, Dewas, M.P., the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 the agenda item which reads as under:-

It may be stated that the assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 18th& 19th December, 2015. The assessment report (18th& 19th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

" The Executive Committee of the Council considered the Council Assessors report (18th& 19th December, 2015) and noted the following:

1. *Deficiency of faculty is 69.23 % as detailed in report.*
2. *Shortage of Residents is 78.26 % as detailed in the report.*
3. *OPD attendance was 353 on day of assessment.*
4. *Bed occupancy was 40 % on day of assessment.*
5. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
6. *Radiological & Laboratory investigation workload was inadequate on day of assessment.*
7. *ICUs: There was only 1 patient in ICCU on day of assessment.*
8. *Blood Bank is not available.*
9. *Lecture Theaters: They are under construction.*
10. *Central Library: It is under construction.*
11. *Common Rooms for Boys & Girls are under construction.*
12. *Central Photography Section is not available.*
13. *Students', Residents' & Nurses' Hostels are under construction.*
14. *Residential Quarters are under construction.*
15. *Preclinical departments of Anatomy, Physiology & Biochemistry are under construction.*
16. *With regard to Paraclinical departments, space is not shown in the building under construction.*
17. *Website is not available.*
18. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.12.2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Secretary, Amaltas Education Welfare Society, Indore had submitted Compliance report dated 30.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 17th March, 2016.

The compliance verification assessment report (17th March, 2016) alongwith previous assessment report (18th& 19th December, 2015) with regard to grant of Letter of Permission for establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science

University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (10th February 2016) alongwith previous assessment report (16th& 17th December, 2015) and noted the following:

1. *Deficiency of faculty is 8.62 % as detailed in the report.*
2. *Shortage of Residents is 31.11 % as detailed in the report.*
3. *OPD attendance was only 245 on day of assessment.*
4. *Bed occupancy was 36.33 % on day of assessment. Many admitted patients did not require admission.*
5. *OPD: There is no record in individual OPDs to cross verify with Central Record. Deficiency remains as it is.*
6. *General Surgery & ENT, General Surgery &Gynaecology, Orthopaedics& Ophthalmology, General Medicine & Tb & Chest & Skin & VD wards are combined.*
7. *O.T.: As per list, there were only 3 Major operations posted for the whole hospital on day of assessment; however, O.T. had not started till time of taking round in O.T.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigations workload was inadequate on day of assessment.*
10. *Workload of Histopathology & Cytopathology is NIL on day of assessment.*
11. *Casualty: 2 patients kept in Casualty for observation did not have any serious indication.*
12. *ICUs: There is no ICCU. MICU & SICU had only 2 patients each. There is no Central Monitor. PICU had only 1 patient. NICU is not functional.*
13. *Blood Bank: There were only 3 units in stock on day of assessment. NIL unit was issued on day of assessment.*
14. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala under Kerala University of Health Sciences, Thrissurto the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions,

decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Dean, Amaltas Institute of Medcial Sciences, Dewas, M.P. for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 30.1.2016 in the Council Office and was verified by physical verification assessment by the Council on 17.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 69.23%, residents was 78.26 % and the bed occupancy was found to be 40 %. Similarly in the last compliance verification assessment conducted on 17.03.2016 of Amaltas Institute of Medical Sciences, Dewas, M.P. apart from other deficiencies, the deficiency of residents was found to be 73.9% .

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree ChhatrapatiShivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha SikshaPratisthan&Anr. Vs. Union of India &Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India &Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment.

Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been

removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P, during the compliance verification inspection carried out on 17.03.2016 the deficiency of Resident was found to be 73.9% and the Bed Occupancy was found to be only 56%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science &

Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.*
>
> *……..*
>
> *13. Both the appeals are allowed to the above extent, but with no order as to costs….."*

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various*

departments in the college and in the hospitals. These regulations are in considerable detail. ……...

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. ……... After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Dewas, Madhya Pradesh by Amaltas Education Welfare Society, Indore, M.P, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

67. <u>Establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala with an annual intake of 100 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala with an annual intake of 100 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the agenda item, letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Chairman, S.R. Educational & Charitable Trust, Kerala and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that the assessment of the physical and the other teaching facilities available for grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala with an annual intake of 100 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 16th& 17th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (16th& 17th December, 2015) and noted the following:

1. *Deficiency of faculty is 30.50 % as detailed in report.*
2. *Shortage of Residents is 86.66 % on day of assessment.*
3. *In respect of 09 Residents, hostel allotment order is predated than date of joining. In respect of 17 Residents, there is no hostel possession letter. Dr. Vipin Das, Senior Resident had no ID card of college & was unable to identify staff members.*
4. *OPD: There is no record in individual OPD to cross verify with central record.*

5. *Bed occupancy was < 35 % on day of assessment.*
6. *There is no Unitwise distribution of beds in General Medicine, General Surgery, O.G. &Paediatrics.*
7. *There was NIL Major & NIL Minor operation on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment. There is no delivery since 07/12/2015 till date of assessment (i.e. 16/12/2015)*
9. *Radiological & Laboratory investigation workload is inadequate on day of assessment.*
10. *Workload of Histopathology & Cytopathology is NIL on day of assessment.*
11. *Casualty: In the morning, it was empty. Later on 3 patients were kept for observation without any serious indication or emergency treatment.*
12. *O.T. complex was totally closed.*
13. *ICUs: NICU/PICU are yet to open. There was NIL patient in MICU & SICU and only 1 patient in ICCU on day of assessment.*
14. *Blood Bank: There are only 2 bottles in stock. No bottles have been issued on day of assessment and also during the period from 01/12/2015 to 10/12/2015. It was closed at 04:30 p.m. on day of assessment.*
15. *MRD is partly computerized.*
16. *Central Library: Internet is not working.*
17. *Anatomy department: Only 70 specimens are available.*
18. *All the Demonstration rooms require updation.*
19. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of new medical college at Akathumuri, Varkala, Thiruvananthpuram, Kerala by S.R Educational & Charitable Trust, Kerala under Kerala University of Health Sciences, Thrissuru/s 10A of the IMC Act, 1956 for the academic year 2016-17

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

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015 and copy to the college authorities with the request to submit the compliance report.

In view of the above decision of the Executive Committee, the matter was also referred to the Ethics Section for further necessary action.

In response to above, the Principal, S.R Medical College & Research Centre, Akathumuri, Kerala had submitted the Compliance report dated 28.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 10th Feb., 2016.

The compliance verification assessment report (10th February 2016) alongwith previous assessment report (16th& 17th December, 2015) with regard to grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala with an annual intake of 100 students under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (10th February 2016) alongwith previous assessment report (16th& 17th December, 2015) and noted the following:

1. *Deficiency of faculty is 8.62 % as detailed in the report.*
2. *Shortage of Residents is 31.11 % as detailed in the report.*
3. *OPD attendance was only 245 on day of assessment.*
4. *Bed occupancy was 36.33 % on day of assessment. Many admitted patients did not require admission.*

5. *OPD: There is no record in individual OPDs to cross verify with Central Record. Deficiency remains as it is.*
6. *General Surgery & ENT, General Surgery &Gynaecology, Orthopaedics& Ophthalmology, General Medicine & Tb & Chest & Skin & VD wards are combined.*
7. *O.T.: As per list, there were only 3 Major operations posted for the whole hospital on day of assessment; however, O.T. had not started till time of taking round in O.T.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigations workload was inadequate on day of assessment.*
10. *Workload of Histopathology & Cytopathology is NIL on day of assessment.*
11. *Casualty: 2 patients kept in Casualty for observation did not have any serious indication.*
12. *ICUs: There is no ICCU. MICU & SICU had only 2 patients each. There is no Central Monitor. PICU had only 1 patient. NICU is not functional.*
13. *Blood Bank: There were only 3 units in stock on day of assessment. NIL unit was issued on day of assessment.*
14. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala under Kerala University of Health Sciences, Thrissur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Chairman, S.R. Educational & Charitable Trust, Kerala for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 28.1.2016 in the Council Office and was verified by physical verification assessment by the Council on 10.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification

inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 30.50% residents was 86.66 % and the bed occupancy was found to be < 35%. Similarly in the last compliance verification assessment conducted on 10.02.2016 of S.R. Medical College & Research Centre, Akathumuri, Thiruvananthapuram apart from other deficiencies, the deficiencies of residents was 31.11% and the bed occupancy was found to be 36.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory

confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal

of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala, during the compliance verification inspection carried out on 10.2.2016 the deficiency of Resident was found to be 31.11% and the Bed Occupancy was found to be only 36.33%. Thus the deficiencies of Residents and Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical*

professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Akathumuri, Varkala, Thiruvananthapuram by S.R Educational & Charitable Trust, Kerala does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

68. <u>Establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi with an annual intake of 150 MBBS students under Pt. B.D Sharma University of Health Sciences, Rohtak u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi with an annual intake of 150 MBBS students under Pt. B.D Sharma University of Health Sciences, Rohtak u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Trustee, Shanti Devi Charitable Trust, Pitampura, New Delhi, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that an assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi with an annual intake of 150 MBBS students under Pt. B.D Sharma University of Health Sciences, Rohtak u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 9th & 10th December, 2015. The assessment report (9th & 10th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (9th & 10th December, 2015) and noted the following:

1. *Deficiency of faculty is 87.7 % as detailed in report.*
2. *Shortage of Residents is 100 % as detailed in report.*
3. *There is no Medical Superintendent in the affiliated hospital.*
4. *Office of Medical Superintendent is much smaller than required.*
5. *OPD: Separate Registration Counters for OPD/IPD are not available.*
6. *OPD was non-operational on 1st day of assessment. Only after arrival of assessors, O.G. &Orthopaedics OPD were operational & a few patients were seated.*
7. *Wards: All wards were not functional. Wards are not as per MSR Regulations. Only in 3 wards, Nursing staff was present without any sign of functionality. No other staff was present. There were no medicines in the wards.*
8. *OPD attendance was 149 on day of assessment. Even this figure, given by institute is inflated. When assessors entered OPD, hardly 10-15 persons were standing in queue for registration. Even at 11:30, only 2-3 persons were there at Registration counter who were looking healthy. In OPD, hardly any patients were seen in waiting areas of OPD or in IPD.*
9. *Bed occupancy was Zero % on day of assessment.*
10. *Casualty attendance was NIL. No records were available of past 24 hours.*
11. *There were NIL Major & Minor operations on day of assessment.*
12. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*

13. *In Gynaec O.T., a list of previous day (i.e. 08/12/2015) showing 2 names – Veena&Pooja – was provided. These names were found in O.T. registers also. However on verification, no such patients were found in wards. Hospital is non-functional since last several months & fake records are being created in registers.*
14. *USG workload was NIL. USG machines were covered & sealed by District Competent Authority.*
15. *Laboratory investigations workload was NIL.*
16. *Casualty: No doctors are posted. Disaster trolley, Crash Cart, Ventilator are not available.*
17. *All ancillary facilities like Central Clinical laboratories, Casualty, O.T.s, ICUs, Blood Bank, CSSD, Laundry, etc. are non-functional since last several months. However fake records are being generated.*
18. *There is only 1 mobile X-ray machine against requirement of 2.*
19. *No blood has been issued after 28/09/2015.*
20. *No record is available in Pharmacy of drugs issued. Stock Management Software is not working.*
21. *Only 10 Nurses are available against requirement of 175. No Nursing staff was available except Nursing Superintendent & 2 Staff Nurses.*
22. *Only 12 Paramedical & Non-teaching staff are available against requirement of 100.*
23. *Lecture Theaters: They are not of true gallery type. They are in 4 steps only; each step being of 6 ".*
24. *Residential quarters for Non-teaching staff are of dormitory type with 4 persons in a room which cannot be a substitute for quarters.*
25. *Anatomy department: NIL cadavers are available. There is no catalogue of Histology slides.*
26. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi under Pt. B.D Sharma University of Health Sciences, Rohtaku/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, N.C. Medical College & Hospital, Israna has submitted the Compliance report dated 2.2.2016 which was verified by the Council assessors by way of compliance verification assessment on 1st April, 2016.

In this regard, the Council Office had received a letter/representation dated 11/04/2016 from the Principal, N.C. Medical College & Hospital, Israna, Panipat, Haryana.

The compliance verification assessment report (1st April, 2016) alongwith previous assessment report (09th& 10th December, 2015) as well as letter/representation dated 11/04/2016 received from the college authorities with regard to grant of Letter of Permission for establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi with an annual intake of 150 MBBS students under Pt. B.D Sharma University of Health Sciences, Rohtak u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee meeting at its held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (5th February 2016) along with previous assessment report (3rd& 4th December, 2015) and noted the following:

1. *Deficiency of faculty is 73.84 % as detailed in the report.*

2. *Shortage of Residents is 67.39 % as detailed in the report. The list of Residents on night duty was provided to assessors after 11:30 a.m. i.e. after completion of signature during attendance.*
3. *At 09:45 a.m., OPD was closed. At 10:30 a.m., total number of patients in OPD was only 04.*
4. *Bed occupancy is 17 % on day of assessment.*
5. *There was NIL Major operation & 1 Minor operation on day of assessment.*
6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
7. *There was NIL Histopathological&Cytopathological workload till 12 noon on day of assessment.*
8. *Workload of Radiological & Laboratory investigations on day of assessment was poor.*
9. *ICUs: There was only 1 patient in MICU & NIL in SICU, PICU, NICU on day of assessment. There is no Ventilator in NICU.*
10. *ETO Sterilizer is not available.*
11. *OPD: Specialty clinic rooms in Paediatrics OPD were locked at time of assessment.*
12. *Blood bank license is issued in the name of a person who has left the institute on 28/03/2014.*
13. *Ophthalmology patients were kept in female General Medicine ward. Postoperative Hernioplasty patients were kept in male General Medicine ward.*
14. *Wards: Demonstration rooms are smaller than required. Deficiency is partially rectified.*
15. *Residents' Hostel is yet to be completed. Presently they are staying in Students' hostel.*
16. *Nurses' Hostel is partially furnished.*
17. *Anatomy Department: Specimens are less. Cadavers are not available.*
18. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Raipur, Chhattisgarh by Lord Buddha Educational Society, Raipur under Chhattisgarh Ayush and Health Sciences University, Raipur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions,

decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 22.06.2016 forwarded by the Trustee, Shanti Devi Charitable Trust, Pitampura, New Delhi for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 2.2.2016 in the Council Office and was verified by physical verification assessment by the Council on 01.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 87.7%, residents was 100% and the bed occupancy was found to be 0 %. Similarly in the last compliance verification assessment conducted on 01.04.2016 of N.C. Medical College & Hospital, Israna, Panipat apart from other deficiencies, the deficiency of teaching faculty was found to be 84.61%, residents was 89.13% and the bed occupancy was found to be 0 %.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science &Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble

Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society &Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided

in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi, during the compliance verification inspection carried out on 01.04.2016 the deficiency of Faculty was found to be 84.61%, the deficiency of Resident was found to be 89.13% and the Bed Occupancy was found to be only 0 (zero)%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla

Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be*

increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Israna, Panipat, Haryana by Shanti Devi Charitable Trust, Pitampura, New Delhi does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

69. <u>Establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Chhatrapati Shahuji Maharaj University, Kanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Chhatrapati Shahuji Maharaj University, Kanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the agenda item, letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, Saraswati Medical College, Unnao, U.P. and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Chhatrapati Shahuji Maharaj University, Kanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 20th& 21st January 2016. The assessment report 20th& 21st January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (20th and 21st January, 2016) and noted the following:

1. *Deficiency of faculty is 13.84 % as detailed in the report.*
2. *Shortage of Resident is 13.04 % as detailed in the report.*
3. *Bed occupancy is 51 % on day of assessment.*
4. *There were 5 Major & NIL Minor operations for the whole hospital on day of assessment.*
5. *There was NIL Normal Delivery & 1 Caesarean Section on day of assessment.*
6. *ICUs: There was NIL patient in NICU/PICU and 2 patients each in ICCU & SICU on day of assessment. ICCU & MICU are in 1 hall having common Nursing station.*
7. *Blood Bank: No unit was dispensed on day of assessment.*
8. *Demonstration rooms in the hospital are small and congested.*
9. *Eclampsia room in Labour room is not equipped adequately.*
10. *Investigation workload is less.*
11. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh under Chhatrapati Shahuji Maharaj University, Kanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh had submitted the Compliance report dated 07.03.2016 which was verified by the Council Assessors by way ofcompliance verification assessment on 18th March, 2016.

The letter dated 18.03.2016 received from the appointed team of the Council assessors alongwith previous assessment report (20th& 21st January 2016) with regard to grant of Letter of Permission for Establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh with an annual intake of 150 MBBS students under Chhatrapati Shahuji Maharaj University, Kanpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered the assessment report (20th& 21st January 2016) alongwith letter dated 18.03.2016 received from the appointed team of the Council assessors and noted the following:

"We reached principal's office at 9:30 AM. Principal Dr. Mathur was not in the office. Medical Superintendent Dr H S Nagar accepted the instructions given to principal at 9 30 AM. Accordingly we started the process. Dr Karabi Baral visited block B of Hospital building with MS. Dr Nimesh Verma visited block A with a Head Nurse and PRO of the hospital. Dr Nina Das waited in the principal's room for attendance of the faculty and resident doctors.

Principal came to the office at 10 AM and informed Dr Nina Das that they would not allow the inspection process as the college has declared holidays in view of Holi & Good Friday from 18-03-2016 to 27-03-2016. So, we are submitting the brief report of this institution, what we have seen till 10:30 AM.

1) Bed Occupancy

Department	*Available Beds*	*Patients*
Medicine	*72*	*05*
Paediatrics	*24*	*00*
TB Chest	*08*	*00*
Skin& VD	*08*	*00*
Psychitry	*08*	*00*
General Surgery	*90*	*10*
Orthopedics	*30*	*06*
Ophthal	*10*	*01*
ENT	*10*	*00*
ObGyn	*40*	*15*
Total	*300*	*37*
Bed Occupency 12.33%		

2) Labor Room one patient was in the LR, they claimed she has just delivered, but the baby was found not to be the newborn and case history sheet incomplete, no para/gravida mentioned in the case sheet. Photograph taken.

3) OT : . There are Five OTs and one septic OT on the first floor of A Block. No surgery was going on at 10 AM. Two patients were waiting to be operated to be hernia.

4) OPD :

A) Pharmacy: List of only 46 drugs available was given. In B block, Till 10 AM, only three patients reported there. In A Block Pharmacy, till 10 AM no patient reported.

B) Registration: Could not provide the printout of registrations done. Claiming two hundred registrations till 10 AM ,but at 9 :30 AM, when we entered in the hospital campus, few patients were found near the OPD block.

5) Casualty: Two patients were there in casualty ward, as The ICU was closed for fumigation, as per the staff working there. Surgery Minor OT was closed, as they claimed it is being fumigated.

6) Intensive Care: ICCU, SICU, MICU & PICU were locked. Two bedded NICU adjacent to Labor Room had one healthy baby.

7) Central Kitchen : At 10:30 AM, 3 staff were there. No kitchen register. Only one requisition for patient diet given to the assessor, where date overwriting was there. Only 15 patients from OBGYN Ward were there in the list.

No faculty and resident doctors came for signature on attendance sheet, hence they are not verified.

As Principal refused the inspection, his signature could not be taken on the report."

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh under Chhatrapati Shahuji Maharaj University, Kanpur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which

have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Principal, Saraswati Medical College, Unnao, U.P. for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 07.03.2016 in the Council Office and was verified by physical verification assessment by the Council on 18.3.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19. However, college did not allowed the assessors appointed by the Council to carry out the compliance verification assessment.

In the last compliance verification assessment conducted on 18.03.2016 of Saraswati Medical College, Unnao, U.Papart from other deficiencies, no faculty and resident doctors came for signature on attendance sheet and the bed occupancy was found to be 12.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned

matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had sent a team of assessors to verify the compliance. However, college did not allow the assessors appointed by the Council to carry out the compliance verification assessment. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided

in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow, Uttar Pradesh, during the compliance verification inspection carried out on 18.03.2016 the Bed Occupancy was found to be only 12.33%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment

dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed

the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Unnao, Uttar Pradesh by Saraswati Educational Charitable Trust, Lucknow does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

70. <u>Establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh with an annual intake of 150 MBBS students under Mahatma Jyotiba Phule Rohilkhand University, Bareilly u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh with an annual intake of 150 MBBS students under Mahatma Jyotiba Phule Rohilkhand University, Bareilly u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused the agenda item, letter dated 20.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 15.6.2016 of the Principal/Dean, Varun Arjun Medical College, Banthra, Shahjahanpur, U.P. and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh with an annual intake of 150 MBBS students under Mahatma Jyotiba Phule Rohilkhand University, Bareilly u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 12th& 13th January 2016. The assessment report 12th& 13th January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (12th and 13th January, 2016) and noted the following:

1. *Deficiency of faculty is 13.84 % as detailed in report.*
2. *Shortage of Residents is 10.86 % as detailed in the report.*
3. *Wards: Male & female wards are common for the departments of Tb & Chest, Psychiatry, ENT & Ophthalmology. General Medicine & General Surgery departments have one big ward instead of 3 wards with only 1 or 2 Nurses. Ancillary facilities like Examination room, Demonstration room, Pantry are common.*
4. *Bed occupancy was 46 % on day of assessment against 60 % required.*
5. *Most of indoor patients are not genuine.*
6. *The following were fake patients as observed by assessors:*
   (a) Patient by name Arun, 7 years, IP -175304 was admitted on 7.1.2016 for congenital hernia. He has just been kept waiting for the assessment day. He was brought to the OT at 11.45 am. But his name was not in the OT list submitted earlier.

(b) Patient by name Prempal s/o Bankylal, 18 years, IP 172972 was admitted on 2.1.2016. But his age was shown as 32 in the case sheet./ He had no complaints. He had not taken any drugs.

(c) Patient by name Ramamurthy, IP 173882, DOA 5.1.2016 was admitted for no apparent complaints. Treatment written in the case sheet was not administered.

(d) Patient by name Marzina, 10 Years IP 175297 DOA 7.1.2016 had no apparent complaints. She was simply admitted.

(e) One patient by name Sagir s/o Sabbir 32 years, IP No. 173921 with DOA 4.1.2016. He said he was admitted 20 days before but record shows that he was admitted 8 days before. The address also did not match. He has no signs and symptoms of any disease. He is not a genuine patient He is a laborer in college campus. He was not aware of any treatment.

(f) Fake MRD data ; on the day of inspection at 12.44 p.m. in surgery OPD only 2 patients were admitted as IPD-1) Nandi Devi IP No. 177199&2) Mamta IP No. 177065. But the MRD report shows admissions as 10 im surgery till 12.52 pm.

(g) At about 1'o clock in Surgery OPD registere there were 12 OD entries, and another 10 patients were seated, while the MRD data showed 65 patients at that time in Surgery OPD.

7. OPD as observed by assessors was 300 – 400 on day of assessment which is inadequate. The figure of 732 given by institute is highly inflated.
8. There were only 02 Major & 05 Minor operations for the whole hospital on day of assessment.
9. There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.
10. Radiological workload is inadequate.
11. Workload of Histopathology & Cytopathology is NIL.
12. ICUs: There was NIL patient in MICU & SICU and 2 patients each in ICCU and NICU/PICU on day of assessment.
13. Blood Bank: There was only 1 unit stored in blood bank. NIL unit was dispensed on day of assessment.
14. Nursing staff: Only 113 Nurses are available against requirement of 175.
15. Paramedical & Non-teaching staff: Only 47 Paramedical & Non-teaching staff are available against requirement of 101.
16. MRD: It does not have data of any Major Surgery of the hospital.
17. College Council & Pharmaco Vigilance Committee are not constituted.
18. Students' Hostels: They are partially furnished.
19. Residents' Hostel: It is partially furnished. Visitors' room, A.C. study room with computer & Internet & Recreation room are not available. Most of the Residents are not staying in the hostel. Drinking water facility is not available.
20. Residential Quarters: Only 12 quarters are available for faculty against requirement of 14. NIL quarters are available for non-teaching staff. 30 rooms at top of Boys' hostel were shown as quarters for non-teaching staff which is not permissible. Similarly, 1 hostel building was shown as faculty quarters which is not permissible.
21. Anatomy department: Only 120 specimens are available.
22. Physiology department: Mammalian Laboratory is not available.
23. Occupancy list of faculty & residence provided by Dean does not tally with the faculty staying after verification.
24. Address proof of around 58 faculty was not proper. They had produced a letter from BSNL attested by Dean as address proof. Format and date was similar in all. Quarter number or Room number was not mentioned in any of the letters. On verification it was found that most of them were not staying there.
25. The following has been observed with regard to faculty / Residents by the assessors:

(a) Dr. Anup Agarwal was supposed to have joined this institution on 30.10.2015 and was supposed to have worked in Medicine as JR. But his declaration form shows him as the JR in Surgery. He does not know any faculty in his unit. So he is only brought for head counting.

(b) Dr. Ravi Kumar, JR in Medicine does not know the details of any patient in the Medicine ward. So he is only brought for head counting.

(c) In Teachers; staff quarters no.3, family of Dr. Ravi Prakash Agarwal was residing. But as per Dean's record, medicine JR Dr. Ravikumar was residing.

(d) Most of the Residents were not staying in the campus/hostel. On random verification resident hostel rooms, Dr. Rajanish found JR in Radiology, Dr. Vijay Shankar Sharma, JR Anaesthesia and Dr. Shiven Singh, JR in Surgery, Dr. Sarvendra, JR in Surgery, Dr. Brijendra Saxena, SR in Ortho., Dr. Mohd. Isaq, SR in Surgery, Siddhardh Rastigi, Sr.in Ortho and Dr. M.L. Gupta, JR in Ortho did not reside in the hostel.

26. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh under Mahatma Jyotiba Phule Rohilkhand University, Bareilly u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

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

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.01.2016 and copy to the college authorities with the request to submit the compliance report.

As per above decision of the Executive Committee, the matter was also referred to the Ethics Section for further necessary action.

In response to above, the Principal, Varun Arjun Medical College, Banthra, Shahjahanpur, U.P. had submitted the Compliance report dated 16.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 30th March, 2016.

The compliance verification assessment report (30th March, 2016) alongwith previous assessment report (12th& 13th January, 2016) as well as letter dated 30/03/2106 from the college authorities with regard to grant of Letter of Permission for establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh with an annual intake of 150 MBBS students under Mahatma Jyotiba Phule Rohilkhand University, Bareilly u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (30th March, 2016) alongwith previous assessment report (12th& 13th January, 2016) as well as letter dated 30/03/2106 from the college authorities and noted the following:

1. *Deficiency of faculty is 23.1 % as detailed in the report.*
2. *Shortage of residents is 56.52% as detailed in the report. Most of the Residents are not staying in the hostel. Occupancy list provided by Dean does not tally on verification.*
3. *Address proof of many faculty & Residents was not proper. Format was similar but Quarter number or Room number was not mentioned.*
4. *Bed occupancy was 46.33 % on day of assessment.*
5. *Most of indoor patients are not genuine. Many patients were asked to overstay. Many patients were admitted for trivial reasons. There were some instances of whole families having been admitted – Mother in Medical ward, Son & Daughter in Paediatrics ward without any obvious health issue. Many case papers did not have proper clinical notes.*
6. *OPD patients as observed by assessors were not genuine. Many families were brought in buses after assessors reached the institute.*
7. *Data of OPD attendance, Radiological investigations given by institute are highly inflated.*
8. *There was NIL Minor operation on day of assessment.*
9. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*

10. *Genuine Radiological work is inadequate.*
11. *Workload of Histopathology & Cytopathology is NIL on day of assessment.*
12. *ICUs: There was only 1 patient each in ICCU, SICU & PICU/NICU and only 2 patients in MICU on day of assessment.*
13. *Students' Hostel: One room has been converted into Study room which is inadequate.*
14. *Residential Quarters: 8 quarters do not have water connection; hence not functional.*
15. *Anatomy Department: Bone sets are not original and made of plastic.*
16. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh under Mahatma Jyotiba Phule Rohilkhand University, Bareillyto the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 20.06.2016 has forwarded a copy of the compliance/representation/documents dated 15.06.2016 forwarded by the Principal/Dean, Varun Arjun Medical College, Banthra, Shahjahanpur, U.P. for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 16.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 30.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, the bed occupancy was found to be 46%. Similarly in the last compliance verification assessment conducted on 30.03.2016 of Varun

Arjun Medical College, Banthra, Shahjahanpur, U.P. apart from other deficiencies, the deficiency of residents was 56.52% and the bed occupancy was found to be 46.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital

requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh, during the compliance verification inspection carried out on 30.03.2016 the deficiency of Resident was found to be 56.52% and the Bed Occupancy was found to be only 46.33%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a)

to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate*

admission to medical colleges is the prerogative of the State has to be rejected……."

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

71. <u>Establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh with an annual intake of 150 students under Dr. Ram Manohar Lohia Awadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh with an annual intake of 150 students under Dr. Ram Manohar Lohia Awadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Chairman, Prasad Education Trust, Lucknow, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for Establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh with an annual intake of 150 students under Dr. Ram Manohar Lohia Awadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 11th& 12th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (11th and 12th December, 2015) and noted the following:

1. *Deficiency of faculty is 44.6 % as detailed in the report.*
2. *Shortage of Residents is 41.3 % as detailed in the report.*
3. *Bed occupancy is 56 % (i.e. 168 out of 300) on day of assessment.*
4. *ICUs: There was NIL patient in ICCU, SICU, PICU/NICU on day of assessment. No doctor was available.*
5. *There was no woman in labour Room at time of taking round.*
6. *Anatomy department: Available specimens are only 50.*
7. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh under Dr. Ram Manohar Lohia Awadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2016-17. "

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Prasad Institute of Medical Sciences, Lucknow had submitted the Compliance report dated 28.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 5th February, 2016.

The compliance verification assessment report (5th February 2016) alongwith previous assessment report (11th& 12th December, 2015) with regard to grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh with an annual intake of 150 students under Dr. Ram Manohar Lohia Awadh University, Faizabad u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered thecompliance verification assessment report (5th February 2016) alongwith previous assessment report (11th& 12th December, 2015) and noted the following:-

1. *Deficiency of faculty is 52.30 % as detailed in the report.*
2. *Shortage of Residents is 54.34 % as detailed in the report.*

3. *Bed occupancy is 51.66 % (i.e. 155 out of 300 beds) on day of assessment which is inadequate.*
4. *ICUs: There was NIL patient in ICCU & only 2 patients each in PICU/NICU, SICU on day of assessment.*
5. *Wards: Wards of Skin & VD, Ophthalmology, Tb & Chest, ENT are not as per MSR Regulations. There is no Nursing station, Examination room, Pantry, Store room, Duty room, Demonstration room inside the wards.*
6. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh under Dr. Ram Manohar Lohia Awadh University, Faizabad to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Chairman, Prasad Education Trust, Lucknow for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 28.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 05.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of

permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 44.6% and residents was 41.3% . Similarly in the last compliance verification assessment conducted on 05.02.2016 of Prasad Institute of Medical Sciences, Lucknow apart from other deficiencies, the deficiency of teaching faculty was found to be 52.30% and residents was 54.34%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-***

17", *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the

application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh, during the compliance verification inspection carried out on 05.2.2016 the deficiency of Faculty was found to be 52.30% and the deficiency of Resident was found to be 54.34%. Thus the deficiencies of Faculty / Residents found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a)

to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate*

admission to medical colleges is the prerogative of the State has to be rejected……."

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Lucknow, Uttar Pradesh by Prasad Education Trust, Uttar Pradesh does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

72. <u>Establishment of new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Managing Trustee, Sukh Sagar Medical College & Hospital, Jabalpur, M.P., the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 7th& 8th January, 2016. The assessment report (7th& 8th January, 2016)was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (7th and 8th January, 2016) alongwith an email dated 08/01/2016 of the appointed team of Assessors, complaint dated 11/01/2016 from Dr. Ajay Gupta against the college & representation dated 09/01/2016 of Sh. Amandeep Khanna, Managing Trustee, Sukh Sagar Medical College & Hospital, Jabalpur and noted the following:

1. *Deficiency of faculty is 36.92 % as detailed in the report.*
2. *Shortage of Residents is 65.21 % as detailed in the report.*
3. *Bed Occupancy was 51.33 % on day of assessment.*
4. *Patients of Backache were found in Eye ward. Most of admitted patients were having vague symptoms & complaints. There was NIL post-operative patient in Orthopaedics, Eye & ENT wards & only 1 post-operative patient in General Surgery ward. There was NIL patient in Paediatrics.*
5. *Casualty patients were not genuine. Casualty admission records were not available after 04/01/2016.*
6. *There were only 2 Major & NIL Minor operations on day of assessment.*
7. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
8. *Data of Radiological & Laboratory investigations are grossly exaggerated.*
9. *Workload of Microbiology, Histopathology, Cytopathology is NIL.*
10. *Casualty: Separate Casualty for O.G. is not available.*
11. *ICUs: There was NIL patient in ICCU and in NICU/PICU & only 1 patient in MICU on day of assessment. IN SICU, 5 postoperative patients were kept who did not require intensive care.*
12. *There was no woman in Labour Room.*
13. *There is deficiency of 1 mobile X-ray machine of 100 mA.*
14. *Blood Bank is not available.*
15. *Lecture Theaters: There is no E class facility.*
16. *Central Library: It is not air-conditioned. Electrification in Staff Reading room is pending.*
17. *Students' Hostels: Accommodation available is 112 against requirement of 113. Only Beds are provided; no other item of furniture is available. Visitors' room, Air-conditioned Study room with Computer & Internet and Recreation room are available in Girls' hostel only & not in Boys' hostel.*
18. *Residents' Hostel: Only 2 rooms are occupied in Ladies' hostel. Male Residents' hostel was locked. List of occupants was not provided.*
19. *Nurses' Hostel: Only beds are available; no other item of furnishing is available. Female Nurses' hostel is of dormitory type. Hygiene is poor.*

20. *Residential Quarters: Out of 16 quarters available for faculty, 10 are single room quarters.*
21. *Audiometry is not functional. Speech therapy is not available.*
22. *Wards: Antenatal & Postnatal ward was locked during morning round. Demonstration rooms are not furnished.*
23. *ETO Sterilizer is not available.*
24. *Anatomy department: Only 2 cadavers are available.*
25. *In Anatomy department, 50 % of faculty is non-medical against requirement of 33 1/3 %. In Biochemistry, 100 % faculty is non-medical against requirement of 50 %.*
26. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Gyanjeet Sewa Mission Trust, Jabalpur had submitted the Compliance report dated 29.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 17th March, 2016.

The compliance verification assessment report (17th March, 2016) alongwith previous assessment report (7th& 8th January, 2016) with regard to grant of Letter of Permission for Establishment of new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13/05/2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (17th March, 2016) alongwith previous assessment report (7th& 8th January, 2016) and noted the following:-

1. *Although Bed occupancy is 60.66 % on day of assessment, more than 60-70 % patients were not genuine / fake as under:*

(a) *In medical male ward three patients named (1) Mr. Channu Thakur, M-45, IPD No. 302567 (2) Mr. Sukhram Thakur, M-42, IPD No. 302570 and (3) Mr. Sunny Thakur, M-25, IPD No. 302563 were shown as admitted. During round, on detailed inquiry, JR of Medicine Dr. Suhani Dubey has confessed and given written statement that these patients are not actually admitted. These 3 patients are fake admission.*

(b) *In female medicine ward, patient named Mrs. Seema Dhurve, F-40 years, IPD No. 2511, OPD No. 150009 was fake patient. Patient has said that she was admitted before 15 days but Resident doctor Preethi Yadav has said and as per case sheet record also, she was admitted on 15th March, 2016 before 2 day. No medicine, no attendants was there. As per record, she was admitted for anemia, but no blood report was available till 17th March. Patient said that she is residing in Rajasthan while in case paper address was Jabalpur.*

(c) *In Gynac. Ward, patient named Mrs. Shanti Ashok Dhurvey, F-30 years, OPD No. 302583, OPD No. 3170015 was fake. When inquired, patient said that she was admitted before one week, while staff nurse statement and case paper record shows that she is admitted on the day of assessment on 17.03.2016.*

(d) *In male surgery ward, patient named Mr. Laxman Patel, M-24 years, OPD No. 030008, IPD No. 2086 was not genuine. He was admitted before 13 days with only complaint of gastritis.*

(e) *In surgery female ward Dr. Kunal Rupre, JR in Surgery Department, has confessed that patient named Mrs. Dassobai was admitted before two days but no treatment was advised/given.*

(f) *In Gynae ward, patient named Mrs. Kallabai IPD No. 302575 was fake patient. Patient said that she was admitted before 5 days but as per staff nurse statement and case record, she was admitted before one day.*

(g) *More than 60% to 70% indoor patients were not genuine/fake. They have shown admitted but no medicine, no attendance, no any personal belongings and apparently looks to have been made for head count only. They are labour workers and class IV staff members. It seems that case sheet record were prepared earlier and on one day of assessment, at last moment, these labour workers and class IV staff members were lying down in the wards and shown as a patient. Case paper records do not match with these fake patients' details/statements.*

2. *It appears that most of Residents had come for inspection purposes only as under:*

(a) *One doctor Ashish Patel JR in Surgery department joined the department before 8 months but he does not know name of other residents in the surgery department. He also does not know number of residents in his department.*

(b) *Dr. Sravya working JR in Obst. & Gynae. ward has given written statement that she does not know hand writing in case papers of patients admitted on Obst. & Gynae. ward.*

(c) *Dr. Mercy, JR in OBGY deptt. has given written statement that she did not write any case sheets of any patients in OBGY ward.*

(d) *In deptt. of Surgery, SR in General Surgery Dr. Neelkumar Suhang has given written statement that she does not know details of patients admitted in Surgery ward and he does not know also who has written all case papers of patients in Surgery ward.*

(e) *Dr. Vipin Singh, JR in Surgery deptt. room no.5in resident hostel has given written statement that his room partner Dr. Akhilesh Shroti SR is not staying in hostel campus.*

(f) *Dr. Omprakash Vishwakarma, JR in deptt. of Skin has given written statement that he is staying in room no.12 alone. In his room, nobody is staying while Dr. M. Narhari, JR in Medicine has given written statement that he is staying in room no.12.*

3. *Dr. N. Sandeep Reddy, Junior Resident in ENT department has appeared at MCI assessment at 3 medical colleges in the current academic year.*

4. *Casualty: Out of total 8 patients in Casualty, 3 patients had only low backache which does not warrant admission in Casualty.*

5. *There was NIL Caesarean Section on day of assessment.*

6. *Histopathological workload was only 2 & Cytopathological workload was only 1 on day of assessment which is inadequate.*

7. *Male Nursing staff is posted in female wards. More than 60 % Nursing staff are males, most of whom are untrained. One Mr. Pankaj Patel, Male Staff Nurse was in charge of 4 wards – ENT & Ophthalmology male ward, ENT & Ophthalmology female ward, Tb & Chest male ward, Tb & Chest female ward.*

8. *Students' Hostels: There is no Visitors' room, Study room & Warden room in both Boys' & Girls' Hostels. In some rooms minor civil work was pending. In most of the rooms, bath room door fittings are incomplete. No railing is available at staircase.*

9. *Residents' Hostels: Many Residents are not staying in the hostel. There is no Visitors' room, Study room & Warden room in both Boys' & Girls' Hostels. In some rooms minor civil work was pending. In most of the rooms, bath room door fittings are incomplete. No railing is available at staircase.*

10. *Residential Quarters: There are no proper teaching & non-teaching staff quarters available. In Male Residents' Hostel building, 2nd & 3rd floor hostel rooms without kitchen are shown as teaching staff quarters which cannot*

be accepted. In another building, there 10 single hostel type rooms which also cannot be accepted as teaching staff quarters. In third building, there are 2 rooms without kitchen which also cannot be accepted as teaching staff quarters which cannot be accepted. For non-teaching staff, there are 19 hostel type single rooms in the building of Male Nurses' Hostel which cannot be accepted as non-teaching staff quarters. Deficiency remains as it is.

11. *In Central Kitchen, no register showing diet supplied to patients was available.*
12. *Laundry equipment & workload is low.*
13. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 decided to refer the matter to the Ethics Committee for necessary action in the matter."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

As per above decision of the Executive Committee, the matter was also referred to the Ethics Section for further necessary action.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the

Managing Trustee, Sukh Sagar Medical College & Hospital, Jabalpur, M.P. for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 29.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 17.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be

rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Jabalpur, Madhya Pradesh by Gyanjeet Sewa Mission Trust, Jabalpur does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

73. <u>Establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society with an annual intake of 150 students under Madhya Pradesh Medical University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society with an annual intake of 150 students under Madhya Pradesh Medical University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Dean, Advanced Institute of Medical Sciences & Research Centre, Bhopal, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for Establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society with an annual intake of 150 students under Madhya Pradesh Medical University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 11th& 12th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (11th& 12th December, 2015) and noted the following:

1. *Deficiency of faculty is 56.92 % as detailed in report.*
2. *Shortage of Residents is 73.91 % as detailed in report.*

3. *Medical Superintendent is not available.*
4. *Bed Occupancy was ZERO % - i.e. there was NIL patient in any ward.*
5. *There was no patient anywhere in the hospital during the period from 10:15 a.m. to 10:30 a.m. on 1st day of assessment.*
6. *There was NIL Major & NIL Minor operation on day of assessment.*
7. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
8. *Radiological & Laboratory investigations workload is grossly inadequate.*
9. *Workload of Histopathology & Cytopathology was NIL on day of assessment.*
10. *Wards: Ancillary facilities like Demonstration room, Duty room & Pantry are not available in any ward. Examination cum Treatment Room is available in a few wards only. Some wards do not have Nursing Station.*
11. *O.T.s: Not a single O.T. was functional on day of assessment. Equipment like Infusion Pumps, Defibrillator are not available. Last list of Ophthalmology was prepared on 23/09/2015 & of ENT was prepared on 21/07/2015.*
12. *ICUs: There was NIL patient in ICCU or any ICU on day of assessment. Equipment is grossly inadequate as detailed in report.*
13. *Blood Bank is non-functional.*
14. *CSSD: Receiving & Distribution points are not separate. ETO Sterilizer is not available.*
15. *OPD data as given by institute are highly inflated.*
16. *MRD is partly computerized.*
17. *Casualty: Ventilator is not available.*
18. *It is not specified which department controls Central Clinical laboratory.*
19. *Canteen is not available.*
20. *Anatomy department: Cadavers are not available.*
21. *Intercom is not available.*
22. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society, Bhopal under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Secretary, Advanced Institute of Medical Sciences, Bhopal had submitted the Compliance report dated 28.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 2nd February, 2016.

In this regard, it is stated that the Council office had also received a letter dated 20/02/2016 from Sh. Amitabh Agnihotri forwarding therewith a copy of order dated 03/02/2016 passed by Hon'ble High Court of Madhya Pradesh at Jabalpur in W.P. No.2110/2016, which reads as under:-

"Heard
Issue notice. Returnable on 2.3.2016.
Shri Swapnil Ganguli, Govt. Advocate waives notice on behalf of Respondents No.1, 2 and 3./State.
Dasti service is permitted for other respondents.
Any steps taken by the respondents with regard to the subject matter, will be subject to the outcome of this petition."

The compliance verification assessment report (2nd February 2016) alongwith previous assessment report (11th& 12th December, 2015) with regard to grant of Letter of Permission for Establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society with an

annual intake of 150 students under Madhya Pradesh Medical University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (2nd February 2016) along with previous assessment report (11th& 12th December, 2015) andletter dated 20/02/2016 received from Sh. Amitabh Agnihotri forwarding therewith a copy of Order dated 03/02/2016 passed by Hon'ble High Court of Madhya Pradesh at Jabalpur in W.P. No.2110/2016 and noted the following:-

1. *Deficiency of faculty is 29.23 % as detailed in the report.*
2. *Shortage of Residents is 43.47 % as detailed in the report.*
3. *Most of Senior Residents are not residing in the hostel.*
4. *Bed occupancy was 20 % on day of assessment.*
5. *OPD attendance is only 446 which is inadequate.*
6. *In case of Dr. Rajesh Gattani, Professor of General Surgery, Dr. Preeti Gattani, Professor of O.G. and Dr. Vikas Trehan, Asst. Prof. of Anaesthesiology, it was observed that there was false signature in attendance sheet. They were absent during head counting.*
7. *In General Medicine, General Surgery, Orthopaedics, ENT wards, many non-genuine patients with minor complaints were admitted. Many patients did not have relevant complaints in case paper as well as treatment and investigation record.*
8. *Blood Bank is not functional.*
9. *Casualty: It was empty at 10:30 a.m. There were only 4 registered patients.*
10. *Wards: There are no Demonstration rooms, Pantry, Store room, Examination cum Treatment room Doctors' duty room, Nursing station in many wards. Deficiency remains as it is.*
11. *ICUs: ICCU, MICU & SICU has only 1 Ventilator. In PICU & NICU only basic equipment is available. There was only 1 patient in PICU, NICU on day of assessment. In PICU, operated patient of Hydrocele without any serious complication was kept. (Mr. P.N. Vishwakarma, IPD # 10633)*
12. *Intercom facility is not available. Deficiency remains as it is.*
13. *Central Clinical Laboratory has only OPD collection. There is no indoor collection.*
14. *There was only 1 Major & 1 Minor operation on day of assessment.*
15. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
16. *Radiological & Laboratory investigation workload is inadequate.*
17. *In Serology, Haematology, Cytopathology & Histopathology laboratories, false entry & reporting were observed.*
18. *Unit-wise bed distribution is not there.*
19. *CSSD had dispatched only 1 Drum & 3 Trays on day of assessment which is inadequate.*
20. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society under Madhya Pradesh Medical University, Jabalpur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 decided to refer the matter to the Ethics Committee for necessary action in the matter."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government

vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 22.06.2016 forwarded by the Dean, Advanced Institute of Medical Sciences & Research Centre, Bhopal for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 28.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 02.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 56.92%, residents was 73.91% and the bed occupancy was found to be ZERO%. Similarly in the last compliance verification assessment conducted on 02.02.2016 of Advanced Institute of Medical Sciences & Research Centre, Bhopal, apart from other deficiencies, the deficiency of residents was found to be 43.47% and the bed occupancy was found to be 20%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of

rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh

batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society, during the compliance verification inspection carried out on 02.02.2016 the deficiency of Resident was found to be 43.47% and the Bed Occupancy was found to be only 20%. Thus the deficiencies of Residents and Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

(a) <u>Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).</u>

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or*

bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Yearé ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and*

to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Bhopal, Madhya Pradesh by Advance Medical Science and Educational Society does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

74. <u>Establishment of new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Chairman, Ananta Charitable Educational Society, Udaipur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for establishment of new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 1st& 2nd December, 2015. The assessment report (1st& 2nd December, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (1st& 2nd December, 2015) and noted the following:

1. *Deficiency of faculty is 10.7 % as detailed in report.*
2. *Residents are provided accommodation at Udaipur which is not permissible hence deficiency is 100%.*
3. *OPD: Teaching areas are a temporary structure. Specialty clinic facilities are inadequate in Paediatric & O.G. OPD.*
4. *A.C. & Soundproof Audiometry & Speech therapy are not available.*
5. *Wards: Beds are not Unit wise segregated in General Medicine. Examination cum Treatment rooms, Pantry, Demonstration rooms are not available.*
6. *Bed occupancy was 43 % on day of assessment.*
7. *There was NIL Major Surgical operation on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *USG workload was NIL on day of assessment.*
10. *All investigations except Haematology & Serology are outsourced to a private laboratory. Registers of investigations are not maintained.*
11. *Histopathology workload was NIL on day of assessment.*
12. *MRD: it is partly computerized.*
13. *Casualty: There was no doctor posted at time of assessment. Disaster Trolley is not available.*
14. *O.T.: One O.T. is not functional.*
15. *ICUs: ICCU & NICU are not available. Four beds are available in MICU against requirement of 5. There were only 2 patients in SICU.*
16. *Labour Room: There was no woman in labour room at time of taking round.*
17. *Blood Bank: It is not available. Blood is outsourced from a private blood bank which is not permissible.*
18. *CSSD is makeshift arrangement. Equipment is inadequate.*
19. *Hospital building is partly under construction.*
20. *College Office: Adequate office space and other required facilities are not provided to administrative staff of college.*
21. *College building is under construction.*
22. *Central Library: it is under construction.*
23. *Hostels for Students, Residents, Nurses: They are under construction.*
24. *Residential Quarters are under construction.*
25. *Canteen is under construction.*
26. *Central Research Laboratory is not available.*
27. *Nursing Staff: 143 Nurses are available against requirement of 175.*
28. *Website: It is under construction.*
29. *Preclinical departments of Anatomy, Physiology & Biochemistry are under construction.*
30. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur under Rajasthan University of Health Sciences, Jaipuru/s 10A of the IMC Act, 1956 for the academic year 2016-17. "

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal & Controller, Ananta Institute of Medical Sciences & Research Centre, Udaipur, Rajasthan had submitted the Compliance report dated 25.01.2016 and the same was sent to the assessment cell to verify the same by way of compliance verification assessment.

Accordingly, the Council appointed the assessors to carry out the compliance verification assessment on 24th February, 2016.

The letter dated 24/02/2016 received from the appointed team of Council Assessors along with previous assessment report (1st& 2nd December, 2015) with regard to

grant of Letter of Intent/Letter of Permission for establishment of new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the assessment report (1st& 2nd December, 2015) along with letter dated 24/02/2016 received from the appointed team of Council assessors and noted the following:-

"After accepting the letter on behalf of assessors, the Principal, Prof (Dr.) Jitendra Kain& Medical Superintendent Dr. V.B Gaur refused the inspection process and gave a letter to the same effect. I requested the Principal to continue the inspection process in presence of other faculty if he was sick, but he refused.

We the assessor visited the hospital & college grossly on telephonic directions from Medical Council of India and taken the photograph in our own mobile. The brief report is as follows:-

1. *Hospital bed occupancy is 28.33% (85 out of 300). Medicine patients: 28, Paediatrics: 10, Surgery: 12, Orthopaedics: 13, OB: 06, Gynae:07, ENT & Ophthalmology: Nil, NICU, PICU: Nil, casualty: 02 till 12.30 PM SICU:03.*

2. *Central laboratory: In Biochemistry register entries of 08 patients was 23.02.2016. On 24.2.2016 till 11.45 no entry of patient in the register.*

3. *In Histopathology register last date of entry was 17.2.2016. Register was not upto date. Fake entry was done in register. The patient with Hernioplasty with mesh repair name, Lalit Singh entered in the register for Histopathology. No specimen of the Patient, Lad Kumar was available in the laboratory.*

4. *Blood bank last consumption of blood was on 15.2.2016 (only one). No expiry date is mentioned in the blood bag. Only seven whole blood was stored on the day of inspection.*

5. *Library: No outside reading room was available. In digital library no electric connection was found at the time of inspection.*
6. *Anatomy, Physiology & Biochemistry department ear marked area available and construction work was going on during time of inspection in the College side. No wet specimen was displayed in the anatomy museum. Physiology laboratory was under process of construction.*
7. *All hostels & resident quarters are under construction. No residents are staying in the hostel.*
8. *Few faculties of Anatomy, Physiology & Biochemistry was present with the assessor during the time of inspection at 12.30PM.*
9. *At 9.45 AM during entry of assessors no patient was found in the OPD.*
10. *Two lecture theatres of 180 capacities are available.*

Signature of Principal was not taken because he refused the inspection process. "

The Executive Committee of the Council also perused the letter from Principal of the college to the Health Secretary, Govt. of India, which reads as under

"On this date 24.02.2016 MCI team of 3 assessors name Dr. Karabi Baral, Dr. Nina Das, Dr. M.K. Ramesh, MCI team has arrived at 09.45 am to Ananta Instt. Of Medical Sciences & Research Center to carry out the compliance verification assessment. But because of sickness of Principal, we are not ready for assessment. So in the capacity of Principal of the Institution, I Dr. Jitendra Kain of Ananta Instt. Of Medical Sciences & Research Center refused to submit our institution for assessment for MCI. This is voluntary on our part."

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur under Rajasthan University of Health Sciences, Jaipur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Chairman, Ananta Charitable Educational Society, Udaipur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 25.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 24.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect*

on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of residents was found to be 100% and the bed occupancy was found to be 43%.Similarly during second inspection apart from other deficiencies, the bed occupancy was found to be 28.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the

IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had sent a team of assessors to verify the compliance. However, college did not allow the assessors appointed by the Council to carry out the compliance verification assessment. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Banthra, Shahjahanpur, Uttar Pradesh by Varunarjun Trust, Uttar Pradesh, during the compliance verification inspection carried out on 24.2.2016 the deficiency of the Bed Occupancy was found to be only 28.33%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands

revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*
>
> ***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). …….*
>
> ***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v.*

State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Nathdwara, Rajsamand, Rajasthan by Ananta Charitable Educational Society, Udaipur does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

75. <u>Establishment of new medical college at Pennalur, Kancheepuram Dist. Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Pennalur, Kancheepuram Dist. Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Principal, Annaii Medical College & Hospital, Kancheepuram, Chennai, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item, which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Pennalur, Kancheepuram Dist., Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th December, 2015. The assessment report (29th& 30th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th& 30th December, 2015) and noted the following:

1. *Deficiency of faculty is 40.00 % as detailed in report.*
2. *Shortage of Residents is 71.73 % as detailed in report.*
3. *OPD attendance was 430 against requirement of 600 on day of assessment.*
4. *Bed occupancy was only 10 % on day of assessment.*
5. *There were only 2 Major & NIL Minor operations for the hospital on day of assessment.*
6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
7. *Radiological & Laboratory investigations workload was very low on day of assessment.*
8. *Casualty: Crash Cart & Ventilator are not available.*
9. *O.T.: Only 1 O.T. was open against requirement of 4. The rest were locked & reported fumigated.*
10. *ICUs: There was NIL patient in ICCU or any ICU on day of assessment.*
11. *One static X-ray machine of 500 mA was not functional on day of assessment.*
12. *There was no unit stored in Blood Bank on day of assessment. Blood units dispensed in a day are only 0 – 1.*
13. *Histopathology & Cytopathology investigations are outsourced & not done in the institute.*
14. *Students' Hostels: They are partially furnished. Hygiene is not satisfactory.*
15. *Residents' Hostels: They are partially furnished. Hygiene is not satisfactory.*
16. *Nurses' Hostels: They are partially furnished. Hygiene is not satisfactory.*
17. *Speech Therapy is not available.*
18. *Anatomy department: Only 80 specimens are available. NIL cadavers are available.*
19. *Pharmaco Vigilance Committee is not constituted.*
20. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Pennalur, Kancheepuram Dist., Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Annai Medical College & Hospital, Chennai had submitted the Compliance report dated 27.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 10th March, 2016.

The compliance verification assessment report (10th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) as well as a letter dated 08.03.2016 received from Dr. S. Peter, Joint Managing Trustee, Sri Devi Karumariamman Educational Trust, Chennai against Sri Devi

Karumariamman Educational Trust, Chennai and a letter/representation dated 15/03/2016 received from the college authorities with regard to grant of Letter of Permission for establishment of new medical college at Pennalur, Kancheepuram Dist., Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (10th March, 2016) alongwith previous assessment report (29th & 30th December, 2015) as well as letter dated 08.03.2016 received from Dr. S. Peter, Joint Managing Trustee, Sri Devi Karumariamman Educational Trust, Chennai against Sri Devi Karumariamman Educational Trust, Chennai, a letter/representation dated 15/03/2016 received from the college authorities and a complaint dated Nil from Dr. Pragna B Dolia, Chennai against Annai Medical College & Hospital, Chennai and noted the following:

1. *Deficiency of faculty is 6.15 % as detailed in the report.*
2. *Shortage of Residents is 34.78 % as detailed in the report.*
3. *Many Residents are not staying in the campus.*
4. *OPD: On interviewing persons standing in queue for registration it was observed that many had similar vague complaints for which people will not generally seek medical advice.*
5. *On random verification, it was observed that majority of admitted patients had minor complaints not warranting admission.*
6. *O.T.: It was not started till 10:30 a.m. on day of assessment. 3 O.T.s were not open. There was NIL Major & NIL Minor operation on day of assessment; 2 patients in O.T. dress were sitting since morning till the afternoon.*
7. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
8. *Radiological & Laboratory investigation workload was low on day of assessment.*
9. *ICUs: Out of admitted patients in ICCU & MICU, only 2 could be considered as MICU admissions; the rest did not have any indication for admission in ICU.*
10. *Blood Bank: Only 5 units were stored in Blood Bank. On an average, only 0-1 unit is dispensed in a day.*
11. *Workload of Histopathology & Cytopathology was NIL.*
12. *Casualty: There were only 2 patients at time of visit. Patients from different wards were shifted to Casualty whose case sheets were not available with Sister i/c. They did not have any emergency condition.*
13. *Data of OPD attendance, Laboratory investigations, etc. as provided by institute appear to be inflated.*
14. *Students' Hostels: They are partially furnished. Deficiency remains the same.*
15. *Residents' Hostel: It is partially furnished. Deficiency remains the same.*
16. *Nurses' Hostel: It is partially furnished. Deficiency remains the same.*
17. *Anatomy department: Cadavers are not available.*
18. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Pennalur, Kancheepuram Dist., Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu under The Tamilnadu Dr. MGR Medical University, Chennai to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government

vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Principal, Annaii Medical College & Hospital, Kancheepuram, Chennai for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 27.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 10.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 40.00%, residents was 71.73% and the bed occupancy was found to be 10%. Similarly in the last compliance verification assessment conducted on 10.03.2016 of Annaii Medical College & Hospital, Kancheepuram, Chennai, apart from other deficiencies, the deficiency of residents was found to be 34.78%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of

rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Pennalur, Kancheepuram Dist., Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after

pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Pennalur, Kancheepuram Dist. Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu, during the compliance verification inspection carried out on 10.03.2016 the deficiency of Resident was found to be 34.78%. Thus the deficiencies of Residents found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the

regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*
>
> ***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*
>
> ***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P.*

Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Pennalur, Kancheepuram Dist., Tamilnadu by Sri Devi Karumariamman Educational Trust, Tamilnadu does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

76. <u>Establishment of new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh with an annual intake of 150 students under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh with an annual intake of 150 students under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Chairman, K.M. Medical College & Hospital, Mathura, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Intent/Letter of Permission for Establishment of new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh with an annual intake of 150 students under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 18th& 19th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (18th& 19th December, 2015) and noted the following:

1. *Deficiency of faculty is 84.61 % as detailed in report.*
2. *Shortage of Residents is 89.13 % as detailed in report.*
3. *Bed occupancy was 6.33 % on day of assessment.*
4. *Most of the OPDs did not have any consultants. There were very few patients attending OPDs.*
5. *OPD: Separate Registration counters for male/female are not available. Separate Registration counters for OPD/IPD are not available. Waiting area is inadequate. Injection room, Dressing room, Plaster room & Plaster Cutting room are not functional. In Ophthalmology OPD, Dark Room & Dressing room are not available. Specialty clinic facilities are not available in Paediatrics & OG OPD.*
6. *Wards: There are no Nursing stations. Only table & Chair are provided. Only space is provided for ancillary facilities. Demonstration rooms are not furnished & do not have patient examination table or chairs.*
7. *OPD figures provided by institute are highly exaggerated. Very few patients were seen in OPD.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigations workload is inadequate.*
10. *MRD is not available. ICD X classification of diseases is not followed for indexing.*
11. *Casualty: Separate Casualty for O.G. is not available. No doctor was available. There is no ventilator.*
12. *ICUs: There was NIL patient in ICCU & MICU, SICU & PICU. There was only 1 patient in NICU.*
13. *Labour room: Septic room & Eclampsia room are not functional.*
14. *Only 1 mobile X-ray machine is available against requirement of 2. Only 1 USG machine is available against requirement of 2.*
15. *Blood Bank is not available.*
16. *CSSD is not functional.*
17. *Audiometry & Speech therapy are not available.*
18. *Intercom is not available.*
19. *Kitchen & Canteen are not available.*
20. *Nursing staff: Only 154 Nurses are available against 175 required.*

21. *Paramedical & Non-teaching staff: Only 33 Paramedical & Non-teaching staff are available against requirement of 100.*
22. *Dean's office & Administrative offices are not furnished.*
23. *College Council is not constituted.*
24. *Lecture Theaters: E class facility is not available.*
25. *Central Library: It is not air-conditioned. NIL Indian & NIL foreign journals are available. Internet Nodes are not available.*
26. *Common Rooms for Boys & Girls are under construction.*
27. *Central Photography section is not available.*
28. *Students' Hostels: They are not furnished. Toilet facilities are not available. Visitors' rom, A.C. study room with computer & Internet & Recreation room are not available.*
29. *Residents' Hostel: It is not furnished. Toilet facilities are not available. Visitors' rom, A.C. study room with computer & Internet & Recreation room are not available.*
30. *Nurses' Hostel: It is not furnished. Toilet facilities are not available.*
31. *Anatomy department: Museum is non-functional. NIL specimens, X-ray, MRI & CT films are available. Office is not furnished.*
32. *Physiology department: Seating arrangement is not available in Demonstration rooms. Audiovisual aids are not available. Tables are not organized in Clinical physiology laboratory. Office is not furnished.*
33. *Biochemistry department: Seating arrangement is not available in Demonstration rooms. Audiovisual aids are not available. Office is not furnished.*
34. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh under Dr. B.R. Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-17."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Chairman, Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh had submitted the Compliance report 30.01.2016 and the same was sent to the assessment cell to verify the same by way of compliance verification assessment.

Accordingly, the Council appointed the assessors to carry out the compliance verification assessment on 5th February, 2016.

The Council office had received a letter dated 05/02/2016 from the appointed team of the Council assessors, which reads as under:-

"In reference to the above cited subject, we have gone to Krishna Mohan Medical College, and hospital Mathura, Uttar Pradesh, for conducting the assessment on 5th February 2016.

We reached the office of the Dean, and informed him about the purpose of our visit. The Dean told that in view of the letter no.U.12012/577.2016- ME-1 Government of India, Ministry of Health and Family Welfare,(Welfare,(enclosure no.1), regarding the opportunity of hearing on 10.02.2016 at 2:00PM, he will have to seek consent of the chairman of the society whether to allow the inspection by the MCI team.

In the meantime, we visited the hospital OPD and indoor facilities.

In the OPD, at the registration counter, there were only 2persons/ patients were present. (photographs attached- enclosure no. 2). In the OPD block, the patient waiting area in front of the consultation room were completely empty (photograph attached enclosure3).

In the IPD, first floor, main medical ward, and tuberculosis chest ward were found to be locked (photographs enclosed, enclosure 4,5). In another ward labeled as main medical ward, there were 4 patients, out of which, 2 were male, and 2 were females (statement and photographs of nursing staff attached-enclosure no-6). On the 2nd floor, in the female medical ward, there was no patient.

On the 2nd floor, in the male orthopedic ward, out of 16 beds, only 3 patients were admitted, while female orthopedic ward was locked(sign and statements attached-enclosure no.7).

In the whole campus, we have not seen any resident doctor or faculty except the Dean. As we were leaving the OPD, we found a crowd alighting from the bus, and entering the hospital's main gate (photograph attached- enclosure no.8).

At this time, a messenger conveyed to us that the authority does not consent to conduct the inspection, and therefore, we reached the Dean's office to get the written letter.

The overall impression is: that there is not just the lack of infrastructure facility, but also faculty, residents & clinical material is grossly inadequate."

Thereafter, as per direction of the Competent Authority, another compliance verification assessment of the said college was arranged by the Council on 24/02/2016.

In this regard, the Council office had received a letter dated 24/02/2016 from the appointed team of the Council assessors, which reads as under:-

"In reference to the above letter we have visited Krishna Mohan Medical College Sonkh Road, Mathura on 24/02/2016. The college authorities again refused for the inspection. They informed us that there is hearing with the Ministry of Health and Family Welfare on 25/2/2016, so they will have inspection only after that. The copy of the letter is attached."

The Council Office had received a complaint dated 24.02.2016 from Shri Pawan Kumar S/o Shri Mehtap Singh, Mathura, UP against the said College.

The Council Office had also received a letter dated 27/02/2016 from the Chairman, Shri Mohan Singh Siksha Sansthan, Mathura, Uttar Pradesh stating therein as under:-

"Please refer to your office letter No.MCI-34(41)/2015-Med./89/dated 24/02/2016 and our letter No.SMSS/2016/134, dated 24.02.2106.

With reference to above letters, it is intimated that the hearing of this medical college alongwith submission of compliance report at GOI(MOHFW) as per their letter No.U.12012/577/2015-I, dated 19/02/2016 has been completed on 25/02/2016."

Subsequently, 3rd time of compliance verification assessment was carried out by the appointed team of Council Assessors on 6th May, 2016. The compliance verification assessment report (6th May, 2016) alongwith previous assessment report (18th& 19th December, 2015) as well as letter dated 06/05/2016 from the Director-Principal, K.M. Medical College & Hospital, Mathura and complaint dated 24.02.2016 from Shri Pawan Kumar S/o Shri Mehtap Singh, Mathura, UP was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (06.05.2016) alongwith previous assessment report (18th& 19th December, 2015) as well as letter dated 06/05/2016 from the Director-Principal, K.M. Medical College & Hospital, Mathura and complaint dated 24.02.2016 from Shri Pawan Kumar S/o Shri Mehtap Singh, Mathura, UP and noted the following:

1. *Deficiency of faculty was 86.15 % as detailed in the report.*
2. *Shortage of Residents was 89.13 % as detailed in the report.*
3. *Bed occupancy is NIL. There was NIL patient in any ward.*
4. *OPD attendance was 230 on day of assessment which is inadequate.*
5. *OPD: Most of the OPDs did not have consultants. There were very few patients attending OPDs. Waiting area is inadequate. Injection room, dressing room, Plaster room, Plaster Cutting room are not functional. Specialty clinics are not available in Paediatrics & OG OPD.*
6. *Wards: Demonstration rooms are small and congested.*
7. *Data of OPD attendance given by institute are highly exaggerated.*
8. *There was NIL Normal delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigation workload is inadequate.*
10. *Casualty: No doctor was available in Casualty.*
11. *ICUs: There was NIL patient in ICCU or any of ICUs.*
12. *Labour Room: Eclampsia room & Septic labour room are not functional.*
13. *Audiometry & Speech therapy rooms are available but non-functional.*
14. *Kitchen is not functional; Canteen is available but in bad shape.*
15. *Central Library: It is not air-conditioned.*
16. *Common Rooms for Boys & Girls do not have wash room facility.*
17. *Students' hostels: they are partially furnished. Visitors' room are without fans & wash rooms.*
18. *Residents' hostel: It is partially furnished. Toilets are not in working condition. Visitors' room is without working toilets.*
19. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh with an annual intake of 150 students under Dr. B.R Ambedkar University, Agra to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies

communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Chairman, K.M. Medical College & Hospital, Mathura for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 30.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 05.02.2016, 24.02.2016 & 06.05.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 84.61%, residents was 89.30% and the bed occupancy was found to be 6.33%. Similarly in the last compliance verification assessment conducted on 06.05.2016 of K.M. Medical College & Hospital, Mathura, apart from other deficiencies, the deficiency of teaching faculty was found to be 86.15%, resident was 89.13% and the bed occupancy was found to be NIL.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord

Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within

aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh, during the compliance verification inspection carried out on 06.05.2016 the deficiency of Faculty was found to be 87.15%, the deficiency of Resident was found to be 89.13% and the Bed Occupancy was found to be only 0 (zero)%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations

however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.

(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Mathura, Uttar Pradesh by Shri Mohan Singh Shiksha Sansthan, Mathura, Uttar Pradesh does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

77. <u>Establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P. with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P. with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 20.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Dean, Sakshi Medical College & Research Centre, Myama Dist. Guna M.P., the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P. with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 12th& 13th January 2016. The assessment report 12th& 13th January, 2016 was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (12th and 13th January, 2016) and noted the following.

1. *Deficiency of faculty is 16.92 % as detailed in the report.*
2. *Shortage of Residents is 26.08 % as detailed in the report.*
3. *OPD: Injection room for male/female, ECG room, Dressing room for male/female, Minor O.T. are not located in OPD. Plaster room & Plaster cutting room are non-functional. In Ophthalmology OPD, Dark Room & Dressing room are not available. Special clinic facilities are inadequate in Paediatrics & O.G. OPD. None of OPD registers has entry of diagnosis.*
4. *Wards: Beds are not proper hospital beds in the wards of Tb & Chest & Psychiatry.*
5. *Bed occupancy was 35.18 % (i.e. 114 out of 124 beds) on day of assessment.*

6. *Majority of admitted patients were such who do not require admission – viz. with vague complaints of headache, weakness, limb pain, etc. Others although admitted for symptoms like cough, abdominal pain have not been investigated for days. Some fresh case sheets show date of admission of a day prior to day of assessment – viz. 11/01/2016 seem to have been entered on day of assessment itself.*
7. *Obstetric ward did not have any Obstetric case.*
8. *NIL operations were posted on 12/01/2016. No patient of delivery or Caesarean Section was seen in the ward.*
9. *Radiological workload was inadequate on day of assessment.*
10. *Histopathology workload shows as 5 specimens received from IPD; however from where did the specimens come is not clear in view of the fact that NIL operations were posted.*
11. *All data of clinical material – OPD attendance, Casualty attendance, Major & Minor operations, Normal Delivery, Caesarean Section, X-ray & USG investigations, Laboratory workload – are highly inflated.*
12. *Institute has reported total USG investigation of 34 while Radiologist himself stated it to be average of -8 – 10/day.*
13. *Casualty: Separate Casualty for O.G. is not available. Central O_2 and Central Suction are not functional. Disaster Trolley is not available. Crash Cart was empty. Defibrillator & Ventilator are not available.*
14. *O.T.s: Only 1 out of 4 O.T.s is equipped. Central O_2 and Central Suction are not functional. O.T. register shows procedures like PCNL & Laparoscopic Cholecystectomy but equipment for these procedures is not available. Preoperative beds are not available.*
15. *ICUs: SICU is not available. There was NIL patent in ICCU & NICU/PICU and only 1 patient in MICU. Central O_2 and Central Suction are not functional.*
16. *Labour Room: Eclampsia & Septic rooms are not available.*
17. *Blood Bank is not available.*
18. *CSSD: Receiving & Distribution points are not separate. ETO Sterilizer is not available.*
19. *Audiometry is non-functional. Speech Therapy is not available.*
20. *Majority of Nursing staff are GNM & even students are posted in wards for clinical work.*
21. *There is no separate Residents' Hostel. 4 Staff quarters each having 4 rooms are used as Residents' Hostel. Total available accommodation is not shown. Visitors' room, A.C. study room with Computer & Internet & Recreation room are not available.*
22. *Anatomy department: Available specimens are 080.*
23. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P. under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.01.2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Director, Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna, Madhya Pradesh submitted the Compliance report dated 10.02.2016 and the same was sent to the assessment cell to verify the same by way of compliance verification assessment.

Accordingly, the Council appointed the assessors to carry out the compliance verification assessment on 30th March, 2016.

The letter dated 30/03/2016 received from the appointed team of Council Assessors alongwith previous assessment report (12th & 13th January, 2016) with regard to grant of Letter of Permission for establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha

Prasar Evam Prachar Samiti, Guna M.P. with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the assessment report (12th& 13th January, 2016) alongwith letter dated 30/03/2016 received from the appointed team of Council Assessors and noted the following:

"With reference to above subject, we had visited the said institute for Compliance Verification for LOI/LOP for 150 seats u/s 10A of IMC Act, 1956 for the academic year 2016-17 under Madhya Pradesh Medical Science University Jabalpur at 9.45 am on 30th March, 2016.

We entered the college at 9.45 am on 30th March, 2016.

Vice principal denied the inspection.

In view of the intention of Surprise inspection, we took some photographs of the hospital. Apparently there were no patients in any wards, ICCU, ICU, SICU, PICU labor room, operations theatres etc. Whole O.P.D. and laboratories were also empty and no patients at all.

Simultaneously we took photography of the college as well hostel for UGs, residents and nursing staff, and non-teaching staff, they were also empty and vacant.

Dean, superintendent and other teaching staff and residents were not present.

Vice-principal named – Dr. Satya, Msc. Ph.D, Assistant Professor in Biochemistry, was only available and he received our letter for the assessment and gave us letter about denial to inspect on behalf of Dean..."

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P. under Madhya Pradesh Medical Science University, Jabalpur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre

& Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 20.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Dean, Sakshi Medical College & Research Centre, Myama Dist. Guna M.P. for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 10.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 30.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19. However, college did not allowed the assessors appointed by the Council to carry out the compliance verification assessment.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 16.92%, residents was 26.08% and the bed occupancy was found to be 35.18%. Similarly during last compliance verification inspection it was found that apparently there were no patients in any wards, ICCU, ICU, SICU, PICU labor room, operations theatres etc. Whole O.P.D. and laboratories were also empty and no patients at all. Simultaneously assessors took photography of the college as well hostel for UGs, residents and nursing staff, and non-teaching staff, they were also empty and vacant. Dean, superintendent and other teaching staff and residents were not present.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the

Council after the initial inspection when the concerned institution had submitted its compliance and MCI had sent a team of assessors to verify the compliance. However, college did not allowed the assessors appointed by the Council to carry out the compliance verification assessment. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite

permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P., during the inspection carried out on 12th & 13th January, 2016 the deficiency of Bed Occupancy was found to be only 35.18%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court

in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.*
>
> *……..*
>
> *13. Both the appeals are allowed to the above extent, but with no order as to costs….."*

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various*

departments in the college and in the hospitals. These regulations are in considerable detail. ……...

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. ……... After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Myana, Guna, Madhya Pradesh by Muskan Samajik Evam Shiksha Prasar Evam Prachar Samiti, Guna M.P does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

78. <u>Establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.5.2016 of the Dean, Modern Institute of Medical Sciences, Indore, M.P, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 7th& 8th January, 2016. The assessment report (7th& 8th January, 2016)was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (7th and 8th January, 2016) and noted the following:

1. *Deficiency of faculty is 16.90 % as detailed in the report.*
2. *Shortage of Residents is 34.80 % as detailed in the report.*
3. *Dr. Siddharth Jain, Asso. Prof. of Surgery was unable to identify the patients admitted in his Unit or give information about patients admitted under his Unit (Unit III) in past 1 week. One of the patient and his relative were unable to identify him as treating doctor.*

4. *OPD: Only 1 staff was managing registration counter as observed during the round. Flooring is not complete. Basic equipment like B.P. apparatus, Hammer, Plaster Cutter are not available in examination room / plaster cutting room. Teaching areas are not available in some OPDs. Nursing staff was not available in Injection room as well as at most of the places on both days of assessment. Immunization room is not equipped with basic resuscitation equipment.*
5. *Audiometry is neither air-conditioned nor sound proof.*
6. *Wards: Male & female wards are common for Psychiatry. Nursing stations are not properly located and are common between some wards. Examination cum Treatment Room & Pantry are not functional in most of the wards. Space between 2 beds is < 1.5 m in some wards which is not as per Regulations.*
7. *In OPD, no patient was available during round at 10:00 a.m. No faculty / Resident was available upto 10:00 a.m. on 1st day of assessment.*
8. *Casualty was vacant at time of assessment. There was no Doctor available at time of visit. Proper record of patients is not maintained. Ventilator is not available.*
9. *Bed occupancy was 34.6 % on day of assessment.*
10. *Data of Laboratory investigations provided by institute are inflated.*
11. *Minor O.T. register is not maintained.*
12. *O.T.s: Equipment like Ventilator & Emergency Drug Tray are not available in Post-operative ward. Nursing staff is inadequate.*
13. *ICUs: ICCU, MICU & SICU are located in a common facility & share a common Nursing station with 1 Ventilator & 1 Defibrillator.*
14. *Blood Bank is not available.*
15. *Nursing staff: About 80 Nurses are available against requirement of 175 on day of assessment.*
16. *Paramedical & Non-teaching staff: About 50 Paramedical & Non-teaching staff are available against requirement of 101.*
17. *Central Photography Section: Photographer was not available on day of assessment.*
18. *Residents' Hostel: Drinking water facility is inadequate. On verification it was found that some Residents are staying only during night duty.*
19. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.01.2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Modern Institute of Medical Sciences, Kanadia, Indore had submitted the Compliance report dated 26.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 17 March, 2016.

The compliance verification assessment report (17 March, 2016) alongwith previous assessment report (07th& 08th January, 2016) as well as letter dated 21.03.2016 received from the College authorities with regard to grant of Letter of Permission for establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P with an annual intake of 150 MBBS students under Madhya Pradesh Medical Science University, Jabalpur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee meeting at its held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (17 March, 2016) along with previous assessment report

(07th & 08th January, 2016) as well as letter dated 21.03.2016 received from the College authorities and noted the following:

1. *Shortage of Residents is 45.65 % as detailed in the report. All Senior Residents & Many Junior Residents are not staying in the campus regularly.*
2. *Bed occupancy was 47.33 % on day of assessment.*
3. *OPD attendance was 522 at 2 p.m. on day of assessment against requirement of 600. There were only a few patients in OPD at 10 a.m. on day of assessment.*
4. *Blood Bank is not functional as license is not available.*
5. *Approved plans for hospital buildings from competent authority are not available.*
6. *Casualty: There was only 1 patient in Casualty at time of assessment. No MLC case was registered during the entire week.*
7. *There was NIL Minor operation on day of assessment.*
8. *OPD: There is no proper flooring. Deficiency remains as it is.*
9. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
10. *Histopathology workload was only 2 on day of assessment.*
11. *Workload of Contrast Radiology was NIL on day of assessment.*
12. *Wards: Distance between 2 beds is < 1.5 m in some wards.*
13. *Paramedical & Non-teaching staff: Only 48 Paramedical & Non-teaching staff are available against requirement of 101.*
14. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P under Madhya Pradesh Medical Science University, Jabalpur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs. State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July

(Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.05.2016 forwarded by the Dean, Modern Institute of Medical Sciences, Indore, M.P for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 26.2.2016 in the Council Office and was verified by physical verification assessment by the Council on 17.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …… The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The

deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of residents was found to be 38.40% and the bed occupancy was found to be 34.60%. Similarly in the last compliance verification assessment conducted on 17.03.2016 of Modern Institute of Medical Sciences, Indore apart from other deficiencies, the deficiency of residents was found to be 45.65% and the bed occupancy was found to be 47.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble

Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme /

application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be

rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P, during the compliance verification inspection carried out on 17.03.2016 the deficiency of Resident was found to be 45.65% and the Bed Occupancy was found to be only 47.33%. Thus the deficiencies of Residents and Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical

Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.*
>
> *……..*
>
> *13. Both the appeals are allowed to the above extent, but with no order as to costs….."*

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be*

increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Indore, Madhya Pradesh by Shri Astha Foundation for Education Society, Indore, M.P does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

79. <u>Establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Group Director, American International Health Management Limited, Udaipur, Rajasthan, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 18th& 19th December, 2015. The assessment report (18th& 19th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (18th& 19th December, 2015) and noted the following:-

1. *Deficiency of faculty is 40 % as detailed in the report.*
2. *Shortage of residents is 100 % as detailed in the report. None of the Residents are staying in campus.*
3. *Bed Occupancy was 18.33 % on 1st day of assessment at 10:00 a.m.*
4. *OPD: Injection room for male/female is not available. Dressing room is common for males/females. Minor O.T. is not available. Plaster room & Plaster Cutting room are not available. In Ophthalmology OPD, Dark Room, Refraction Room, Dressing Room are not available. Specialty clinics are not available in Paediatrics & OG OPD. Paediatrics & ENT OPD are common. Orthopaedics & O.G. OPD are common.*
5. *There was only 1 Major operation for the whole hospital on day of assessment.*
6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*

7. *Radiological & Laboratory investigations workload is grossly inadequate.*
8. *There is discrepancy in data of clinical material as provided by institute & as per MRD records as detailed in report.*
9. *Histopathology workload is NIL on day of assessment.*
10. *Casualty: Separate Casualty for O.G. is not available. Disaster Trolley is not available.*
11. *Central clinical Laboratory: Microbiology section is not available.*
12. *O.T.s: there is only 1 functional major O.T. & NIL Minor O.T. There are 2 closed O.T. which do not have any equipment. O.T. complex in the hospital building is under construction.*
13. *ICUs: ICCU, MICU, NICU/PICU are not available. There was NIL patient in SICU.*
14. *Labour room: Septic room & Eclampsia room are not available.*
15. *There is only 1 USG available against requirement of 2.*
16. *Blood Bank: It is not functional.*
17. *Audiometry & Speech therapy are not available.*
18. *CSSD is not available.*
19. *Central laundry is not functional.*
20. *Dean's office is smaller than required. Staff room & College Council room are not available.*
21. *College Council: No meeting has taken place till date.*
22. *Pharmaco vigilance Committee: No meeting has taken place till date.*
23. *Lecture Theaters: They are under construction.*
24. *Central Library: Available area is 30 sq.m. against requirement of 600 sq.m. Students' Reading room (Outside), Students' Reading room (Inside) & Staff Reading room are not available. Internet Nodes are not available.*
25. *Common Rooms for Boys & Girls are under construction.*
26. *Students', Residents' & Nurses' Hostels are under construction. Six large halls are shown as Residents' accommodation but there is no furnishing.*
27. *Residential Quarters: They are under construction.*
28. *Website: Citizens' Charter is not available.*
29. *Preclinical departments of Anatomy, Physiology & Biochemistry are under construction.*
31. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-17. "

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Group Director, American International Health Management Limited, Udaipur, Rajasthan had submitted the Compliance report dated 05.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 24th February, 2016.

The compliance verification assessment report (24th February, 2016) along with previous assessment report (18th& 19th December, 2015) as well as letter dated 25/02/2016 received from Dr. V. Vijaya Kumari, Bangalore (Co-ordinator) and letter dated 17.03.2016 received from the college authorities with regard grant of Letter of Permission for establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan with an annual intake of 150 MBBS students under Rajasthan University of Health Sciences, Jaipur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (24th February, 2016) along with previous assessment report

(18th & 19th December, 2015) as well as letter dated 25/02/2016 received from Dr. V. Vijaya Kumari, Bangalore (Co-ordinator) and letter dated 17.03.2016 received from the college authorities and noted the following:

1. *Deficiency of faculty is 43 % as detailed in the report.*
2. *Shortage of Residents is 100 % as none of the Residents are staying in the campus.*
3. *Bed occupancy on day of assessment is 57 % which is inadequate. Patients were kept without indication to inflate bed occupancy.*
4. *Many faculty/residents did not have residence proof. In the late evening some of them (5-6) produced telephone bill as proof of residence which were accepted. When similar bills were produced, it raised the suspicion of these as fake telephone bills. One of the faculty who came last, Dr. Dipak Ladda, Assoc.Prof. & HOD Pathology was confronted by asking him to dial his home number which did not have any response and it was not saved as Home on his mobile. When probed further, he confessed that it is a fake proof. Similar telephone bills as proof of residence were given by 4-5 faculty who were not available for confronting in this regards as they left the Institute. Remarks were not written on the fake certificate and on Declaration Forms of these faculty as it was packed and given it to courier person who came to institute for picking up the delivery of the parcel.*
5. *The Dean was requested to provide the allotment list for faculty who were allotted staff quarters and resident allotment in the morning which was mentioned in the letter which was given to him on after reaching the institute. The request was made several times. Finally the list was produced in the evening. One of the Assessor verified the resident hostel in the morning and noted that no resident is staying in it. The Dean also confirmed the same. During resident verification, residents were claiming for staying in the hostel. Another Assessor alongwith Dean and Medicine Residents went to the hostel to verify the claim which turn out to be false. Residents confessed that they were asked to tell the lie to the Assessors during verification. Many residents gave in writing the Udaipur home address from where they are doing up-down.*
6. *There are two pieces of land which are divided by a wide public road having heavy traffic. On one piece of land college building, hospital building and a Cancer Hospital (not part of college) are located. On second piece of land student, resident and nurses hostels and staff quarters are present.*
7. *There were 05 Major operations & NIL Minor operations on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Data of Clinical Material, Radiological & Laboratory investigations provided by institute are inflated.*
10. *Histopathology & Cytopathology workload is inadequate on day of assessment.*
11. *ICUs: There was NIL patient in ICUs on day of assessment.*
12. *Blood Bank is not functional.*
13. *Students' Hostels: Mess, Visitors' room, A.C. study room, Recreation room are not available.*
14. *Residents' Hostels: Mess, Visitors' room, A.C. study room, Recreation room are not available.*
15. *Gas line is not available & there is no provision for placement of Gas cylinders.*
16. *Cadavers are not available.*
17. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Udaipur, Rajasthan by International Health Management Limited, Udaipur, Rajasthan under Rajasthan University of Health Sciences, Jaipur to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 decided to refer the matter to the Committee to take action against the above mentioned faculty/residents of the college."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

The matter has also been referred to the Ethics Section for further necessary action in the matter.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of compliance/representation/documents dated 18.06.2016 forwarded by the Group Director, American International Health Management Limited, Udaipur, Rajasthan for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 05.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 24.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their*

part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 40%, residents was 100% and bed occupancy was found to be 18.33%. Similarly in the last compliance verification assessment conducted on 24.02.2016 of American International Institute of Medical Sciences, Udaipur, Rajasthan apart from other deficiencies, the deficiencies of teaching faculty was found to be 43% and residents was 100%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that

during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to*

*MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan, during the compliance verification inspection carried out on 24.2.2016 the deficiency of Faculty was found to be 43%, the deficiency of Resident was found to be 100% and the Bed Occupancy

was found to be only 57%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the

relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..”

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*“……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *".....**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning....."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Udaipur, Rajasthan by American International Health Management Limited, Udaipur, Rajasthan does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

80. <u>Establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana with an annual intake of 150 MBBS students under Dr. N.T.R University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana with an annual intake of 150 MBBS students under Dr. N.T.R University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Campus Director, Mahavir Institute of Medical Sciences, Vikarabad, Telangana, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item, which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana with an annual intake of 150 MBBS students under Dr. N.T.R University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 6th& 7th January, 2016. The assessment report (6th& 7th January, 2016)was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (6th and 7th January, 2016) and noted the following:

1. *Deficiency of faculty is 9.23 % as detailed in the report.*
2. *Shortage of Residents is 100 % as detailed in the report.*
3. *OPD attendance was < 400 on day of assessment against requirement of 600.*
4. *Bed occupancy was 26 % on day of assessment. Many patients are not genuine.*
5. *There was NIL Normal Delivery or NIL Caesarean Section on day of assessment.*
6. *Radiological & laboratory Investigation workload was inadequate on day of assessment. No register is maintained.*
7. *Histopathology & Cytopathology workload is NIL.*
8. *Casualty: Separate Casualty for O.G. is not available.*
9. *O.T.s: equipment like Defibrillator, Infusion Pumps are not available.*
10. *ICUs: There was NIL patient in PICU/NICU and only 1 patient each in ICCU, SICU & only 2 patients in MICU on day of assessment.*
11. *Nursing staff: Only 120 Nurses are available against requirement of 175.*
12. *Paramedical & Non-teaching staff: 79 Paramedical & Non-teaching staff are available against requirement of 112.*
13. *Central Library: It is not air-conditioned.*
14. *Students' & Residents' Hostels: They are under construction.*
15. *There is no separate Nursing Hostel in the campus. Two quarters have been temporarily converted into Nurses' Hostel where furniture is not provided. There is no mess. It is not upto the mark.*
16. *Anatomy department: Only 120 specimens are available.*
17. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana under Dr. N.T.R University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.01.2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Chairman, B.M.M.T. Institute of Education, Vikarabad, Telangana had submitted the Compliance report dated 29.02.2016 which was

verified by the Council assessors by way of compliance verification assessment on 16th March, 2016.

The compliance verification assessment report (16th March, 2016) alongwith previous assessment report (06th& 07th January, 2016) with regard to grant of Letter of Permission for establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana with an annual intake of 150 MBBS students under Dr. N.T.R University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (16th March, 2016) along with previous assessment report (06th& 07th January, 2016) and noted the following:

1. *Deficiency of faculty is 63.07 % as detailed in the report.*
2. *Shortage of Residents is 100 % as detailed in the report.*
3. *OPD attendance is < 400 on day of assessment. Data given by the college are highly inflated.*
4. *Bed occupancy was around 40 % on day of assessment. Many patients are not genuine or were kept longer than necessary to inflate bed occupancy.*
5. *Radiological & Laboratory investigations workload is inadequate on day of assessment.*
6. *Radiodiagnosis department: Register of Radiodiagnosis department showed entry of 47 X-rays at time of assessment; however there was evidence of only 27 Plain X-rays performed at the time of visit. NIL contrast Radiology was performed on day of assessment.*
7. *Histopathology workload on day of assessment was only 03. Data given by institute are highly inflated.*
8. *ICUs: There was only 1 patient in SICU on day of assessment. Several patients in ICCU, MICU & SICU were kept for longer periods than necessary.*
9. *Nursing staff: 153 Nurses are available against requirement of 175.*
10. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana under Dr. N.T.R University of Health Sciences, Vijayawada, Andhra Pradesh to the Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 16.06.2016 forwarded by the Campus Director, Mahavir Institute of Medical Sciences, Vikarabad, Telangana for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 29.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 16.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of residents was found to be 100% and bed occupancy was found to be 26%. Similarly in the last compliance verification assessment conducted on 16.03.2016 of Mahavir Institute of Medical Sciences, Vikarabad, Telangana apart from other deficiencies, the deficiencies of teaching faculty was found to be 63.07%, residents was 100% and the bed occupancy was found to be 40%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to

note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telangana, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is

required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telanagana, during the compliance verification inspection carried out on 16.03.2016 the deficiency of Faculty was found to be 63.07%, the deficiency of Resident was found to be 100% and the Bed Occupancy was found to be only 40%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

(a) <u>Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).</u>

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges*

which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). …….*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical*

courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Vikarabad, Telangana by BMMT Institute of Education, Vikarabad, Telangana does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

81. <u>Establishment of new medical college at Manamai – Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to establishment of new medical college at Manamai ï Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Managing Trustee, Ponnaiah Ramajayam Institute of Medical Sciences, Kancheepuram, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the First assessment of the physical and other teaching facilities available for grant of Letter of Permission for establishment of new medical college at Manamai – Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu with an annual intake of 150 MBBS students under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th December, 2015. The assessment report (29th& 30th December, 2015) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th& 30th December, 2015) and noted the following:

1. *Deficiency of faculty is 46.15 % as detailed in the report.*
2. *Shortage of Residents is 45.65 % on day of assessment.*
3. *OPD attendance is 467 on day of assessment against 600 required.*
4. *Bed occupancy was 30 % on day of assessment.*
5. *Space between 2 beds is < 1.5 m in some wards.*
6. *There was NIL Major operation on day of assessment.*
7. *There was NIL Normal Delivery & Nil Caesarean Section on day of assessment.*
8. *Histopathology workload is shown as 92 which is not feasible as NIL Major operation was performed on day of assessment.*
9. *Data of patients in ICCU & ICUs on day of assessment are not provided.*
10. *Blood Bank license is not available.*
11. *Students' Hostels: Study room is not air-conditioned.*
12. *Anatomy department: NIL cadavers are available.*
13. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to issue Letter of Permission for establishment of New Medical College at Manamai – Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/01/2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Ponnaiyah Ramajayam Institute of Medical Sciences, Chennai has submitted the Compliance report dated 29.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 10th March, 2016.

The compliance verification assessment report (10th March, 2016) alongwith previous assessment report (29th& 30th December, 2015) with regard to grant of Letter of Permission for establishment of New Medical College at Manamai – Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences &Technology Trust, Tamilnadu under The Tamilnadu Dr. MGR Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (10th March, 2016) along with previous assessment report (29th& 30th December, 2015) and noted the following:

1. *Deficiency of faculty is 38.46 % as detailed in the report.*
2. *Shortage of Residents is 26.09 % as detailed in the report.*
3. *OPD attendance on day of assessment is 371 against requirement of 600.*
4. *Bed occupancy on day of assessment is 12.66 %.*
5. *There was NIL Major operation on day of assessment.*
6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
7. *Histopathology & Cytopathology workload on day of assessment is only 1 each which is grossly inadequate.*
8. *There was NIL patient in ICCU & all ICUs on day of assessment.*
9. *Blood Bank License is not available.*
10. *Casualty attendance was only 08 on day of assessment.*
11. *Radiological investigation workload is inadequate.*
12. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application for establishment of a new medical college at Manamai – Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu under The Tamilnadu Dr. MGR Medical University, Chennai to the

Central Government recommending disapproval of the scheme u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 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 was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 08.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Managing Trustee, Ponnaiah Ramajayam Institute of Medical Sciences, Kancheepuram for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 29.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 10.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 46.15%, residents was 45.65% and bed occupancy was found to be 30%. Similarly in the last compliance verification assessment conducted on 10.03.2016 of Ponnaiah Ramajayam Institute of Medical Sciences, Kancheepuram apart from other deficiencies, the deficiencies of teaching faculty was found to be 38.46%, residents was 26.09% and the bed occupancy was found to be 12.66%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict

compliance with the IMC Act, 1956 and the Regulations made there under. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission up to II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh*

*assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of establishment of new medical college at Manamai ï Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be

undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Honôble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Honôble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for establishment of new medical college at Manamai ï Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu, during the compliance verification inspection carried out on 10.03.2016 the deficiency of Faculty was found to be 38.46% and the Bed Occupancy was found to be only 12.66%. Thus the deficiencies of Faculty and Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*
>
> ***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*
>
> ***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*".....**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning....."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of establishment of new medical college at Manamai ï Nellur, Tamilnadu by Ponnaiyah Institute of Medical Sciences & Technology Trust, Tamilnadu does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

82. <u>Increase of seats in MBBS course from 100-150 at KMCT Medical College, Kozhikode for the academic session 2016-17 u/s 10A of the IMC Act, 1956.</u>

Read: the matter with regard to Increase of seats in MBBS course from 100-150 at KMCT Medical College, Kozhikode for the academic session 2016-17 u/s 10A of the IMC Act, 1956.

The Executive Committee of the Council perused the agenda item, letter dated 22/23.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Principal, KMCT Medical College, Kozhikode and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that the Central Govt., Ministry of Health & Family Welfare, New Delhi vide letter dated 14.09.2015 forwarded an application dated 31.08.2015 received from the Chairman & Managing Trustee Kunhitharuvai Memorial Charitable Trust, Kozhikode for increase of seats in MBBS course from 100 to 150 u/s 10A of the IMC Act, 1956 for the academic year 2016-17.

In this connection, it is stated that in th previous academic year i.e. 2015-16 the Council received the application for increase of seats in MBBS course from 100 to 150 at KMCT Medical College, Kozhikode through the Central Govt.

An assessment to assess the physical and other teaching facilities available for grant of LOP for the proposed increase seats in 1st MBBS course from 100 to 150 at KMCT Medical College, Kozhikode, Kerala under Kerala University of Health Sciences, Thrissur for the academic session 2015-16 was carried out by the appointed assessors on 12h & 13th January, 2015. The Assessment report was considered by the Executive Committee at its meeting held on 31.01.2015 and it was decided as under:-

"The Executive Committee of the Council considered the assessment report (12h & 13th January, 2015) and noted the following:-

1. *Teaching beds in all the departments have not been increased for LOP for increase to 150 intake.*
2. *There are only total 9 Major operations in the whole hospital on day of assessment.*
3. *RICU is not available.*
4. *MEU: No workshop in Medical Education technology was conducted by MEU during the year.*
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 issue Letter of Permission for increase of seats from 100 to 150 u/s 10A of the IMC Act 1956 in respect of KMCT Medical College, Kozhikode, Kerala under Calicut University for the academic year 2015-16."

The above decision was communicated to the Central Govt. vide Council letter dated 26.02.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, KMCT Medical College, Kozhikode had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 18.04.2015.

The compliance verification assessment report (18.04.2015) alongwith previous assessment report (12h & 13th January, 2015) was considered by the Executive Committee at its meeting held on 29.04.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (18.04.2015) along with assessment report (12th & 13th January, 2015) and noted the following:-

1. *Shortage of Residents is 26.92% as detailed in report.*
2. *Deficiency of faculty is 6.66% as detailed in report.*
3. *Bed occupancy was only 40.8% on the day of assessment. A large number of admitted patients did not merit admission.*
4. *Only 2 patients were admitted in Casualty on the day of assessment.*
5. *Number of Major operations was only 11 & of Minor operations only 13 on day of assessment.*
6. *Dr.K.M. Navas, shown as Medical Superintendent does not have administrative experience of 10 years; hence cannot be considered.*
7. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of the scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act 1956 in respect of KMCT Medical College, Kozhikode, Kerala under Calicut University for the academic year 2015-16.

The Executive 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."

In view of above, you are directed to explain as to why the Council should not proceed to recommend to the Central Govt. for not processing applications for postgraduate course in the academic year and for withdrawal of recognition of MBBS degree/Postgraduate courses of your institution and stoppage of admissions in permitted postgraduate courses."

The above decision was communicated to Central Govt. vide Council letter dated 12.05.2015.

The Council vide another letter dated 12.05.2015 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

In reference to above, the Principal, KMCT Medical College, Kozhikode had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 01.07.2015 for 100 seats. The compliance verification assessment report (01.07.2015) alongwith previous assessment report (12h & 13th January, 2015 & 18.04.2015) was considered by the Executive Committee at its meeting held on 05.08.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (01.07.2015) for 100 MBBS seats along with assessment report (12th & 13th January, 2015 and 18th April, 2015) and noted the following:-

1. *Shortage of Residents is 32 % as detailed in the report.*
2. *Deficiency of faculty is 25.64 % as detailed in report.*
3. *Bed occupancy was 49.4 % on day of assessment which is grossly inadequate.*
4. *Casualty admissions are shown as 177. However it was observed that most of the patients were screened at Casualty & then sent to respective departments which defeats purpose of having Casualty.*

5. *Number of Major & Minor operations were only 6 & NIL on day of assessment.*
6. *Dr. Mohandas, appointed as Medical Superintendent in place of Dr. K.M. Navas who was found ineligible neither produced any original certificate for verification nor showed any administrative experience.*
7. *Data given by the institute in respect of clinical parameters like OPD attendance are inflated. In the morning, very few patients were seen in OPD.*
8. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to give final opportunity to the college authorities for submission of compliance for rectification of the above deficiencies within 01 month for further consideration of the matter."

The above decision was communicated to the Central Govt. vide Council letter dated 17.08.2015 with copy to college authority.

In reference to above, the Principal, KMCT Medical College, Kozhikode had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 16.12.2015. The compliance Verification Assessment report (16.12.2015) alongwith previous assessment report (01.07.2015, 18th April, 2015 and 12th & 13th January, 2015) was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (16.12.2015) along with previous assessment reports (01.07.2015, 18th April, 2015 and 12th & 13th January, 2015) and noted the following:-

1. *Deficiency of faculty is 11.6 % as detailed in report.*
2. *Shortage of Residents is 29.4 % as detailed in report.*
3. *Bed occupancy is 59.5 % on day of assessment.*
4. *There were only 4 Minor operations for the whole hospital on day of assessment.*
5. *Institute is maintaining double registers. Register in General Medicine OPD did not match with one of registers having inflated data.*
6. *OPD attendance was only 413 on day of assessment against 800 required.*
7. *Radiological investigation workload is inadequate.*
8. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to return the postgraduate applications of KMCT Medical College, Kozhikode, Kerala recommending disapproval of the scheme.

The Executive Committee of the Council further decided that since the gross deficiencies of teaching faculty, residents, & infrastructure are still persisting inspite of repeated opportunities being given to the institute to rectify the same over a period of time, why the recognition for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur in respect of students being trained at KMCT Medical College, Kozhikode, Kerala be not withdrawn u/s 19 of the IMC Act, 1956. It was further decided that the institute be directed not to make further admissions from the academic year 2016-17 onwards.

The Committee further decided to place the matter before the General Body of the Council."

The above decision was communicated to the Central Govt. vide Council letter dated 31.01.2016.

The above recommendation of the Executive Committee was considered by the General Body of the Council at its meeting held on 30.03.2016 and it was decided as under:-

"……The Council also noted that in spite of repeated opportunities being given to KMCT Medical College, Kozhikode, Kerala under Kerala University of Health Sciences, Thrissur, it has not rectified the gross deficiencies of teaching faculty, residents, & infrastructure facilities for removal of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16.04.2010. The Council further noted that in the latest compliance verification assessment report (16.12.2015), the deficiencies are still persisting.

In view of above, the General Body of the Council decided to recommend to the CentralGovt. for withdrawal of recognition for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur in respect of students being trained at KMCT Medical College, Kozhikode, Kerala u/s 19 of the IMC Act, 1956 and further to request the Central Govt. to ask the institution to stop admissions with immediate effect for the academic year 2016-17."

The above decision of the General Body of the Council was communicated to the Central Govt. vide Council letter dated 06.05.2016 with copy to other concerned authorities.

The matter with regard to Increase of seats in MBBS course from 100-150 at KMCT Medical College, Kozhikode for the academic session 2016-17 u/s 10A of the IMC Act, was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided that as the decision of the General Body shown above has already been communicated to the Central Government, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act, 1956 at KMCT Medical College, Kozhikode, Kerala under Kerala University of Health Sciences, Thrissur for academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

The Central Government vide its another letter dated 15.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students in MBBS course against recognized intake of 100 seats for the academic session 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(1) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(2) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions,

decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 and 23.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Principal, KMCT Medical College, Kozhikode for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given repeated opportunites and had availed those opportunites of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance reports of the college which were submitted by the college in the Council Office were verified by physical verification assessments by the Council.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if

the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the last compliance verification assessment conducted on 16.12.2015 of KMCT Medical College, Kozhikode apart from other deficiencies, the deficiency of teaching faculty was found to be 11.6%, residents was 29.4% and the bed occupancy was found to be 59.5%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations.

The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that -

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note the Executive Committee observed that for increase of seats in MBBS course from 100-150 at KMCT Medical College, Kozhikode under Kerala University of Health Sciences, Thrissur, during the inspection carried out on 1.7.2015 the deficiency of Faculty was found to be 25.64%, the deficiency of Resident was found to be 32% and the Bed Occupancy was found to be only 49.4%. Further during the compliance verification inspection carried out on 16.12.2015 the deficiency of Faculty was found to be 11.6%, the deficiency of Resident was found to be 29.4% and the Bed Occupancy was found to be only 59.5%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999 which read as under:-

8(3)(1)é ..

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……...

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). …….*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the

Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *".....**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning....."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of abovementioned Statutory provisions and the directions of Hon'ble Supreme Court to strictly adhere to the Statutory Regulations of the MCI, Executive Committee is of the opinion that the application for increase of seats in MBBS course from 100-150 at KMCT Medical College, Kozhikode under Kerala University of Health Sciences, Thrissur do not fall within the ambit of the directions given by the Oversight Committee and it was further decided to return the application to the Central Government.

83. <u>Increase of seats in MBBS course from 100-150 for the academic session 2016-17 at Dr. Somervel Memorial CSI Medical College & Hospital, Thiruvananthpuram u/s 10A of the IMC Act, 1956.</u>

Read: the matter with regard to Increase of seats in MBBS course from 100-150 for the academic session 2016-17 at Dr. Somervel Memorial CSI Medical College & Hospital, Thiruvananthpuram u/s 10A of the IMC Act, 1956.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Principal, Dr. Somervell Memorial C.S.I. Medical College &

Hospital, Thiruvananthapuram, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the Central Govt., Ministry of Health & Family Welfare, New Delhi vide letter dated 14.09.2015 had forwarded an application dated 25.08.2015 received from the Chairman, Dr. Somervell Memorial C.S.I. Medical College & Hospital, Korakonam, Thiruvananthapuram Dist., for increase in MBBS seats from 100 to 150 at Dr. Somervell Memorial C.S.I. Medical College & Hospital, Korakonam, Thiruvananthapuram Dist. u/s 10A of the IMC Act, 1956 for academic year 2016-17.

In this connection, it is stated that in the previous year i.e. 2015-16, the Council had received the application for increase of seats in MBBS course from 100-150 at Somervell Memorial C.S.I. Medical College & Hospital, Korakonam, Thiruvananthapuram through the Central Govt.

An assessment to assess the physical and other teaching facilities available for grant of LOP for the proposed increase seats in 1st MBBS course from 100 to 150 at Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram for the academic session 2015-16 was carried out by the Council assessors on 10h & 11th March, 2015. The Assessment report was considered by the Executive Committee at its meeting held on 16.03.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (10h & 11th March, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 42.75 % as detailed in the report.*
2. *Shortage of Residents is 72.38 % as detailed in the report.*
3. *Common Room for Boys & Girls: Available area s 102 sq.m. each against requirement of 150 sq.m. required as per Regulations.*
4. *OPD: Registration counters for males/females are not separate. Injection room for males/females is not separate. Plaster room & Plaster cutting room are common.*
5. *Wards: Most of the wards are not as per MCI norms. One Paediatric ward of 29 beds was closed. Tb & Chest and Skin & VD wards were totally empty. Psychiatry ward was common for males & females. Space between 2 beds is < 1.5 m. as required as per Regulations. Even for 60 bed ward there is only one Nursing station at one corner of ward. Two beds share Nursing station. Pantry is outside ward and is only an eating area. During assessment, no faculty / Residents were available in the wards.*
6. *Clinical material: data given by the institute of OPD attendance & Casualty attendance are inflated. At the time of round, there were a few patients in OPD. Later on many healthy persons were brought.*
7. *Bed occupancy is 33 % on day of assessment.*
8. *Number of Major & Minor operations on day of assessment was only 3 & NIL on day of assessment which is grossly inadequate.*
9. *Casualty: Disaster Trolley, Crash cart, Ventilator are not available.*
10. *O.T.s: Number of Defibrillators & Infusion Pumps are inadequate.*
11. *ICUs: Patients in SICU were normal post-operative patients not requiring ICU care. There is no Ventilator in PICU.*
12. *Students' Hostel: Study room is not air-conditioned. It does not have computer with internet.*
13. *Residents' Hostel: Study room is not air-conditioned. It does not have computer with internet.*
14. *Anatomy department: There is shortage of Embalming machine.*
15. *Pathology department: There is shortage of 10 microscopes.*
16. *Microbiology department: Only 1 Demonstration room is available against requirement of 2 as per Regulations.*
17. *Forensic Medicine department: Only 1 Demonstration room is available against requirement of 2 as per Regulations.*
18. *RHTC: Commuting time to RHTC Kazhakottam is 1 h 30 m which is more than that prescribed under Regulations.*

19. *UHC: It is almost non-functional. Students & Interns are not posted. No record of visit of students was available.*
Survey/Immunization/MCH/Family Welfare registers are not available.
20. *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 issue Letter of Permission for increase of seats from 100 to 150 u/s 10A of the IMC Act 1956 in respect of Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram for academic year 2015-16 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 19.03.2015.

The Council vide letter dated 19.03.2015 communicated the decision of the Executive Committee dated 16.03.2015 to the college authorities 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.

In response to above, the Council had received the compliance from the Principal, Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthapuram and through the Central Govt. which was verified by the Council assessors by way of compliance verification assessment on 08.05.2015.

The compliance verification assessment report (08.05.2015) alongwith previous assessment report (10h & 11th March, 2015) was considered by the Executive Committee at its meeting held on 13.05.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (08.05.2015) along with assessment report (10th & 11th March, 2015) and noted the following:-

1. *Deficiency of faculty is 15.94 % as detailed in report.*
2. *Shortage of Residents is 39.88 % as detailed in the report.*
3. *Bed occupancy is 50.26 % on day of assessment.*

4. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act, 1956 at Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram for 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 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 above recommendation of the Executive Committee was communicated to the Central Govt. vide Council letter dated 14.05.2015.

Thereafter, the Council vide letter dated 14.05.2015 also communicated the decision of the Executive Committee dated 13.05.2015 to the college authorities and requested the college authority to explain as to why the Council should not proceed to recommend to the Central Govt. for not processing applications for postgraduate course in the academic year and for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

In reference to above, the Principal, Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthapuram had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 01.07.2015. The compliance verification assessment report (01.07.2015) alongwith previous assessment report (10h & 11th March, 2015 & 08.05.2015) was considered by the Executive Committee at its meeting held on 05.08.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (01.07.2015) for 100 seats along with assessment report (10th & 11th March, 2015 and 8th May, 2015) and noted the following:-

1. Deficiency of faculty is 30.93 % as detailed in the report.
2. Shortage of Residents is 50 % as detailed in the report.
3. Bed occupancy is 48.9 % - i.e. 259 beds occupied out of 570 required - on day of assessment which is grossly inadequate. Data given by institute are inflated.
4. There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.

5. *Special investigations like Ba, IVP were NIL on day of assessment. Data given by the institute are inflated.*
6. *In Orthopaedics female ward, emergency drugs are not available.*
7. *In Ophthalmology, male patients were admitted in female ward which is not as per norms.*
8. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to give final opportunity to the college authorities for submission of compliance for rectification of the above deficiencies within 01 month for further consideration of the matter."

The above decision was communicated to the Central Govt. vide Council letter dated 17.08.2015 with copy to college authority with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthapuram had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 16.12.2015. The compliance Verification Assessment report (16.12.2015) alongwith previous assessment reports (01.07.2015, 8th May, 2015 and 10th & 11th March, 2015) was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (16.12.2015) along with previous assessment reports (01.07.2015, 8th May, 2015 and 10th & 11th March, 2015) and noted the following:-

1. *Deficiency of faculty is 30.93 % as detailed in report.*
2. *Shortage of Residents is 46.83 % as detailed in the report.*
3. *Bed occupancy is 38.30 % on day of assessment.*
4. *Number of patients in OPD is 400 – 500 on day of assessment against requirement of 800.*
5. *Workload of Special investigations like Ba, IVP was NIL on day of assessment.*
6. *In Skin & VD ward, one male patient was without any case paper.*
7. *In USG register of Radiodiagnosis department, no entry of indoor patient was recorded.*
8. *In Histopathology register, there was no column/entry of patients, department, ward.*
9. *On enquiry, Registration counter clerks were not able to give clinical data.*
10. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to return the postgraduate applications of Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram recommending disapproval of the scheme.

The Executive Committee of the Council further decided that since the gross deficiencies of teaching faculty, residents, & infrastructure are still persisting inspite of repeated opportunities being given to the institute to rectify the same over a period of time, why the recognition for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur in respect of students being trained at Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram be not withdrawn u/s 19 of the IMC Act, 1956. It was further decided that the institute be directed not to make further admissions from the academic year 2016-17 onwards.

The Committee further decided to place the matter before the General Body of the Council."

The above recommendation of the Executive Committee was considered by the General Body of the Council at its meeting held on 30.03.2016 and it was decided as under:-

"……The Council also noted that in spite of repeated opportunities being given to Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram under Kerala University of Health Sciences, Thrissur, it has not rectified the gross deficiencies of teaching faculty, residents, & infrastructure facilities for removal of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16.04.2010. The Council further noted that in the latest compliance verification assessment report (16.12.2015), the deficiencies are still persisting.

In view of above, the General Body of the Council decided to recommend to the Central Govt. for withdrawal of recognition for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur in respect of students being trained at Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram u/s 19 of the IMC Act, 1956 and further to request the Central Govt. to ask the institution to stop admissions with immediate effect for the academic year 2016-17."

The above decision of the General Body of the Council was communicated to the Central Govt. vide Council letter dated 06.05.2016 with copy to other concerned authorities.

The matter with regard to Increase of seats in MBBS course from 100-150 at Dr. Somervel Memorial CSI Medical College & Hospital, Thiruvananthpuram for the academic session 2016-17 u/s 10A of the IMC Act, was considered by the Executive Committee at its meeting held on 30.01.2016 and it was decided as under:-

"The Executive Committee of the Council observed that the compliance verification assessment report (16.12.2015) alongwith previous assessment report (01.07.2015, 8th May, 2015 and 10th & 11th March, 2015) was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (16.12.2015) along with previous assessment reports (01.07.2015, 8th May, 2015 and 10th & 11th March, 2015) and noted the following:-

1. *Deficiency of faculty is 30.93 % as detailed in report.*
2. *Shortage of Residents is 46.83 % as detailed in the report.*
3. *Bed occupancy is 38.30 % on day of assessment.*
4. *Number of patients in OPD is 400 – 500 on day of assessment against requirement of 800.*
5. *Workload of Special investigations like Ba, IVP was NIL on day of assessment.*
6. *In Skin & VD ward, one male patient was without any case paper.*
7. *In USG register of Radiodiagnosis department, no entry of indoor patient was recorded.*
8. *In Histopathology register, there was no column/entry of patients, department, ward.*
9. *On enquiry, Registration counter clerks were not able to give clinical data.*
10. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to return the postgraduate applications of Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram recommending disapproval of the scheme.

The Executive Committee of the Council further decided that since the gross deficiencies of teaching faculty, residents, & infrastructure are still persisting in spite of repeated opportunities being given to the institute to rectify the same over a period

of time, why the recognition for the award of MBBS degree granted by Kerala University of Health Sciences, Thrissur in respect of students being trained at Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthpuram be not withdrawn u/s 19 of the IMC Act, 1956. It was further decided that the institute be directed not to make further admissions from the academic year 2016-17 onwards.

The Committee further decided to place the matter before the General Body of the Council."

Therefore, in view of its earlier decision as quoted above, the Committee decided to return the application for increase in MBBS seats from 100 to 150 at Dr. Somervel Memorial CSI Medical College & Hospital, Thiruvananthpuram under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act 1956 for academic year 2016-17 recommending disapproval of the scheme to the Central Govt. 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 was communicated to the Central Govt. vide Council letter dated 31.01.2016.

Subsequently, the college authorities vide letter dated 06.04.2016 had withdrawn the application for enhancement of MBBS seats from 100 to 150 seats from 2016-17.

In view of above, the Council office vide letter dated 04.05.2016 recommended to the Central Govt. to reiterate the earlier decision of the Executive Committee to return the application for increase in MBBS seats from 100 to 150 at Dr. Somervel Memorial CSI Medical College & Hospital, Thiruvananthpuram under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act 1956 for academic year 2016-17 recommending disapproval of the scheme to the Central Govt. 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.

On the recommendation of the Council, the Central Govt. vide letter dated 12.05.2016 had returned the application for increase of seats of admission capacity in MBBS coruse from 100 to 150 u/s 10(A) of the IMC Act, 1956 to the college authorities with the advise to apply afresh for next academic year.

The Central Government vide its another letter dated 15.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students in MBBS course against recognized intake of 100 seats for the academic session 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which

have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 16.06.2016 forwarded by the Principal, Dr. Somervell Memorial C.S.I. Medical College & Hospital, Thiruvananthapuram for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given repeated opportunites and had availed those opportunites of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance reports of the college which were submitted by the college in the Council Office were verified by physical verification assessments by the Council.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the last compliance verification assessment conducted on 16.12.2015 of Dr. Somervell Memorial CSI Medical College & Hospital, Thiruvananthapuram apart from other deficiencies, the deficiency of teaching faculty was found to be 30.93%, residents was 46.83% and the bed occupancy was found to be 38.30%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College

Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that -

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note the Executive Committee observed that for increase of seats in MBBS course from 100-150 at Dr. Somervell Memorial C.S.I. Medical College & Hospital, Thiruvananthapuram under Kerala University of Health Sciences, Thrissur, during the inspection carried out on 1.7.2015 the deficiency of Faculty was found to be 30.93%, the deficiency of Resident was found to be 50% and the Bed Occupancy was found to be only 48.9%. Further during the compliance verification inspection carried out on 16.12.2015 the deficiency of Faculty was found to be 30.93%, the deficiency of Resident was found to be 46.83% and the Bed Occupancy was found to be only 38.30%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999 which read as under:-

> 8(3)(1)é ..
> (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses
>
> If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the*

relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……...

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**……... It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. ……... After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate*

admission to medical colleges is the prerogative of the State has to be rejected……."

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*".…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of abovementioned Statutory provisions and the directions of Hon'ble Supreme Court to strictly adhere to the Statutory Regulations of the MCI, Executive Committee is of the opinion that the application increase of seats in MBBS course from 100-150 at Dr. Somervell Memorial C.S.I. Medical College & Hospital, Thiruvananthapuram under Kerala University of Health Sciences, Thrissur do not fall within the ambit of the directions given by the Oversight Committee and it was further decided to return the application to the Central Government.

84. <u>Increase of seats in MBBS course from 100 to 150 at Lokmanya Tilak Municipal Medical College and General Hospital, Mumbai u/s 10 A of the IMC Act, 1956 for the academic year 2016-17.</u>

Read: the matter with regard to Increase of seats in MBBS course from 100 to 150 at Lokmanya Tilak Municipal Medical College and General Hospital, Mumbai u/s 10 A of the IMC Act, 1956 for the academic year 2016-17.

The Executive Committee of the Council perused the agenda item, letter dated 20/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 13/17.6.2016 of the Dean, Lokmanya Tilak Municipal Medical College, Mumbai and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that the Council office received a photocopy of application dated 31.07.2015 from the Dean, Lokmanya Tilak Medical College & General Hospital, Soin, Mumbai for increase of seats in MBBS course from 100-150 at Lokmanya Tilak Medical College & General Hospital, Sion, Mumbai u/s 10A of the IMC Act, 1956 for the academic year 2016-17 through the Central Govt. vide letter dated 18.02.2016. The said application was returned to the Central Govt. recommending disapproval for the academic year 2016-17 as the same has been received in the Council office after cutoff date i.e. 30.09.2015 and without the requisite documents vide Council letter dated 16.03.2016.

In reference to above, the Council had received a letter dated 08.04.2016 from the Joint Secretary, Govt. of India, Ministry of Health & Family Welfare, New Delhi wherein he has stated that the fact the application college submitted its application to the Ministry came to light only after the college made enquiries about the status of their application. Since the record of the Ministry revealed that the documents submitted by the college were received in the Ministry on 11.08.2015 though they could not be traced, a copy of application provided by the College was sent to MCI on 18.02.2016 for consideration which is now returned by the Council. The Ministry is of the opinion that the application deserves consideration on merits as the records of the Ministry suggest receipt of the application/documents from the college before the closing date and the last date form making recommendations by MCI is not yet over.

The matter with regard to Increase of seats in MBBS course from 100-150 at Lokmanya Tilak Municipal Medical College and General Hospital, Mumbai for the academic session 2016-17 u/s 10A of the IMC Act, was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council noted the letters dated 06/05/2016, 08/05/2016 and 9/05/2016 received from the Dean, Lokmanya Tilak Medical College & General Hospital, Sion, Mumbai, Mr. Rahul Shewale, Member of Parliament (Lok Sabha), New Delhi and Mr. Neelam Sonker, Member of Parliament (Lok Sabha), New Delhi.

The Executive Committee of the Council perused the opinion of Law officer which reads as under:

"The file of Lokmanya Tilak Medical College and General Hospital, Mumbai for increase of seats in MBBS from 100 to 150 has been referred for my opinion in context of letter dated 08.04.16 of the Central Government. Briefly stated the facts are that the applicant LNTM Medical College and Hospital had made an application to the Central Government on 11.08.15 and thereafter when the College enquired the status of the processing of its application it was found that the application was not traceable. Accordingly, the Ministry had sent on 18.02.16 the copy of the application that was returned by the Council as the application had been received after the cut-off date. In this regard the Ministry has stated in its letter that:

The Ministry is of the opinion that the application deserves consideration on merits as the records of the Ministry suggest receipt of the application/documents from the College before the closing date and the last date for making recommendation by MCI is not yet over.

I shall be grateful if you could consider the matter and make necessary recommendation to the Ministry on the scheme submitted by Lokmanya Tilak Municipal Medical College and General Hospital, Sion, Mumbai. Additional documents/details, if any, may be sought from the College.

2. It may be noted that the time-schedule for application for increase in admission capacity in MBBS is same as that laid down in the Establishment of Medical College Regulations, 1999 and as per that the last date for Council to make its recommendation to the Central Government is 15th May. In order to make its recommendations, the Council firstly scrutinizes the application; and secondly, if the application is found in order physical verification of facilities is carried out by conducting assessment; and thirdly, if required compliance verification assessment is carried out. This whole exercise commences from 1st of October onwards. Therefore, at this juncture, when the application processing schedule has reached completion processing of an application afresh, i.e., the process that ought to have started on 01.10.2015 is not advisable.

3. Furthermore, it is noted that the consent of affiliation dated 23.06.15 issued by the Maharashtra University of Health Sciences, Nashik is for the academic session 2015-16 and on this ground the Council cannot process /consider the application for the academic year 2016-17.

4. In this regard, the Hon'ble Supreme Court in its judgment dated 20.08.15 in Royal Medical Trust & Anr. vs. Union of India & Anr. reported in (2015) 10 SCC 19 has in paragraph 27 of the judgment laid down the mode and manner in which the application for establishment of new Medical College, renewal of permission of existing and increase in intake capacity has to be processed, at all stages. It reads as under:-

27. The MCI and the Central Government have been vested with monitoring powers under Section 10A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time Schedule, it is bound to have adverse effect on all concerned. The affidavit filed on behalf of the Union of India shows that though the number of seats had risen, obviously because of permissions granted for establishment of new colleges, because of disapproval of renewal cases the resultant effect was net loss in terms of number of seats available for the academic year. It thus not only caused loss of opportunity to the students' community but at the same time caused loss to the society in terms of less number of doctors being available. The MCI and the Central Government must therefore show due diligence right from the day when the applications are received. The Schedule giving various stages and time limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) <u>Initial assessment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

5. Further, the Hon'ble Supreme Court in its recent judgment in the case of Medical Council of India vs. V.N. Public Health & Educational Trust & Anr. in Civil Appeal No. 3964 of 2016 (arising out of SLP (C) No. 5326 of 2016) dated 18.04.16 has held as under:

14. In this context, we may profitably refer to the decision in D.Y. Patil Medical College v. Medical Council of India &Anr 2015 (10) SCC 51 wherein the controversy had arisen due to rejection of the application of the institution on the ground that Essentiality Certificate was not filed along with the application form. The Court dwelled upon the principles stated in

Educare Charitable Trust v. Union of India & Anr AIR 2014 SC 902: (2013) 16 SCC 474, Royal Medical Trust (supra) and various other decisions and, after analyzing the scheme of the Act, has held:-

> *"It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."*

15. The impugned order passed by the High Court is to be tested and adjudged on the anvil of the aforesaid authorities. The application for grant of approval was filed with the Essentiality Certificate which was a conditional one and, therefore, a defective one. It was not an Essentiality Certificate in law. In such a situation, the High Court could not have directed for consideration of the application for the purpose of the inspection. Such a direction, we are disposed to think, runs counter to the law laid down in Educare Charitable Trust (supra) and Royal Medical Trust (supra). We may further proceed to state that on the date of the application, the Essentiality Certificate was not in order. The Schedule prescribed by the MCI, which had been approved by this Court, is binding on all concerned. MCI cannot transgress it. The High Court could not have gone beyond the same and issued any direction for conducting an inspection for the academic year 2016-17. Therefore, the directions issued by the learned single Judge and the affirmation thereof by the Division Bench are wholly unsustainable.

16. Consequently, the appeal is allowed and the judgments and orders passed by the High Court are set aside. It will be open to the Trust to submit a fresh application for the next academic year in consonance with the provisions of the Regulations of the MCI and as per the time Schedule; and in that event, it will be considered appropriately. In the facts and circumstances of the case, there shall be no order as to costs.

6. *It is to be noted that the consent of affiliation submitted by the applicant is for the academic year 2015-16 and not for the academic year 2016-17 for which applications are being processed. Consequently, the application is without a valid consent of affiliation that makes the application incomplete. The law laid down by the Hon'ble Supreme Court as referred above is loud and clear to the effect that incomplete applications are liable to be rejected. Therefore, it would be appropriate to recommend to the Central Government to disapprove the application of Lokmanya Tilak Medical College, Mumbai for increase of seats from 100 to 150 MBBS Admissions annually as the consent of affiliation issued by the MUHS is not valid for academic year 2016-17."*

In view of above, the Executive Committee of the Council decided to approve the opinion of Law Officer and decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act, 1956 at Lokmanya Tilak Medical College & General Hospital, Sion, Mumbai under Maharashtra University of Health Sciences for academic year 2016-17 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 was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) *there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and*

(ii) *there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,*

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 20.06.2016 and 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 13.06.2016 and 17.06.2016 forwarded by the Dean, Lokmanya Tilak Municipal Medical College, Mumbai for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

In view of above the members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of increase of seats in MBBS course from 100-150 at Lokmanya Tilak Municipal Medical College, Mumbai during the processing of the application, it was found that the application was received from the Central Government after cut off date i.e. 30.9.2015 and the Consent of Affiliation from the concerned university was not valid for the academic year 2016-17 at the time of submission of application. Thereafter a fresh Consent of Affiliation valid for the Academic year 2016-17 was submitted which was after the cut off date and hence the application had been recommended for disapproval and returned to the Central Government as the institution had failed to meet the mandatory requirement of the Opening of a new or higher course of study or training (including Postgraduate course of Study or Training) and Increase of Admission Capacity in any course of Study or Training (including a Postgraduate course of Study or Training) Regulations, 2000 and Establishment of Medical College Regulations, 1999.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme /

application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> ***".....31.*** *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> *(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.*
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold

requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of increase of seats in MBBS course from 100-150 at Lokmanya Tilak Municipal Medical College, Mumbai do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

85. <u>Increase of seats in MBBS course from 150-250 for the academic session 2016-17 at Dr. D. Y. Patil Medical College, Navi Mumbai.</u>

Read: the matter with regard to Increase of seats in MBBS course from 150-250 for the academic session 2016-17 at Dr. D. Y. Patil Medical College, Navi Mumbai.

The Executive Committee of the Council item letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean, Dr. D.Y. Patil Medical College, Navi Mumbai, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and perused the agenda which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for grant of Letter of Permission for Increase of seats in MBBS course from 150-250 at Dr. D.Y. Patil Medical College, Navi Mumbai under Padmashree Dr. D.Y. Patil University, Navi Mumbai u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 was carried out by the Council assessors on 26th & 27th November, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (26th and 27th November, 2015) and noted the following:-

1. *OPD attendance is only 980 which is much less than minimum 3,000 required as per Qualifying Criterion and even less than 1,200 required for existing recognized intake of 150.*
2. *Bed occupancy is 18.04 % on day of assessment which is grossly inadequate.*
3. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Deficit
1	General Surgery	240	174	66
2	Orthopaedics	150	93	57
3	O.G.	150	142	8
	TOTAL			131

4. *Deficiency of faculty is 21.92 % as detailed in report.*
5. *Shortage of Residents is 30 % as detailed in report.*
6. *There are 2 Units for Tb & Chest but only 30 beds which is not as per Regulations as each Unit should be having 30 beds.*
7. *Wards: Nursing station is situated in such a way that every patient cannot be observed by Nurses in almost every ward. Male Medicine ward is not as per MSR Regulations. In General Surgery wards there is no Pantry, no duty room, no demonstration room are available. Patients of Superspecialty departments are kept in General Surgery wards. Orthopaedics ward has no examination room, no pantry. In many wards, patients are lying on cots in lobby. Ophthalmology, ENT wards are under renovation and non-functional.*
8. *There were only 05 major operations for the whole hospital on day of assessment.*
9. *Radiological & Laboratory investigations data given by the institute are inflated.*
10. *Histopathological & Cytopathological workload on day of assessment is only 3 & 3 respectively which is grossly inadequate.*
11. *Casualty: Only 18 beds are available against 30 required.*
12. *O.T.s: Only 8 Major O.T.s are available against requirement of 11.*
13. *Labour Room: No beds are available for septic cases.*
14. *Radiodiagnosis department: Only 4 mobile X-ray machines are available against requirement of 6.*
15. *Central Clinical laboratory: Different sections are not available.*
16. *Physiology department: Only 3 Demonstration rooms are available against requirement of 4.*
17. *Biochemistry department: Capacity of 2 Demonstration Rooms is smaller than required.*
18. *Microbiology department: Capacity of 2 Demonstration Rooms is smaller than required.*
19. *Pharmacology department: Capacity of 2 Demonstration Rooms is smaller than required.*

Medical Council of India

20. *Forensic Medicine department: Capacity of 2 Demonstration Rooms is smaller than required.*
21. *Community Medicine department: Capacity of 2 Demonstration Rooms is smaller than required.*
22. *RHTC: Residential accommodation is inadequate. Cold chain equipment is not available.*
23. *Other deficiencies as pointed out in the assessment report.*

In view of the above, as the applicant college does not meet the Qualifying Criteria 6(b)(i) , 6(b)(ii) & 6(b)(iii) of Opening of New or Higher Courses of Study or Training (including Postgraduate Course of Study or Training) and increase of Admission Capacity in any course of Study or Training (including Postgraduate Course of Study or Training) (Amendment) Regulations,2009 (Part-III) as number of teaching beds, OPD attendance and Bed occupancy are less than the required for eligibility, the Executive Committee of the Council decided to return the application for increase in MBBS seats from 150 to 250 at D.Y. Patil Medical College, Navi Mumbai under Dr. D Y Patil University (Deemed), Navi Mumbai u/s 10A of the IMC Act 1956 for academic year 2016-17 recommending disapproval of the scheme to the Central Govt. 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 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 (2016-17) and to issue show cause notice as to why the recommendation for withdrawal of recognition of the courses run by the 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 Government vide Council letter dated 31.12.2015.

The Council vide another letter dated 31.12.2015 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Council Office had received a letter dated 28.01.2016 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 by the Ministry in case of disapproval/ non-renewal recommendations of the Council in case of UG courses for the year 2016-17. The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 18th, 19th, & 20th January, 2016. Based on the compliance submitted by the colleges concerned in support of their claim, the committee had recommended that the cases may be

referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

In view of above, the Central Govt. had forwarded the representation/compliance dated 20.01.2016 submitted by the Dean, Dr. D. Y. Patil Medical College, Navi Mumbai.

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

"In view of the compliance and documents furnished by the college, recommended for review by MCI."

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry. The college authorities vide its letter dated 03.02.2016 had also submitted the same compliance.

The matter with regard to Increase of seats in MBBS course from 150-250 at Dr. D.Y. Patil Medical College, Navi Mumbai for the academic session 2016-17 u/s 10A of the IMC Act, was considered by the Executive Committee of the Council at its meeting held on 27.02.2016 and it was decided as under:-

"The Executive Committee of the Council considered the letter dated 28.01.2016 received from the Central Govt., Ministry of Health & Family Welfare, New Delhi forwarding the representation/compliance dated 20.01.2016/ 03.02.2016 submitted by the Dean, Dr. D. Y. Patil Medical College, Navi Mumbai for review.

The Executive Committee of the Council noted the observations/recommendations of the Committee constituted by the Ministry which is as under:-

"In view of the compliance and documents furnished by the college, recommended for review by MCI."

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

"……. The querist Medical Council of India [MCI] has sought my opinion on the question as to whether, upon an inspection of any applicant- Medical College, if it is found that the applicant-Medical College neither owns nor possess a suitable plot of land with requisite area and / or does not own or manage a 300-bed hospital or not meeting with mandatory essential qualifying criterion for being considered for approval, is the querist permitted to reconsider its recommendation based upon the subsequent attempts made by the applicant seeking to show change of facts and subsequent acquisition of the eligibility criteria in the form of the compliance submitted in respect of such subsequently acquired eligibility criteria……

5. *So far as the present query is concerned, the most essential part of the scheme must be the qualifying criteria, in absence of which the Central Government cannot consider the application for further processing the same by sending it to the querist for its recommendation…..*

6. *Once the Applicant submits a scheme giving details of the claim made by him of having fulfilled the mandatory qualifying criterion, the next stage is contemplated under Section 10A[2][a] of the Act under which the Central Government sends the scheme, with particulars supplied by the applicant showing his claim of having fulfilled the qualifying criteria,to the querist for its recommendations.*

7. *When the querist receives such an application / scheme for the purpose of taking a decision as to what recommendations should be*

made keeping the object and purpose of the Act in mind, the querist conducts a physical inspection / verification of the applicant's land, hospital, institute etc.. Though there is no specific provision mandating the querist to make a physical inspection / verification in Section 10A of the Act, the same is provided for under Regulation 6 that the querist can satisfy itself with the factors stipulated under Section 10A[7] of the Act which is not possible without physical inspection / verification.

8. *It cannot be gainsaid that without such physical inspection / verification, the querist cannot discharge the function entrusted to it and achieve the objects as enumerated under the IMC Act, 1956 and the Regulations made thereunder.*

9. *When the querist, after following the procedure takes a decision to send its recommendation, it is required of the querist to give a reasonable opportunity to the Applicant Institute only in the cases where the querist found either the scheme to be "defective or not containing any necessary particulars". If the querist finds on physical inspection that the institution is not meeting with the qualifying criteria as stipulated under Regulation [2] itself, the same cannot be said to be a "defect in the scheme or absence of necessary particulars".*

10. *Having inspected the applicant medical college by way of physical verification and considering the factors stipulated in Section 10A[7], the querist is required to send its recommendation to the Central Government.*

11. *For the purpose of the present query, it can be seen that the role of the querist under Section 10-A is over at the stage when it sends its recommendation, be it positive or negative to the Central Government.*

12. *It is only the Central Government, thereafter who can take steps as stipulated under Section 10[4] of the Act without any role of the querist in any of the steps contemplated under section 10A[4] of the Act.*

13. *In light of the above referred statutory scheme, it is clear that if the querist finds, on physical verification, that the concerned applicant medical college is not meeting with the mandatory qualifying criteria as stipulated under Regulation [2] which are in the nature of very essential criterion to be treated as mandatory at the very threshold, the querist has no option but to send a negative recommendation to the Central Govt. In my opinion, non-fulfillment of such mandatory and threshold criterion which disentitles an applicant medical college to even make an application / file a scheme in the first instance, cannot be termed to be a "defect in the scheme or absence of any necessary particulars"; for the rectification of which the querist could give any opportunity to the applicant medical college.*

14. *In other words, if the querist, on physical inspection / verification finds that the applicant neither owns nor possess a suitable single plot of land as per the Regulation or in the alternative does not possess suitable single plot of land by way of lease of 99 years for construction of a medical college, the querist will have no option but to send a negative recommendation since non-fulfillment of this mandatory criteria can never be termed as a "defect or not containing necessary particulars". Similarly, if on physical inspection, the querist finds that the applicant does not have 300-bed Hospital, it will have no option but to send a negative recommendation to the Central Government and in any other case where the querist finds the qualifying*

criterion not being fulfilled, it is only the Central Government who will have to take a decision considering the recommendation of the querist under section 10A[4] without the involvement of the querist.

15. *In my opinion, if the application is found to be not fulfilling the aforementioned mandatory eligibility criteria and the querist sends its negative recommendation to the Central Govt., there is no statutory provision which permits such an applicant, which is found to have made a false disclosure at the outset in the scheme, to acquire the eligibility criteria subsequently and insist for processing of his application based upon such subsequently acquired qualification under the guise of compliance of the defects.*

16. *If the provisions of the Act and the Regulations are not construed in the manner in which it is construed hereinabove, the very sanctity of the contents of the scheme would be compromised and the applicants would be encouraged to make false disclosures which, after and if found false by the querist, would be corrected at a subsequent point of time defeating the very object of a self-contained scheme. If the applicant, in fact, acquires these mandatory qualifying criteria subsequently, there is no provision in the Act which prevents such an applicant to file a fresh scheme under Section 10A of the Act which can be considered by the Central Government and the querist as per the procedure stipulated under Section 10A as per the time schedule, based upon newly acquired eligibility criteria.*

17. *On true and purposeful interpretation of Section 10A[3][a] of the Act, in my opinion, the querist has the jurisdiction to permit the applicants to rectify only the "defects and provide necessary particulars". The querist will have no jurisdiction to permit the applicant -Medical College to subsequently acquire mandatory qualifying criteria enabling the applicant, by way of compliance, to get its application processed which was initially based upon false disclosure and was not entertainable at the outset. Any other interpretation, in my opinion, would encourage mischief and would be against the spirit of the Act.*

18. *In view of the above referred facts, in my opinion, if the querist, on physical inspection / verification, comes to the conclusion that the applicant college has made a false disclosure in the scheme submitted to the Central Government and is attempting to overcome the mandatory and threshold requirements as prescribed in `The Establishment of Medical College Regulations, 1999', then the querist will have to send negative recommendation to the Central Government so as to ensure that the very object and the purpose of the Act is not frustrated and if the concerned applicant acquires such mandatory qualifying criteria thereafter, such applicant can submit a fresh scheme to the Central Government under section 10A of the Act which can be again considered as per the procedure contemplated under Section 10A[2], [3] and [4] of the Act from the date of submission of such new scheme as per law."*

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in W.P.(C) No. 705/2015-Royal Medical Trust(Regd.) and Another Vs. Union of India and Anrs.:-

"……(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent of affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage…."

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in SLP.(C) No. 15043/2015- Padmashree Dr. D.Y. Patil Medical College Vs. Medical Council of India & Anr..:-

16. In W.P. (C) No.705/2014 – Royal Medical Trust (Regd.) and Anr. V. Union of India & Anr. decided on 20.8.2015, this Court has observed that the Schedule must take care of following aspects:

"(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of the MCI. By very nature such inspection must have an element of surprise. Therefore, sufficient time of about three to four months ought to be given to the MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the concerned Medical College should be given requisite permission/renewal. However if there are any deficiencies or shortcomings, the MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, the MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of the MCI and the Central Government. In cases where actual physical verification is required, the MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the Medical College concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so fare as that academic year is concerned."

It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 01.03.2016. Thereafter, Council had not received any compliance/communication from the college stating the corrections of deficiencies either directly or through the Central Government. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Dean, Dr. D. Y. Patil Medical College, Navi Mumbai for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 21.92%, residents was 30% and bed occupancy was found to be 18.04.

It is brought to the notice of the Executive Committee that the clause 6(b)(i), 6(b)(ii) & 6(b)(iii) of Opening of New or Higher Courses of Study or Training (including Postgraduate Course of Study or Training) and increase of Admission Capacity in any course of Study or Training (including Postgraduate Course of Study or Training) Regulations,2000 and amended on 17.09.2010, which is as under:-

"6. The maximum number of admission in MBBS course shall not exceed 250 annualy provided that the eligibility criteria for fixing upper ceiling of annual intake to 200/250 admisison annually shall be as under:-

"……

(b) For annual intake capacity of 250

(i) Number of teaching beds not less than 1100 with standing of not less than 10 years.

(ii) OPD strength per day not less than 3000

(iii) Bed occupancy : Average not less than 75%....."

It is also brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission second renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder.

The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission second renewal (i.e. Admission of third batch).

If is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In this connection, it is further stated that an assessment for continuance of recognition of MBBS degree (150 seats) granted by Padmashree Dr. D. Y. Patil University, Navi Mumbai in respect of students being trained at Padmashree Dr. D. Y. Patil Medical College, Navi Mumbai was carried out on 6th & 7th June, 2016. The Assessment Report is itemized in the Executive Committee to be held on 30.06.2016 at item No. 16.

In view of above the members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around

*150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of increase of seats in MBBS course from 150-250 at D. Y. Patil Medical College, Navi Mumbai, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to 6(b)(i) , 6(b)(ii) & 6(b)(iii) of Opening of New or Higher Courses of Study or Training (including Postgraduate Course of Study or Training) and increase of Admission Capacity in any course of Study or Training (including Postgraduate Course of Study or Training) (Amendment) Regulations,2009 (Part-III) as number of teaching beds, OPD attendance and Bed occupancy were less than that required for eligibility and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to*

cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……
16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must

fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of increase of seats in MBBS course from 150-250 at D. Y. Patil Medical College, Navi Mumbai do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

86. <u>Increase of seats in MBBS course from 150-250 for the academic session 2016-17 at VSS Medical College, Burla</u>.

Read: the matter with regard to Increase of seats in MBBS course from 150-250 for the academic session 2016-17 at VSS Medical College, Burla.

The Executive Committee of the Council perused the agenda item, letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean, VSS Institute of Medical Sciences & Research, Burla and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for grant of Letter of Permission for Increase of seats in MBBS course from 150-250 at VSS Medical College, Burla under Sambalpur University, Burla u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 was carried out by the Council assessors on 8th & 9th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (08th & 09th December, 2015) and noted the following:

1. *There was strike of students from 21/11/2015 onwards. At 09:45 a.m. they got opportunity to lock college building & library premises.*
2. *Deficiency of faculty is 96.35 % as detailed in report.*
3. *Shortage of Residents is 76.56 % as detailed in report.*
4. *Declaration Forms were not made available to assessors.*
5. *College premises were locked; hence no verification could be made in respect of Dean's office, Administrative office, MEU, CME Programmes, College Council, Examination Halls, Lecture Theaters, Pharmaco Vigilance Committee, Central Library, Common Rooms for Boys & Girls, Central Photography Section, Central research Laboratory, Teaching Programme, preclinical and Paraclinical departments.*
6. *Details of Residents'& Nurses' Hostels and Residential Quarters were not provided.*
7. *OPD: Waiting area is inadequate. ECG room is not available. Injection room is common for males/females. Dressing room is common for males/females. Specialty clinic facilities are inadequate in Paediatrics & OG OPD.*
8. *Teaching beds are inadequate as under:*

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	240	173	67
2	Paediatrics	120	52	68
3	Tb & Chest	50	40	10
4	General Surgery	240	166	74
5	Orthopaedics	150	118	32
6	Ophthalmology	60	50	10
7	O.G.	150	120	30
	TOTAL			291

9. *Wards: Examination cum Treatment room & Demonstration rooms are not available in some wards.*
10. *OPD attendance on day of assessment was 784 only against 3,000 required.*
11. *Data of Radiological & Laboratory investigations were not provided in spite of repeated requests.*
12. *MRD: It is manual. ICD X classification of diseases is not followed for indexing of diseases. Medical Records Officer & statistician are not available.*
13. *Casualty: Only 20 beds are available against 30 required. Separate Casualty for O.G. is not available. Central O_2 & Central Suction are not available. Defibrillator is not available.*
14. *Central Clinical Laboratory, Pharmacy, CSSD, laundry, Kitchen could not be verified.*
15. *O.T.: Only 9 Major O.T.s are available against 11 required. Each O.T. has 2 tables which is not as per norms. Minor O.T.s were unsterile & dusty. Defibrillators & Infusion Pumps are not available. Central O_2 and Central N_2O are not available except in General Surgery O.T.s. Septic O.T. is not available. Preoperative & Postoperative beds are not available.*
16. *Radiodiagnosis department: Only 1 mobile X-ray machine is available against requirement of 6. Only 2 static X-ray machines are available against requirement of 6. Only 2 USG machines are available against requirement of 3. MRI is not available.*
17. *Blood Bank: Register is not maintained properly.*
18. *Intercom is not available.*
19. *Nursing and paramedical & Nonteaching staff could not be verified.*
20. *Students' Hostels: Available accommodation is only 642 against requirement of 938. Hygiene is very poor. Kitchen & wash rooms were horrible.*
21. *Interns' Hostel: Available accommodation is 182 against requirement of 250.*
22. *There is no accommodation for Senior Residents.*
23. *RHTC: No documents are available to show under it is under whose control. Residential accommodation has not been occupied for several years. There are no activities under National Health Programmes.*
24. *UHC: No documents are available to show under it is under whose control. There are no activities under National Health Programmes.*
25. *Website: Citizens' charter is not available.*
26. *Other deficiencies as pointed out in the assessment report.*

In view of the above, as the applicant college does not meet the Qualifying Criterion 6(b)(i) & 6(b)(ii) of Opening of New or Higher Courses of Study or Training (including Postgraduate Course of Study or Training) and increase of Admission Capacity in any course of Study or Training (including Postgraduate Course of Study or Training) (Amendment) Regulations,2009 (Part-III) as number of teaching beds are less than the required, the Executive Committee of the Council decided to return the application for increase in MBBS seats from 150 to 250 at VSS Medical College, Burla under Sambalpur University u/s 10A of the IMC Act 1956 for academic year 2016-17 recommending disapproval of the scheme to the Central Govt. 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 was communicated to the Central Govt. vide Council letter dated 31.12.2015.

The Council Office had received a letter dated 16.02.2016 from the Central Govt, Ministry of Health & Family Welfare, New Delhi stating therein that as per the provision under Section10 (A)(4) of IMC Act, 1956, a Committee has been constituted for granting opportunity of personal hearing by the Ministry in case of disapproval/non-renewal recommendations of the Council in case of UG courses for the year 2016-17.The Committee has given personal hearing to the authorised representatives of the medical colleges/applicants on 10th &11th Feb., 2016 Based on the compliance submitted by the colleges concerned in support of their claim, the committee has recommended that the cases may be referred back to MCI for review/assessment with their respective recommendations in respect of the schemes.

In view of above, the Central Govt. had forwarded the representation/compliance dated 10.02.2016 submitted by The Dean /Principal, Veer Surendra Sai institute of Medical Sciences & Research Centre Burla.

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

Proprer inspection could not be carried out due to the strike by the students from 21.11.2015 onwards protesting against the shifting of students from a private Medical College in Odisha to the Government Medical college , Burla.

Many other deficiencies have been pointed out. The infrastructure works are going on and may take up to 2 months to complete.

MCI may afford another opportunity to the college. Recommended for review by MCI.

The Central Govt. had requested the Council to review/assess the schemes as per the specific recommendations of the hearing Committee and compliance documents submitted by the colleges/applicant and furnish its recommendations accordingly to the Ministry.

The matter with regard to Increase of seats in MBBS course from 150-250 at Veer Surendra Sai institute of Medical Sciences & Research Centre, Burla for the academic session 2016-17 u/s 10A of the IMC Act, 1956 was considered by the Executive Committee of the Council at its meeting held on 27.02.2016 and it was decided as under:-

"The Executive Committee of the Council considered the letter dated 16.02.2016 received from the Central Govt., Ministry of Health & Family Welfare, New Delhi forwarding the representation/compliance dated 10.02.2016 submitted by the Dean /Principal, Veer Surendra Sai institute of Medical Sciences & Research Centre Burla for review.

The Executive Committee of the Council noted the observations/recommendations of the Committee constituted by the Ministry which is as under:-

"Proper inspection could not be carried out due to the strike by the students from 21.11.2015 onwards protesting against the shifting of students from a private Medical College in Odisha to the Government Medical college , Burla.Many other deficiencies have been pointed out. The infrastructure works are going on and may take up to 2 months to complete. MCI may afford another opportunity to the college. Recommended for review by MCI."

The Executive Committee of the Council observed that even in compliance it is stated by Institute that new Extension Block of Hospital for General Medicine & General Surgery is in final stage of construction. The new building of department of Paediatrics would be commissioned shortly. Enhanced bed capacity required for increase to 250 intake in Orthopaedics, Tb & Chest, Ophthalmology, O.G. departments is not available.

All this implies that total number of required beds for 250 intake were not available at the time of making application to Central Govt. for enhancement of seats. Thus Qualifying Criterion is not fulfilled.

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in W.P.(C) No. 705/2015-Royal Medical Trust(Regd.) and Another Vs. Union of India and Anrs.:-

"……(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent of affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage…."

The Committee further noted the following relevant portion of the Hon'ble Supreme Court judgment dated 20/08/2015 in SLP.(C) No. 15043/2015- Padmashree Dr. D.Y. Patil Medical College Vs. Medical Council of India & Anr...:-

16. In W.P. (C) No.705/2014 – Royal Medical Trust (Regd.) and Anr. V. Union of India & Anr. decided on 20.8.2015, this Court has observed that the Schedule must take care of following aspects:

"(A) <u>Initial assesment</u> of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfill these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfill the basic requirements would be considered at the next stage.

(B) <u>Inspection</u> should then be conducted by the Inspectors of the MCI. By very nature such inspection must have an element of surprise. Therefore, sufficient time of about three to four months ought to be given to the MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) <u>Intimation of the result or outcome of the inspection</u> would then be communicated. If the infrastructure and facilities are in order, the concerned Medical College should be given requisite permission/renewal. However if there are any deficiencies or shortcomings, the MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) <u>If compliance</u> is reported and the applicant states that the deficiencies stand removed, the MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of the MCI and the Central Government. In cases where actual physical verification is required, the MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the Medical College concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so fare as that academic year is concerned."

It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter, there has to be an inspection and other stages of decision-making process.

In view of above, the Executive Committee of the Council decided to reiterate its earlier decision conveyed to the Central Government vide letter dated 31.12.2015 to return the application for increase in MBBS seats from 150 to 250 at VSS Medical College, Burla under Sambalpur University u/s 10A of the IMC Act 1956 for academic year 2016-17 recommending disapproval of the scheme to the Central Govt. 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 was communicated to the Central Govt. vide this office letter dated 01.03.2016. Thereafter, Council had not received any compliance from the college stating the corrections of deficiencies either directly or through the Central Government. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Dean, VSS Institute of Medical Sciences & Research, Burla for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

".....31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected.

It is brought to the notice of the Executive Committee that the clause 6(b)(i) &, 6(b)(ii) of Opening of New or Higher Courses of Study or Training (including Postgraduate Course of Study or Training) and increase of Admission Capacity in any course of Study or Training (including Postgraduate Course of Study or Training) Regulations,2000 and amended on 17.09.2010, which is as under:-

"6. The maximum number of admission in MBBS course shall not exceed 250 annualy provided that the eligibility criteria for fixing upper ceiling of annual intake to 200/250 admisison annually shall be as under:-

".....

(b) For annual intake capacity of 250

(i) Number of teaching beds not less than 1100 with standing of not less than 10 years.

(ii) OPD strength per day not less than 3000....."

In view of above the members of the Executive Committee of the Council observed that :

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note, the Executive Committee observed that in the case of increase of seats in MBBS course from 150-250 at V.S.S. Medical College, Burla, in the assessment carried out by MCI, it was observed that the institution had failed to meet the Qualifying Criteria pertaining to 6(b)(i) & 6(b)(ii) of Opening of New or Higher Courses of Study or Training (including Postgraduate Course of Study or Training) and increase of Admission Capacity in any course of Study or Training (including Postgraduate Course of Study or Training) (Amendment) Regulations,2009 (Part-III) as number of teaching beds and OPD attendance were less than that required for eligibility and therefore it was decided to return the application recommending disapproval of scheme.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the

application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(*B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.*

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999 comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

The Executive Committee also noted that the Hon'ble Supreme Court in the case of Padmashree Dr. D.Y. Patil Medical College Vs. MCI & Anr. ï (2015) 10 SCC 51, after considering the aforesaid judgement in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, had held as under:-

"……

16……..It is apparent from the aforesaid decision and the regulations that the application at the first instance is required to be complete and incomplete applications are liable to be rejected. Thereafter,

there has to be an inspection and other stages of decision-making process……"

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges must fulfill the qualifying criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement for submitting / processing of their application and in case the applicant medical does not fulfill the qualifying criteria, the application being incomplete the same must be rejected.

Thus it is amply evident that as per the aforesaid directions of Hon'ble Supreme Court, application of an institute which does not meet Qualifying Criteria comprise of Essentiality Certificate, Consent of Affiliation and physical features like land and hospital requirement needs to be rejected at the threshold itself and therefore the question of giving an opportunity of submitting compliance in such cases does not arise.

In view of above, the Executive Committee of the Council is of the opinion that the application of increase of seats in MBBS course from 150-250 at V.S.S. Medical College, Burla do not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

87. <u>Increase of seats in MBBS course from 100-150 at Pramukhswami Medical College, Karamsad u/s 10A of the IMC Act 1956 for the academic session 2016-17.</u>

Read: the matter with regard to Increase of seats in MBBS course from 100-150 at Pramukhswami Medical College, Karamsad u/s 10A of the IMC Act 1956 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Dean, Pramukhswami Medical College, Karamsad, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for grant of Letter of Permission for Increase of seats in MBBS course from 100-150 at Pramukhswami Medical College, Karamsad under Sardar Patel University, Gujarat u/s 10A of the IMC Act, 1956 for the academic session 2016-17 was carried out by the Council assessors on 7th & 8th December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (07th & 08th December, 2015) and noted the following:

1. *Shortage of Residents is 13 % as detailed in the report.*
2. *Bed occupancy is 53 % on day of assessment.*
3. *Only 4 static X-ray machines are available against requirement of 5.*
4. *Examination Hall: It is not available.*
5. *Central Library: it is not air-conditioned.*
6. *There is no separate Interns' Hostel. Total available accommodation is 432 against requirement of 513 (i.e. 413 for students & 100 for interns.)*
7. *Only 1 Demonstration room is available in Anatomy, Physiology & Biochemistry departments against requirement of 2 in each department. Renovation work is going on in these departments.*

8. *RHTC:Survey/MCH/Immunization/Family Welfare registers are not maintained. Cold chain equipment is not available. Activities under National programmes are not carried out. Facilities for cooking & dining are not available in the hostel.*
9. *Minor OT is under renovation.*
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 issue Letter of Permission for increase of seats in MBBS course from 100 to 150 u/s 10A of the IMC Act 1956 in respect of Pramukhswami Medical College, Karamsad under Sardar Patel University, Vallabh Vidyanagar for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 31.12.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Dean, Pramukhswami Medical College, Karamsad had submitted the compliance vide letters dated 25.01.2016 & 13.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 05.04.2016.

The compliance verification assessment report (05.04.2016) alongwith previous assessment report (7th & 8th December, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (05.04.2016) along with previous assessment report (7th& 8th December, 2015) as well as additional information through e-mails dated 11.05.2016 from Dr. Abhimanyu Basu, Kolkata (Co-Cordintor), Dr. Narsingh G. Herekar, Miraj and Dr. Sankar Kurli, Andhra Pradesh and noted the following:-

1. *Shortage of Residents is 11.59 %.*
2. *Bed occupancy is 62.64% as against required 75%.*
3. *Workload of CT Scan is only 10 on day of assessment which is inadequate.*
4. *Histopathology workload is only 07 & Cytopathology workload is only 06 on day of assessment which is inadequate.*
5. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act, 1956 at Pramukhswami Medical College, Karamsad under Sardar Patel University, Gujarat for academic year 2016-17 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 further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18th March, 2016, which reads as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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 Government vide Council letter dated 15.05.2016.

The Council vide another letter dated 15.05.2016 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Dean, Pramukhswami Medical College, Karamsad for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 25.01.2016 & 13.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 05.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of

permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of residents was 13% and the bed occupancy was found to be 53%. Similarly in the last compliance verification assessment conducted on 05.04.2016 of

Pramukhswami Medical College, Karamsad apart from other deficiencies, the deficiency of residents was 11.59% and the bed occupancy was found to be 62.64%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of increase of seats in MBBS course from 100-150 at Pramukhswami Medical College, Karamsad under Sardar Patel University, Gujarat, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon3ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying

the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of increase of seats in MBBS course from 100-150 at Pramukhswami Medical College, Karamsad under Sardar Patel University, Gujarat does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

88. <u>Increase of seats in MBBS course from 50-100 at Maharaja Agrasen Medical College, Agroha u/s 10A of the IMC Act 1956 for the academic session 2016-17.</u>

Read: the matter with regard to Increase of seats in MBBS course from 50-100 at Maharaja Agrasen Medical College, Agroha u/s 10A of the IMC Act 1956 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Director, Maharaja Agrasen Medical College, Agroha, Hisar, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for grant of Letter of Permission for Increase of seats in MBBS course from 50-100 at Maharaja Agrasen Medical College, Agroha u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 was carried out by the Council assessors on 26th & 27th November, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (26th & 27th November, 2015) alongwith a representation/letter dated 01.12.2015 from the Director, Maharaja Agrasen Medical College, Agroha (Hisar) and noted the following:-

1. *Deficiency of faculty is 19.3 % as detailed in the report.*
2. *Shortage of Residents is 47.9 % as detailed in the report.*
3. *OPD: Injection room is common for males & females. Dressing room is common for males & females. Plaster room & Plaster Cutting room are common. In Ophthalmology OPD, separate rooms for Dark Room, Refraction Room & Dressing Room are not available. Facilities for specialty clinics in Paediatrics OPD are inadequate.*
4. *Teaching beds in General Surgery are short by 12 beds as 78 beds are available against requirement of 90.*
5. *Wards: They are small with multiple partitions.*

6. *Casualty: Separate Casualty for O.G. is not available.*
7. *O.T. ENT O.T. has an extra cot in O.T. which is not as per norms.*
8. *CT Scan: Available CT Scan is 2 slice against requirement of 16 slice.*
9. *ETO Sterilizer is not available.*
10. *No CME programme has been held during the last year.*
11. *Central Library: Area appears smaller than claimed by college. Capacity of Students' seating room (Outside) & Students' reading room (Inside) is 75 & 45 respectively against requirement of 100 each. Staff reading room is in a dilapidated state with chairs & tables in a poor shape.*
12. *Anatomy department: Only 10 Dissection tables are available against 20 required. Only 50 Lockers are available against requirement of 100.*
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 issue Letter of Permission for increase of seats in MBBS course from 50 to 100 u/s 10A of the IMC Act 1956 in respect of Maharaja Agrasen Medical College, Agroha under Pt. B.D. Sharma University of Health Sciences, Rohtak for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 30.12.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Director, Maharaja Agrasen Medical College, Agroha had submitted the compliance vide letter dated 28.01.2016 & 13.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 01.04.2016.

The compliance verification assessment report (01.04.2016) alongwith previous assessment report (26th & 27th November, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (01.04.2016) along with previous assessment report (26th& 27th November, 2015) and noted the following:-

1. *Shortage of Residents is 12.96 % as detailed in the report.*
2. *Deficiency of faculty is 5.49 % as detailed in the report.*
3. *CT Scan is 2 slice against requirement of 16 slice.*
4. *AERB approval is not available.*
5. *OPD: Child Welfare Clinic & Child Rehabilitation clinic are not available.*
6. *Wards: Most of the wards do not have pantry. All wards are small, partitioned with bed capacity ranging from 2 – 8. Nursing station is outside the ward & common between wards. In some wards, male & female patients are kept in a single room.*
7. *OPD: Registration is not computerized. Data provided by institute are inflated.*
8. *Workload of Special investigations like Ba, IVP was less on day of assessment as observed by assessors.*
9. *Central Library: Residents' Reading room is not available. Internet Nodes are only 10.*
10. *Lecture Theater: Hospital Lecture Theater is not of gallery type; its capacity is only 50 which is inadequate.*
11. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 50 to 100 u/s 10A of the IMC Act, 1956 at Maharaja Agrasen Medical College, Agroha under Pt. B.D. Sharma University of Health Sciences, Rohtak for academic year 2016-17 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 further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18th March, 2016, 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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……"

The above decision of the Executive Committee was communicated to the Central Government vide Council letter dated 14.05.2016.

The Council vide another letter dated 20.05.2016 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Director, Maharaja Agrasen Medical College, Agroha, Hisar for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 28.01.2016 & 13.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 01.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 19.3% and residents was 47.9%. Similarly in the last compliance verification assessment conducted on 01.04.2016 of Maharaja Agrasen Medical College, Hisar apart from other deficiencies, the deficiency of residents was found to be 12.96%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble

Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*

é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Increase of seats in MBBS course from 50-100 at Maharaja Agrasen Medical College, Agroha, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of Increase of seats in MBBS course from 50-100 at Maharaja Agrasen Medical College, Agroha does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

89. <u>Increase of seats in MBBS course from 100-150 at Maharashtra Institute of Medical Sciences and Research, Latur u/s 10A of the IMC Act 1956 for the academic session 2016-17.</u>

Read: the matter with regard to Increase of seats in MBBS course from 100-150 at Maharashtra Institute of Medical Sciences and Research, Latur u/s 10A of the IMC Act 1956 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Executive President and Managing Trustee, Maharashtra Institute of Medical Sciences and Research, Latur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for grant of Letter of Permission for Increase of seats in MBBS course from 100-150 at Maharashtra Institute of Medical Sciences and Research, Latur under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-17 was carried out by the appointed assessors on 30th November, 2015 & 1st December, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (30th November, 2015 & 1st December, 2015) alongwith complaint dated 03.09.2015 of Dr. H.T. Karad, Prof. of Ophthalmology, MIMSR Medical College, Latur and noted the following:

1. *Deficiency of faculty is 20.16 % as detailed in report.*
2. *Shortage of Residents is 46.26 % as detailed in report.*
3. *Bed occupancy was 20.2 % on day of assessment.*
4. *OPD: No staff was available at Enquiry desk at time of taking round in OPD. Injection rooms for Male/Female are not available. Minor O.T. is not available. Plaster room & Plaster cutting room are common. Specialty clinics are not available in Paediatrics OPD.*
5. *Teaching beds: 499 beds are available against 506 required.*
6. *Wards: 5 beds in Paediatrics were without mattresses. Demonstration room is not available in several wards.*
7. *OPD attendance was 850 against 900 required.*
8. *There were only 06 Major Surgical operations & NIL Minor operations for the whole hospital on day of assessment.*
9. *There were only 2 Normal Deliveries & NIL Caesarean Section on day of assessment.*
10. *O.T.s: All O.T.s have more than 1 table which is not as per norms.*
11. *ICUs: There were NIL patient in SICU & only 2 patients in ICCU and NICU/PICU on day of assessment.*
12. *Examination Hall: There are 5 mall halls with total capacity of 210 against requirement of 250. Additional 80 capacity is provided in corridor which is not permissible.*
13. *Lecture Theaters: E class facility is not available in any lecture theater in college or hospital.*
14. *Central Library: Available area is 1,500 sq.m. against requirement of 1,600 sq.m. Outside Reading Room has capacity of 40 against requirement of 100 and is located in corridor of top floor of academic building where only tables are available without any seating arrangement*
15. *Residents' Hostel: Residents & Nursing staff along with faculty & non-teaching staff stay together in 2 blocks with 78 rooms against requirement of 67 Residents & 50 Nurses. Hence accommodation available for Residents is grossly inadequate.*
16. *Nurses' Hostel: Nursing staff along with Residents, faculty & non-teaching staff stay together in 2 blocks with 78 rooms against requirement of 50 Nurses & 67 Residents. Hence accommodation available for Nurses is grossly inadequate.*
17. *Residential Quarters for Non-teaching staff are not available.*
18. *Central Research laboratory is not available.*
19. *Anatomy department: Audiovisual aids are not available in both Demonstration rooms. Cold storage for dead bodies is shared with Forensic Medicine department. There was no dead body & it was locked at time of assessment. Dissection Hall is on 5th floor without any lift for carrying cadavers.*
20. *RHTC: In Girls' block, there was no bed at time of assessment. Proper dining facility 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 issue Letter of Permission for increase of seats in MBBS course from 100 to 150 u/s 10A of the IMC Act 1956 in respect of Maharashtra Institute of Medical Sciences and Research, Latur for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 31.12.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Maharashtra Institute of Medical Sciences and Research, Latur had submitted the compliance vide letter dated 19.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 01.03.2016.

The compliance verification assessment report (01.03.2016) alongwith previous assessment report (30th November, 2015 & 1st December, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (01.03.2016) along with previous assessment report (30th November, 2015 & 1st December, 2015) and noted the following:-

1. *Most of the patients in Skin & VD and Paediatric wards did not merit admission. Good number of patients were admitted on a day prior & on day of assessment. Not a single patient was available in Psychiatry ward.*
2. *Only 3 Major operations – 1 each in ENT, Eye & O.G. – were being performed at time of visit at 10:30 a.m. on day of assessment.*
3. *O.T.: Ophthalmology O.T. has 3 tables in 1 room which is not as per norms.*
4. *ICUs: Combine ICCU & MICU has only 09 beds against total 10 beds required.*
5. *ICUs: In PICU, 2 out of 3 admissions were such who did not merit admission in PICU.*
6. *Elderly Senior Residents are not staying in the campus.*
7. *Residents' Hostel: Half of two blocks are shared by Nursing staff & Non-teaching staff and by Residents. Accommodation available for Residents is 56 against requirement of 67. Deficiency remains as it is.*
8. *Residential Quarters: Quarters for non-teaching staff are not available in the campus. Deficiency remains as it is.*
9. *Anatomy Department: Cadaver lift facility is not yet available. Cold storage facility is shared with Forensic Medicine department. Deficiency remains as it is.*
10. *There is no kitchen in the hospital.*
11. *Other deficiencies as pointed out in the assessment report.*

In view of above, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act, 1956 at Maharashtra Institute of Medical Sciences and Research, Latur under Maharashtra University of Health Sciences, Nashik for academic year 2016-17 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 was communicated to the Central Government vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies

communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Executive President and Managing Trustee, Maharashtra Institute of Medical Sciences and Research, Latur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 19.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 01.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned…... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; & the applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of increase of seats in MBBS course from 100-150 at Maharashtra Institute of Medical Sciences and Research, Latur under Maharashtra University of Health Sciences, Nashik, the institution was given

opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of increase of seats in MBBS course from 100-150 at Maharashtra Institute of Medical Sciences and Research, Latur under Maharashtra University of Health Sciences, Nashik does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

90. <u>Increase of seats in MBBS course from 100-150 at Saraswathi Institute of Medical Sciences, Hapur u/s 10A of the IMC Act 1956 for the academic session 2016-17.</u>

Read: the matter with regard to icrease of seats in MBBS course from 100-150 at Saraswathi Institute of Medical Sciences, Hapur u/s 10A of the IMC Act 1956 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Principal, Saraswathi Institute of Medical Sciences, Hapur and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for grant of Letter of Permission for Increase of seats in MBBS course from 100-150 for the academic session 2016-17 at Saraswathi Institute of Medical Sciences, Hapur was carried out by the appointed assessors on 9th & 10th December, 2015. The assessment report was considered by the

Executive Committee at its meeting held on 30.01.2016 and it was decided as under:-

"The Executive Committee of the Council considered the assessment report (09th & 10th December, 2015) and noted the following:

1. Teaching beds are inadequate as under:

#	Department	Beds		
		Required	Available	Shortage
1	General Medicine	126	120	06
2	Paediatrics	66	60	06
3	General Surgery	126	120	06
4	Orthopaedics	66	60	06
5	O.G.	66	60	06
	TOTAL			30

2. OPD: Plaster room & Plaster cutting room are not separate; they are divided by Aluminium partition.
3. Equipment in Eclampsia room is not adequate.
4. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to grant Letter of Permission for increase of seats from 100 to 150 in respect of Saraswathi Institute of Medical Sciences, Hapur under Chaudhary Charan Singh University, Meerut u/s 10A of the IMC Act 1956 for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 31.01.2016 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Saraswathi Institute of Medical Sciences, Hapur had submitted the compliance vide letter dated 23.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 18.03.2016 and 12.05.2016.
The compliance verification assessment report (18.03.2016 and 12.05.2016) alongwith previous assessment report (9th & 10th December, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (18.03.2016 and 12.05.2016) along with assessment report (9th& 10th December, 2015) and noted the following:-

1. Deficiency of faculty is 24.06 % as detailed in the report.
2. Shortage of Residents is 62.85 % as detailed in the report.
3. There is deficit of 19 teaching beds as 541 beds are available against 560 required.
4. Bed occupancy is 16.25 % on day of assessment.
5. In Orthopaedics ward, out of 20 admitted patients, case files of only 09 patients were available. Rest of the patients did not have any record in the ward. 3 Female patients were accommodated in Male ward.
6. Statistics of Clinical Material provided by institute are highly exaggerated.
7. Details of patients admitted in ICUs on day of assessment are not provided.
8. Other deficiencies as pointed out in the assessment report.

In view of above, the Executive Committee of the Council decided to return the application to the Central Govt. recommending disapproval of scheme for increase of seats from 100 to 150 u/s 10A of the IMC Act, 1956 at Saraswathi Institute of Medical Sciences, Hapur under Chaudhary Charan Singh University, Meerutfor academic year 2016-17 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 further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18th March, 2016, 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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 of the Executive Committee was communicated to the Central Government vide this office letter dated 15.05.2016.

The Council vide another letter dated 15.05.2016 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Central Government vide its letter dated 10.06.2016 had disapproved the application of the college for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre

& Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Principal, Saraswathi Institute of Medical Sciences, Hapur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 23.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 18.03.2016 and 12.05.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned…... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the last compliance verification assessment conducted on 12.05.2016 of Saraswathi Institute of Medical Sciences, Hapur apart from other deficiencies, the deficiency of teaching faculty was found to be 24.06%, residents was 62.85% and the bed occupancy was found to be 16.25%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to*

*MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; & the applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of increase of seats in MBBS course from 100-150 at Saraswathi Institute of Medical Sciences, Hapur under Ch. Charan Singh University, Meerut, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

“…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for increase of seats in MBBS course from 100-150 at Saraswathi Institute of Medical Sciences, Hapur under Ch. Charan Singh University, Meerut, during the compliance verification inspection carried out on 12.5.2016 the deficiency of Faculty was found to be

24.06%, the deficiency of Resident was found to be 62.85% and the Bed Occupancy was found to be only 16.25%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) and 8(3)(1)(c) of Establishment of Medical College Regulations, 1999 which read as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found*

wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of increase of seats in MBBS course from 100-150 at Saraswathi Institute of Medical Sciences, Hapur under Ch. Charan Singh University, Meerut does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

91. <u>Renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean/Principal, Hamdard Institute of Medical Sciences & Research, New Delhi, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the Firstassessment of the physical and other teaching facilities available for Renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on19th & 20th November, 2015. The assessment report was considered by the Executive Committee at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (19th and 20th November, 2015) alongwith an email dated 19/11/2015, letter/representation dated 23/11/2015 from the Dean/Principal, Hamdard Institute of Medical Sciences & Research, New Delhi and letter of the Assessor dated 19.11.2015 and noted the following:-

1. *Deficiency of teaching faculty is 23.58 % as detailed in the report.*
2. *Shortage of Residents is 83.58 % as detailed in the report.*
3. *Many Residents as detailed in the report are not staying in the campus.*
4. *OPD: Injection room is common for males & females. Dressing room is common for males & females. Special clinics facilities are not available in Paediatrics OPD.*
5. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Deficit
1	General Medicine	120	72	48
2	Paediatrics	60	38	22
3	Psychiatry	10	08	02
4	Skin & VD	10	08	02
5	General Surgery	120	80	40
6	Orthopaedics	60	34	26

7	ENT	10	05	05
8	O.G.	60	50	10
	TOTAL			155

6. Wards: They are not as per MSR Regulations. Ancillary facilities are not inside the wards and they are common between 3-4 wards. Almost all wards have 12 beds. Nursing station is outside the wards in corridor.
7. OPD attendance as provided by institute is 674 against requirement of 800. Even this figure is inflated.
8. Bed occupancy is 45.03 % on day of assessment.
9. There were only 07 Major operations & 04 Minor operations on day of assessment which is inadequate.
10. There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment till 12 p.m.
11. Data of Biochemistry, Haematology& Histopathology investigations were not provided.
12. MRD could not be verified as assessment was stopped by Dean.
13. Radiodiagnosis department facilities could not be verified as assessment was stopped by Dean.
14. Other ancillary facilities could not be verified as assessment was stopped by Dean.
15. CSSD: ETO Sterilizer is not available. Receiving & Distribution points are not separate.
16. Measurements of Dean's office, Staff Room, etc. are no provided.
17. MEU: Details of programmes conducted by institute have not been supplied.
18. CME: Details of CME programmes conducted have not been supplied.
19. College Council: Details of meetings & Minutes are not supplied.
20. Pharmaco Vigilance Committee: Details of meetings & Minutes are not supplied.
21. Infrastructure facilities could not be verified as assessment was stopped by Dean.
22. Facilities in departments of Biochemistry, Microbiology, Pharmacology, Forensic Medicine, Community Medicine could not be verified as assessment was stopped by Dean.
23. RHTC: Cold chain equipment is not available. Survey/MCH/FP/Immunization registers are not available.
24. UHC: Survey/MCH/FP/Immunization registers are not available.
25. Form A I is not provided by Dean.
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 Govt. not to renew the permission for admission of 5th batch (100 seats) of MBBS students at Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean/Principal, Hamdard Institute of Medical Sciences & Research, New Delhi had submitted the Compliance report dated 01.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 25th February, 2016.

The compliance verification assessment report (25th February 2016) alongwith previous assessment report (19th& 20thNovember, 2015) with regard to Renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was

considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (25th February 2016) along with previous assessment report (19th& 20thNovember, 2015) and noted the following:-

1. *Deficiency of faculty is 12.38 % as detailed in the report.*
2. *Shortage of Residents is 19.40 % as detailed in the report.*
3. *Many Residents, as detailed in the report are not staying in the campus. Deficiency remains as it is.*
4. *Bed occupancy is 60.63 % against the requirement of 75%.*
5. *OPD: Plaster room & Plaster cutting room are still common. Deficiency remains as it is.*
6. *There was NIL Normal Delivery till 11:30 a.m. on day of assessment.*
7. *Casualty: At 11:30 a.m., 6 patients were available in Casualty. There was NIL Trauma patient.*
8. *Printout of Biometric attendance of 15/01/2016 revealed that names of a few faculty did not match with attendance sheet & Biometric attendance on 25/02/2016.*
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 5thbatch of 100 MBBS students at verification assessment report (25th February 2016 under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(1) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(2) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Dean/Principal, Hamdard Institute of Medical Sciences & Research, New Delhi for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 01.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 25th February 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The

deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 23.58%, residents was 83.58% and the bed occupancy was found to be 45.03%. Similarly in the last compliance verification assessment conducted on 25th February 2016 of Hamdard Institute of Medical Sciences & Research, New Delhi, apart from other deficiencies thebed occupancy was found to be 60.63%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr.,

stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University), the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme /

application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant

medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University) u/s 10A of the IMC Act, 1956 for the academic year 2016-2017, during the compliance verification inspection carried out on 25.2.2016 the Bed Occupancy was found to be only 60.63%. Thus the Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by

the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the

Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (100 seats) of Hamdard Institute of Medical Sciences & Research, New Delhi under Jamia Hamdard (Hamdard University), does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

92. <u>Renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Dean/Principal, K.D. Medical College, Hospital & Research Center, Mathura, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on (19th & 20th November, 2015) The assessment report was considered by the Executive Committee at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (19th and 20th November, 2015) and noted the following:-

1. *Deficiency of faculty is 10.63 % as detailed in report.*
2. *The following Residents were found absent on 2nd day of assessment & on random check of their accommodation, it was found that they were not present there also:*

(1) *Dr. Brijkishore Agarwal, SR, Ophthalmology;*
(2) *Dr. Deen Dayal, JR, Ophthalmology;*
(3) *Dr. Rashmi Goyal, SR, O.G.*

3. *The following Residents could not prove that they were staying in accommodation allotted to them by the institute:*

(1) *Dr. Soni Jasuja, SR, Anaesthesiology;*
(2) *Dr. Mohan Bhatnagar, SR, ENT;*
(3) *Dr. Sharad Tiwari, SR, General Medicine;*
(4) *Dr. Manoj Malik, SR, Orthopaedics;*
(5) *Dr. Manoj Gupta, SR, General Surgery.*

4. *In view of above, shortage of Senior Residents is 15 %.*
5. *Wards: Each ward does not have separate Demonstration Room. There are 4 Demonstration Rooms amongst all wards to be shared by all the departments. Beds of some wards are placed head on which is not as per norms.*

6. *70 % of IPD have been admitted on 18th& 19th November 2015 – i.e. one day prior & day of assessment itself. Majority of patients in General Medicine, General Surgery, Orthopaedics, O.G. & Paediatric wards were not genuine or did not merit admission. History has not been written properly. There were very few operated patients in Surgical wards.*
7. *Figures of Clinical material & investigations provided by institute are highly inflated. Variations in data provided & workload observed is huge as under:*

#	Parameter	Institute Data		Assessors' Observation	
		OPD	IPD	OPD	IPD
1	Biochemistry	268	236	020	024
2	Haematology	318	299	045	016
3	Microbiology	039	020	011 (Total)	
4	Serology	068	037	013 (Total)	

8. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *No Histopathology specimen has been processed after 06/11/2015.*
10. *Casualty: There were only 3 patients in Casualty; out of whom one was a patient of Undescended Testis & another one was admitted for FNAC.*
11. *ICUs: There was NIL patient in ICCU, 1 in MICU & 2 each in SICU and PICU/NICU on day of assessment. 2nd patient admitted in SICU did not require intensive care.*
12. *Examination Hall: It is under construction.*
13. *Residents' Hostel: Rooms allocated to Residents are not occupied by the same person.*
14. *Paraclinical departments of Pathology, Microbiology, Pharmacology & Forensic Medicine are under construction & not available.*
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 2nd batch (150 seats) of MBBS students at K D Medical College, Hospital & Research Centre, Mathura, U.P. under Dr. B.R. Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

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

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In view of above decision of Executive Committee, the matter with regard to point no. 2& 3 has been referred to the Ethics Section for further necessary action in the matter.

In response to above, the Dean, K D Medical College, Hospital & Research Centre, Mathura, U.P had submitted the Compliance report dated 25.01.2016.

Accordingly, the Council appointed the assessors to carry out the compliance verification assessment on 5th February, 2016.

In this regard, the Council office had received a letter 05/02/2016 from the appointed team of council assessors informing therein that the college authorities declined to allow to carry out the assessment. However, in the meantime, they were able to take some photographs of the causalty, OP registration counters & IPD department, some evidence sheets. They have also submitted their brief report of assessment which reads as under:-

"We reached the office of the Dean and found that the Dean was not available and we were informed that he has gone to MCI. Medical Superintendent was available, we have proceeded with Assessment.

Casualty was empty at the time of assessment. There was no causalty medical officer, no residents and duty doctors. Only 2 male nurses were present and no patients were there. The causlaty of OT and Triage area were empty.

General Medicine and Psychiatry wards were combined. General Surgery and Dermatology wards were combined. (Medicine 38 patients /72 beds, Psychiatry 2 Pts./ 8 Beds, DVL no patients/ 4 beds, TBCD no patients, Paediatrics 3 patients /24 Beds, general Surgery 1 pts / ortho 5 pts. ENT nil patients, ophthalmology 2 pts, Ob & G 12 pts./ 24 Beds. Gynec 4pts./ 16 beds.

OPD attendance was grossly inadequate.

In the OPD, at the registration counter, there were only 2 persons/ patients were present in the OPD block, the patient waiting area in front of the consultation room were completely empty.

Radio diagnosis On the day of assessment, not a single Xray (OPD & IPD) & Special procedures were done. 4 USGs were done. CT scan wasn't available.

Operation theaters: On the first floor, there were 4 theaters allotted to general surgery, orthopaedics, ophthalmology and ENT each, and there were 6 patients posted but only one patient was in the theatre. There was no patient in pre and post operative wards. Gynaecology OT list didn't match with the common OT list available with the Anaesthesia department.

One of the assessors, who was taking attendance of the faculty and residents couldn't complete the process as Chairman prevented other faculty from signiing the attendance sheets.

In the meantime, around 1125 hrs, Chariman and Medical Superintendent declined to continue with the assessment, and gave the declining letter in a sealed cover addressed to Secretary, Medical Council of India, and the same is being enclosed herewith.

From the above, the assessment team is of the opinion that clinical material and required clinical infrastructure available at KD Medical College, Hospital and Research Centre, Mathura is grossly inadequate."

Thereafter, as per direction of the Competent Authority, another compliance verification assessment of the said college was carried out by the Council Assessors on 24/02/2016.

The compliance verification assessment report (24th February, 2016) alongwith a letter dated 05/02/2016 received from the appointed team of Council assessors enclosing therewith a brief report of assessment and assessment report (19th & 20th November, 2015) with regard to renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (24th February, 2016) alongwith a letter dated 05/02/2016 received from the appointed team of Council assessors enclosing therewith a brief report of assessment and assessment report (19th& 20th November, 2015) and noted the following:-

1. *Deficiency of faculty is 35.10 % as detailed in the report.*
2. *Shortage of Residents is 38.29 % as detailed in the report.*
3. *Bed occupancy was 39 % on day of assessment.*
4. *Majority of patients admitted in the wards of General Medicine, General Surgery, Orthopaedics, O.G. & Psychiatry did not require admission and could have been managed on OPD basis. Case sheets were not written properly. Many patients were non-genuine.*
5. *There were NIL patients in Post-operative ward.*

6. *Data of clinical material and investigations provided by institute are inflated. These data did not match with indoor patient data.*
7. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
8. *Workload of Histopathology was only 01 & of Cytopathology was only 02 on day of assessment.*
9. *There was NIL patient in Casualty during assessment.*
10. *There was only 1 patient in ICCU & 2 in PICU/NICU. Patients admitted in MICU & SICU did not merit intensive care.*
11. *During assessment, it was observed that the patients from the lower floor wards were brought to upper floor beds; this was verified from indoor registers & treatment register.*
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 Govt. not to renew the permission for admission of 2nd batch of 150 MBBS students at K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 22.06.2016 forwarded by the Dean/Principal, K.D. Medical College, Hospital & Research Center, Mathurafor necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 25.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 24th February 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 10.63% and residents was 15%. Similarly in the last compliance verification assessment conducted on 24th February 2016 of K.D. Medical College, Hospital & Research Center, Mathura, apart from other deficiencies the deficiency of teaching faculty was found to be 35.10%, residents was 38.29% and the bed occupancy was found to be 39%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is at the stage of Letter of Permission upto II renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(a) provides that during any regular inspection/assessment of the institute, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 30% and / or the bed occupancy is found to be less than 50% (45% in North East, Hilly terrain, etc.)such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for issue of Letter of Permission (LOP)/renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of Third batch).

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45%) in North East, Hilly terrain, etc.), compliance of rectification of deficiencies from such an institute will not be considered for Letter of Permission (LOP)/renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been*

*notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every

possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra, during the compliance verification inspection carried out on 24.2.2016 the deficiency of Faculty was found to be 35.10%, the deficiency of Resident was found to be 38.29% and the Bed Occupancy was found to be only 39%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found*

wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 2nd batch (150 seats) of K.D Medical College, Hospital & Research Centre, Mathura, Uttar Pradesh under Dr. B.R Ambedkar University, Agra, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

93. <u>Renewal of permission for MBBS course for 3rd batch of 150 MBBS students at Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 3rd batch of 150 MBBS students at Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Principal, Viswabharathi Medical College, Kurnool, Andhra Pradesh, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 3rd batch of 150 MBBS students at Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 26th& 27th November, 2015. The assessment report (26th& 27th November, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (26th& 27th November, 2015) and noted the following:-

Clinical Material

Clinical material was grossly inadequate.
Only one major and one minor surgery performed on the day of assessment
Normal Delivery – Nil on the day of assessment
Caesarean section – Nil on the day of assessment
No Blood units dispensed on the day of assessment
Maximum OPD was 300 to 400 on the day of assessment.
Only One Male and One female registration counter.
In OPD, 70 to 80 People were seated whole the day only for the purpose of head counting.
Many Patients in OPD were having the Vague/Insignificant complains for which person normally do not come to Hospital.
Bed Occupancy on the day of assessment was 66.33% but many Patients were not genuine/fake/dummy.
Some Indoor patients not having any Medicines, No relative, No any Utensils/Personal belongings and apparently looks to have been made to seat for head count purpose only.
Some case sheet have no/inadequate notes and some case sheets were prepared before some days and were not matched with details of patients.
No CMO was present. Only one junior resident from General Medicine was available. At the time of round 7 patients were available but 5 out of these 7 patients were admitted without proper indication in casualty

Fake Patients:

There were two Pediatrics ward in Hospital. In first Pediatric ward,No Patients was there, but after half an hour, when we have taken round of Second pediatric ward, there were Eleven Patients/Children, out of these eleven patients, most of patients were fake. These Children were playing in the ward. Not a single relative of any Child was present there. In Patients named Ashok(I.P No. 1511250015), In OPD card, Name, Age, Sex, Date, OPD no. etc information was blank.

In Pediatric ward, Patient named Master Ravindra (UHID :15112600007), Registration No. are different in Indoor case sheet and OPD case Sheet. Patient is not genuine.

On Second day of round, out of these 11 pediatric patients in one ward/one unit,6 patients were present in another ward/another unit.

In FEMALE SURGERY Ward, Patients named Mrs. Anjinmma (OPD No. 1511260019) Date of OPD card : 26/11/15 and Date of Admission :26/11/15. Patient operated for Right Sided Carcinoma breast. But in Case Paper, Chief Complains is Pain in Abdomen. There is No Operative Note/Name of Surgeon/Anesthetist in case sheet. As per written statement of Staff nurse and 2nd MBBS students that this patients have operated in another Hospital and Admitted here today and it suggests that patient admitted here only for head counting.

In Orthopedic (female) ward, One Patient named Mrs.Rajamma (IP No. 151125001) was admitted for chronic Pain in Neck since 1 year without any X- Ray of Neck.

In Orthopedic ward, Patient named Shaik Shavali (IP No. 1511240012) admitted today (i.e.26/11/15) as per the information given by Patient, but record shows date of admission 24/11/15..

Most of Patients in orthopedic ward were with very minor complains of Knee pain, Limb pain, Back pain without any surgical interventions. Most of patients were not genuine.

In Surgery (female) ward, patient named Hasina (IP no.1511230012) admitted before 3 days with Chief complain of Burning in Micturition. But there was no routine Urine/Blood investigations have been done..

In ENT Male ward, with 3 male patients, one female patient was also present. Medical Superintendent has misguided us and has given wrong information also in this ward. He insisted for to count 4 indoor patients. But actually with 3 male patients, one female relative was sleeping on the bed.

- *In General Surgery ward, there were two patients admitted named Rammanna and Nasbisab without any case sheet.*
- *In Ophthalmology ward, Patient named Salamma, Aged 68 years (IP No. 1511250051) admitted on 25/11/15. But Out patients card of Mrs. Salamma (UHID 15070600300) was found blank and date mentioned in OPD card was 6/7/2015.*
- *In Dermatology ward, Patient named Thima Raju (IP No. 15112600340) admitted on 26/11/2015, but in Indoor case sheet, In History name,age,sex,ward and date was not mentioned. Even in History sheet, detailed diagnosis of patients mentioned was found at the time of early morning round on 26/11/2015 which was not possible on the day of admission.*
- *In ENT ward, Patient named Mr.Mahammad (IP No. 1511160014) was admitted on 16/11/2015. As per the indoor case sheet, he was discharged on 18/11/15. In Indoor case sheet, no any notes of doctors after 18/11/15 till date/our round was written in case sheet.*
- *In Surgery ward, Patient named M.Bandanawaz (IP No.1511260034), In Indoor case sheet, name, age, sex, ward and date was not mentioned in history. A physical examination and Investigation page was found blank. OPD card also blank. Whole case paper blank.*

Faculty and Residents: *Deficiency of teaching faculty on the day of assessment was 03% and Deficiency of residents on the day of assessment was Nil. But many teaching faculty and residents doctors have been presented only for the Inspection purpose. Many residents are not staying in Hostel/Campus. Many faculty and residents were not aware of Patients care/details of Patients. On random verification/assessment round, following fake Residents/Faculty have been Identified by us.*

Fake Faculty/Residents:

- *Dr. Mansur Basha, Doctor (Senior Resident of General Surgery) of Unit I do not know about Patients in male ward and have no treatment advice/signature on case sheets. .*
- *Dr.Chandra Mouli (SR in Medicine) is not staying in Hostel/Campus.*
- *Dr.Pushpa lata (SR in Ophthalmology) is not staying in Hostel/Campus.*
- *Dr.Swetha A. (SR in Obst & Gynec) is not staying in Hostel/Campus.*
- *Dr. Jawad Hussain (SR in general Surgery) is not staying in Hostel/Campus.*
- *Dr. Rama Siva Naik (JR in General Surgery) not signed in any Case paper/record sheet of Indoor patients.*
- *Dr.H.Jagadish Prasad has not signed in any case sheet. According his statement, relative of all pediatric patients were not present in the ward and No medicines available with Pediatric patients. He also stated that yesterday there were 11 patients in Pediatric Unit –I (ward) but today only 5 patients are available.*

Dr.N.Ravishankar Reddy, Assistant Professor in TB & Chest department do not know the details of admitted patients and also do not have any signature or treatment advice written in case sheet.
Dr.P.Sree Rama Prasanna (SR in Obst and Gynec) is not staying in Hostel/Campus.
Dr.B.Prasad (SR in General Medicine) is not staying in Hostel/Campus.

On second day, *when we have taken round of OPD/ Hospital, most of residence doctors and many faculty members were not available. As per the Written statement of Professor of orthopedic DR.H.Uumanathan, No patient in ortho OPD today and No SR and JR present in OPD. Dr. B.G.Rahul (SR in Unit II – GS) is alone in OPD and No JR, Assistant Professor and Associate professor is present in OPD. Dr.S.Jhansi Lal from Unit I (GS) is examining patients in OPD but scheduled OPD is of Unit II. No SR in OPD (General Medicine) but Professor Dr.Ramchandara reddy said SR present in OPD and One JR present in OPD but OPD today is of Unit II.*

Infrastructure:
Against requirement of 36 Nonteaching staff quarters, 20 quarters are ready.
It is not possible to visualize all Patients from nursing station in some ward.
No Demonstration room, No Doctors duty room, No Pantry, No store room in all wards, These rooms are shared by two or three wards.
In TB,Psychiatry and Skin wards 3 to 4 beds in small rooms are available.No Nursing station and other facility available.

Fake Statement:
As per Male resident quarters list (Signed by Dean), In Room No. 1 name of Dr.B.Prasad, Sr. resident, General Medicine, was mentioned, but at the time of round, it was found that Dr.Vijay Chandra, Jr. of General Surgery was staying in Room no.1 of Male resident quarters.
As per teaching staff quarters list(Signed by Dean),In quarters No. 6 name of Dr.Gowri Devi, Assistant Professor (Community Medicine)was mentioned, but at the time of round, it is found that 70 years aged Retired teacher named Mr.Peter was staying in quarters No.6.

2. *Wards are not as per MSR Regulations. In some wards, no Nursing station was available. Only vacant table & chairs were provided without any Nursing staff.*

3. *Workload of Special investigations like Ba, IVP was NIL on day of assessment. That of CT Scan was only 02.*

4. *Histopathology workload was NIL & Cytopathology workload was only 02 on day of assessment.*

5. *ICUs: There was NIL patient in PICU/NICU, only 1 in MICU & only 2 in ICCU on day of assessment.*

6. *Nursing staff: Only 131 Nurses are available against requirement of 175.*

7. *Students' Hostels: They are partially furnished. Recreation room facilities are inadequate. No warden/caretaker/supervisor was available. Mess is not available. No Separate Mess in Boys, Girls, Nursing, Male resident and female resident hostel. Only one Mess was available in Campus.*

8. *Residents' Hostel: It is partially furnished. Recreation room facilities are inadequate. No warden/caretaker/supervisor was available. Mess is not available. Overall impression was that very few Residents are staying there.*

9. *Residential Quarters: In Qtr. # 6, as per Dean's statement one Dr. Gowri Devi was supposed to be staying but on verification one retired person Dr. Peter was found staying there. With regard to quarters for non-teaching staff, only 20 quarters are available against requirement of 36. In remaining 16 quarters civil work was going on.*

10. *Paramedical & Non-teaching staff: Only 52 Paramedical & Non-teaching staff are available against requirement of 100.*

11. *Anatomy department: Only 120 specimens are available.*

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 Govt. not to renew the permission for admission of 3rd batch (150 seats) of MBBS students at Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

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

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31/12/2015 and copy to the college authorities with the request to submit the compliance report.

In view of the above decision of the Executive Committee, the matter with regard to fake patients, fake faculty/residents and fake statement etc. has been referred to the Ethics Section for further necessary action in the matter.

In response to above, the Principal, Viswabharathi Medical College, Kurnool, Andhra Pradesh vide letter dated 27.01.2016 had submitted the Compliance report which was verified by the Council assessors by way of compliance verification assessment on 18th February, 2016.

The compliance verification assessment report (18th February 2016) along with previous assessment report (26th & 27th November, 2015.) as well as letter dated 19/02/2016 received from the Principal, Viswabharati Medical College, Kurnool with regard to Renewal of permission for MBBS course for 3rd batch of 150 MBBS students at Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (18th February 2016) along with previous assessment report (26th & 27th November, 2015) as well as letter dated 19/02/2016 received from the Principal of the college and noted the following:-

1. *Deficiency of faculty is 7 % as detailed in the report.*
2. *Shortage of Residents is 12.24 % as detailed in the report.*
3. *Residents were questioned about senior faculty & patients in their wards. Those who were not knowing about them were rejected.*
4. *Clinical material is inadequate. Deficiency persists.*
5. *There were only 2 Major & NIL Minor operations on day of assessment.*
6. *There was NIL Normal Delivery on day of assessment.*
7. *Although total 7 units of Blood were dispensed on day of assessment, they were issued to patients of Oncology not required for UG teaching or for trivial reasons.*
8. *OPD: Very few patients were seen in OPD at time of assessment. Data of OPD attendance at 776 given by institute appears to be inflated as healthy people were brought in for statistics.*
9. *Many patients were kept in wards for many days without indication. Oncology patients were kept for inflating occupancy. Many other cases were admitted for trivial reasons. Majority of patients in Orthopaedics ward were of back pain.*
10. *Wards: It is not possible to visualize all the patients from Nursing Station in some wards. Deficiency remains as it is. Wards of Tb & Chest, Psychiatry and Skin & VD are small rooms with 3-4 beds with only partial or NIL ancillary facilities.*
11. *ICUs: ICCU & MICU are combined. PICU & NICU are combined. There were only 2 patients each in ICCU & NICU on day of assessment.*
12. *There was only 1 Major & NIL Minor operation on day of assessment.*

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 3rd batch of 150 MBBS students at Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Principal, Viswabharathi Medical College, Kurnool, Andhra Pradesh for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 27.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 18th February 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect*

on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the***

***inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 3rd batch (150 seats) of Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural

justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could

be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of Permission for MBBS course for 3rdbatch (150 seats) of Viswabharathi Medical College, Kurnool, Andhra Pradesh under Dr. NTR University of Health Sciences, Vijayawada, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

94. Renewal of permission for MBBS course for 3rd batch (150 seats) of The Oxford Medical College, Hospital & Research Centre, Bangalore under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

Read: the matter with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of The Oxford Medical College, Hospital & Research Centre, Bangalore under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 22.6.2016 of the Principal, The Oxford Medical College Hospital and Research Center, Bangalore, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 3rd batch (150 seats) of The Oxford Medical College, Hospital & Research Centre, Bangalore under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th October, 2015. The assessment report was considered by the Executive Committee at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th and 30th October, 2015) and noted the following:-

1. *Shortage of Residents is 12.3 % as detailed in the report.*
2. *OPD: Injection room is common for males & females.*
3. *Wards: There are no separate wards for individual clinical departments. Both male & female wards are common with beds assigned to different specialties with no demarcation or identification for different specialties or Units. Pantry is in a corner of wards with a small platform separated by 4' wall.*
4. *Bed occupancy on day of assessment shown by the institute is different from what was ascertained by assessors on physical verification.*
5. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
6. *CT is not functional. AERB approval is not available.*
7. *Casualty: There were only 3 patients in Casualty during verification.*
8. *ICUs: ICCU & MICU are in one common ward. There were only 2 patients in PICU/NICU on day of assessment.*
9. *AERB approval is not available for some X-ray machines.*
10. *CME: No CME programme was conducted during the year.*

11. *Examination Hall: Total capacity available is 306 against requirement of 500.*
12. *Lecture Theater: Only 2 lecture theaters are available against requirement of 3. Available lecture theaters are too wide. Students sitting on side cannot visualize the projected material in the center of the hall.*
13. *Central Library: Separate Staff reading room is available. A small area in one corner of general student reading room (inside) is designated as staff area. Residents' reading room is not available. Foreign journals are not available.*
14. *Common Rooms for Boys & Girls do not have attached toilets.*
15. *Students' Hostels: Available accommodation is 162 against required 339. No drinking water facility is available in any floor of the hostels. Mess is not available. Study room is not available. Recreation facilities are inadequate.*
16. *Nurses' Hostel: Nurses' hostel is only for male Nurses. There are no fans in the rooms. Female Nurses are staying Girls' hostels which itself is inadequate.*
17. *Residential Quarters: Only 16 quarters are available for faculty against 20 required.*
18. *Playground is not available. Gymnasium is inadequate.*
19. *Central Research laboratory is not available.*
20. *Audio Visual aids are inadequate in Demonstration rooms of Preclinical &paraclinical departments.*
21. *Pathology department: Specimens available are 87.*
22. *Website: Toll free number to report ragging is not provided.*
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 3rd batch (150 seats) of MBBS students at The Oxford Medical College, Hospital & Research Centre, Bangalore under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, The Oxford Medical College, Hospital & Research Centre, Bangalore vide letter dated 28.12.2015 had submitted the Compliance report which was verified by the Council assessors by way of compliance verification assessment on 12th February, 2016.

In view of above, the compliance verification assessment report (12th February 2016) alongwith previous assessment report (29th& 30th October, 2015) as well as letters dated 12/02/2016 received from the Principal, The Oxford Medical College, Hospital & Research Centre, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (12th February 2016) along with previous assessment report (29th& 30th October, 2015) as well as letter dated 12/02/2016 received from the Principal of the college and noted the following:-

1. *Shortage of Residents is 10.4 % as detailed in the report. Senior Residents in General Medicine, Paediatrics, Tb & Chest and Skin & VD are not staying in the campus except during emergency duty which is not permissible.*
2. *Bed occupancy is 52 % on day of assessment which is inadequate.*
3. *Wards: Deficiency remains as it is. In Chest & Tb ward, patients having COPD were admitted but O_2 delivery services are not available. Pantry is non-functional in many wards.*
4. *There was NIL Normal Delivery & only 1 Caesarean Section on day of assessment.*

5. *Casualty: There were only 4 patients in Casualty at time of verification. Crash cart was not fitted with O_2 cylinder on day of assessment.*
6. *ICUs: There were only 1 patient in NICU & only 2 patients each in ICCU, MICU, SICU & PICU each on day of assessment. One patient with congestive cardiac failure with anaemia was admitted in ICCU but in case ticket note was given that symptomatically he is better. Patients in SICU were actually postoperative patients of total Hysterectomy.*
7. *In Microbiology department, a lot of culture reports were entered. On cross verification with respective departments, it was found that they were not ordered by respective clinicians.*
8. *In Histopathology, for some of the reports entered in the departmental register, specimens, tissue blocks, copy of requisition and detailed report could not be found.*
9. *Other deficiencies as pointed out in the assessment report*

In view of 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 150 MBBS students at The Oxford Medical College, Hospital & Research Centre, Bangalore under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 22.06.2016 forwarded by the Principal, The Oxford Medical College Hospital and Research Center, Bangalore for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 28.12.2015 in the Council Office and was

verified by physical verification assessment by the Council on 12th February 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in

the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 3rd batch (150 seats) of The Oxford Medical College Hospital and Research Center, Bangalore under Rajiv Gandhi University of Health Sciences, Bangaloreu, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying

the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of Permission for MBBS course for 3rd batch (150 seats) of The Oxford Medical College Hospital and Research Center, Bangalore under Rajiv Gandhi University of Health Sciences, Bangaloreu, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

95. Renewal of permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

Read: the matter with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Principal, P.K. Das Institute of Medical Sciences, Palakkad, Kerala, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on (4th & 5th November, 2015) The assessment report was considered by the Executive Committee at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (4th and 5th November, 2015) alongwith letter/representation dated 05& 06/11/2015 of the Principal, P.K. Das Institute of Medical Sciences, Palakkad, Kerala and noted the following:-

1. *Deficiency of faculty is 44 % as detailed in report.*
2. *Shortage of Residents is 63.26 % as detailed in report.*
3. *Dr. K.N. GopalkumaranKartha, Principal was absent on Casual leave on first day of assessment – i.e. 04/11/2015.*
4. *OPD attendance was 550 on day of assessment against 750 required. When the assessors entered OPD, there were very few patients.*
5. *Bed occupancy was 36.66 % on day of assessment.*

6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
7. *Workload of Special investigations like Ba, IVP was NIL on day of assessment.*
8. *Workload of Histopathology was only 1 & of Cytopathology only 2 on day of assessment.*
9. *ICUs: There was only 1 patient in ICCU & only 2 patients in NICU on day of assessment. There is no Ventilator in ICU. PICU is not available.*
10. *Labour Room: There are no beds for Septic labour& for Eclampsia cases.*
11. *Only 1 USG machine is available against 2 required. (P. 33)*
12. *Central research laboratory is non-functional. Equipment are inadequate.*
13. *Lecture Theaters: Hospital Lecture Theater is not of gallery type. It has removable plastic chairs. Audio Visual aids are not available.*
14. *Anatomy department: Audiovisual aids are available only in 1 Demonstration room.*
15. *Pathology department: There are only 44 specimens.*
16. *Wards: There are no separate wards for Tb & Chest, Skin & VD, Psychiatry, Orthopaedics, ENT & Ophthalmology departments.*
17. *With regard to Videography, partial & tempered DVD has been provided to assessors.*

18. *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 MBBS students at P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, P.K. Das Institute of Medical Sciences, Palakkad, Kerala had submitted the Compliance report which was verified by the Council assessors by way of compliance verification assessment on 29.03.2016 and 22.04.2016.

In this regard, the Council office had received a letter dated 23/04/2016 from the appointed team of assessors regarding physical intimidation, aggressive and unruly behavior of the management of P.K. Das Institute of Medical Sciences, Palakkad, Kerala.

The compliance verification assessment report (22nd April, 2016 along with previous assessment reports (28th March, 2016 & 4th& 5th November, 2015) as well as the letter dated 22/04/2016 received from the college authorities and letter dated 23/04/2016 from the appointed team of Council Assessors with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was placed before the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (22nd April, 2016 along with previous assessment reports (29th March, 2016 & 4th& 5th November, 2015) as well as the letter dated 22/04/2016 received from the college authorities and letter dated 23/04/2016 from the appointed team of Council Assessors and noted the following:-

1. *Deficiency of faculty is 26 % as detailed in the report.*
2. *Shortage of Residents is 20 % as detailed in the report.*
3. *OPD attendance as observed by assessors was only 300-400 on day of assessment. When the assessors entered the OPD complex, there were few patients only.*
4. *Bed occupancy was 39.33 % on day of assessment. Many patients were shifted from Superspecialty hospital in the campus to inflate bed*

occupancy. There was NIL patient in male & Female Tb & Chest wards, Male & Female Skin & VD wards, Female Ophthalmology ward.

5. *There was 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
6. *Workload of Special investigations like Ba, IVP was NIL on day of assessment.*
7. *Workload of Histopathology & Cytopathology is not shown in the chart of clinical material provided by institute & signed by Dean.*
8. *ICUs: There was only 1 patient in ICCU & total 5 patients in PICU/NICU on day of assessment.*
9. *Data of OPD attendance, Major operations provided by institute are inflated.*
10. *Workload of CT Scan was only 06 on day of assessment. There was NIL workload from admitted IPD.*

11. *There is no Resident Hostel in the campus. No Resident is staying in the campus.*
12. *Residential Quarters: Non-teaching staff quarters are not available in the campus.*
13. *Autopsy block was not shown.*
14. *The following fake patients were detected:*

(a) *Patients have minor complaints which generally did not required hospitalization like E.G. Body ache, fever etc. admitted in the Medicine, Paediatric ward.*
(b) *Patients have minor complaints which generally did not required hospitalization like E.G. Body ache, Joints pain etc. admitted in the Orthopedics ward.*
(c) *In Orthopaedic ward not a single patient with plaster POP or back slab on any patients, so it suggest that this ward was filled only for bed occupancy purpose.*
(d) *In many wards admitted patients were having insignificant (non-spoecific) problems that not required admission. They were not carrying any personal belongings items with them. The complaints like for which they were admitted were upper abdominal pain, cough, bodyache, etc. During the assessment, no one give any statement in written that the patients have only minute complaints.*

15. *Dr. Shahjehan, Asst. Prof. in department of Paediatrics has come for purpose of head counting during assessment only. He does not know any of the residents in the department.*
16. *The following Residents are fake Residents as observed by assessors:*

(a) *Many of the SR/JR do not know each other and as well they do not know their own duty hours. Nobody given the written statement about this.*
(b) *There is no Mess facility for the student/nurses/residents.*

17. *In OPD Registration counter, when asked orally, the person at the counter that total 08 patients were registered; but when he was asked to provide a printout, the printout given by him showed 348 patients. At that time about 10-20 patients were seen in the OPD.*
18. *Other deficiencies as pointed out in the assessment report.*

The Executive Committee of the Council further noted the letter of the appointed team of Assessors dated 23.04.2016 which reads as under:-

"As per your directions, we, namely, Dr. Nina Das, Professor of Pharmacology, Nil Ratan Sircar Medical College, Kolkata (Coordinator), Dr. Dharmendra Gohil, Professor of Emergency Medicine, PDU Medical College, Rajkot and Dr. Asim Das, Dean, ESIC Medical College, Faridabad have conducted surprise compliance verification assessment of P.K. Das Institute of Medical Sciences, Palakkad, Kerala on 22nd April 2016.

We are constrained to bring to your attention that we were subjected to physical intimidation, aggressive and unruly behaviour during the course of inspection by the management of P.K.Das Institute of Medical Sciences, Palakkad, Kerala. Following specific instances are brought to your notice:

In the morning after our entry in the premises of the P.K. Das Institute of Medical Sciences there were barriers at three places where we were asked to introduce ourselves. We tried not to divulge our identity, however, to enter the academic block we were made to sign the register and state the purpose of our visit. Two of us had entered our names and signed the register. Finally, when we reached the Principal's office, certain people who claimed to be part of the Management of the Institute were also present in the Principal's office. It appears to us that they had reached there on coming to know of our presence for MCI Inspection purpose. We asked the Principal to sign documents stating the requirements that he has to furnish within the mentioned time-line. Those claiming to be from the Management interfered stating that we cannot hold inspection as it is within two days of national festival, i.e., Mahavir Jayanti on 20th of April. We requested them that we will speak to the Principal only which annoyed them. They said the Principal will have to seek their permission and directed him to produce the notification in regard to inspection before or after holiday. When we asked the Principal to give in writing that they do not want to hold inspection because of the aforesaid reason, he sought permission to leave the Chamber for sometime. He came back and agreed telling us that we had reached late, though we had reached the Institute at 9:45 AM. The persons from Management were continuously interfering with our work and indulging in acts to provoke us. However, we maintained our composure.

At around 3:00 PM while Dr. Dharmendra Gohil was verifying the signatures of Faculty in the Department of Obstetrics and Gynecology and scrutinizing the Declaration Form of one Dr. P. Thulsi holding the designation of Associate Professor in the Institute, he noticed that the professional experience including publications stated in the Declaration Form does not entitle her to be designated as Associate Professor. Therefore, she was accepted as Assistant Professor. This infuriated the management, and consequently, more than 40 persons violently barged in the Room where scrutiny of the Declaration Forms was being carried out by us. Some of them from their looks appeared to us to be musclemen brought by the management with the purpose to physically intimidate us. One of the key persons of the Management started banging and shouted foul language called the Press and the photographers directing them to record the proceedings. We were told by this aggressive person that this Dr. Thulsi was his sister and she had to be accepted by us as Associate Professor. He aggressively said that as she was his sister he had all the right to speak on her behalf. They all alleged that we were misbehaving with their senior faculty and not accepting them as Faculty on flimsy grounds. Seeing the situation turning ugly the Coordinator was forced to make an apology. At the same time the persons from the Institute manhandled the Assessors and snatched away the mobile phone telling that the Assessors were recording the situation. We were forced to consider not only Dr. P. Thulsi as Associate Professor, but also many others, even though they had not reported for the assessment within the time limit to avoid any disrespectful, discourteous as well as physical aggression and intimidation. They also told that they know whom we were talking to over the Mobile phone. They were recording all the discussion amongst the Assessors. It seems to us that they were also continuously keeping a track on the calls made by our mobile. We were repeatedly reminded that as per MSR and guidelines to Assessors we should have reported at 9:00 AM. In spite of repeated requests to give us documents related to the inspection they did not come with complete set of documents at any point of time and would take back the document after showing in piecemeal.

At the end, at around 8:00 PM when scrutiny of the Declaration Form was complete we requested them to give three pen drives for downloading soft copies and papers for printing. They gave the pen drive but not the blank papers for printing. At last when they were sternly told that we would leave without printing the Management entered with Musclemen at around 9:00 PM and told that as per Assessor Guideline we should have completed the assessment by 6:00 PM and

they would not allow us to print the documents until it was shown to them. When we insisted that it is the Principal only who should be going through the documents after printing, they insisted that "where is it written that the Management will not be shown the Report" and since their Institution is at stake they would not allow us to go without handing over all the soft copies and documents, including Declaration Form as these were the Institution's property. At this point the one of the Administrators removed the CPU from which the A-3 Report / documents was being prepared and took it to another room. We also have strong reasons to suspect that all the Computers were linked through network and whatever work we were doing on the computer was getting known to the Management. They then came and informed the Management about the contents of the report. The Management then asked us to handover the soft copies including all the other papers pertaining to the Institution that were with us. Having done that we were asked to sign the Memorandum which they wanted to submit and ultimately allowed us to leave only around 10:00 PM.

In sum and substance, the attitude of the Management towards us was abusive, threatening, intimidating and aggressive throughout the one-day assessment process. We call upon you to take stern action against the Management of this Institute so that such behavior is not repeated and the Assessors can discharge their responsibilities without any fear to their physical safety and well-being. "

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 150 MBBS students at P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 and to issue show cause notice to the college authorities.

The Executive Committee of the Council also decided to refer the matter to the Ethics Committee to take action against the above mentioned residents of the college.

The Executive Committee of the Council also decided to issue show cause notice to the Dean and management of the college for the misbehaviour with assessors".

The above decision of the Executive Committee was communicated to the Central Govt. and to the Dean/Principal of the college vide this office letters dated 15/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh

assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Principal, P.K. Das Institute of Medical Sciences, Palakkad, Kerala for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 23.12.2016 and 10.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 29.03.2016 and 22.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the

Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 44%, residents was 63.26% and the bed occupancy was found to be 36.66%. Similarly in the last compliance verification assessment conducted on 22nd April, 2016 of P.K. Das Institute of Medical Sciences, Palakkad, Kerala, apart from other deficiencies the deficiency of teaching faculty was found to be 26%, residents was 20% and the bed occupancy was found to be 39.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is at the stage of Letter of Permission upto II renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(a) provides that during any regular inspection/assessment of the institute, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 30% and / or the bed occupancy is found to be less than 50% (45% in North East, Hilly terrain, etc.)such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for issue of Letter of Permission (LOP)/renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of Third batch).

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45%) in North East, Hilly terrain, etc.), compliance of rectification of deficiencies from such an institute will not be considered for Letter of Permission (LOP)/renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord

Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*

é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd

condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3le Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of Permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala, during the compliance verification inspection carried out on 29.3.2016 and 22.4.2016, the deficiency of Faculty was found to be 26%, the deficiency of Resident was found to be 20% and the Bed Occupancy was found to be only 39.33%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science &

Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various*

departments in the college and in the hospitals. These regulations are in considerable detail. ……...

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. ……... After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of Permission for MBBS course for 3rd batch (150 seats) of P.K. Das Institute of Medical Sciences, Palakkad, Kerala under Kerala University of Health Sciences, Thrissur, Kerala, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

96. <u>Renewal of permission for MBBS course for 3rd batch (150 seats) of Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"The Executive Committee of the Council considered the Council Assessors report (4th and 5th November, 2015) and noted the following:-

1. *Deficiency of faculty is 61 % as detailed in the report.*
2. *Shortage of residents is 85.7 % as detailed in the report.*
3. *Medical Superintendent was absent on day of assessment.*
4. *OPD: Out of 4 Examination Rooms available, only 2 were furnished & had sitting arrangements. Plaster cutting room is not available.*
5. *Very few patients were seen in OPD on 2nd day of assessment. Consultants were present only in Ophthalmology, Paediatrics, O.G., General Surgery. No consultant or Resident was present in General Medicine & allied specialties on first day of assessment.*
6. *Wards: Demonstration rooms are not furnished. 10 beds in General Surgery wards were placed in the passage alongside one another & were*

vacant. There were no wards for Minor specialties & they were clubbed together with major branches.

7. *Bed occupancy was 26.33 % (i.e. 79 /300) on day of assessment. Majority of patients were admitted for minor complaints and did not merit admission.*
8. *Data of clinical material and Radiological & Laboratory investigations as provided by the institute have been exaggerated and do not appear to be true in view of OPD & indoor patients. As NIL operations were performed on day of assessment, workload of 7 Histopathology investigations as shown by the institute is not feasible.*
9. *There was NIL Major & NIL Minor operation on day of assessment. There was NIL pot-operative patient in any Surgical ward though OT list of previous days showed major operations being done in previous 3 days.*
10. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*
11. *MRD: It is partly computerized.*
12. *Casualty: Central O_2 and Central Suction are not available. There were only 3 patients in Casualty at 11:30 p.m.*
13. *ICUs: There was NIL patient in ICCU or any ICU on day of assessment.*
14. *Only 2 static X-ray machines are available against requirement of 3.*
15. *Blood Bank: There was no unit stored on day of assessment. No unit was dispensed after 18/10/2015.*
16. *CSSD: It is not functional.*
17. *MEU: Orientation Programme& Basic Course Workshop are not conducted.*
18. *CME: No CME has been organized.*
19. *Examination Hall: Only 1 Hall of capacity 130 is available against requirement of 2 of 250 each.*
20. *Lecture Theater: Hospital lecture theater is not available. Capacity of 2 lecture theaters is 150 & 100 respectively which is less than 180 each required. E class facility is not available.*
21. *Central Library: Foreign journals available are 09 against requirement of 12.*
22. *Common Rooms for Boys & Girls are smaller than required and do not have attached toilets.*
23. *Central Research laboratory: It is not functional.*
24. *Anatomy department: Cold storage chambers for storage of dead bodies are not available. MRI & CT films are not available in museum.*
25. *Pathology department: Museum is under preparation. Demonstration rooms are not available. Practical laboratories are not equipped.*
26. *Microbiology department: Museum is under preparation. Demonstration rooms are not available. Practical laboratories are not equipped. NIL service laboratory is available against 7 required.*
27. *Pharmacology department: Museum is under preparation. Demonstration rooms are not available. Practical laboratories are not equipped.*
28. *Forensic Medicine department: Museum is under preparation. Demonstration rooms are not available. Practical laboratories are not equipped.*
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 (150 seats) of MBBS students at Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala had submitted the Compliance report dated 08.01.2016 and 29.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 21st April, 2016.

In this regard the Council office has received a letter dated 15/01/2016 from the Registrar, Kerala University of Health Sciences, Thrissur addressed to the Principal, Al-Azhar Medical College and Super Speciality Hospital, Thodupuzha and copy to this Council stating therein as under:-

"The report of the reinspection conducted in your college was placed before the Scrutiny Committee and as per report the scrutiny committee there is gross deficiency of faculty on the day of inspection with no professor and Associate professor present in many departments. In non clinical departments more than 50% faculty are having post graduation in M.Sc. The report of the scrutiny committee was placed before the 29th meeting the Governing Council dated 21/12/2105 and the Governing Council vide decision no. 29.15 had decided not to grant continuation of provisional affiliation to your college during the year 2015-2016."

The compliance verification assessment report (21st April, 2016) alongwith previous assessment report (4th& 5th November, 2015) as well as the letter dated 15/01/2016 received from the Kerala University of Health Sciences, Thrissur with regard to renewal of permission for MBBS course for 3rd batch (150 seats) of Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was placed before the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (21st April, 2016) alongwith previous assessment report (4th& 5th November, 2015) as well as the letter dated 15/01/2016 received from the Kerala University of Health Sciences, Thrissur and noted the following:-

1. *Deficiency of faculty is 79 % as detailed in the report.*
2. *Shortage of Residents is 79.55 % as detailed in the report.*
3. *Most of the Residents are not staying in the hostels.*
4. *OPD: Very few patients were seen in OPD. No Consultants or Residents were present in most of the departments.*
5. *Bed occupancy was 06.67 % (i.e. 020 out of 300 beds) on day of assessment which is grossly inadequate. Institute has provided data of Bed occupancy @ 61 % which is false & highly inflated. There were healthy persons lying on beds without any case papers.*
6. *Although equipment has been procured, Histopathology & Cytopathology workload has not yet started.*
7. *There was NIL Major & Minor operation on 21/04/2016. All O.T.s were closed. Out of 3 patients operated on 20/04/2016, only 2 of them were available.*
8. *There was NIL Normal Delivery & NIL Caesarean Section from 17/04/2016 to 19/04/2016. There was only 1 Normal Delivery on 20/04/2016.*
9. *ICUs: There was NIL patient in ICCU, SICU. Only 1 child was kept in PICU for observation without any documentary evidence. In MICU, 1 patient was admitted for Hypertension for 2 days, without any anti-hypertensive drug being given !*
10. *Only 2 Static X-ray machines are available against requirement of 3. Deficiency remains as it is.*
11. *Central research laboratory: It is not adequately equipped & not functional.*
12. *OPD attendance was 125 as observed & verified by assessors. Institute data are grossly inflated.*
13. *Data of Clinical Material, Major & Minor operations, Radiological & Laboratory investigations as provided by institute are grossly inflated. Hospital is practically non-functional.*
14. *Very few Nursing & Paramedical staff are available in the wards.*
15. *Blood Bank: Since 16/04/2016, no stock of usable blood was available. Five expired blood units were found which contrary to Regulations.*

16. *Examination hall: capacity of 2nd Examination hall is 200 against requirement of 250. Deficiency remains as it is.*
17. *Lecture Theaters: Hospital lecture Theater is not of gallery type. Deficiency remains as it is.*
18. *Common Rooms for Boys & Girls are smaller than required.*
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 renew the permission for admission of 3rd batch (150 seats) of Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letters dated 14/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Principal, Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 08.01.2016 and 29.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 21st April, 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

".....31. *MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 61%, residents was 85.7% and the bed occupancy was found to be 26.33%. Similarly in the last compliance verification assessment conducted on 21st April, 2016 of Al-Azhar Medical College and Super

Specialty Hospital, Thodupuzha, Keralaapart from other deficiencies the deficiency of teaching faculty was found to be 79%, residents was 79.55% and the bed occupancy was found to be 06.67%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is at the stage of Letter of Permission upto II renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(a) provides that during any regular inspection/assessment of the institute, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 30% and / or the bed occupancy is found to be less than 50% (45% in North East, Hilly terrain, etc.) such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for issue of Letter of Permission (LOP)/renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of Third batch).

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45%) in North East, Hilly terrain, etc.), compliance of rectification of deficiencies from such an institute will not be considered for Letter of Permission (LOP)/renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the***

***inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 3rd batch (150 seats) of Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences, Kerala, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural

justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could

be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of Permission for MBBS course for 3rd batch (150 seats) of Al-Azhar Medical College and Super Specialty Hospital, Thodupuzha, Kerala under Kerala University of Health & Allied Sciences, Kerala, during the compliance verification inspection carried out on 21.4.2016 the deficiency of Faculty was found to be 79%, the deficiency of Resident was found to be 79.55% and the Bed Occupancy was found to be only 6.67%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High

Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their*

ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

The Executive Committee of the Council also noted the letter dated 14.6.2016 of the Registrar, Kerala University of Health Sciences intimating among other things that the ñthe matter regarding continuation of provisional affiliation of the said college had been placed before the Governing Council of the University and the Governing Council in its meeting dated 30.5.2016 vide decision no. 32.07(B) has resolved not to grant continuation of provisional affiliation to Al Azhar Medical College and Superspeciality Hospital, Thodupuzha for the year 2016-17 and not to admit students for MBBS course in the college during the year 2016-17. The University had further requested the Council for not initiating the process of admitting the students for MBBS course in Al Azhar Medical College & Super Speciality Hospital, Thodupuzha during the year 2016-17.ò

In view of above, the Executive Committee of the Council is of the opinion that the abovesaid application does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Honôble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

97. <u>Renewal of permission for MBBS course for 3rd batch (100 seats) of Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to Renewal of permission for MBBS course for 3rd batch (100 seats) of Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, Mount Zion Medical College, Pathanamthitta, Kerala, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 3rd batch (100 seats) of Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 4th& 5thNovember, 2015. The assessment report 4th & 5th November, 2015 was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (4th and 5th November, 2015) alongwith letter/representation dated 04/11/2015 of the Principal, Mount Zion Medical College, Pathanamthitta, Kerala and additional information/documents dated 23/11/2015 from all three Assessors and noted the following:-

1. *Deficiency of faculty is 79.77 % as detailed in the report.*
2. *Shortage of Residents is 100 % as detailed in the report.*
3. *OPD attendance is 40 on day of assessment till 2 p.m.*
4. *Bed occupancy was 50.66 % on day of assessment.*
5. *There were only 2 Major & 1 Minor operations for the whole hospital on day of assessment.*
6. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
7. *Workload of Histopathology & Cytopathology was NIL on day of assessment.*

8. *Data of Casualty attendance, Radiological & Laboratory investigations provided by institute are inflated.*
9. *Casualty: Separate Casualty for O.G. is not available. Disaster Trolley is not available.*
10. *ICUs: There was NIL patient in ICU & NICU/PICU and only 2 patients in ICCU on day of assessment.*
11. *OPD: Plaster room & Plaster cutting room are not separate.*
12. *Wards: Paediatrics, Tb & Chest, General Surgery, Orthopaedics, Ophthalmology, ENT, OG wards are not as per MSR Regulations. Psychiatry and Skin & VD wards are actually a small room with 4 beds.*
13. *Many patients were admitted with minor complaints. There were many fake admissions as observed by assessors during verification.*
14. *Radiodiagnosis department: There is only 1 mobile X-ray machine against requirement of 2. There is only 1 static X-ray machine against requirement of 2.*
15. *CSSD: ETO Sterilizer is not available. Receiving & Distribution points are not separate.*
16. *Central Research laboratory: Facilities are not adequate.*
17. *Examination Hall: It is not available.*
18. *Lecture Theaters: Only 2 lecture theaters are available against 3 required. Hospital lecture theater is not available.*
19. *Central Library: It is not air-conditioned. Books available are 2,600 against requirement of 3,000.*
20. *Girls' Common Room does not have attached toilet.*
21. *Students' Hostel: Available accommodation is 180 against 225 required. Mess is not available. Visitors' room, A.C Study room with computer & Internet & Recreation room are not available.*
22. *Residents' Hostel: Available accommodation is 10 against 48 required. It is not furnished. Toilet facilities are inadequate. Mess is not available. Visitors' room, A.C Study room with computer & Internet & Recreation room are not available.*
23. *Residential Quarters for Non-teaching staff are not available.*
24. *Website: Details of Anti Ragging Committee, Gender Harassment Committee, Toll free number to report ragging are not provided.*
25. *Dean declined to sign Form A II. Form A I was not handed over to assessors.*
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 Govt. not to renew the permission for admission of 3rd batch (100 seats) of MBBS students at Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Mount Zion Medical College, Pathanamthitta, Kerala had submitted the Compliance Report dated 01.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 29th March, 2016.

The Council Office had also received a letter dated29/03/2016 from the appointed team of Council Assessors stating therein as under:-

"… we have conducted the assessment on 29th March, 2016. The assessment was over by 6.30 p.m. and the report was printed. After the signature of the three assessors, the Principal of the said Medical College refused to sign the assessment report for reasons unknown. The matter was reported to your goodself on phone at 7.30 pm. We left the premises of the college without the report being signed by the Principal. Thus we are submitting to your office the report with the relevant documentary and photographic evidences without the signature of the Principal."

In addition to above, it is stated that the Council Office had received a letter dated 04.01.2016 from the Registrar, Kerala University of Health Sciences, Thrissur addressed to the Principal, Mount Zion Medical College, Pathanamthitta and copy to this Council, stating therein as under:-

"The report of the re-inspection conducted in your college was placed before the scrutiny committee and as per report of the scrutiny committee there is gross deficiency of clinical material and faculty on the day of inspection. The report of the scrutiny committee was placed before the 29th meeting of the Governing Council dated 21/12/2015 and the Governing Council vide decision no, 29.15 has decided not to grant continuation of provisional affiliation to your college during the year 2015-2016."

The compliance verification assessment report (29th March, 2016) alongwith previous assessment report (4th & 5th November, 2015) as well as letter dated 29/03/2016 received from the appointed team of Council Assessors and letter dated 4.1.2016 from the Registrar, Kerala University of Health Sciences, Thrissur with regard to renewal of permission for MBBS course for 3rd batch (100 seats) of Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was placed before the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (29th March, 2016) alongwith previous assessment report (4th & 5th November, 2015) as well as letter dated 29/03/2016 received from the appointed team of Council Assessors and letter dated 4.1.2016 from the Registrar, Kerala University of Health Sciences, Thrissur and noted the following:-

1. *Deficiency of faculty is 39.3 % as detailed in the report.*
2. *Shortage of Residents is 58.3 % as detailed in the report.*
3. *On random verification it was observed that there are no Residents staying in the Residents' hostel. These rooms were occupied by patients' relatives, Nurses & trainee Dentists.*
4. *OPD: OPD area in the morning showed very few patients in the morning time; however OPD desk registration computer showed 547 patients at 11:30 a.m.*
5. *Bed occupancy as verified by assessors on taking round along with Dean was 42.33 % on day of assessment against requirement of 60 %.*
6. *NIL patient in General Surgery wards had IV fluids or injectable medicines being administered. General Surgery & Orthopaedics wards did not have any post-operative patients.*
7. *Many patients are admitted with minor complaints. In many cases, investigations are not mentioned in case sheets. There were many fake admissions as observed by assessors during verification.*
8. *No record of Minor operations is available.*
9. *Labour room record showed 4 deliveries on 28/03/2016. On verification of the records in O.G. wards, Paediatrics wards & NICU, there were no such patients available just 1 day after delivery. This implies that records of Labour Room & Birth Register are fictitious.*
10. *Registers of Histopathology & Cytopathology are fictitious as samples of appendix & tonsils shown as having been received on 28/03/2016 in the laboratory could not be shown to us.*
11. *Data of Casualty attendance provided by institute appear to be inflated as no case papers are kept in Casualty and hence cannot be matched with computer data.*
12. *ICUs: PICU was closed for fumigation. There was only 1 patient in NICU & 2 in SICU on day of assessment.*
13. *Wards: Psychiatry, Skin & VD and Tb & Chest wards are makeshift arrangement and not as per MSR Regulations. Pantries in all wards had only table & chair.*
14. *Central Research Laboratory: Facilities are not adequate. Deficiency remains as it is.*
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 of 100 MBBS students at Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letters dated 14/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Principal, Mount Zion Medical College, Pathanamthitta, Kerala for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 01.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 29th March, 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect*

on all concerned. ……... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 79.77%, residents was 100% and the bed occupancy was found to be 50.66%. Similarly in the last compliance verification assessment conducted on 29th March, 2016 of Mount Zion Medical College, Pathanamthitta,apart from other deficiencies the deficiency of teaching faculty was found to be 39.3%, residents was 58.3% and the bed occupancy was found to be 42.33%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is at the stage of Letter of Permission upto II renewal of permission, as well as renewal of permission of increased intake.

Regulation 8(3)(1)(a) provides that during any regular inspection/assessment of the institute, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 30% and / or the bed occupancy is found to be less than 50% (45% in North East, Hilly terrain, etc.) such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for issue of Letter of Permission (LOP)/renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of Third batch).

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45%) in North East, Hilly terrain, etc.), compliance of rectification of deficiencies from such an institute will not be considered for Letter of Permission (LOP)/renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to*

*MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 3rd batch (100 seats) of Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala,, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the

application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of Permission for MBBS course for 3rd batch (100 seats) of Mount Zion Medical College, Pathanamthitta, Kerala under Kerala University of Health & Allied Sciences, Thrissur, Kerala, during the compliance verification inspection carried out on 29.3.2016 the deficiency of Faculty was found to be 39.3%, the deficiency of Resident was found to be 58.3% and the Bed Occupancy was found to be only 42.33%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

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

If it is observed during any inspection/*assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year*é ..ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High

Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..”

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*“……**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

> ***30.*** *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

The Executive Committee of the Council also decided to take on record the letter dated 16.6.2016 of the Registrar, Kerala University of Health Sciences intimating among other things that the "the matter regarding continuation of provisional affiliation of the said college had been placed before the Governing Council of the University and the Governing Council in its meeting dated 30.5.2016 vide decision no. 32.07(B) has resolved not to grant continuation of provisional affiliation to Mount Zion Medical College, Pathanamthitta Thodupuzha for the year 2016-17 and not to admit students for MBBS course in the college

during the year 2016-17. The University had further requested the Council for not initiating the process of admitting the students for MBBS course in Mount Zion Medical College, Pathanamthitta Thodupuzha during the year 2016-17.ò

In view of above, the Executive Committee of the Council is of the opinion that the abovesaid application does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

98. <u>Recommendation of MCI in respect of RKDF Medical College Hospital & Research Centre, Bhopal for application of Clause 8(3)(1)(d) of Establishment of Medical College Regulation, 1999</u>.

Read: the matter with regard to recommendation of MCI in respect of RKDF Medical College Hospital & Research Centre, Bhopal for application of Clause 8(3)(1)(d) of Establishment of Medical College Regulation, 1999.

The Executive Committee of the Council perused, letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Dean, RKDF Medical College, Hospital and Research Centre, Bhopal, Madhya Prades, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the Council Office had received a letter dated 29/03/2016 from the Central Govt. , Ministry of Health & F.W., Nirman Bhawan, New Delhi stating therein as under:-

"I am directed to refer to MCI's letter No.MCI-34(41)R-47)/2014-Med./106541, dated 11/05/2015 and MCI-34(41)(UG)/2015-Med./174599, dated 11.03.2016, on the above subject and to say that while examining the matter referred by this Ministry, the Ministry of Law & Justice has enquired as to whether there is any rule which stops an opportunity of personal hearing and advised the Ministry to examine the issue as per rules, regulations and policies. Further, the Hon'ble Court of Delhi in its Order dated 29.09.2015 in WP(C) No. 2015 & CM No. 13029/2015 and a related matter held that it is not open to MCI and/or Central Govt. to deny an opportunity to the applicant/institute concerned to rectify the deficiencies specified by MCI even in cases which fall within the ambit of the provisos (a) to (d) of Regulations 8(3)(1) of the regulations.

2. Considering the above, the Ministry has given an opportunity of being heard to RKDF Medical College Hospital & Research Centre, Bhopal on 17/03/2016, The observations of the Hearing Committee are as follows:-

> *"The College has admitted that experience certificate issued by Sakshi Medical College in respect of Dr. Navneet Mishra was wrong to the extent that the said medical college is not yet recognised by MCI.*
>
> *The records relating to work done by the four faculty in question was perused. It was noted that the clinical work done by them was actually inadequate. The college has informed the 3 faculty have already left the college except Dr. Subrat Adhikari.*
>
> *The Committee notes that if the experience is not accepted on grounds that the college issuing it is not recognised, the faculty may not be considered if found wanting in having requisite experience. The observation regarding low workload in case of the four faculty is also upheld. However, it falls short of a clear finding that fake faculty/documents were employed by the college.*
>
> *"The matter may be referred to MCI for review."*

3. The Ministry has accepted above recommendation of Hearing Committee and the matter is referred back to MCI for review on imposition of regulation 8(3)(1)(d)."

In this connection, it is stated that an assessment for renewal of permission for MBBS course for 2ndh batch (150 seats) of RKDF Medical College Hospital & Research Centre, Jathkhedi, Bhopal, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 was carried out by the Council Assessors on 23rd & 24th February, 2015.The assessment report (23rd & 24th Feb., 2015) was considered by the Executive Committee at its meeting held on 02/03/2015 and it was decided as under :-

"The Executive Committee considered the Council Assessor report (23rd & 24th February 2015) and noted the following:-

1. *Deficiency of teaching faculty is 19.81 % as detailed in the report.*
2. *Shortage of residents is 49 % as detailed in the report.*
3. *Bed occupancy is 48 % on day of assessment.*
4. *There were only 5 Major (which included 4 Cataract operations) & 4 Minor operations on day of assessment.*
5. *There was no normal delivery & 1 Caesarean section on day of assessment.*
6. *There was no patient in ICCU, SICU, PICU/NICU & only 1 patient in MICU on day of assessment.*
7. *With regard to clinical material, the following discrepancies were observed:*
   (a) In Casualty OPD, two fake patients of corneal abrasion were shown. On enquiry, both of them said that their left eye was given eye pads just one hour before. On examination, both of them had no such problem.
   (b) In Paediatrics ward, most of the patients had no significant illness to be treated as IPD patients. 5 patients from the same family were found in Paediatrics ward. Few other patients were also from the common family.
   (c) In Obstetrics ward, 2 patients were aged more than 50 years – i.e. beyond reproductive age.
   (d) In Tb & Chest ward, almost all the patients shown were not having any chest complaint at all. Rather, they had other vague complaints like body ache, etc. not requiring admission.
   (e) Overall, IPD patients were not having significant illness to be treated as IPD patients.
   (f) Most of IPD patients were not investigated at all. Most of the them were not given any medicine.
   (g) More than 70 % patients were admitted on only 1 day – i.e. 22/02/2015.
8. *With regard to faculty & Residents, the following discrepancies are observed:*
   (a) Most of the Residents are not actually staying in campus accommodation.
   (b) One Junior Resident in O.G. confessed that he is actually staying in teaching staff quarters but only on paper he was allotted a room in the hostel.
   (c) A few teachers are engaged only periodically as per their teaching schedule.
   (d) Most of the faculty are not actually staying in the quarters allotted to them.
   (e) Significant number of faculty & Residents were unaware of other faculty & Residents of their own departments.
9. *Dr. Navneet Mishra, Asst. Prof. of General Surgery had attached wrong experience certificate.*
10. *The following faculty were observed not to have done any work in the department:*
    (a) Dr. Sameer Zutshi, Asst. Professor, Anaesthesia;
    (b) Dr. Subrat Adhikary, Asst. Professor of General Medicine;
    (c) Dr. Priya Singh, Asst. Prof. of General Surgery;
    (d) Dr. Avinash Kaundinya, Professor of Ophthalmology.
11. *In case of as many as 12 faculty, address does not match with Dean's quarters allocation certificate.*
12. *In case of 14 Residents as detailed in the report, there is no signature of HOD on D.F.*

13. *Dr. Milan Pumbhadiya, Junior Resident had D.F. filled on 09/01/2015 while he was appointed on 20/01/2015.*
14. *In case of Dr. Jayesh Dholakiya, Junior Resident in General Medicine, date of joining is contradictory.*
15. *Name of faculty was not mentioned in weekly teaching programmes.*
16. *In Residents' hostel, ground floor is used as Autopsy block.*
17. *Teaching staff quarters are not actually staff quarters but like big sized rooms hostel. They are located on 2nd& 3rd floor above the library and reading room, which means that library is on ground floor, reading room is on I floor of teaching quarters hostel.*
18. *MRD: It is partly manual & partly computerized.*
19. *Nursing staff: 155 Nurses are available against requirement of 175 as per Regulations.*
20. *Paramedical staff: Only 65 are available against requirement of 100 as per Regulations.*
21. *Anatomy department: Embryology models are inadequate.*
22. *Access of RKDF Hospital is through very narrow road passing through slum area which is a major problem for ambulance to reach.*
23. *No separate Nursing hostel is available. I floor of Girls' hostel is utilized as Nursing hostel.*
24. *Other deficiencies as pointed out in the inspection 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 (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh earlier under Barkatullah University and now under Sarvepalli Radhakrishnan University, Bhopal u/s 10A of the IMC Act, 1956 for the academic year 2015-2016. It was further decided to apply clauses 8(3)(1)(a) & 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)…..

<u>Colleges in the stage upto II renewal (i.e. Admission of third batch)</u>

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."

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

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 for two academic years i.e. that academic year(i.e. 2015-16) and the next academic year (i.e. 2016-2017

The Executive Committee further decided to refer the matter to the Ethics Committee."

The above decision of the Executive Committee was communicated to the Central Government vide this office letter dated 05/03/2015.

In view of above decision of the Executive Committee regarding fake faculty/documents, the matter was referred to the Ethics Section for further necessary action in the matter.

The Central Govt. vide its letter dated 17/04/2015 forwarded the compliance dated 09/04/2015 submitted by the submitted by the Dean, RKDF Medical College Hospital & Research Centre, Bhopal alongwith the recommendations of

the Committee constituted by the Ministry of Health, and Family Welfare, New Delhi for review by the MCI.

Accordingly, the matter was re-considered by the Executive Committee of the Council at its meeting held on 29/04/2015 and it was decided as under:-

"The Executive Committee of the Council observed that at its meeting dt. 02/03/2015, the Executive Committee had decided as under:-

"The Executive Committee considered the Council Assessor report (23rd & 24th February 2015) and noted the following:-

1. Deficiency of teaching faculty is 19.81 % as detailed in the report.

2. Shortage of residents is 49 % as detailed in the report.

3. Bed occupancy is 48 % on day of assessment.

4. There were only 5 Major (which included 4 Cataract operations) & 4 Minor operations on day of assessment.

5. There was no normal delivery & 1 Caesarean section on day of assessment.

6. There was no patient in ICCU, SICU, PICU/NICU & only 1 patient in MICU on day of assessment.

7. With regard to clinical material, the following discrepancies were observed:

(a) In Casualty OPD, two fake patients of corneal abrasion were shown. On enquiry, both of them said that on their left eye was given eye pads just one hour before. On examination, both of them had no such problem.

(b) In Paediatrics ward, most of the patients had no significant illness to be treated as IPD patients. 5 patients from the same family were found in Paediatrics ward. Few other patients were also from the common family.

(c) In Obstetrics ward, 2 patients were aged more than 50 years – i.e. beyond reproductive age.

(d) In Tb & Chest ward, almost all the patients shown were not having any chest complaint at all. Rather, they had other vague complaints like body ache, etc. not requiring admission.

(e) Overall, IPD patients were not having significant illness to be treated as IPD patients.

(f) Most of IPD patients were not investigated at all. Most of the them were not given any medicine.

(g) More than 70 % patients were admitted on only 1 day – i.e. 22/02/2015.

8. With regard to faculty & Residents, the following discrepancies are observed:

(a) Most of the Residents are not actually staying in campus accommodation.

(b) One Junior Resident in O.G. confessed that he is actually staying in teaching staff quarters but only on paper he was allotted a room in the hostel.

(c) A few teachers are engaged only periodically as per their teaching schedule.

(d) Most of the faculty are not actually staying in the quarters allotted to them.

(e) Significant number of faculty & Residents were unaware of other faculty & Residents of their own departments.

9. *Dr. Navneet Mishra, Asst. Prof. of General Surgery had attached wrong experience certificate.*

10. *The following faculty were observed not to have done any work in the department:*

    (a) Dr. Sameer Zutshi, Asst. Professor, Anaesthesia;
    (b) Dr. Subrat Adhikary, Asst. Professor of General Medicine;
    (c) Dr. Priya Singh, Asst. Prof. of General Surgery;
    (d) Dr. Avinash Kaundinya, Professor of Ophthalmology.

11. *In case of as many as 12 faculty, address does not match with Dean's quarters allocation certificate.*

12. *In case of 14 Residents as detailed in the report, there is no signature of HOD on D.F.*

13. *Dr. Milan Pumbhadiya, Junior Resident had D.F. filled on 09/01/2015 while he was appointed on 20/01/2015.*

14. *In case of Dr. Jayesh Dholakiya, Junior Resident in General Medicine, date of joining is contradictory.*

15. *Name of faculty was not mentioned in weekly teaching programmes.*

16. *In Residents' hostel, ground floor is used as Autopsy block.*

17. *Teaching staff quarters are not actually staff quarters but like big sized rooms hostel. They are located on 2nd& 3rd floor above the library and reading room, which means that library is on ground floor, reading room is on I floor of teaching quarters hostel.*

18. *MRD: It is partly manual & partly computerized.*

19. *Nursing staff: 155 Nurses are available against requirement of 175 as per Regulations.*

20. *Paramedical staff: Only 65 are available against requirement of 100 as per Regulations.*

21. *Anatomy department: Embryology models are inadequate.*

22. *Access of RKDF Hospital is through very narrow road passing through slum area which is a major problem for ambulance to reach.*

23. *No separate Nursing hostel is available. I floor of Girls' hostel is utilized as Nursing hostel.*

24. *Other deficiencies as pointed out in the inspection 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 (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh earlier under Barkatullah University and now under Sarvepalli Radhakrishnan University, Bhopal u/s 10A of the IMC Act, 1956 for the academic year 2015-2016. It was further decided to apply clauses 8(3)(1)(a) & 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)…..

<u>Colleges in the stage upto II renewal (i.e. Admission of third batch)</u>

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."

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

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 for two academic years i.e. that academic year(i.e. 2015-16) and the next academic year (i.e. 2016-2017)

The Executive Committee further decided to refer the matter to the Ethics Committee."

The Committee further observed that the Central Govt. vide its communication dt. 17.04.2015 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.

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

Legal opinion dated 14/03/2015

"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 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

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.

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.

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….."

Legal opinion dated 27/03/2015

"1. The querist – Medical Council of India has sought my opinion as to whether the querist is obliged to consider the case of a medical college for grant of renewal of permission, which has been barred under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999, for two academic years on account of submitting false and fabricated documents / declaration forms of the faculty employed in the medical college. The opinion is sought based upon the facts of one particular case viz. case of Malla Reddy Medical College.

I have gone through the Note for Opinion forwarded by the querist and have also discussed the matter in detail for the querist. My opinion on the questions is as under :-

As can be seen from the Note for Opinion and the correspondence, Malla Reddy Medical College has been debarred for making admission of 150 MBBS students under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999, initially for the academic year 2014-15 & 2015-16 and now for the academic session 2015-16 & 2016-17.

In order to give a specific opinion in the matter in light of facts of the case, it is appropriate to consider Regulation 8(3)(d) of the Establishment of Medical College Regulation, 1999 along with the facts of the case. The relevant portion of the aforesaid Regulation is reproduced as under :-

"…….

8. GRANT OF PERMISSION:

……..

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

If it is observed that 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/ processing the applications for postgraduate courses for two Academic Years – i.e. that Academic Year and the next Academic Year also……"

Regulation 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999, for a salutary provision to achieve the object of the Act providing that in case any medical colleges is found to have employed teachers with fake and forged documents and declaration forms, such an institute will not be considered for renewal of permission / recognition for award of MBBS degree / processing of their application for postgraduate courses, for two academic years i.e. the current academic year and the next academic year. This provision is apparently made to ensure that no medical college takes chance by resorting to forgery or use of fake documents.

The Regulation 8(3)(1)(d) was incorporated in order to work as a deterrent for a medical college from including in any malpractice in relation to the appointment of teaching faculty in a medical college as the same will affect the quality of teaching and training in any such institution and would ultimately defeat the very object of the Act.

In the case of Malla Reddy Medical College, the querist on its regular inspection found that the teaching faculty employed by the medical college as well as the declaration form submitted to the querist was forged / fabricated in order to get a favourable recommendation for admitting a fresh batch of students for academic year 2014-15.

When the above malpractice came to the notice of the querist, the querist conducted a detailed enquiry and also verified the experience certificate as well as the declaration form furnished by the Malla Reddy Medical College. The querist also verified the experience cum relieving certificate of the faculty members from their earlier employer and found it to be false and fabricated.

The querist, after considering the entire material in this regard, vide its letter dated 03.09.2014 communicated its decision to refer to the matter of the Ethics Committee of the querist for appropriate action against the concerned doctors for submitting false and fabricated documents / declaration form as well as to debar Malla Reddy Medical College from admitting fresh batch of MBBS students for two academic years i.e.2014-15 and 2015-16 in terms of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999.

Since the decision of the querist was not communicated to the medical college, the institution made admissions for the academic year 2014-15 in pursuance of the order dated 18.09.2014 and 25.09.2014 passed by the Hon'ble Supreme Court in the case of Hind Charitable Trust Vs. Union of India- W.P. (CO) No.269 of 2014.

Thereafter, in pursuance to the Central Govt. letter dated 05.01.2014, the querist reconsidered its decision on the ground that Malla Reddy Medical College has already made admission for the academic year 2014-15, the querist decided that in the case of Malla Reddy Medical College the current academic year shall mean to be 2015-2016 and the next academic year will be 2016-17. This was communicated to the Central Govt. vide letter dated 21.01.2015.

Indulging in malpractice of forgery and fabrication is a serious offence in law and the same cannot be taken lightly. Especially in the case of medical education, as the same will affect the quality of medical education provided by an institution. The institution which indulges in forgery and fabrication should be penalized as contemplated by statutory provisions as their actions affect the career of students pursuing MBBS education and may eventually affect the citizens.

In view of the clear reading of the Regulation 8(3)(1)(d) and the facts of the case, I am of the opinion that querist is not obliged to process the application of a medical college for renewal of permission which has been debarred from making admission for two academic years in conformity with Regulation 8(3)(1)(d) of aforesaid Regulation ."

In view of above and the opinions of the Ld. Additional Solicitor General of India application of Section 8(3)(1)(a) and 8(3)(1)(d), 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 2nd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh earlier under Barkatullah University and now under Sarvepalli Radhakrishnan University, Bhopalu/s 10A of the IMC Act, 1956 for the academic year 2015-2016 and for 2016-17 also. "

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 11/05/2015

The Central Govt. vide its letter dated 15/06/2015 also communicated its decision to the college authorities not to renew the permission for admission of 2nd batch

(150 seats) of RKDF Medical College, Hospital & Research Centre, Bhopal, Madhya Pradesh for the academic year 2015-2016.

Aggrieved by the recommendations of the Council and decision of the Central Govt. writ petition No. 7521 of 2015 had been filed by the RKDF Medical College Hospital & Research Centre Vs. Union of India and Anr. before the Hon'ble High Court of Madhya Pradesh, Bench at Jabalpur. The Hon'ble High Court vide its Order dated 01/07/2015 had disposed of the said writ petition with certain directions. The operative part of the order dated 01/07/2015 passed by the Hon'ble High Court of Madhya Pradesh reads as under:-

"…….. 40. In view of the above, we set aside the impugned decision of MCI dated 29.4.2015 (Annexure P-12) as well as subsequent communication dated 11.5.2015 (Annexure P-14); and instead direct MCI to review/assess the scheme for yearly renewal of permission submitted by the petitioner college, in the light of the directions given by the Central Government vide communication dated 17.4.2015 (Annexure P-11). The Respondent No.2 shall expeditiously forward its recommendation report to the Central Government and preferably within one week from today to enable the Central Government to process the same further and take a final decision before the process of admission to medical course for academic year 2015-16 commences after declaration of examination results of the entrance examination scheduled on 15.7.2015.

41. We also direct the MCI as well as the Central Government to consider the subject scheme submitted by the petitioner without being influenced by the communication dated 15.6.2015 issued under the signature of Under Secretary, Government of India, Ministry of Health and Family Welfare, which is produced alongwith the written submission of Respondent No.1, as we have construed that communication to be only a direction given that the petitioner college cannot enroll new students for the academic year 2015-16 without formal permission issued by the Central Government in that behalf.

42. Accordingly, the petition is allowed on the above terms, with no order as to costs. In view of the disposal of this writ petition, the interlocutory applications are also disposed of."

Aggrieved by the above order of the Hon'ble High Court of Madhya Pradesh, the Council filed an SLP© No. 19513/2015 before the Hon'ble Supreme Court. The Hon'ble Supreme Court vide its Order dated 08/09/2015 has passed the following order:-

"In the facts and circumstances of the case, before we finally decide this petition, the petitioner-Medical Council of India (MCI) is directed to comply with the directions given in the impugned order by the High Court, by making an inspection of respondent no.1-medical College and to submit its report in a sealed cover on or before 21.09.2015 in this Court.

List the matter again on 22.09.2015...".

Thereafter, the said mater was listed before the Honb'le Supreme Court on 22/09/2015 when the Hon'ble Supreme Court was pleased to pass the following order:

"...Mr. Vikas Singh, learned senior counsel appearing for the MCI, however, assured this Court that by tomorrow, the 23rd September, 2015, the inspection shall be completed and the report shall be sent to the Government by Special messenger, which must reach by 24th September, 2015. The Government shall give hearing to the respondents on 26th September, 2015 and take a final decision by 28th September, 2015..."

Accordingly, compliance verification assessment of the said college was carried out by the Council appointed assessors on 22nd Sept., 2015.

The compliance verification assessment report (22nd September 2015) alongwith previous assessment report (23rd& 24th Feb., 2015) with regard to renewal of

permission for MBBS course for 2nd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh earlier under Barkatullah University and now under Sarvepalli Radhakrishnan University, Bhopal u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 was forwarded to the members of the Executive Committee through circulation on 23/09/2015 and the decision of the members of the Executive Committee is as under:-

"The members of the Executive Committee of the Council considered the compliance verification assessment report (22nd Sept., 2015) alongwith previous assessment report (23rd& 24th Feb., 2015) and letter from the Dean dt. 22/09/2015 and noted the following :-

1. *Deficiency of faculty is 15.95 % as detailed in the report. The Dean in his letter has stated that 5 Asst. Prof. have passed in May/June 2015 from MCI recognized colleges who have provisional degree certificate issued by the respective Universities as their final degree certificate would be issued only after convocation. He has further stated that three faculty had gone to attend Hon'ble Courts; however in respect of one of them – i.e. Dr. Ashok Meghwal, Asso. Prof. of Surgery, although only 1 Asso. Prof. is available against requirement of 2, no deficiency has been shown in the chart implying he has been considered. The fourth person mentioned in his letter – i.e. Dr. Shailendra Pandey is actually a Senior resident in Skin & VD and not a member of faculty. Accepting all such faculty who have not been considered by assessors and considering them, net deficiency still remains at 7.44 %.*

2. *Psychiatry department is running without any faculty.*

3. *Deficiency of Residents is 83 % as detailed in the report. Most of the Residents are not staying in the campus. Only a few rooms seem to be occupied but basic needs & amenities are not available in Residents' hostel. Clothes, books, belongings, etc. were not seen in the rooms. Ration cards, which appear newly issued, have been provided as address proof for most of the residents, which is not acceptable.*

4. *Many patients who do not require admissions are admitted. In Orthopaedics ward, there were no patients with plaster cast or any operated patient. In Paediatric ward, many patients complained only of Bodyache. One patient was admitted only for investigation purpose. Most of the patients had no significant illness to be treated as IPD patients. In Gynaecology ward, one patient is admitted since 13/09/2015 for complaint of abdominal pain, etc. One patient was admitted for complaints of chest pain & cough. One patient has been admitted since 10/09/2015 (i.e. for 13 days) for Renal Colic. In Obstetric ward, many of the patients did not warrant admission. Basic investigations were not performed at all. Doctors in the Unit had no explanation for the same. Deficiency remains as it is.*

5. *In Casualty, there were only 2 patients out of 18 beds. Details of medical, paramedical staff are not provided.*

6. *In Tb & Chest ward, one of the patients admitted was of Koch's spine which is not as per norms.*

7. *MRD: It is partly computerized. Deficiency remains as it is.*

8. *Access of RKDF hospital is through very narrow road passing through slum area which is a major problem for ambulance to reach. Deficiency remains as it is.*

9. *Data of OPD attendance, IPD, Laboratory investigations, Contrast Radiology investigations & Casualty provided by the institute seem to be inflated. In DVL OPD, there was NIL registration on day of assessment. In Psychiatry OPD, Register is maintained poorly. Last date of entry was 15/09/2015.*

10. *There were NIL Major & NIL Minor operations on day of assessment. O.T. lists were not provided to assessors in spite of repeatedly asking for same.*

11. *There were NIL Normal deliveries & NIL Caesarean Sections on day of assessment as well as on 3 previous days.*

12. *Number of Plain X-rays on day of assessment is only 49 which is inadequate.*

13. *Histopathology & Blood Bank records are not matching with O.T. record.*

14. *Most of the wards like Paediatrics, Tb & Chest Diseases, Obstetrics & Gynecology, Skin & VD, Psychiatry, Ophthalmology, ENT, Orthopaedics, General Surgery, General Medicine, are not as per Minimum Standard Requirement Regulations. ENT ward did not have Emergency tray and basic instruments.*

15. *Mess facility is not available in the hostels.*

16. *ICUs: There was only 1 patient each in MICU & SICU and NIL patient in ICCU, PICU/NICU on day of assessment.*

17. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the members of the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 2nd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh earlier under Barkatullah University and now under Sarvepalli Radhakrishnan University, Bhopal u/s 10A of the IMC Act, 1956 for the academic year 2015-2016."

The above decision of the members of the Executive Committee was communicated to the Central Govt. vide letter dated 24/09/2015.

The Central Govt. vide its order dated 28/09/2015 decided to not to renew the permission for admission of 2nd batch for MBBS course (150 seats) of RKDF Medical College, Hospital & Research Centre, Bhopal, Madhya Pradesh for the academic year 2015-16.

As, the Central Govt. had not given any decision with regard to clause 8(3)(1)(d) on the said institute, the Council sent a letter dated 06/07/2015 to the Central Govt.

In response, the Council Office had received a letter dated 21/09/2015 from the Central Govt. intimating therein that the Central Govt. considered the recommendation of the Council letter dated 06/07/2015 under the clause 8(3)(1)(d) and it has been decided "that MCI may be asked to give the institutions a fresh hearing before taking action for their debarment for 2 years."

The matter was considered by the Executive Committee at its meeting held on 28.10.2015 and decision was communicated to the Central Govt. vide its letter dated 05/11/2015.

The Council vide its letter dated 23/12/2015 again requested the Central Govt. to take appropriate action in this regard and to apply/implement the binding mandatory and unexceptional provision of Regulations 8(3)(1)(d) of the Establishment of Medical College Regulations, debarring the colleges for 2(two) years i.e. 2015-2016 & 2016-2017.

Thereafter, on receipt of the representation of Dean, Malla Reddy Institute of Medical Sciences, Hyderabad through the Central Govt. letter dated 22/02/2016, the Council vide its letter dated 11/03/2016 requested the Central Govt. to send their decision to consider the matter with regard to Malla Reddy Institute of Medical Sciences, Hyderabad as well as for similar other cases.

It is also submitted that as per information provided by the Ethics Section, the Ethics Committee at its meeting held on 22nd & 23rd December, 2015 considered the documents submitted by the Dean of the College and noted that Dr. Paresh Ruparel was working as a Surgeon at Seth V.S. General Hospital, Ahmedabad during the period of Jan. & Feb., 2016. Thus, it is not possible for him to

simultaneously worked at RKDF Medical College, Bhopal. Dr. Paresh Ruparel has also admitted this fact in his affidavit. Dr. U.V. Shah, Dean of the RKDF Medical College, Bhopal is also guilty of signing the false and misleading declaration forms and misguiding the MCI.

In view of above, the Ethics Committee has recommended to debar both Dr. Paresh Ruparel and Dr. U.V. Shah for a period of 5 years to hold any teaching and administrative post in any medical college. The proceedings of the Ethics Committee was considered by the Executive Committee at its meeting held on 27.02.2016 and the Executive Committee referred back the matter with the following observations:-

"In the minutes of the Ethics Committee no statement of Dr. Paresh Ruparel as well as Dr. U.B. Shah is found. The Executive Committee decided to refer back the matter with an advice to complete proceeding and re –submit the matter."

In this regard, it is further stated that the Council Advocate at Jabalpur vide his email dated 11/05/2016 had informed the Council as under:-

"The Writ Petition No. 21223/2015 filed by RKDF Medical College was listed for hearing today before the Hon. Division Bench of Chief Justice. On earlier occasion i.e. on 30.4.16 the Hon. Court has directed us to file reply to writ petition. We could not file the reply since it was a very short time and therefore prayed for more time to file reply. To this the counsel for the petitioner submitted that the impugned order dt.29.3.2016 is untenable on the face of record since the said communication issued by Union of India to MCI refers to earlier MCI communication dt.11.5.2015 which was set aside by the Hon' Division Bench in earlier round of litigation i.e. WP No. 7521/2015 which order has been affirmed by the Hon. Supreme Court in SLP (C) No. 19513/2015.

To this the Hon. Court took up the matter for disposal forthwith and after considering the material on record quashed impugned communication dt.29.3.16 issued by Central Government. The Hon. Court further clarified that MCI cannot invoke 8(3)(1)(A) for that the provision uses plural expression "Teachers". For that in the earlier inspection report only one Teacher namely Navneet Mishra was found to have wrong experience certificate. The Court however made it clear that it is open to MCI to invoke 8 (3) (1) if it is found that more than one teacher have wrong experience certificate. With this observation the Hon. Court has directed the MCI to conduct inspection of petitioner/college and to submit its recommendation to Central Government by 15th of May 2016 being the cut off date. The soft copy of judgement is likely to be uploaded on the website of High Court around 8 PM today."

The matter was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decited as under:-

"The Executive Committee of the Council perused the letter dated 29.03.2016 whereby the Ministry while accepting the recommendation of the Hearing Committee has referred the case of RKDF Medical College Hospital & Research Institute, Bhopal to the Council for review on imposition of penalty as provided under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999.

The Executive Committee noted the letter dated 29.03.2016 clearly reveals that the Hearing Committee has not considered the matter in accordance with the clear mandate ofRegulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 as well as the recommendations of the Council alongwith the inspection reports. It is stated that the Hearing Committee, has recorded in its recommendation that the medical college has admitted to the fact that it had presented faculty members with fake / forged Declaration Form & Experience Certificates and also that certain faculty members did not have requisite experience in their respective departments, however instead of rejecting their claim has requested the Council to review their case on the imposition of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999.

The relevant portion of the observation of the Hearing Committee is reproduced as under:-

"…….The College has admitted that experience certificate issued by Sakshi Medical College in respect of Dr. Navneet Mishra was wrong to the extent that the said medical college is not yet recognised by MCI.

The records relating to work done by the four faculty in question was perused. It was noted that the clinical work done by them was actually inadequate. The college has informed the 3 faculty have already left the college except Dr. Subrat Adhikari.

The Committee notes that if the experience is not accepted on grounds that the college issuing it is not recognised, the faculty may not be considered if found wanting in having requisite experience. The observation regarding low workload in case of the four faculty is also upheld. However, it falls short of a clear finding that fake faculty/documents were employed by the college.

The matter may be referred to MCI for review….."

The Executive Committee thought it relevant to mention that the Ministry as well as the Hearing Committee has apart from other deficiencies including other faculty appointed on the basis of fake / forged documents, has totally ignored that the Council while evaluating the Declaration Forms & Experience Certificates of the faculty members found that one Dr. Paresh Ruparel, who was presented as a faculty member of the medical college during the inspection, who was actually working in V.S Hospital, administered and managed by Ahmadabad Municipal Corporation, Ahmadabad and was simultaneously taking salary from both the medical college and the State Govt. Dr. Paresh Ruparel had submitted his affidavit dated 19.05.2015 before the Ethic Committee of the Council wherein he had admitted that he is working as a Surgeon at V.S Hospital, administered and managed by Ahmadabad Municipal Corporation, Ahmadabad and had also appeared before MCI inspection team as a faculty member of RKDF medical college only for the purposes of the MCI inspection to help the medical college procure permission for the academic year 2015-16. The Ministry and the Hearing Committee has also ignored that the Principal of the medical college has verified and counter signed his Declaration Form &Experience Certificate to show his as regular faculty of the medical college and had tried to mislead the Central Govt as well as MCI.

In order to consider the matter the Executive Committee deemed it appropriate to set out the following facts pertaining to the medical college:-

1) An assessment for renewal of permission for MBBS course for 2nd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Jathkhedi, Bhopal, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 was carried out by the Council Assessors on 23rd& 24th February, 2015.The assessment report (23rd& 24th Feb., 2015) was considered by the Executive Committee at its meeting held on 02/03/2015 and it was decided as under:-

"The Executive Committee considered the Council Assessor report (23rd& 24th February 2015) and noted the following:-

1. *Deficiency of teaching faculty is 19.81 % as detailed in the report.*
2. *Shortage of residents is 49 % as detailed in the report.*
3. *Bed occupancy is 48 % on day of assessment.*
4. *There were only 5 Major (which included 4 Cataract operations) & 4 Minor operations on day of assessment.*
5. *There was no normal delivery & 1 Caesarean section on day of assessment.*
6. *There was no patient in ICCU, SICU, PICU/NICU & only 1 patient in MICU on day of assessment.*
7. *With regard to clinical material, the following discrepancies were observed:*

(a) *In Casualty OPD, two fake patients of corneal abrasion were shown. On enquiry, both of them said that their left eye was given eye pads just one hour before. On examination, both of them had no such problem.*
(b) *In Paediatrics ward, most of the patients had no significant illness to be treated as IPD patients. 5 patients from the same family were found in Paediatrics ward. Few other patients were also from the common family.*
(c) *In Obstetrics ward, 2 patients were aged more than 50 years – i.e. beyond reproductive age.*
(d) *In Tb & Chest ward, almost all the patients shown were not having any chest complaint at all. Rather, they had other vague complaints like body ache, etc. not requiring admission.*
(e) *Overall, IPD patients were not having significant illness to be treated as IPD patients.*
(f) *Most of IPD patients were not investigated at all. Most of the them were not given any medicine.*
(g) *More than 70 % patients were admitted on only 1 day – i.e. 22/02/2015.*

8. *With regard to faculty & Residents, the following discrepancies are observed:*
   (a) *Most of the Residents are not actually staying in campus accommodation.*
   (b) *One Junior Resident in O.G. confessed that he is actually staying in teaching staff quarters but only on paper he was allotted a room in the hostel.*
   (c) *A few teachers are engaged only periodically as per their teaching schedule.*
   (d) *Most of the faculty are not actually staying in the quarters allotted to them.*
   (e) *Significant number of faculty & Residents were unaware of other faculty & Residents of their own departments.*
9. *Dr. Navneet Mishra, Asst. Prof. of General Surgery had attached wrong experience certificate.*
10. *The following faculty were observed not to have done any work in the department:*
    (a) *Dr. Sameer Zutshi, Asst. Professor, Anaesthesia;*
    (b) *Dr. Subrat Adhikary, Asst. Professor of General Medicine;*
    (c) *Dr. Priya Singh, Asst. Prof. of General Surgery;*
    (d) *Dr. Avinash Kaundinya, Professor of Ophthalmology.*
11. *In case of as many as 12 faculty, address does not match with Dean's quarters allocation certificate.*
12. *In case of 14 Residents as detailed in the report, there is no signature of HOD on D.F.*
13. *Dr. Milan Pumbhadiya, Junior Resident had D.F. filled on 09/01/2015 while he was appointed on 20/01/2015.*
14. *In case of Dr. Jayesh Dholakiya, Junior Resident in General Medicine, date of joining is contradictory.*
15. *Name of faculty was not mentioned in weekly teaching programmes.*
16. *In Residents' hostel, ground floor is used as Autopsy block.*
17. *Teaching staff quarters are not actually staff quarters but like big sized rooms hostel. They are located on 2nd& 3rd floor above the library and reading room, which means that library is on ground floor, reading room is on I floor of teaching quarters hostel.*
18. *MRD: It is partly manual & partly computerized.*
19. *Nursing staff: 155 Nurses are available against requirement of 175 as per Regulations.*
20. *Paramedical staff: Only 65 are available against requirement of 100 as per Regulations.*
21. *Anatomy department: Embryology models are inadequate.*
22. *Access of RKDF Hospital is through very narrow road passing through slum area which is a major problem for ambulance to reach.*
23. *No separate Nursing hostel is available. I floor of Girls' hostel is utilized as Nursing hostel.*
24. *Other deficiencies as pointed out in the inspection 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 (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh earlier under Barkatullah University and now under Sarvepalli Radhakrishnan University, Bhopal u/s 10A of the IMC Act, 1956 for the academic year 2015-2016. It was further decided to apply clauses 8(3)(1)(a) & 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)…..

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."

(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 for two academic years i.e. that academic year(i.e. 2015-16) and the next academic year (i.e. 2016-2017

The Executive Committee further decided to refer the matter to the Ethics Committee."

2) The above decision of the Council was communicated to the Central Government vide MCI letter dated 05.03.2015.In view of above decision of the Executive Committee regarding fake faculty, the matter was referred to the Ethics Committee of the Council for further necessary action against the erring doctors and the medical college who had furnished fake experience certificates and had submitted forged declaration forms.

3) The Central Govt. had constituted a Committee for granting hearing under Section 10A(4) to the medical colleges who were not recommended by the MCI for grant of renewal of permission on the grounds of persisting deficiencies. Accordingly the hearing was granted to the medical college whereafter the Central Govt. vide its letter dated 17.04.2015 forwarded the compliance dated 09.04.2015 submitted by the submitted by the Dean, RKDF Medical College Hospital & Research Centre, Bhopal alongwith the recommendations of the Committee constituted by the Ministry of Health, and Family Welfare, New Delhi for review by the MCI.

4) During that time, the Council had come across a number of medical colleges which were at the various stages of renewal of permissions and were found grossly deficient in providing minimum infrastructure, teaching faculty, clinical material and other physical facilities in their medical colleges thus the Council had to invoke Regulation 8(3)(1)(a), 8(3)(1)(b), 8(3)(1)(c) and also 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999. Accordingly, it was decided by the Council to seek a Legal Opinion from the Ld. Additional Solicitor General regarding whether the applications of such medical colleges could be processed any further in view of the invocation of Regulation 8(3)(1)(a), 8(3)(1)(b), 8(3)(1)(c) and also 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999.

5) The Ld. Additional Solicitor General vide his Legal Opinion dated 14.03.2015 in respect of the applicability of Regulation 8(3)(1)(a),

8(3)(1)(b), 8(3)(1)(c) had opined that 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 was no Statutory provision either under the Act or under the Regulations authorizing the MCI to process further the applications of such medical colleges. As the said Regulation clearly barred the consideration of any compliance from such medical colleges.

6) *Similarly in respect of the applicability of Regulation 8(3)(1)(d), the Ld. Additional Solicitor General vide his Legal Opinion dated 27.03.2015 had opined that the MCI was not obliged to process the application of a medical college for renewal of permission which has been debarred from making admission for two academic years in conformity with Regulation 8(3)(1)(d) of aforesaid Regulation.*

7) *The case of the medical college was re-considered by the Executive Committee of the MCI in its meeting held on 29.04.2015 along with the Central Govt. letter dated 17.04.2015 and the Legal Opinions dated 14.03.2015 & 27.03.2015 rendered by the Ld. Additional Solicitor General. The Executive Committee of the MCI, in view of the fact that it had after considering the assessment report dated 23rd& 24th February 2015 in its meeting held on 02.03.2015, had, invoked Regulation 8(3)(1)(a) and also 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999, it was decided by the Council to reiterate its earlier decision to recommend to the Central Govt. not to renew the permission to the medical college for admission of 2nd batch of 150 MBBS students for the academic year 2015-16 and also to debar the medical college for two academic years i.e. 2015-16 and 2016-17 in view of the fact that Regulation 8(3)(1)(d) had been invoked in the case of the medical college; whereafter the case of the medical college could not be processed any further. Accordingly, abovementioned recommendation of the Council was communicated to the Central Govt. vide MCI letter dated 11.05.2015.*

8) *The Central Govt. vide its letter dated 15.06.2015 had communicated its decision to the college authorities not to renew the permission for admission of 2nd batch (150 seats) of RKDF Medical College, Hospital & Research Centre, Bhopal, Madhya Pradesh for the academic year 2015-2016.*

9) *Since the aforesaid decision of the Central Govt. was pertaining to the academic year 2015-2016,the Council has vide its letter dated 06.07.2015, informed the Central Govt. about the fact that the Council had in terms of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 recommended to the Central Govt. for debarring the medical college from admitting students for the academic years 2015-16 & 2016-17 but due to an omission / oversight the Central Govt. by way of its order dated 15.06.2015 had conveyed its decision to the medical college not to grant renewal of permission for admitting 3rd batch of 150 MBBS students for the academic year 2015-16 only.*

10) *The medical college being aggrieved by the recommendations of the MCI and the decision of the Central Government, had filed Writ Petition No. 7521 of 2015 titled RKDF Medical College Hospital & Research Centre vs. Union of India & Anr. before the Hon'ble High Court of Madhya Pradesh, Bench at Jabalpur. The Hon'ble High Court of Madhya Pradesh, Bench at Jabalpur vide its order dated 21.05.2015 had directed the Council to comply with the direction issued by the Central Govt. in terms of its letter dated 17.04.2015.*

11) *The MCI being aggrieved by the interim order dated 21.05.2015 passed by the Hon'ble High Court of Madhya Pradesh in W.P. No.7521/2015 had approached the Hon'ble Supreme Court by way of SLP (C) No.16454/2015. The Hon'ble Supreme Court vide its order dated 04.06.2015, while disposing of the Special Leave Petition, had set aside the order dated 21.05.2015 and had allowed the MCI to raise all the pleas before the Hon'ble High Court of Madhya Pradesh as had been raised before the Hon'ble Supreme Court.*

12) *The matter was thereafter heard by the Hon'ble High Court of Madhya Pradesh. The Hon'ble High Court of Madhya Pradesh, vide its judgment dated 01.07.2015, while allowing the writ petition being W.P.*

No.7521/2015 filed by the medical college, had set-aside the MCI recommendations dated 29.04.2015 & 11.05.2015 and had directed the MCI to review / assess the scheme for yearly renewal as submitted by the medical college in light of the Central Govt. communication dated 17.04.2015.

13) *It is relevant to mention here that during that time the Council received a complaint dated 25.03.2015 from Dr. A.K Bannergy, Ex. Associate Professor of the medical college alleging that more than 50% faculty members of the medical college who have been presented as full time faculty members at the medical college during the MCI assessment are private practitioners and in this regard the complainant had also forwarded documents of one Dr. Paresh Ruparel who had claimed to be employed as the Professor of Surgery at the medical college. It was alleged by the complainant that Dr. Ruparel owns a private clinic since last 15 year in Gujarat and also works as Surgeon at V.S Hospital affiliated to NHL Medical College, Ahmadabad. In support of his claim Dr. Bannergy had also forwarded the photographs of the clinic owned by Dr. Ruparel.*

14) *Upon receiving the compliant by Dr. Bannergy, the matter was referred to the Ethics Committee of the Council whereafter after initial scrutiny of the Declaration Form & Experience Certificates of Dr. Paresh Ruparel, notices were issued to Principal of the RKDF medical college as well as Dr. Paresh Ruparel as well as Medical Superintendant of V.S Hospital, Ahmadabad. It is important mention that Dr. Paresh Ruparel had submitted his affidavit dated 19.05.2015 wherein he had admitted that he is working as a Surgeon at V.S Hospital, administered and managed by Ahmadabad Municipal Corporation, Ahmadabad and had also appeared before MCI inspection team as a faculty member of RKDF medical college only for the purposes of the MCI inspection to help the medical college procure permission for the academic year 2015-16.*

15) *The MCI being aggrieved by the judgment dated 01.07.2015 passed by the Hon'ble High Court of Madhya Pradesh in W.P. No.7521/2015 had approached the Hon'ble Supreme Court by way of SLP (C) No.19513/2015. The Hon'ble Supreme Court vide its order dated 08.09.2015 passed in SLP (C) No.19513/2015, in the facts and circumstances of the case, before deciding the petition, had directed the Council to comply with the directions issued by the Hon'ble High Court of Madhya Pradesh in its judgment dated 01.07.2015 passed in W.P. No.7521/2015 by conducting an inspection of the medical college and to submit its report before the Hon'ble Supreme Court in a sealed cover on or before 21.09.2015. The Hon'ble Supreme Court had also issued notice to Dr. Paresh Ruparel.*

16) *Accordingly compliance verification inspection of the medical college was carried out by the Council Assessors on 22nd September, 2015 when the aforesaid Special Leave Petition being SLP (C) No.19513/2015 was also listed for hearing before the Hon'ble Supreme Court on 22.09.2015. The Hon'ble Supreme Court after hearing the parties vide its order dated 22.09.2015, while leaving the question of law open had dismissed the aforesaid petition had directed that the inspection report be submitted to the Central Govt. by 24.09.2015, who shall provide a hearing to the medical college on 26.09.2015 and take a decision in the matter by 28.09.2015.*

17) *The compliance verification assessment report (22nd September 2015) alongwith previous assessment report (23rd& 24th Feb., 2015) with regard to renewal of permission for MBBS course for 2nd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 was forwarded to the members of the Executive Committee through circulation on 23.09.2015 whereby it was decided to recommend to the Central Govt. not to renew the permission for admission of 2nd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal, Madhya Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 in view of the following deficiencies:-*

1. *Deficiency of faculty is 15.95 % as detailed in the report. The Dean in his letter has stated that 5 Asst. Prof. have passed in May/June 2015 from MCI recognized colleges who have provisional degree certificate issued by the respective Universities as their final degree certificate would be issued only after convocation. He has further stated that three faculty had gone to attend Hon'ble Courts; however in respect of one of them – i.e. Dr. Ashok Meghwal, Asso. Prof. of Surgery, although only 1 Asso. Prof. is available against requirement of 2, no deficiency has been shown in the chart implying he has been considered. The fourth person mentioned in his letter – i.e. Dr. Shailendra Pandey is actually a Senior resident in Skin & VD and not a member of faculty. Accepting all such faculty who have not been considered by assessors and considering them, net deficiency still remains at 7.44 %.*

2. *Psychiatry department is running without any faculty.*

3. *Deficiency of Residents is 83 % as detailed in the report. Most of the Residents are not staying in the campus. Only a few rooms seem to be occupied but basic needs & amenities are not available in Residents' hostel. Clothes, books, belongings, etc. were not seen in the rooms. Ration cards, which appear newly issued, have been provided as address proof for most of the residents, which is not acceptable.*

4. *Many patients who do not require admissions are admitted. In Orthopaedics ward, there were no patients with plaster cast or any operated patient. In Paediatric ward, many patients complained only of Bodyache. One patient was admitted only for investigation purpose. Most of the patients had no significant illness to be treated as IPD patients. In Gynaecology ward, one patient is admitted since 13/09/2015 for complaint of abdominal pain, etc. One patient was admitted for complaints of chest pain & cough. One patient has been admitted since 10/09/2015 (i.e. for 13 days) for Renal Colic. In Obstetric ward, many of the patients did not warrant admission. Basic investigations were not performed at all. Doctors in the Unit had no explanation for the same. Deficiency remains as it is.*

5. *In Casualty, there were only 2 patients out of 18 beds. Details of medical, paramedical staff are not provided.*

6. *In Tb & Chest ward, one of the patients admitted was of Koch's spine which is not as per norms.*

7. *MRD: It is partly computerized. Deficiency remains as it is.*

8. *Access of RKDF hospital is through very narrow road passing through slum area which is a major problem for ambulance to reach. Deficiency remains as it is.*

9. *Data of OPD attendance, IPD, Laboratory investigations, Contrast Radiology investigations & Casualty provided by the institute seem to be inflated. In DVL OPD, there was NIL registration on day of assessment. In Psychiatry OPD, Register is maintained poorly. Last date of entry was 15/09/2015.*

10. *There were NIL Major & NIL Minor operations on day of assessment. O.T. lists were not provided to assessors in spite of repeatedly asking for same.*

11. *There were NIL Normal deliveries & NIL Caesarean Sections on day of assessment as well as on 3 previous days.*

12. *Number of Plain X-rays on day of assessment is only 49 which is inadequate.*

13. *Histopathology & Blood Bank records are not matching with O.T. record.*

14. *Most of the wards like Paediatrics, Tb & Chest Diseases, Obstetrics & Gynecology, Skin & VD, Psychiatry, Ophthalmology, ENT, Orthopaedics,*

General Surgery, General Medicine, are not as per Minimum Standard Requirement Regulations. ENT ward did not have Emergency tray and basic instruments.

15. *Mess facility is not available in the hostels.*

16. *ICUs: There was only 1 patient each in MICU & SICU and NIL patient in ICCU, PICU/NICU on day of assessment.*

17. *Other deficiencies as pointed out in the assessment report.*

18) *It is pertinent to mention here that, apart from the above, the medical college in any event has already been debarred for two academic years i.e. 2015-16 and 2016-17 in view of the fact that Regulation 8(3)(1)(d) had already been invoked in the case of the medical college. The above decision of the Council was communicated to the Central Govt. vide letter dated 24.09.2015.*

19) *The Central Govt. upon receiving the recommendation from the MCI, had provided a hearing to the medical college on 26.09.2015 in terms of the order dated 22.09.2015 passed by the Hon'ble Supreme Court in SLP (C) No. 19513/2015. Thereafter Central Govt. vide its order dated 28.09.2015 decided to not to renew the permission for admission of 2nd batch for MBBS course (150 seats) of RKDF Medical College, Hospital & Research Centre, Bhopal, Madhya Pradesh for the academic year 2015-16.*

20) *The medical college being aggrieved by the Central Govt. decision dated 28.09.2015 had approached the Hon'ble Supreme Court by filing an application bearing I.A. No.3/2015 in SLP (C) No.19513/2015 on 29.09.2015. It is pertinent to mention that the aforesaid application being I.A. No. 3/2015 in SLP (C) No. 19513/2015 was listed before the Hon'ble Supreme Court on 01.10.2015, when the Hon'ble Supreme Court vide order dated 01.10.2015, directed the same to be listed on 06.10.2015. The Hon'ble Supreme Court vide its order dated 06.10.2015, recorded that the Senior Advocate appearing on behalf of the medical college was not ready to argue the matter on that day thus the case was adjourned to 08.10.2015. The arguments were heard by the Hon'ble Supreme Court on the aforesaid application filed by the medical college on 08.10.2015 and when it became evident to the medical college that the Hon'ble Supreme Court was not inclined to grant any indulgence to the medical college thus permission was sought to withdraw the application bearing I.A. No.3/2015 filed in SLP (C) No.19513/2015.*

21) *The Hon'ble Supreme Court vide its order dated 08.10.2015, without expressing any opinion in this regard permitted the medical college to withdraw the application. The said application was dismissed as withdrawn.*

22) *The medical college thereafter approached the Hon'ble Delhi High Court by way of W. P. (C) No. 9663/2015. Hon'ble Delhi Court, after hearing the medical college in W. P. (C) No. 9663/2015 vide order dated 09.10.2016, while issuing notice in the matter, had permitted the medical college to provisionally admit students for academic year 2015-2016.*

23) *The MCI being aggrieved by the interim directions passed by the Hon'ble Delhi High Court in W. P. (C) No. 9663/2015 had approached the Hon'ble Supreme Court by way of SLP (C) No. 29443 of 2015. The Hon'ble Supreme Court after hearing the parties vide its order dated 15.10.2015while allowing the SLP filed by the MCI had quashed the interim relief granted by the Hon'ble Delhi High Court, vide its order dated 09.10.2015 passed in W. P. (C) No. 9663/2015 and had cancelled the admissions.*

24) *Whereafter, the Hon'ble Delhi Court vide its judgement dated 29.12.2015 had disposed off the aforesaid writ petition being W. P. (C) No. 9663/2015 with a directed the Central Govt. to pass a fresh decision for grant renewal of permission to the medical college for admitting 2nd batch of 150 MBBS students for the academic year 2015-16. The MCI being aggrieved by the aforesaid judgement dated 29.12.2015 passed in W.P. (C) No. 9663/2015 has challenged the same before the Hon'ble Division Bench of the Hon'ble Delhi High Court by way of LPA No.14/2016 and the same is pending adjudication.*

25) *In the meanwhile, the Central Government in compliance of the directions issued by the Hon'ble Delhi High Court vide its judgement dated 29.12.2015 passed in W. P. (C) No. 9663/2015, the Central Govt. vide its detailed letter dated 01.01.2016 had once again conveyed its decision to the medical college not to grant renewal of permission to admit 2nd batch of 150 MBBS students for the academic session 2015-16. The medical college has now challenged the said decision of the Central Govt. by way of W.P. (C) No. 66/2015 which is also pending adjudication before the Hon'ble Delhi High Court.*

In view of the above facts and circumstances, the Exective Committee thought it pertinent to mention that Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 deals with a situation where a medical college has tried to play fraud with the Council and the Central Govt. by submitting fake / forged documents including Declaration Forms and Experience Certificates in relation to teaching faculty employed by it. The conduct of a medical college plays a vital role while evaluating the application of the medical college for grant of permission. Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999categorically provides that, if during an inspection, a medical college is found to have employed teaching faculty on the basis of fake or forged documents, the Council must take a serious view of the conduct of the medical college and medical college will not be considered for permission for the current and the ensuing academic sessions.

The Executive Committee thought it relevant to state that a medical college while submitting the Declaration Forms of the facultycertifies that they have verified the credentials as well as the experience certificates of the faculty members and are satisfied with the credentials. There is an endorsement to the effect that the Principal / Dean and the Head of the Department of the medical college had satisfied themselves with the correctness & veracity of the contents of the Declaration Form including the fact that the medical teachers were working as full time faculty members in the medical college. The faculty member provides the aforesaid declaration, the Head of the Department and the Dean / Principal of the medical college provide and endorsement certifying that they have satisfied themselves about the correctness / veracity of the contents of the declaration including the certificates / documents submitted by the faculty member. The Head of the Department and the Dean / Principal of the medical college further declare that in the event any information / document is found incorrect or false then in such an event they shall be equally responsible besides the faculty member for such mis-declaration or misleading the MCI.

The Hon'ble Supreme Court in its judgement dated 06.09.2013 in the case of Rohilkhand Medical College & Hospital, Bareilly Versus Medical Council of India & Another – (2013) 15 SCC 516, has categorically held that MCI can take action under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 if prima facie it is established that fake teachers were shown by the College to seek permission from MCI.

The Committee considered it relevant to point out that the Board of Governors nominated by the Central Govt., in the case of National Institute of Medical Sciences, Jaipur during an inspection observed that the college had mislead the Board of Governors regarding the teaching faculty as there was a variation in the number of faculty members found during the inspection of postgraduate and undergraduate courses of the medical college. The Board of Governors nominated by the Central Govt. after considering the case of the medical college issued show cause notice and after considering their reply found that the college had employed faculty with fake / forged documents and decided to debar the college from making admissions for increased admission capacity from 100 to 150 in MBBS course for the academic session 2012-13 & 2013-14 under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999.

The National Institute of Medical Sciences, Jaipur being aggrieved by the decision of the Board of Governors nominated by the Central Govt. dated 30.06.2012 had challenged the said decision before the Hon'ble Supreme Court by way of W.P (C) No.272/2012. The Hon'ble Supreme Court after hearing

detailed submission on behalf of the college had declined to entertain the said petition therefore the medical college withdrew the same and the writ petition was dismissed as withdrawn vide order dated 10.07.2012without granting any liberty to college.

Thereafter National Institute of Medical Sciences, Jaipur had filed W.P (C) No.4509/2012 before the Hon'ble Delhi High Court challenging the same decision of the Board of Governors nominated by the Central Govt. dated 30.06.2012, when the Hon'ble Delhi High Court also declined to entertain the said petition which was disposed of vide order dated 30.07.2012 with certain directions.

In the present matter, the RKDF Medical College Hospital & Research Institute, Bhopal, during the hearing granted to it on 17.03.2016(wrongly mentioned as 17.03.2015) by the Hearing Committee constituted by the Ministry, has clearly admitted to the fact that it had presented faculty members with fake / forged Declaration Forms & Experience Certificates and also that certain faculty members did not have requisite teaching experience in their respective departments. The hearing Committee failed to consider the recommendations of the Council as well as the inspections reports which are very vital to come to any conclusion in this regard.

The Ministry as well as the Hearing Committee has also totally ignored that the Council while evaluating the Declaration Forms & Experience Certificates of the faculty members found that one Dr. Paresh Ruparel, who was presented as a faculty member of the medical college during the inspection.Dr. Paresh Ruparel had submitted his affidavit dated 19.05.2015 before the Ethics Committee of the Council wherein he had admitted that he is working as a Surgeon at V.S Hospital, administered and managed by Ahmadabad Municipal Corporation, Ahmadabad and had also appeared before MCI inspection team as a faculty member of RKDF medical college only for the purposes of the MCI inspection in order to help the medical college procure permission for the academic year 2015-16. Thus the Ministry and the Hearing Committee had clearly also ignored that the Principal of the medical college has verified and counter signed his Declaration Form &Experience Certificate to show his as regular faculty of the medical college.

In the meanwhile the Council has received the order dated 11.05.2016 passed by the Hon'ble High Court of Madhya Pradesh at Jabalpur passed in W.P No. 21223/2015 – RKDF Medical College Hospital & Research Centre Vs. UOI & Anr., wherein the Hon'ble High Court has quashed the letter dated 29.03.2016 issued by the Central Govt. and has further directed the Council to conduct an inspection of the medical college and to submit its recommendations to the Central Govt. before 15.05.2016. It was also informed that since the order dated 11.05.2016 passed by the Hon'ble High Court of Madhya Pradesh is contrary to law as laid down by the Hon'ble Supreme Court since there was an absence of surprise element to the inspection of the MCI as well as various other grounds, thus the Council has approached the Hon'ble Supreme Court by way of a SLP which is likely to be listed shortly.

In view of the above, the Executive Committee of the Council after due discussion and deliberation and after considering the entire record pertaining to the medical college decided to defer the consideration of the matter to await the outcome of the SLP filed by the Council against the order dated 11.05.2016 passed by the Hon'ble High Court of Madhya Pradesh at Jabalpur in W.P No. 21223/2015 – RKDF Medical College Hospital & Research Centre Vs. UOI & Anr."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15/05/2016.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Dean, RKDF Medical College, Hospital and Research Centre, Bhopal, Madhya Pradeshfor necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the SLP (C) No. 14729/2016 filed by the Medical Council of India was listed before the Hon'ble Supreme Court on 23.05.2016 when the Hon'ble Supreme Court was pleased to pass the following order:-

"….As an interim measure, it is directed that operation of the impuged order of the High Court shall remain stayed till the next date of hearing"

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 3rd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal under Barkatullah University, the institution had filed an writ petititon in the Hon'ble High Court of Madhya Pradesh at Jabalpur against the order of MCI/Central Govt. not to carry out the assessment of the college for the academic year 2016-17 in view of application of clause 8(3)(1)(d) of Establishment of Medical College Regulations, 1999. The Hon'ble High Court had directed the MCI to conduct the inspection for the academic year 2016-17.

The Executive Committee of the Council further noted that the MCI had filed an SLP before the Hon'ble Supreme Court against the said order of the Hon'ble High Court. The Hon'ble Supreme Court vide its order dated 23.5.2016 has stayed the order of the Hon'ble High Court and the matter is pending for final adjudication.

The Executive Committee of the Council also noted that the said SLP of the MCI was last listed before the Hon'ble Supreme Court on 29.06.2016 and adjourned to 11.07.2016.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of Permission for MBBS course for 3rd batch (150 seats) of RKDF Medical College Hospital & Research Centre, Bhopal under Barkatullah University, does not fall within the ambit of the directions issued by the Oversight Committee as the matter is pending before the Hon'ble Supreme Court.

99. <u>Renewal of permission for MBBS course for 4th batch (150 seats) of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017</u>.

Read: the matter with regard to renewal of permission for MBBS course for 4th batch (150 seats) of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Principal, Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item, which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 4th batch (150 seats) of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 29th& 30th October, 2015. The assessment report (29th& 30th October, 2015) was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th& 30th October, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 19 % as detailed in the report.*
2. *Shortage of Residents is 38 % as detailed in the report.*
3. *Most of Senior Residents & 50 % of Junior Residents are not staying in campus. Most of the rooms in Residents' hostel were vacant. There were no personal belongings, books, etc. in the rooms. Most of the rooms were open & Residents did not have keys to their rooms.*
4. *18 faculty & Residents have not been considered due to reasons given in the assessment report.*
5. *In respect of more than 10 faculty, address given in the Declaration Form does not match with that provided by Dean.*
6. *In respect of Dr. Naveen, Resident in Medicine, signature done in the morning does not match with signature taken in afternoon on day of assessment.*
7. *In respect of Dr. Ajay Kumar, Resident in O.G., signature in attendance sheet does not match that in Declaration Form.*
8. *During rounds, the following was observed by assessors with regard to fake / dummy patients:*

   (a) *Fake Register- Inside lab. Near by pediatric ward, register were showing 11 patients name which were entered on dated 28.10.2015 but on verification no patient were found in ward as well as their names were not entered in admission and discharge register of the ward.*
   (b) *The case sheet/record sheet of some of the indoor patients in some of the wards were not available.*
   (c) *In female medical ward patient (Kuster Unissa IP No. 014448/15) admitted on 27.10.2015 with history of DM type 2 but in last two days blood sugar was not done at least once.No sugar charting was available with case sheet.*
   (d) *In psychiatric ward one patient was admitted 13 to 14 days prior to inspection (Mayamma IP Reg No. 13786/2015, OPD 183653/2015) but history examination and investigation were not found in case sheet.*
   (e) *In TB ward (Patient name – Nararulla Sharif, IP No. 014560/15) was actually admitted on 29.10.2015 but SR was not aware and was telling that this patient was in the ward from last 4 days during inspection.*
   (f) *In few wards like in TB & Chest and surgical ward on inspections inspectors found the history and examination written by somebody else and the handwriting in this ticket were not matching with hand writings of Junior Residents of the same ward so many tickets were incomplete and history examination investigation were absolutely blank (IP No. 14510, Dept. of Surgery, Patient Name-Vinodamma, Date 29.10.2015.*
   (g) *Patient admitted in TB & Chest ward Name-Chandrashekaran D, IP No. 014566/2015 is having no evidence of Tuberculosis and even x-ray, Chest was not done for above mentioned patient.*

9. *Fake Information with regard to rooms occupied in Residents' hostel was provided to assessors as under:*

   (a) *As per written statement of Dean in female resident hostel R.No. 305, 3 residents Dr. Sai Moulika, Junor Resident C. Medicine, Dr. Sree Lasya Senior Resident, Psychiatry, Dr. T. Rajeswari Junior Resident C. Medicine are staying. But as per written statement of Dr. Sree Lasya*

Senior Resident, Psychiatry in room no. 305 she is staying alone. No other residents are staying with her.

(b) As per written statement of Dean in Male resident Hostel R.No. 204 Dr. Shivaprasad, Junior Resident, Anaesthesiology, Dr. Mallavenue, Junior Resident, Orthopaedics, Dr. Prakash Gowda Junior Resident, Orthopaedics, Dr. Balaji Senior Resident Surgery are staying. But during the rounds in R.No. 204, one tutor of Anatomy department Mr. P.K. Senthil Ganesh, was found as per his written statement, he was taying with two other residents in R.No. 204. Also as per written statement of Dr. Balaji,he was not staying in R.No. 204. Dr. Balaji SR in the department of Gen. Surgery has given wrong information repeatedly and also misguided the assessors. His registration No. 63361/20-11-2009 with Karnataka Medical Council. After giving false information and he has given written apolgy letter for the same.

10. *Dr. M.H. Raman, Deputy Medical Superintendent tried to misguide the assessors by providing false & misleading information to assessors as detailed in assessment report.*
11. *Wards: Demonstration room is not available in each ward. In some wards like O.G., Nursing station was not functional or it was placed in such a way that Nurses were not in a position to see all the patients. Skin & VD and Psychiatry wards are cubicles of 2-3 beds and Nursing station is far away which is not as per MCI norms.*
12. *OPD attendance in opinion of assessors is 300; authorities have given a figure of 894 which is inflated and not matching with observation of assessors. There were very few patients found on registration counter and at the same time about 100 persons were sitting in front of registration counters who were not looking like patients. One person with OPD # 191986/2015 does not look like a true patient.*
13. *Bed occupancy is 64.40 % on day of assessment against requirement of 75 %. Many beds were occupied by patients with insignificant problems not requiring admission.*
14. *There were only 06 Major operations for the whole hospital on day of assessment.*
15. *Radiological & Laboratory investigation workload is inadequate on day of assessment.*
16. *O.T.s: Separate registers for department wise O.T.s are not available.*
17. *ICUs: ABG Analyzer is not available.*
18. *Nursing & Paramedical staff: During rounds it was observed that paramedical & Non-teaching staff were inadequate. Authorities were instructed to assemble all Nursing staff & Paramedical staff for head counting but this was not fulfilled.*
19. *Students' Hostels: Available accommodation is 448 against requirement of 452. Boys' & Girls' hostels are G+5 structures but lift is not available. Permission for building use / construction is not provided for G+5 structures. Railing is not available along with stair case. There is no Visitors' room. There is no Warden's office in Girls' hostel.*
20. *Residents' Hostel: It is of dormitory type. In some rooms there are 7 beds while in others there are 5/4 beds which is not permissible. There is only 1 building which is used by male Residents & male Nursing staff. It is not furnished adequately. There is no Visitors' room, A.C. Study room with computer & Internet and Recreation room. For female Residents, top floor of non-teaching staff quarters is shown as Residents' hostel.*
21. *Nurses' Hostel: There is no separate Nurses' hostel.*
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 renewal of the permission for admission of 4th batch (150 seats) of MBBS students at Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 and further decided to issue a show cause notice as to why the recommendation for invoking clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 be

not made in view of the fake information provided by the college authorities to the Council Assessors. The said clause 8(3)(1)(d) reads as under:-

"8(3)(1)…..
(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….."

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

The decision of the Executive Committee with regard to not to renew the permission for admission of 4th batch (150 seats) for the academic year 2016-2017 was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities.

The Council vide its another letter dated 03/12/2015 also communicated the decision of the Executive Committee to the college authorities with the direction to submit their reply as to why the recommendation for invoking clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 be not made in view of the fake information provided by the college authorities to the Council Assessors, within 15 days from the date of issue of this show cause notice.

The matter with regard to clause 8(3)(1)(d) was also referred to the Ethics Section for further necessary action.

In response to above, the Director, Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka had submitted the Compliance report dated 28.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 17th March, 2016.

The compliance verification assessment report (17th March, 2016) alongwith previous assessment report (29th& 30th October, 2015) with regard to renewal of permission for admission of 4th batch (150 seats) of MBBS students at Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017wasconsidered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (17th March, 2016) alongwith previous assessment report (29th& 30th October, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 15.2 % as detailed in the report.*
2. *Shortage of Residents is 22.54 % as detailed in the report. 13 Residents were found to be not staying in the campus.*
3. *OPD attendance was around 750 as observed by assessors. When the assessors reached institute, there were very few patients seen at Registration counters. However, around 12:30 p.m., many healthy people were brought in claiming to be "Camp patients." Data provided by institute are inflated.*
4. *Bed occupancy is 58.4 % on day of assessment.*
5. *There were only 08 Major operations on day of assessment for the whole hospital.*
6. *Radiological & Laboratory investigations workload is inadequate. Data given by the institute are inflated.*
7. *Workload of CT Scan is only 05 on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*

9. *Wards: Demonstration rooms are not available in some wards. In some wards like O.G., Nursing Station was not functional or it was placed in such a way that Nurses were not in a position to see all the patients. Skin & VD and Psychiatry wards are cubicles of 2-3 beds each and Nursing station is far away which is not as per norms. Deficiency remains as it is.*
10. *Students' Hostels: Available accommodation is 404 against requirement of 452. Lift is not available either in Boys' or Girls' Hostels even though they are G+5 structures. In Boys' hostel, A.C. is not working in Study room. There is no Broadband or Internet. In Girls' Hostel, Visitors' room is outside the hostel and not at all suitable. There is no Broadband or Internet.*
11. *Residents' Hostel: Mess is not functional. There is no Visitors' room.*
12. *Nurses' Hostel: Separate Nurses' hostel is not available.*
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 4th batch of 150 MBBS students at Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letters dated 21.06.2016 & 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Principal, Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college

which was submitted by the college on 28.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 17.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in

the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 19%, residents was 38% and the bed occupancy was found to be 64.40%. Similarly in the last compliance verification assessment conducted on 17th March, 2016 of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka, apart from other deficiencies of teaching faculty was found to be 15.2%, residents was 22.54% and the bed occupancy was found to be 58.4%

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

In view of the above, the members of the Executive Committee of the Council observed that

*"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been*

*notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*

é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of Permission for MBBS course for 4thbatch (150 seats) of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon0le Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned.

é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 4th batch (150 seats) of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, during the compliance verification inspection carried out on 17.3.2016 the deficiency of Resident was found to be 22.54% and the Bed Occupancy was found to be only 58.4%. Thus the deficiencies of Residents/Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High

Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their*

ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of Permission for MBBS course for 4th batch (150

seats) of Shridevi Institute of Medical Sciences & Research Hospital, Tumkur, Karnataka under Rajiv Gandhi University of Health Sciences, Bangalore, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

100. <u>Renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 20.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Authorised Signatory, DM Wayanad Institute of Medical Sciences, Wayanad, Kerala, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 4th& 5th November, 2015. The assessment report 4th& 5th November, 2015 was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (4th and 5th November, 2015) alongwith letter/representation dated 05/11/2015 of the Dean, DM Wayanad Institute of Medical Sciences, Wayanad, Kerala and noted the following:-

1. *Deficiency of faculty is 14.53 % as detailed in the report.*
2. *Shortage of residents is 19.72 % as detailed in the report.*
3. *Bed occupancy was 44 % as verified by assessors on day of assessment.*
4. *OPD: Plaster room & Plaster cutting room are common.*
5. *Teaching Beds: Teaching beds are deficient by 10 as NIL beds are available in Psychiatry against requirement of 10.*
6. *Wards: Tb & Chest and Skin & VD patients are kept in General Medicine ward. One ward in General Surgery is common for male & female patients. Ophthalmology patients are kept in General Surgery ward. ENT patients are kept in Orthopaedics ward. A ward labeled as "Female General" was shown as Obstetrics ward but it was closed and non-functional. Ancillary facilities are provided outside the wards.*
7. *Workload of Special investigations like Ba, IVP was NIL on day of assessment.*
8. *Workload of Cytopathology was NIL on day of assessment.*
9. *Data of Radiological & Laboratory investigations provided by institute appear to be inflated as verified by assessors.*
10. *Casualty: Beds available are 20 against 25 required. Separate Casualty for O.G. is not available.*
11. *ICUs: There was only 1 patient in ICCU & 2 in MICU on day of assessment.*
12. *3 mobile X-ray machines are available against requirement of 4.*
13. *MRD: It is manual. ICD X classification of diseases is not used for indexing.*

14. *MEU: No basic course workshop has been conducted during the year.*
15. *Examination hall: Only 1 examination hall of capacity 152 is available against requirement of 2 of 250 each.*
16. *Central Library: It is not air-conditioned.*
17. *Common Room for Boys does not have attached toilet.*
18. *Central Photography section is not available.*
19. *Students' Hostels: A.C. study room with computer & Internet is not available.*
20. *Central Research laboratory is not available.*
21. *Anatomy department: MRI & CT films are not available in museum.*
22. *Videography was not provided by the institute.*
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 4th batch (150 seats) of MBBS students at DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, DM Wayanad Institute of Medical Sciences, Wayanad, Kerala had submitted the Compliance report dated 02.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 4th March, 2016.

The compliance verification assessment report (4th March, 2016) alongwith previous assessment report (4th & 5th November, 2015) as well as two letters dated 22.02.2016 & 04.03.2016 from the Dean, Wayanad Institute of Medical Sciences, Wayanad, Kerala with regard to Renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (4th March, 2016) alongwith previous assessment report (4th & 5th November, 2015) as well as letters dated 22.02.2016 & 04.03.2016 of the Dean of the college and noted the following:-

1. *Deficiency of faculty is 7.69 % as detailed in the report.*
2. *Shortage of Residents is 29.57 % as detailed in the report.*
3. *Many Residents are not staying in the campus. Many of the Residents' Quarters are locked and in some other rooms, students of Nursing were found residing.*
4. *Bed Occupancy was 41 % on day of assessment.*
5. *Some indoor patients had minor, vague complaints like Bodyache, Joint pain, etc. which does not require admission or hospitalization. Many patients were not having any medicines or treatment, IV lines, belongings or any relatives. It looks as if they have been made patients for enhancing bed occupancy.*
6. *OPD: Separate Plaster Cutting room is not available. One of the examination room has been shown as Plaster cutting room which is not permissible. Even so, it seems it is not in use.*
7. *Patients were brought to OPD some time after assessors reached the institute; on interviewing it was observed that many had similar vague complaints for which generally people will not seek medical advice.*
8. *Wards: Tb & Chest and Skin & VD patients are kept in General medicine ward. One ward of General Surgery is common for males & females. Ophthalmology patients are kept in General Surgery ward. ENT patients are kept in Orthopaedics ward. A ward labelled as "Females General"*

was shown as Obstetrics ward but it was closed and non-functional. Deficiency remains the same. Nursing stations in the wards are common. Distance between 2 beds is < 1.5 m. Ancillary service rooms are empty and seem to be not in use.

9. *Workload of Contrast Radiology was NIL.*
10. *Workload of Cytopathology was only 3 on day of assessment.*
11. *Data of Clinical Material, Radiological & Laboratory investigations workload provided by institute is inflated. Patients attending OPD, patients admitted and investigations do not tally with each other.*
12. *Casualty: Total 25 beds are available in Casualty – 19 in General Casualty & 6 for Obstetrics. During assessment it was observed that male patients were admitted in Obstetrics Casualty; resultantly separate Obstetrics facility is not available.*
13. *ICUs: Out of 4 patients in ICCU, 2 were non-Cardiac patients. Patients admitted in MICU & SICU do not merit ICU care.*
14. *Central Research Laboratory: Equipment are inadequate & non-functional.*
15. *There were only a few patients at OPD Registration counters at time of taking round. Waiting area near OP counters was empty.*
16. *O.T. list is prepared by Anaesthetist but not signed by HOUs or HODs.*
17. *Total O.T. statistics do not match with Laboratory & Blood Bank statistics and are inflated.*
18. *Many non-operative procedures like suture removal are written as Minor O.T. to enhance & inflate total number of operations.*
19. *Demonstration rooms in the hospital are congested, not fitted with light and seem not to be used at all.*
20. *Many rooms of consultants seem not to be used at all as the furniture like chair, table was coated with dust.*
21. *Students' Hostels: Computer & Internet are not available.*
22. *Residents' Hostel: It does not have mess.*
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 4th batch of 150 MBBS students at DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies

communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 20.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Authorised Signatory, DM Wayanad Institute of Medical Sciences, Wayanad, Kerala for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 02.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 04.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 14.53%, residents was 19.72% and the bed occupancy was found to be 44%. Similarly in the last compliance verification assessment conducted on 04th March, 2016 of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala,apart from other deficiencies of teaching faculty was found to be 7.69%, residents was 29.57% and the bed occupancy was found to be 41%

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord

Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd

condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3le Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgement observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur, during the compliance verification inspection carried out on 4.3.2016 the deficiency of Resident was found to be 29.57% and the Bed Occupancy was found to be only 41%. Thus the deficiencies of Residents / Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations

however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.*
> *……...*
>
> *13. Both the appeals are allowed to the above extent, but with no order as to costs….."*

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……...*

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 4th batch (150 seats) of DM Wayanad Institute of Medical Sciences, Wayanad, Kerala under Kerala University of Health & Allied Sciences, Thrissur, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

101. <u>Recommendation of MCI in respect of NRI Institute of Medical Science, Visakhapatnam, Andhra Pradesh for application of Clause 8(3)(1)(d) of Establishment of Medical College Regulation, 1999.</u>

Read: the matter with regard to recommendation of MCI in respect of NRI Institute of Medical Science, Visakhapatnam, Andhra Pradesh for application of Clause 8(3)(1)(d) of Establishment of Medical College Regulation, 1999.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Principal, NRI Institute of Medical Sciences, Vishakhapatnam, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the Council Office had received a letter dated 29/03/2016 from the Central Govt., Ministry of Health & F.W., Nirman Bhawan, New Delhi stating therein as under:-

"I am directed to refer to MCI's letter No.MCI-34(41)(R-5)/2014-Med./151221, dated 21/01/2015 and MCI-34(41)(UG)/2015-Med./174599, dated 11.03.2016, on the above subject and to say that while examining the matter referred by this Ministry, the Ministry of Law & Justice has enquired as to whether there is any rule which stops an opportunity of personal hearing and advised the Ministry to examine the issue as per rules, regulations and policies. Further, the Hon'ble Court of Delhi in its Order dated 29.09.2015 in WP(C) No. 2015 & CM No. 13029/2015 and a related matter held that it is not open to MCI and/or Central Govt. to deny an opportunity to the applicant/institute concerned to rectify the deficiencies specified by MCI even in cases which fall within the ambit of the provisos (a) to (d) of Regulations 8(3)(1) of the regulations.

2. Considering the above, the Ministry has given an opportunity of being heard to NRI Institute of Medical Science, Visakhapatnam, Andhra Pradesh on 17/03/2016, The observations of the Hearing Committee are as follows:-

"The college representatives have furnished address proof for the six faculty in question.

The veracity of the faculty members could be ascertained through other documents also.

The documents furnished by the college may be referred to MCI for review on imposition of clause 8(3)(1)(d).”

3. The Ministry has accepted above recommendation of Hearing Committee and the matter is referred back to MCI for review on imposition of regulation 8(3)(1)(d).”

In this connection, it is stated that an assessment for renewal of permission for MBBS course for 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 was carried out by the Council Assessors on 16th& 17th December, 2014.The assessment report (16th& 17th December, 2014) was considered by the Executive Committee at its meeting held on 13/01/2015 and 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 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*
	Gudurusree Latha	*Asso. Prof.*	*Pathology*
	C. Madhav Rao	*Professor & HOD*	*Forensic Medicine*
	Pradeep Vundavalli	*Asst. Prof.*	*ENT*
	Pandula Revathi	*Asst. Prof.*	*O.G.*
	Y. Nagatalupula Rao	*Asst. Prof.*	*O.G.*
	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 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 (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) also to refer the matter to the Ethics Committee of the Council."

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

In view of above decision of the Executive Committee regarding fake faculty, the matter was referred to the Ethics Section for further necessary action in the matter.

The Central Govt. vide its letter dated 20/02/2015 forwarded the compliance dated 09/02/2015 submitted by the NRI Institute of Medical Sciences, Vishakhapatnam alongwith the recommendations of the Committee constituted by the Ministry of Health, and Family Welfare, New Delhi for review by the MCI.

Accordingly, the matter was re-considered by the Executive Committee at its meeting held on 27/03/2015 and it was decided as under:-

"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 intertace) 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*
Gudurusree Latha	*Asso. Prof.*	*Pathology*
Dr. C. Madhav Rao	*Professor & HOD*	*Forensic Medicine*
Pradeep Vundavalli	*Asst. Prof.*	*ENT*
Dr. Pandula Revathi	*Asst. Prof.*	*O.G.*
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.

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 01/04/2015 and copy to the college authorities.

Thereafter, the Council Office had received a letter dated 29/04/2015 from the Central Govt. forwarding therewith the representation dated 28/04/2015 received from the college authorities for appropriate action.

The said representation was considered by the competent authority and it was decided to reiterate its earlier decision communicated to the Central Govt., Ministry of Health & F.W., New Delhi vide this office letter dated 01/4/2015. The same was communicated to the Central Govt. vide this office letter dated 08/05/2015.

The Council sent a reminder dated 07/05/2015 to the college authorities for submission of requisite information/clarification from BSNL as sought by the Council in its letter dated 01/04/2015 on or before 11th May, 2015. No response was received from the college authorities.

The Central Govt. vide its letter dated 15/06/2015 also accepted the recommendation of the Council not to admit the students for the academic year 2015-2016 only.

As, the Central Govt. has not given any decision with regard to clause 8(3)(1)(d) on the said institute, the Council sent a letter dated 06/07/2015 to the Central Govt.

In response, the Council Office had received a letter dated 21/09/2015 from the Central Govt. intimating therein that the Central Govt. considered the recommendation of the Council letter dated 06/07/2015 under the clause 8(3)(1)(d) and it has been decided "that MCI may be asked to give the institutions a fresh hearing before taking action for their debarment for 2 years."

The matter was considered by the Executive Committee at its meeting held on 28.10.2015 and decision was communicated to the Central Govt. vide its letter dated 05/11/2015.

The Council vide its letter dated 23/12/2015 again requested the Central Govt. to take appropriate action in this regard and to apply/implement the binding mandatory and unexceptional provision of Regulations 8(3)(1)(d) of the Establishment of Medical College Regulations, debarring the colleges for 2(two) years i.e. 2015-2016 & 2016-2017.

A writ petition No. 21617/2015 was also filed by Anil Nirukonda Educational Society aggrieved by the imposition of regulations 8(1) of the Establishment of Medical College Regulations, 1999 and non grant of renewal of permission to the petitioner's college for the academic year 2015-2016. The said writ petition was listed before the Hon'ble High Court for final disposal on 22.01.2016 when the Hon'ble Court was pleased to pass the following order:-

"...At the outset, Mr. D. V. Sitarama Murthy, learned Senior Counsel submits that insofar as first two prayers are concerned, they have rendered infructuous in view of the subsequent events, including pendency of Special Leave to Appeal (c) in the Supreme Court, bearing No. 31535 of 2015. He submit that the petitioner –institutions has independently applied for inspection of their college seeking approval for the next academic year (2016-17) and directions may be issued to respondent No. 2 to inspect the college on or before 31/01/2016.

Mr. Nimmagadda Venkateswarlu, learned counsel for respondent No.2, on the other hand, on instructions, submits that the Medical Council of India, in view of clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010 has already decided not to inspect the petitioners' college and they shall send communication to that effect to the petitioners on or before 31.01.2156. His statement is recorded and accepted.

In view thereof, nothing further survives in this writ petition. The writ petition is disposed of keeping it open to the petitioners to challenge the letter of respondent No.2, which they propose to address to the petitioners rejecting their prayer for inspection of the college for the next academic year. All contentions in that behalf are kept open."

In compliance of the above order of the Hon'ble High Court, the Medical Council of India vide its letter dated 30/01/2016 informed the applicant college as under:-

"This is with reference to your email dated 28.01.2016 whereby you have communicated the orders of the Hon'ble High Court in the above captioned matter. In respect of your college, the Council had vide letters dated 21/01/2015 and 01/04/2015 recommended to the Central Govt. for invocation of Regulation 8(3)(1)(d) of Establishment of Medical College Regulations, 1999 since faculty members had been employed with fake and forged documents including false Declaration Forms as submitted by the medical college during the assessment on 16th& 17th Dec., 2014, with a view to obtain favorable recommendation of the Council. This act of your institution has been viewed very seriously by the Executive Committee of the Council and accordingly recommendation for debarment for Academic Year 2015-16 and 2016-17 had been recommended. In this regard I am directed to inform you that your representation was considered by the Competent Authority and it has been decided to inform you that the Council has written to the Central Government to take a final decision in respect of cases including the case of your college wherein the Council has recommended

invocation of Clause 8(3)(1)(d) of Establishment of Medical College, Regulations, 1999.

As no decision has yet been taken by the Central Government regarding Academic Year 2016-17, the Council has decided not to further process the pending applications of the such medical colleges wherever Regulation 8(3)(1)(d) of Establishment of Medical College Regulations, 1999 has been invoked."

Thereafter, on receipt of the representation of Dean, Malla Reddy Institute of Medical Sciences, Hyderabad through the Central Govt. letter dated 22/02/2016, the Council vide its letter dated 11/03/2016 requested the Central Govt. to send their decision to consider the matter with regard to Malla Reddy Institute of Medical Sciences, Hyderabad as well as for similar other cases.

The matter with regard to recommendation of MCI in respect of NRI Institute of Medical Science, Visakhapatnam, Andhra Pradesh for application of Clause 8(3)(1)(d) of Establishment of Medical College Regulation, 1999 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council perused the letter dated 29.03.2016 whereby the Ministry while accepting the recommendation of the Hearing Committee has referred the case of NRI Institute of Medical Sciences, Vishakhapatnam to the Council for review on imposition of penalty as provided under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999.

The Executive Committee noted that the letter dated 29.03.2016 clearly reveals that the Hearing Committee has not considered the matter in accordance with the clear mandate of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 as well as the recommendations of the Council alongwith the inspection reports. It is stated that the Hearing Committee, has ignored that the medical college tried to play fraud with the MCI as well as the Central Govt. by providing fake residence proof of the faculty members (fake telephone bills) during the inspection carried out on 16/17.12.2015. The Hearing Committee has also ignored that even after giving numerous opportunities to the medical college to produce clarification from BSNL in respect of the fake telephone bills, the medical college has failed to furnish the same. The documents now furnished by the medical college before the Hearing Committee on 17.03.2016(wrongly mentioned as 17.03.2015) cannot help the case of the medical college since it has already been established that the medical college during the MCI assessment had presented teaching faulty on the basis of fake / forged residence proofs.

In order to consider the matter the Executive Committee deemed it appropriate to set out the following facts pertaining to the medical college:-

An assessment for renewal of permission for MBBS course for 4th batch (150 seats) of NRI Institute of Medical Sciences, Vishakhapatnam u/s 10A of the IMC Act, 1956 for the academic year 2015-2016 was carried out by the Council Assessors on 16th& 17th December, 2014.The assessment report (16th& 17th December, 2014) was considered by the Executive Committee at its meeting held on 13/01/2015 and 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 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
1	Dr. Gudurusree Latha	Asso. Prof.	Pathology
2	Dr. C. Madhav Rao	Professor & HOD	Forensic Medicine
3	Dr. Pradeep Vundavalli	Asst. Prof.	ENT
4	Dr. Pandula Revathi	Asst. Prof.	O.G.
5	Dr. Y. Nagatalupula Rao	Asst. Prof.	O.G.
6	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 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 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 (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) also to refer the matter to the Ethics Committee of the Council."

The above decision of the Council alongwith the inspection report was communicated to the Central Government vide MCI letter dated 21.01.2015. In view of above decision of the Executive Committee regarding fake faculty, the matter was referred to the Ethics Committee of the Council for further necessary action against the erring doctors and the medical college.

The Central Govt. had constituted a Committee for granting hearing under Section 10A(4) to the medical colleges who were not recommended by the MCI for grant of renewal of permission on the grounds of persisting deficiencies. Accordingly the hearing was granted to the medical college whereafter the Central Govt. vide its letter dated 20.02.2015 forwarded the compliance dated 09.02.2015 submitted by the Dean, NRI Institute of Medical Sciences, Vishakhapatnam alongwith the recommendations of the Committee constituted by the Ministry of Health, and Family Welfare, New Delhi for review by the MCI.

During that time, the Council had come across a number of medical colleges which were at the various stages of renewal of permissions and were found grossly deficient in providing minimum infrastructure, teaching faculty, clinical material and other physical facilities in their medical colleges thus the Council had to invoke Regulation 8(3)(1)(a), 8(3)(1)(b), 8(3)(1)(c) and also 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999. Accordingly, it was decided by the Council to seek a Legal Opinion from the Ld. Additional Solicitor General regarding whether the applications of such medical colleges could be processed any further in view of the invocation of Regulation 8(3)(1)(a), 8(3)(1)(b), 8(3)(1)(c) and also 8(3)(1)(d) of the Establishment of Medical College Regulation, 1999.

The Ld. Additional Solicitor General vide his Legal Opinion dated 14.03.2015 in respect of the applicability of Regulation 8(3)(1)(a), 8(3)(1)(b), 8(3)(1)(c) had opined that 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 was no Statutory provision either under the Act or under the Regulations authorizing the MCI to process further the applications of such medical colleges. As the said Regulation clearly barred the consideration of any compliance from such medical colleges.

Similarly in respect of the applicability of Regulation 8(3)(1)(d), the Ld. Additional Solicitor General vide his Legal Opinion dated 27.03.2015 had opined that the MCI wasnot obliged to process the application of a medical college for renewal of permission which has been debarred from making admission for two academic years in conformity with Regulation 8(3)(1)(d) of aforesaid Regulation.

The case of the medical college was re-considered by the Executive Committee of the MCI in its meeting held on 27.03.2015 along with the Central Govt. letter dated 20.02.2015 and the Legal Opinions dated 14.03.2015 & 27.03.2015 rendered by the Ld. Additional Solicitor General. The Executive Committee of the MCI, in view of the fact that it had after considering the assessment report dated 16th and 17th December 2014 in its meeting held on 13.01.2015, had, invoked Regulation 8(3)(1)(b) of the Establishment of Medical College Regulation, 1999, it was decided by the Council to reiterate its earlier decision to recommend to the Central Govt. not to renew the permission to the medical college for admitting 4th batch of 150 MBBS students for the academic year 2015-16. So far as the issue with regard to the invocation of Regulation 8(3)(1)(d) on the compliance submitted by the medical college, it was decided that the medical college be asked to submit certain clarifications from the BSNL as well as the Dean of the

Medical College to provide an affidavit in respect of certain clarifications as sought for by the Council.

The Council had directed the Dean of the Medical College to provide an affidavit in respect of the following clarifications:-

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*

When the complaint was filed by these Doctors to BSNL?
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.
What was the precise nature of the problem ?
How was the problem resolved ?
When was the problem resolved ?
Was the problem resolved only for these numbers or also for those mentioned in (3) above ?
What is the present status of these connections ?
Where was the precise location of these telephones on day of assessment – i.e. 16th & 17th December 2014 ?
Photocopies of bills of November 2014, December 2014 & January 2015 in respect of these connections may also be provided.

Accordingly, the abovementioned recommendation of the Council was communicated to the Central Govt. vide MCI letter dated 01.04.2015. A copy of the said communication dated 01.04.2015 was also forwarded to the medical college for submitting its clarification in this regard.

The Council had also sent reminder dated 07.05.2015, to the medical college for the submission of the requisite information and clarification from BSNL as sought by the Council vide its letter dated 01.04.2015 on or before 11.05.2015. However no response was received from the medical college.

The Central Govt. vide its letter dated 15.06.2015 had communicated its decision to the college authorities not to renew the permission for admission of 4th batch of 150 MBBS students for the academic year 2015-16 only.

Since the aforesaid decision of the Central Govt. was pertaining to the academic year 2015-2016, the Council has vide its letter dated 06.07.2015, informed the Central Govt. about the fact that the Council had in terms of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 recommended to the Central Govt. for debarring the medical college from admitting students for the academic years 2015-16 & 2016-17 but due to an omission / oversight the Central Govt. by way of its order dated 15.06.2015 had conveyed its decision to the medical college not to grant renewal of permission for admitting 3rd batch of 150 MBBS students for the academic year 2015-16 only.

The medical college being aggrieved by the recommendations of the MCI and the decision of the Central Government had filed Writ Petition No. 21617 of 2015 titled Anil Neerukonda Educational Society & Ors vs. Union of India & Anr. before the Hon'ble High Court at Hyderabad, inter alia, challenging the vires of Regulation 8(1) as well seeking certain other reliefs. The Hon'ble High Court at Hyderabad vide its order dated 16.07.2015 had declined to grant any interim relief in favour of the medical college.

The aforesaid writ petition has been disposed by the Hon'ble High Court at Hyderabad vide order dated 21.01.2016. The relevant portion of the order dated 21.01.2016 is reproduced as under:-

"...At the outset, Mr. D. V. Sitarama Murthy, learned Senior Counsel submits that insofar as first two prayers are concerned, they have rendered infructuous in view of the subsequent events, including pendency of Special Leave to Appeal (c) in the Supreme Court, bearing No. 31535 of 2015. He submit that the petitioner –institutions has independently applied for inspection of their college seeking approval for the next academic year (2016-17) and directions may be issued to respondent No. 2 to inspect the college on or before 31/01/2016.

Mr. Nimmagadda Venkateswarlu, learned counsel for respondent No.2, on the other hand, on instructions, submits that the Medical Council of India, in view of clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010 has already decided not to inspect the petitioners' college and they shall send communication to that effect to the petitioners on or before 31.01.2016. His statement is recorded and accepted.

In view thereof, nothing further survives in this writ petition. The writ petition is disposed of keeping it open to the petitioners to challenge the letter of respondent No.2, which they propose to address to the petitioners rejecting their prayer for inspection of the college for the next academic year. All contentions in that behalf are kept open….."

Thereafter the medical college vide letter dated 28.01.2016 requested the Council to consider their application for grant of renewal of permission for the academic year 2016-17 and had also forwarded the order dated 21.01.2016 passed by the Hon'ble High Court.

In view of the order dated 21.01.2016 passed by the Hon'ble High Court, the MCI vide letter dated 30.01.2016 had informed the medical college that since no decision had been taken by the Central Govt. regarding the academic year 2016-17, thus the Council had decided not to process the applications of the medical colleges in view of Regulation 8(3)(1)(d) of Establishment of Medical College Regulations, 1999 as had been invoked in the case of the medical college since the medical college had tried to mislead MCI as well as the Central Govt. by furnishing fake telephone bills as address proofs of the faculty members.

In view of the above facts and circumstances, the Executive Committee noted it that Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 deals with a situation where a medical college has tried to play fraud with the Council and the Central Govt. by submitting fake / forged documents in relation to teaching faculty employed by it. The conduct of a medical college plays a vital role while evaluating the application of the medical college for grant of permission. Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 categorically provides that, if during an inspection, a medical college is found to have employed teaching faculty on the basis of fake or forged documents, the Council must take a serious view of the conduct of the medical college and medical college will not be considered for permission for the current and the ensuing academic sessions.

The Executive Committee further thought it relevant to state that a medical college while submitting the Declaration Forms of the faculty certifies that they have verified the credentials as well as the experience certificates of the faculty members and are satisfied with the credentials. There is an endorsement to the effect that the Principal / Dean and the Head of the Department of the medical college had satisfied themselves with the correctness & veracity of the contents of the Declaration Form including the fact that the medical teachers were working as full time faculty members in the medical college. The faculty member provides the aforesaid declaration, the Head of the Department and the Dean / Principal of the medical college provide and endorsement certifying that they have satisfied themselves about the correctness / veracity of the contents of the declaration including the certificates / documents submitted by the faculty member. The

Head of the Department and the Dean / Principal of the medical college further declare that in the event any information / document is found incorrect or false then in such an event they shall be equally responsible besides the faculty member for such mis-declaration or misleading the MCI.

The Hon'ble Supreme Court in its judgement dated 06.09.2013 in the case of Rohilkhand Medical College & Hospital, Bareilly Versus Medical Council of India & Another – (2013) 15 SCC 516, has categorically held that MCI can take action under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 if prima facie it is established that fake teachers were shown by the College to seek permission from MCI.

The Executive Committee considered it relevant to point out that the Board of Governors nominated by the Central Govt., in the case of National Institute of Medical Sciences, Jaipur during an inspection observed that the college had mislead the Board of Governors regarding the teaching faculty as there was a variation in the number of faculty members found during the inspection of postgraduate and undergraduate courses of the medical college. The Board of Governors nominated by the Central Govt. after considering the case of the medical college issued show cause notice and after considering their reply found that the college had employed faculty with fake / forged documents and decided to debar the college from making admissions for increased admission capacity from 100 to 150 in MBBS course for the academic session 2012-13 & 2013-14 under Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999.

The National Institute of Medical Sciences, Jaipur being aggrieved by the decision of the Board of Governors nominated by the Central Govt. dated 30.06.2012 had challenged the said decision before the Hon'ble Supreme Court by way of W.P (C) No.272/2012. The Hon'ble Supreme Court after hearing detailed submission on behalf of the college had declined to entertain the said petition therefore the medical college withdrew the same and the writ petition was dismissed as withdrawn vide order dated 10.07.2012 without granting any liberty to college.

Thereafter National Institute of Medical Sciences, Jaipur had filed W.P (C) No.4509/2012 before the Hon'ble Delhi High Court challenging the same decision of the Board of Governors nominated by the Central Govt. dated 30.06.2012, when the Hon'ble Delhi High Court also declined to entertain the said petition which was disposed of vide order dated 30.07.2012 with certain directions.

In the present matter, the Hearing Committee has ignored to consider that NRI Institute of Medical Sciences, Vishakhapatnam had tried to play fraud with the MCI as well as the Central Govt. by providing fake residence proof of the faculty members (fake telephone bills) during the inspection carried out on 16/17.12.2015. The Hearing Committee has also ignored that even after giving numerous opportunities to the medical college to produce clarification from BSNL in respect of the fake telephone bills, the medical college has failed to furnish the same. The documents now furnished by the medical college before the Hearing Committee on 17.03.2016(wrongly mentioned as 17.03.2015) cannot help the case of the medical college since it has already been established that the medical college during the MCI assessment had presented teaching faulty on the basis of fake / forged residence proofs.

The Executive Committee of the Council further noted the judgement dated 27th April, 2016 of the Hon'ble Supreme Court in Civil Appeal No. 4812 of 2016 – MCI Vs. Malla Reddy Instt. Of Medical Sciences & Orr., the operative part of which reads as under:-

"……

6. The main submission advanced on behalf of the appellant MCI, is to the effect that although the Full Bench did not declare provisos (a) to (d) of Regulations 8(3)(1) ultra vires nor declared any need to read them down still on account of its

observations that it is not open to MCI and/or Central Government to deny to the applicant/institute concerned, an opportunity to rectify the deficiencies falling within the ambit of the aforesaid provisos, the Division Bench, on receipt of answer to the reference, allowed the writ petitions with a direction to consider for grant of recognition in disregard of the relevant provisos. In other words, the grievance of the appellant is that the answer to the reference given by the Full Bench is being construed against the appellant as if the relevant provisos of Regulation 8(3)(1) of the Regulations have been declared ultra vires or have been read down so as not to cause any ill effect upon an applicant/institution covered by those provisos.

7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3)(1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

10. It is admitted at Bar that the adverse effect of the relevant provisos upon the writ petitioners is over for all practical purposes.

11. The learned senior counsel appearing for the appellant MCI has assured that no further action will be taken against the writ petitioners on the basis of lapses that attracted the concerned provisos and now the institutions belonging to the petitioners shall be subjected to inspection without taking any further punitive action for the past happenings.

12. It goes without saying that if the writ petitioners are so advised and if the need arises, they may challenge the constitutional validity of the concerned Regulations through any appropriate proceeding in future.

13. Both the appeals are allowed to the above extent, but with no order as to costs."

In view of the above, the Executive Committee of the Council after due discussion and deliberation and after considering the entire record pertaining to the medical college decided to reiterate its decision not to consider the institute for renewal of permission for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017) in view of invocation of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 since the medical college had presented faculty members on the basis of fake / forged documents including residence proof in order to play fraud on the MCI as well as the Central Govt. so as to obtain renewal of permission and also had failed to provide any clarification from BSNL in this regard so as to substantiate its compliance".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Principal, NRI Institute of Medical Sciences, Vishakhapatnamfor necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that a writ petition No. 21617/2015 was also filed by Anil Nirukonda Educational Society aggrieved by the imposition of regulations 8(1) of the Establishment of Medical College Regulations, 1999 and non grant of renewal of permission to the petitioner's college for the academic year 2015-2016. The said writ petition was listed before the Hon'ble High Court for final disposal on 22.01.2016 when the Hon'ble Court was pleased to pass the following order:-

"...At the outset, Mr. D. V. Sitarama Murthy, learned Senior Counsel submits that insofar as first two prayers are concerned, they have rendered infructuous in view of the subsequent events, including pendency of Special Leave to Appeal (c) in the Supreme Court, bearing No. 31535 of 2015. He submit that the petitioner –institutions has independently applied for inspection of their college seeking approval for the next academic year (2016-17) and directions may be issued to respondent No. 2 to inspect the college on or before 31/01/2016.

Mr. Nimmagadda Venkateswarlu, learned counsel for respondent No.2, on the other hand, on instructions, submits that the Medical Council of India, in view of clause 8(3)(1)(d) of Establishment of Medical College Regulation (Amendment), 2010 has already decided not to inspect the petitioners' college and they shall send communication to that effect to the petitioners on or before 31.01.2156. His statement is recorded and accepted.

In view thereof, nothing further survives in this writ petition. The writ petition is disposed of keeping it open to the petitioners to challenge the letter of respondent No.2, which they propose to address to the petitioners rejecting their prayer for inspection of the college for the next academic year. All contentions in that behalf are kept open."

The members of the Executive Committee of the Council observed that :-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals*

*for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that the medical college being aggrieved by the recommendations of the MCI and the decision of the Central Government had filed Writ Petition No. 21617 of 2015 titled Anil Neerukonda Educational Society & Ors vs. Union of India & Anr. before the Hon'ble High Court at Hyderabad, inter alia, challenging the vires of Regulation 8(1) as well seeking certain other reliefs. The Hon'ble High Court at Hyderabad vide its order dated 21.01.2016 had declined to grant any interim relief in favour of the medical college.

In view of the above, the Executive Committee of the Council after due discussion and deliberation and after considering the entire record pertaining to the medical college decided to reiterate its earlier decision not to consider the NRI Institute of Medical Science, Visakhapatnam, Andhra Pradesh under Dr. N.T.R. University of Health Sciences, Vijayawada, Andhra Pradesh for renewal of permission for two academic years i.e. that academic year (i.e. 2015-16) and the next academic year (i.e. 2016-2017) in view of invocation of Regulation 8(3)(1)(d) of the Establishment of Medical College Regulations, 1999 since the medical college had presented faculty members on the basis of fake / forged documents including residence proof in order to play fraud on the MCI as well as the Central Govt. so as to obtain renewal of permission and also had failed to provide any clarification from BSNL in this regard so as to substantiate its compliance and does not fall within the ambit of the directions issued by the Oversight Committeeò

102. <u>Renewal of permission for MBBS course for 5th batch (100 seats) of Apollo Institute of Medical Sciences and Research, Hyderabad,</u>

Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

Read: the matter with regard to renewal of permission for MBBS course for 5th batch (100 seats) of Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th batch (100 seats) of Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 10th& 11th September, 2015. The assessment report (10th& 11th September, 2015) was considered by the Executive Committee of the Council at its meeting held on 28/10/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (10th& 11th September, 2015) and noted the following:-

1. *Deficiency of faculty is 10.73 % as detailed in the report.*
2. *Shortage of Residents is 53.73 % as detailed in the report.*
3. *Bed occupancy is 43 % (i.e. 202 out of 470) on day of assessment.*
4. *Workload of special investigations like Ba, IVP is NIL on day of assessment.*
5. *Histopathology workload is only 2 on day of assessment.*
6. *Laboratory investigations workload is inadequate on day of assessment.*
7. *CT scan is not available.*
8. *OPD: Dark room & Refraction room in Ophthalmology OPD are combined.*
9. *There were only 2 Major & NIL Minor operations for the whole hospital on day of assessment. Although 2 patients were waiting for operation in Orthopaedics O.T. it had not yet started till 10 a.m.*
10. *There is no separate septic labour room.*
11. *Lecture Theaters: Only 3 Lecture Theaters are available against requirement of 4. Hospital lecture theater is not of gallery type.*
12. *Students' Hostels: Available accommodation is only 108 against requirement of 375.*
13. *Staff Quarters: Only 07 quarters are available for Non-teaching staff against requirement of 36 as per Regulations. Teaching staff quarters are taken on lease.*
14. *Central Library: It is not air-conditioned.*
15. *Other deficiencies as pointed out in the assessment report.*

The Executive Committee of the Council further noted the following recommendations of the Postgraduate Medical Education Committee meeting held on 9th October, 2015 with regard to MD (Pathology) of the said Institute:-

"The Postgraduate Medical Education Committee had noted that the investigative work of all departments have been outsourced to a private laboratory, which is not permissible as per Regulations. However, the Dean and heads of the Departments did not disclose this information in the SAF and thus, the investigative data supplied by them is non-genuine. The Committee decided to seek explanation of Dean and heads of the departments of Biochemistry, Pathology and Microbiology about non-disclosure of this information.

The Committee is of the opinion that without these investigations being done in the department, the training of PG as well as UG students will be deficient and decided to refer this matter to the President, Medical Council of India for consideration along with their UG Assessment reports. A copy of the Assessor's remark in the department of pathology is enclosed for the kind perusal of the President.

1. *License of blood bank is not in the name of the college. It is in name of Apollo Hospital Enterprises Ltd. Professor & Asso. Prof. of the college have no control over blood bank. Medical Officer i/c Blood Bank is not a staff member of the college.*
2. *The institute has entered into a MOU with for utilization of Apollo Hospital Enterprises Limited for service laboratories which is not as per Regulations.*
3. *Histopathology laboratory is a small laboratory where only grossing is done. Tissue is sent to corporate laboratory. The facility mentioned on SAF Part II, Page 16,Point 20 is with the corporate laboratory and not with the college itself. Pathologists working in corporate laboratory are not on staff of the college.*
4. *There is no service laboratory for Haematology in the department. All the samples collected are sent to the corporate laboratory and the department has no control over its functioning. Facility shown in SAF at Point 21,Page 16 are of the corporate laboratory & not in the college. Available faculty of the department are not involved in processing or evaluation of reports of these samples.*
5. *Workload of PT, APTT, TT is NIL. That of Bone Marrow aspiration is only 03/year.*
6. *There is no service laboratory for Clinical pathology. All the samples are sent to corporate laboratory.*
7. *Histopathology samples are 98 in 115 days implying daily average of < 1.*
8. *No instruments of modern technology are available in the department.*
9. *It is not clear whether Teachers & PGs would be permitted in corporate laboratory for training.*
10. *Cytopathology workload is NIL on day of assessment.*
11. *Pathological post-mortems are not performed."*

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 at Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 02/11/2015 and copy to the college authorities with the request to submit the compliance report

In response to above, the Dean, Apollo Institute of Medical Sciences and Research Hyderabad had submitted the Compliance report which was verified by the Council assessors by way of compliance verification assessment on 11th March, 2016.

The compliance verification assessment report (11th March 2016) alongwith previous assessment report (10th& 11th September, 2015) as well as the letter dated 18/04/2016 received from the college authorities with regard to renewal of permission for admission of 5th batch of MBBS students at Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR

University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (11th March 2016) along with previous assessment report (10th& 11th September, 2015) as well as the letter dated 18/04/2016 received from the college authorities and noted the following:-

1. *Shortage of Residents is 64.1 % as detailed in the report.*
2. *Many Residents do not stay in campus. Some Residents stay in the city and come only on call.*
3. *Laboratory investigations still appear to be inadequate. Space for the collection center is inadequate. Transportation of samples to central laboratory is improper.*
4. *CT Scan is not functional.*
5. *There were only 4 Major operations on day of assessment.*
6. *Histopathology workload is only 7; out of these, 3 were of circumcision & 2 were Pap smear.*
7. *Cytopathological workload is inadequate.*
8. *Workload of Special investigations like Ba, IVP is NIL*
9. *Students' Hostels: Total accommodation available is 258 against requirement of 375. Even out of these, some rooms are 4 seaters which is not as per Regulations. Complex III is outside college campus.*
10. *Residential Quarters: NIL quarters are available for non-teaching staff.*
11. *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 5thbatch of 100 MBBS students at Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July

(Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration….

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Dean Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana for necessary action in the light of order dated 13.06.2016 of Oversight Committee

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 30.11.2015 and 20.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 11.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if

the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 10.73%, residents was 53.73% and the bed occupancy was found to be 43%. Similarly in the last compliance verification assessment conducted on 11.03.2016 of Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana, apart from other deficiencies the deficiency of residents was found to be 64.1%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical

Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (100 seats) of Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an

appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 5th batch (100 seats) of Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh, during the compliance verification inspection carried out on 11.03.2016 the deficiency of Resident was found to be. 64.1%. Thus the deficiencies of Residents found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations

however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.*
> *……..*
>
> *13. Both the appeals are allowed to the above extent, but with no order as to costs….."*

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various*

departments in the college and in the hospitals. These regulations are in considerable detail. ……...

28. *…… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. ……... After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (100 seats) of Apollo Institute of Medical Sciences and Research, Hyderabad, Telangana under Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

103. <u>Renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Principal, Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 23rd & 24thNovember, 2015. The assessment report/letter dated 24/11/2015 received from the appointed team of assessors was considered by the Executive Committee of the Council at its meeting held on 28/12/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors letter dated 24/11/2015 and noted the following:-

"1. We three assessors (Dr. P. Venkata Krishna, Dr. SK Dhattarwal a Dr. Arnab Sengupta), reached Lord Buddha Koshi Medical College and Hospital, Saharsha, Bihar on 23rd November, 2015 at 9 AM.

2. As per clause vi) of assessment appointment letter, we asked the Dean, Dr. J. Prakash and RN Sinha, Medical Superintendent for communicating to the faculty and residents to put their signature on the department wise attendance sheet. This was repeatedly announced that, this must be completed by 11 A.M. In spite of that, only 34 faculty members and residents signed the attendance sheet.

3. Immediately on reaching there, we asked for videographic and photographic facilities and only one videographer and photographer came at about 12 noon, while we asked for three. In the meantime we used our own phone cameras to take pictures of the college. However, many times they objected to this and tried to prevent us taking photographs. We are sending those photographs along with this.

4. In those photographs it is clearly evident that, the faculty shown on the display boards was not available and existent and most of the OPDs were empty.

5. The videographer and the photographer were instructed to hand over the DVD to the assessors by 4PM, because we completed the required activities upto 2 PM; but the Chairman prevented the videographer and the photographer busy in shooting video and photographs of the delayed faculty and residents which was witnessed by the police officials present during the process.

6. The chairman prevented the assessors from verifying the faculty and residents from 2.30 PM to 4 PM on 23rd November, 2015. So we completed the verification of declaration forms with police escort up to 7.30 PM.

7. Fake patients were being shifted from one ward to another even in front of us.

8. When assessment team went to ENT indoor ward, it was found to be room only with declaration forms being prepared by two persons.

9. Some of the faculty members do not know each other in the same departments and HOD did not know departmental labs and demonstration rooms including library.

10. In Emergency room, ICCU and OT expired and fungus affected life saving drugs were found.

11. In casualty no injury register was available and in the police information booklet there was gap of six months, five months and nine months in subsequent entries in different years.

12. Some of the declaration forms presented to the assessors were not signed by the HOD, Dean and not even by the concerned faculty/residents.

13. There is evidence of fake signatures of different HODs.

14. Wherever the assessors were going the Chairman, Dr. P.K Singh and his personal men interfered into every matter. But the Dean or MS were not seen to accompany the assessors.

15. At about 4 PM the chairman of the said medical college Dr. P.K Singh along with a few others started making derogatory comments to us. He resorted to threaten us to follow their suit. After this, all the three assessors were surrounded by the alleged faculty members and some employees of the college, who were instigated by the chairman and personal staff to get declaration forms being signed forcibly by the assessors and they threatened us to keep us hostage unless we acceded to their threat. We were forced to collect the declaration forms of those faculty members and residents, who did not sign attendance sheet up to 11AM. The overall situation was

extremely hostile and there was tremendous threat perception to all the assessors. This was brought to the notice of MCI at 8527585678 and 9810208745. Subsequently police personnel along with SHO of local PS came to college council room and rescued us at 7.30 PM.

16. *At about 11 PM on 23rd November, 2015 one person came to our hotel at Saharsha and handed over two copies of DVD and asked for the receipt that we have received the videography and photography cds. We told that we have to verify the cds and then only we can give the receipt or otherwise give copies of the cds to the Dean and collect the receipt from him. Then he left away. On detail examination, they were found to be totally edited and evidence of deficiencies were found deleted at most of the places. The video has been prepared at the instance of chairman personnel and not on the direction of the assessors. So we felt that further process of the assessment is not justified and we felt threat to our lives and returned back and informed the same to the MCI on phone.*

17. *As a result, we could not complete the assessment process.*

18. *We left Saharsa at 8 AM on 24th November, 2015."*

The Committee also noted the representation/letter dated 02/12/2015 of the Principal of the college.

The Executive Committee of the Council further observed as under:

1. *Deficiency of faculty is 60.37 % as detailed in the report.*
2. *Shortage of Residents is 83.58 % as detailed in the report.*
3. *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 5thbatch (100 seats) of MBBS students at Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 30/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar had submitted the Compliance report dated 29.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 6th April, 2016.

The compliance verification assessment report (6th April, 2016) alongwith letter dated 24/11/2015 submitted by the Council Assessors at the time of previous assessment with regard to renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by theExecutive Committee of the Council at its meeting held on 13.05.2016 at it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (6th April, 2016) alongwith letter dated 24/11/2015 submitted by the Council Assessors at the time of previous assessment and noted the following:-

1. *Deficiency of faculty is 98 % as detailed in the report.*
2. *Shortage of Residents is 100 % as detailed in the report.*
3. *Whole Hospital & college were closed.*
4. *As the hospital was closed, there was NIL patient in OPD or in the wards. No other clinical activity was observed.*
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 5th batch of 100 MBBS students at Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 18.06.2016 forwarded by the Principal, Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 29.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 06.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 60.37% and residents was 83.58%. Similarly in the last compliance verification assessment conducted on 06.04.2016 of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar, apart from other deficiencies the deficiency of teaching faculty was found to be 98%, residents was found to be 100% and bed occupancy was NIL.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance

with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura, during the compliance verification inspection carried out on 06.04.2016 the deficiency of Faculty was found to be 98%, the deficiency of Resident was found to be 100% and the Bed Occupancy was found to be only 0%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *".....**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning....."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (100 seats) of Lord Buddha Koshi Medical College & Hospital, Saharsa, Bihar under B.N Mandal University, Madepura, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

104. <u>Renewal of permission for MBBS course for 5th batch (100 seats) of Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences,</u>

Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

Read: the matter with regard to renewal of permission for MBBS course for 5th batch (100 seats) of Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Dean, Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th batch (100 seats) of Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 6th& 7th November, 2015. The assessment report 6th& 7th November, 2015 was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (6th and 7th November, 2015) alongwith letter/representation dated 09/11/2015 of the Dean, Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra and noted the following:-

1. *Deficiency of faculty is 57.14 % as detailed in report.*
2. *Shortage of Residents is 80.59 % as detailed in the report.*
3. *Form 16/TDS Certificates were not attached by any faculty.*
4. *OPD attendance is only 416 against requirement of 800.*
5. *Bed occupancy is 13.19 % on day of assessment.*
6. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Deficit
1	General Medicine	120	90	30
2	Paediatrics	60	30	30
3	General Surgery	120	90	30
	TOTAL			90

7. *There was only 01 Minor operation on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Radiological & Laboratory investigation workload is inadequate.*
10. *CT Scan is not available.*
11. *Casualty: Crash Cart, Disaster Trolley, Defibrillator, Ventilator, Minor O.T. are not available.*
12. *ICUs: There was NIL patient in PICU/NICU & SICU on day of assessment.*
13. *Radiodiagnosis department: Only 2 mobile X-ray machines are available against requirement of 4. Only 1 static X-ray machine is available against requirement of 5. CT Scan is not available.*
14. *CSSD: Receiving & Distribution points are not separate.*
15. *Central Research Laboratory is not available.*

16. *Examination Hall cum Auditorium: It is not available.*
17. *Lecture Theaters: Lecture Theater of 250 capacity is not available. Hospital Lecture Theater is not of gallery type. E class facility is not available.*
18. *Students' Hostels: Available accommodation is 318 against requirement of 375. Visitors' room, A.C. study room with computer & Internet, Recreation room are not available.*
19. *Residents' Hostel: A.C. study room with computer & Internet, Recreation room are not available.*
20. *Residential Quarters: Only 12 quarters are available for faculty against requirement of 21. NIL quarters are available for non-teaching staff.*
21. *Nursing Staff: Only 185 Nurses are available against requirement of 246.*
22. *Academic activities: Integrated teaching programme is not conducted. CPC is not held.*
23. *Anatomy department: Only 32 specimens are available. NIL Disarticulated sets are available.*
24. *RHTC: It is in rented premises. Separate accommodation for Boys & Girls is not available. Cold chain equipment is not available.*
25. *UHC: It is in rented premises.*
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 Govt. not to renew the permission for admission of 5th batch (100 seats) of MBBS students at Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

Since, the compliance was not received from the college authorities within the stipulated time of 1 month as granted by the Council, the Council vide its reminder dated 06/01/2016 requested the college authorities to submit the compliance within 10 days from the date of dispatch of the letter, failing which, it will be presumed that the college authorities has no further comments to offer in the matter and the MCI will recommend to the Central Govt. for disapproval of your scheme for the academic year 2016-2017.

In response to above, the Council office had received a letter dated 11/01/2016 from the Authorised Signatory, Institute of Medical Sciences & Research, Satara stating therein as under:-

"1. Our College /Insitution has filed Civil Suit No. 14 of 2016 in the court of Civil Judge, Junior Division Vaduj, Dist. Satara, Maharashtra State on 6th January, 2016, against Medical Council of India & Ors., interalia praying for declaration of MCI Inspection Report dated 6th& 7th November, 2015 as null and void.

2. The Hon'ble Court was pleased to issue notice to the defendants for filing their Written Statement returnable on 6th February 2016. A copy of the Suit and order is enclosed for your perusal.

3. Since the matter is sub-judice and pending before the Hon'ble Court, we request you to keep our matter pending till the final orders from the Hon'ble Court."

In this regard, the Council Office had received an email dated 28/04/2016 from the Council Advocate at Bombay stating therein that Civil Suit No.14/2016 filed by Shri Chhatrapati Shivaji Educational Society was on board before the Hon'ble Court of Civil Judge, Junior Division, Vaduj at Satara on 27/04/2016 for Order. The Hon'ble Court vide its order dated 27/04/2016 was pleased to allow the application under Order VII Rule 11 of C.P.C. preferred by the Medical Council of India and rejected the aforesaid suit.

The Council Office had not received compliance from the Dean/Principal, Institute of Medical Sciences & Research, Satara as sought by the Council vide its letter dated 03/12/2015 and 06/01/2016

The matter with regard to non submission of Compliance by Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashikwas considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council observed as under:

The assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th batch (100 seats) of Institute of Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 6th& 7th November, 2015. The assessment report 6th& 7th November, 2015 was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (6th and 7th November, 2015) alongwith letter/representation dated 09/11/2015 of the Dean, Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra and noted the following:-

1. *Deficiency of faculty is 57.14 % as detailed in report.*
2. *Shortage of Residents is 80.59 % as detailed in the report.*
3. *Form 16/TDS Certificates were not attached by any faculty.*
4. *OPD attendance is only 416 against requirement of 800.*
5. *Bed occupancy is 13.19 % on day of assessment.*
6. *Teaching beds are deficient as under:*

#	Department	Beds		
		Required	Available	Deficit
1	General Medicine	120	90	30
2	Paediatrics	60	30	30
3	General Surgery	120	90	30
	TOTAL			90

7. *There was only 01 Minor operation on day of assessment.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*

9. *Radiological & Laboratory investigation workload is inadequate.*
10. *CT Scan is not available.*
11. *Casualty: Crash Cart, Disaster Trolley, Defibrillator, Ventilator, Minor O.T. are not available.*
12. *ICUs: There was NIL patient in PICU/NICU & SICU on day of assessment.*

13. *Radiodiagnosis department: Only 2 mobile X-ray machines are available against requirement of 4. Only 1 static X-ray machine is available against requirement of 5. CT Scan is not available.*
14. *CSSD: Receiving & Distribution points are not separate.*
15. *Central Research Laboratory is not available.*
16. *Examination Hall cum Auditorium: It is not available.*
17. *Lecture Theaters: Lecture Theater of 250 capacity is not available. Hospital Lecture Theater is not of gallery type. E class facility is not available.*

18. *Students' Hostels: Available accommodation is 318 against requirement of 375. Visitors' room, A.C. study room with computer & Internet, Recreation room are not available.*
19. *Residents' Hostel: A.C. study room with computer & Internet, Recreation room are not available.*
20. *Residential Quarters: Only 12 quarters are available for faculty against requirement of 21. NIL quarters are available for non-teaching staff.*
21. *Nursing Staff: Only 185 Nurses are available against requirement of 246.*
22. *Academic activities: Integrated teaching programme is not conducted. CPC is not held.*
23. *Anatomy department: Only 32 specimens are available. NIL Disarticulated sets are available.*
24. *RHTC: It is in rented premises. Separate accommodation for Boys & Girls is not available. Cold chain equipment is not available.*
25. *UHC: It is in rented premises.*
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 Govt. not to renew the permission for admission of 5th batch (100 seats) of MBBS students at Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

Since, the compliance was not received from the college authorities within the stipulated time of 01 month as granted by the Council, the Council vide its reminder dated 06/01/2016 requested the college authorities to submit the compliance within 10 days from the date of dispatch of the letter, failing which, it will be presumed that the college authorities has no further comments to offer in the matter and the MCI will recommend to the Central Govt. for disapproval of your scheme for the academic year 2016-2017.

The Committee further observed that in response to above, the Council office received a letter dated 11/01/2016 from the Authorised Signatory, Institute of Medical Sciences & Research, Satara stating therein as under:-

"1. Our College /Institution has filed Civil Suit No. 14 of 2016 in the court of Civil Judge, Junior Division Vaduj, Dist. Satara, Maharashtra State on 6th January, 2016, against Medical Council of India & Ors., interalia praying for declaration of MCI Inspection Report dated 6th & 7th November, 2015 as null and void.

2. The Hon'ble Court was pleased to issue notice to the defendants for filing their Written Statement returnable on 6th February 2016. A copy of the Suit and order is enclosed for your perusal.

3. Since the matter is sub-judice and pending before the Hon'ble Court, we request you to keep our matter pending till the final orders from the Hon'ble Court."

In this regard, the Council Office has received an email dated 28/04/2016 from the Council Advocate at Bombay stating therein that Civil Suit No.14/2016 filed by Shri Chhatrapati Shivaji Educational Society was on board before the Hon'ble Court of Civil Judge, Junior Division, Vaduj at Satara on 27/04/2016 for Order. The Hon'ble Court vide its order dated 27/04/2016 was pleased to allow the application under Order VII Rule 11 of C.P.C. preferred by the Medical Council of India and rejected the aforesaid suit.

Till date, the Council Office has not received compliance from the Dean/Principal, Institute of Medical Sciences & Research, Satara as sought by the Council vide its letter dated 03/12/2015 and 06/01/2016.

In view of above, 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 MBBS students at Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2016-2017".

The above decision of the Executive Committee was communicated to the Central Government vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Dean, Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The college authorities had not submitted the compliance as sought by the Council vide letters dated 03.12.2015 and a reminder dt.06.01.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ……..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and*

at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19. However, college did not give any compliance stating the correction of deficiencies found during the first assessment till 15th May, 2016 which is the last date for MCI to forward its final recommendation to the Central Government for the academic year 2016-17.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 57.14%, residents was 80.59% and bed occupancy was found to be 13.19%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for

renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh*

*assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (150 seats) of Institute of Medical Sciences & Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19. However, college did not give any compliance stating the correction of deficiencies found during the first assessment till 15th May, 2016 which is the last date for MCI to forward its final recommendation to the Central Government for the academic year 2016-17. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 5th batch (100 seats) of Institute of Medical Sciences &

Research, Vidyagiri, Satara, Maharashtra under Maharashtra University of Health Sciences, Nashik, during the first inspection carried out on 06th & 07th November, 2015 the deficiency of Faculty was found to be 57.14%, the deficiency of Resident was found to be 80.59% and the Bed Occupancy was found to be only 13.19%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a)

to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..”

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*“……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (100 seats) of Institute of Medical Sciences & Research, Vidyagiri, Satara,

Maharashtra under Maharashtra University of Health Sciences, Nashik, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

105. Renewal of permission for MBBS course for 5th 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 2016-2017.

Read: the matter with regard to renewal of permission for MBBS course for 5th 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 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean, Hi-Tech Medical College & Hospital, Rourkela, Orissa, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th 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 2016-2017 was carried out by the Council Assessors on 05th& 06th October, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28/10/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (5th and 6th October, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 28.5 % as detailed in report.*
2. *Shortage of Residents is 25.7 % as detailed in the report.*
3. *OPD: Separate registration counters for male/female are not available. Separate registration counters for OPD/IPD are not available. No person was available at Enquiry Desk at 11:00 a.m. on day of assessment. Injection room is common for males & females. Dressing room is common for males & females. In Ophthalmology OPD, Dressing Room / Minor Procedure Room is not available. In Plaster Cutting Room, there is no plaster cutting scissors or saw. Minor O.T. is available but appears to be not in use. There is no ECG Technician in ECG room.*
4. *Teaching beds: There is shortage of 20 beds in Orthopaedics.*
5. *Wards: For Orthopaedics, 13 beds are shown in an empty hall & other 8 beds in verandah. These are naked beds without bed sheets. There is no Nursing Station. There were no patients on these beds. Pantry is without water supply or drainage.*
6. *Workload of special investigations like Ba, IVP is NIL on day of assessment.*
7. *Data of bed occupancy and number of Major & Minor operations as provided by the institute could not be verified.*
8. *O.T.s: Only 4 O.T.s are available against requirement of 7; out of these 4, 1 is not having Boyle's apparatus. Proper facilities as detailed in report are not available in Minor O.T.*
9. *ICUs: Total 5 beds are available for ICCU & ICU against requirement of 5 beds separate for each. SICU has only 2 beds against requirement of 5 & there was no patient. PICU/NICU has 4 beds against requirement of 5. Equipment are inadequate.*

10. *Radiodiagnosis department: Only 2 mobile Units are available against requirement of 4. Only 2 static Units are available against requirement of 4. IITV is not in working order. Only 1 USG is available against requirement of 3.*
11. *Pharmaco Vigilance Committee: No meeting of Pharmaco Vigilance Committee has taken place in the previous year.*
12. *Examination Hall: It is not available. It is under construction.*
13. *Lecture Theaters: Only 2 lecture theaters are available against 4 required as per Regulations. Hospital Lecture Theater is not in use. Old rusted chairs are placed. Audiovisual aids are not available. E class facility is not available.*
14. *Central Library: It is not air-conditioned. Even after repeated requests, area plan was not provided. Staff reading room & Residents' reading room are not available. Internet nodes are less.*
15. *Common rooms for Boys & Girls are not separate which is not permissible.*
16. *Central Photography Section: Staff & Equipment are not available.*
17. *Students' Hostels: Accommodation available is 288 against requirement of 375. Ancillary facilities are inadequate.*
18. *Residents' Hostels: Accommodation available is for 56 against requirement of 67. Some rooms are occupied by female non-medical employees of the trust. Other rooms are being used as patient cabins.*
19. *Nurses' Hostel: it is under construction.*
20. *Residential Quarters for Non-teaching staff are not available.*
21. *Gender Harassment Committee is not yet constituted.*
22. *Speech Therapist is not available.*
23. *MRD: ICD coding is improper and not correlating with the actual diagnosis.*
24. *Central O_2 & Central Suction are available but not functioning properly.*
25. *Pharmacy: Details of Pharmacy staff are not provided.*
26. *Intercom is not available.*
27. *Central Kitchen: It is in a verandah, filthy & unhygienic. There are no trained cooks or periodical medical examination of cooks.*
28. *Central research Laboratory: Equipment are not adequate; none is in working order.*
29. *Website: It is not totally updated. List of students admitted category wise, Toll free number to report ragging are not shown.*
30. *Anatomy department: Only 74 specimens are available. A small room was designated as Locker Room but no lockers are available. Number of cooling chambers are less. Half standard Dissection Tables are not available. (P. 33)*
31. *Audiovisual aids are not available in any Demonstration room of any department.*
32. *Pathology department: Only 85 specimens are available.*
33. *Microbiology department: Service laboratories are not available. Media preparation facility, Autoclaving, washing facility are not available.*
34. *Pharmacology department: There are NIL models, catalogues in museum. History of medicine charts are not available.*
35. *RHTC: There is no adopted population. It is in rented premises for 5 years. There is no record of posting of students. Residential accommodation is not available. Specialists' visits are not organized. Cold chain equipment is not available. No investigations are carried out. Haemoglobinometer tube is blocked with blood. No registers are available. No activities under National Health programmes are carried out.*
36. *UHC: It is a polyclinic. There is no facility for ante-natal women. All the chambers are of private practitioners. There is no adopted population. There is no record of posting of students. Specialists' visits are not organized.*
37. *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 5thbatch of MBBS students at Hi-Tech Medical College & Hospital, Rourkela,

Odisha under Sambalpur University u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 01/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Hi-Tech Medical College & Hospital, Rourkela, Odisha had submitted the Compliance report dated 21.12.2015 which was verified by the Council assessors by way of compliance verification assessment on 5th February, 2016.

The compliance verification assessment report (5th February 2016) alongwith previous assessment report (05th & 06th October,, 2015) with regard to renewal of permission for MBBS course for 5th 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 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (5th February 2016) along with previous assessment report (05th & 06th October,, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 13.33 % as detailed in the report.*
2. *Shortage of Residents is 17.91 % as detailed in the report.*
3. *O.T.s: Only 6 O.T.s are in working condition against requirement of 7.*
4. *ICUs: In ICCU, only 4 beds are available against requirement of 5. There was NIL patient in SICU on day of assessment. Only 3 beds are available in NICU & NIL beds are available in PICU against requirement of 5 beds each.*
5. *Only 3 static X-ray machines are available against requirement of 4.*
6. *Only 1 USG is available against requirement of 3.*
7. *Capacity of available Examination Hall is only 100 against requirement of 250.*
8. *Lecture Theaters: Only 3 Lecture Theaters are available against requirement of 4. Hospital Lecture Theater is not completed and is non-functional. E class facility is not available.*
9. *Central Library: Only Internet room is air-conditioned. Reading areas are still not air-conditioned. Staff Reading room is not available. Deficiency remains as it is.*
10. *Common Rooms for Boys & Girls are not separate. Deficiency remains as it is.*
11. *Central Photography Section: Staff & Equipment are not available.*
12. *Students' Hostels: Ancillary facilities like furniture, tables, chairs are inadequate in many rooms.*
13. *Nurses' Hostel: 6 Nurses are accommodated in a room which is impermissible. Atmosphere is clumsy.*
14. *Residential Quarters: 18 quarters for Non-teaching staff are available against requirement of 36.*
15. *No register of Speech Therapy is available.*
16. *Central Kitchen: It is only a small room of 200 sq.ft. area which is grossly inadequate. Deficiency remains as it is.*
17. *MRD is partly computerized.*
18. *Central Research Laboratory: Equipment are inadequate. Some old equipment, not in working order are placed under lock & key.*
19. *Anatomy department: Number of specimens are still inadequate at 74. A small room was designated as locker room but no locker was found on day of assessment. Half size Dissection tables are not available. Deficiency remains as it is.*
20. *Pathology Department: Only 59 mounted specimens are available which is inadequate. NIL catalogue is available. Deficiency remains as it is.*
21. *Microbiology Department: Service Laboratories are not available. Deficiency remains as it is.*

22. *Pharmacology Department: In Museum, NIL models are available. Catalogues are not available. Deficiency remains as it is.*
23. *RHTC: It functions only from 9 a.m. to 5 p.m. in rented premises which are also being used by private X-ray clinic & medicine shop. Students do not attend regularly. There is no documentation of attendance of Specialists' visits. Cold chain equipment is not available. Deficiency remains as it is.*
24. *UHC: It is a polyclinic with advertisement of an Orthopaedic Surgeon. No facilities for Antenatal checkup are available. There is no documentation of attendance of Specialists' visits.*
25. *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 100 MBBS students at Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Dean, Hi-Tech Medical College & Hospital, Rourkela, Orissa for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 21.12.2015 in the Council Office and was verified by physical verification assessment by the Council on 05th February 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19".

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (100 seats) of Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected

of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the

applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (100 seats) of Hi-Tech Medical College & Hospital, Rourkela, Orissa under Sambalpur University, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

106. <u>Renewal of permission for MBBS course for 5th batch (150 seats) of Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 5th batch (150 seats) of Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Dean, Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th batch (150 seats) of Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 2nd& 3rd November, 2015. The assessment report (2nd& 3rd November, 2015) was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (2nd& 3rd November, 2015) and noted the following:-

1. *Deficiency of faculty is 6.8 % as detailed in report.*
2. *Shortage of Residents is 23.50 % as detailed in the report.*
3. *About 50 % of admitted patients were found to be fake.*
4. *OPD attendance is 941 against requirement of 1,200.*
5. *Bed occupancy was 42.61 % on the first day of assessment.*
6. *Some examples of fake patients are shown below:*

(a) *Kala admitted on 31st October, 2015 with diagnosis of alcoholic gastritis denied taking alcohol anytime in her life. Staff nurse writes that she was sleeping well.*
(b) *Patient Satishkumar 17 years male (ID 1510094682/K15102077) admitted surgery unit on 29th October with diagnosis of Hydrocle with APD. When asked Mr. Satis, he complained of little epigastic discomfort. He denied having any scrotal swelling. Dr. Senthilkumar, Asstt. Prof. of Surgery was asked to examine the patient. He ruled out any hydrocele.*
(c) *Patient Mr. Arjun 26M surgery to ID 1510085800/K102052 admitted with B/LInguinal hernia. On examination by assessor and surgery consultant. Dr. Senthilkumar, there was no hernia.*

7. *There was NIL normal delivery & 1 Caesarean Section on day of assessment.*
8. *MRD is partly computerized.*
9. *ICUs: There were only 2 patients admitted in PICU/NICU on day of assessment. Out of 3 patients shown to be admitted in SICU, none required admission in SICU.*
10. *Eclampsia room is not available.*
11. *Pharmaco Vigilance Committee: List & Minutes of meetings were not provided to assessors.*
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 Govt. not to renew the permission for admission of 5th batch (150 seats) of MBBS students at Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03/12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Dean, Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu had submitted the Compliance report dated 21.12.015 and 11.01.016 which was verified by the Council assessors by way of compliance verification assessment on 19th February, 2016.

The compliance verification assessment report (19th February 2016) along with previous assessment report (2nd& 3rd November, 2015) with regard to renewal of permission for MBBS course for 5th batch (150 seats) of Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (19th February 2016) along with previous assessment report (2nd& 3rd November, 2015) and noted the following:-

1. *As per O.T. & Ward records in Surgical & allied branches, Radiodiagnosis and Obstetrics & Gynaecology, full time working of many faculty members in the rank of Professors and Asso. Prof. could not be verified.*
2. *Many patients were admitted with minor ailments without any major problem. The occupancy was tailor made to suit assessment. E.g. One referred patient from Ophthalmology was lying in medical ward.*
3. *There were only 4 Major operations & 3 Minor operations on day of assessment.*
4. *Other deficiencies as pointed out in the assessment report*

In view of above, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for admission of 5thbatch of 150 MBBS students at Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14/05/2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that:

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 has forwarded a copy of the compliance/representation/documents dated 16.06.2016 forwarded by the Dean, Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 21.12.2015 and 11.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 19th February 2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19".

The members of the Executive Committee of the Council observed that:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies***

communicated by MCI in the inspection/verification reports for 2016-17", *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (150 seats) of Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

".....31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital

requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (150 seats) of Karpagam Faculty of Medical Sciences & Research, Coimbatore, Tamil Nadu under The Tamilnadu Dr. M.G.R Medical University, Chennai, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

107. <u>Renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh Univeristy, Faizabad, U.P. u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh Univeristy, Faizabad, U.P. u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 16.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 01.6.2016 of the Dean, Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, U.P. u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 20th& 21st January, 2016. The assessment report (20th& 21st January, 2016) was considered by the Executive Committee of the Council at its meeting held on 30/01/2016 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (20th and 21st January, 2016) and noted the following:-

1. *Deficiency of faculty is 16.60 % as detailed in the report.*
2. *Shortage of Residents is 58.8 % as detailed in the report.*
3. *Bed occupancy is 11.4 % on day of assessment.*
4. *OPD attendance is 642 against requirement of 1,200.*
5. *There were NIL Major & 5 Minor operations on day of assessment. Patients shown as operated in O.T. register were not found anywhere in the entire hospital and are not genuine.*
6. *There were 2 Normal Deliveries & NIL Caesarean Section on day of assessment.*
7. *O.T.s: Only 7 Major O.T.s are available against 9 required.*
8. *ICUs: There was NIL patient in ICCU & SICU on day of assessment.*
9. *Radiodiagnosis department: Only 2 Mobile X-ray machines are available against requirement of 6. Only 4 static X-ray machines are available against requirement of 6; out of which 1 is non-functional.*
10. *Students' Hostels: Available accommodation is 456 against requirement of 562.*
11. *MRD is both manual & computerized.*
12. *Central research Laboratory: Equipment is not adequate.*
13. *RHTC: Residential accommodation is under construction.*
14. *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 MBBS students at Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, U.P. u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 31.01.2016 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, Mayo Institute of Medical Sciences, Barabanki had submitted the Compliance report dated 26.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 6th April, 2016.

In this regard, it is stated that the Council office had also received letters dated 06.04.2016 and 10.04.2016 from Dr. Karabi Baral, Bankura (Co-ordinator).

It is further stated that the Council office had also received a complaint dated Nil from the President, Association of Medical Education of India, Lucknow, U.P. informing therein as under:-

"This is for your kind information that following teaching faculties are produce faked experience certificate during MCI inspection oj 20-21 Jan 2016 in Mayo Institute of Medical Sciences, Gadia, Barabanki, U.P. The experience is not issued by previous college of Dean/Principal, Hind Institute of Medical Sciences, Safedabad, Barabanki (Certificates attached). They make faked experience certificate and do the faked sign of Dean.

1. *Dr. Shyam Sunder Keshary produce experience on Date & dispatch no. Ref./HIMS/Principal/2014-15/413, dated 09/10/2014 as Associate Professor and Professor Pharmacology.*

   Remark : Certificate is not issued by Dean/Principal, Hind Institute of Medical College, Barabanki.

2. *Dr. Priyanka Kesharwani Produce experience on date & dispatch No. Ref./HIMS/Principal/2014-15/414, dated 9/10/2014 as Asstt Prof. and Associate Professor, Community Medicine.*

   Remark: Certificate is not issued by Dean/Principal, Hind Institute of Medical College, Barabanki.

3. *Dr. A.K Srivastav experience on date & dispatch No. Ref./HIMS/Principal/2014-15/358 as Professor of Community Medicine but management provide experience as Associate Professor of Community Medicine.*

   Remark : Certificate is not issued by Dean/Principal, Hind Institute of Medical College, Barabanki.

Therefore Sir/Madam, kindly FIR these fake faculties and cancelled Registration as earliest as possible to learn a lesson to these opportunist faculties who spoil noble Medical Profession."

The said complaint was considered by the competent authority and as per directions, the Council vide letter dated 09/02/2016 followed by the subsequent reminder dated 23/02/2016 requested the Principal, Hind Institute of Medical Sciences, Barabank, U.P. to confirm the authenticity of the Relieving Cum Experience Certificate dated 30/06/2014, 16/07/2015 & 09/10/2014 and the teaching experience date wise in respect of (i) Dr. Ajit Kumar Srivastava, Professor(Community Medicine), (ii) Dr. Shyam Sunder Keshari, Professor(Pharmacology) and (iii) Dr. Priyanka Kesarwani, Associate Professor(Community Medicine) for further necessary action in the matter.

In response to above, the Council office had received a letter dated 23/02/2016 from the Principal, Hind Institute of Medical Sciences, Barabanki informing therein as under:-

"This is in reference to your letter no. MCI-34(41) (Gen.)/2015 Med./165804 dated 09.02.2016.

I like to state that all documents enclosed Experience Certificate of Dr. Shyam Sunder Keshari, Dr. Ajit Kumar Srivastava & Dr. Priyanka Kesharwani are not issued by my office and these signatures are not mine.

The authenticity of the letters of reliving cum experience certificate dated 30.06.2014, 16.07.2015 & 09.10.2014 is not correct.

This is for your information and necessary action."

A copy of the said complaint alongwith reply received from the Principal, Hind Institute of Medical Sciences, Barabanki was also sent to the Assessment Cell to verify the same at the time of compliance verification assessment of Mayo Institute of Medical Sciences, Barabank, Uttar Pradesh.

The Council Office had received a letter dated 9th April, 2016 from the Dean/Principal, Mayo Institute of Medical Sciences, Barabanki stating therein that during the course of the inspection held on 6th April, 16 , the following four faculty members were disqualified by MCI team. However they have been accepted by the MCI assessors in last three inspection held on 6th Feb., 15, 30th Sept., 15 & 20th Jan., 2016.:-

a. *Dr. A.K. Srivastava, Professor, Department of Community Medicine.*
b. *Dr. S.S. Keshari, Professor, Department of Pharmacology*
c. *Dr. Priyanka Kesarwani, Associate Professor, Department of Community Medicine*
d. *Dr. Surbhi Verma – Assistant Professor, Department of Psychiatry.*

The Dean/Principal of the college had also forwarded individual representation of the above four faculty members.

The Council office had received another letter dated 15/04/2016 from the Dean, Mayo Institute of Medical Sciences, Barabanki.

The compliance verification assessment report (6th April, 2016) alongwith previous assessment report (20th& 21st January, 2016) as well as letters dated 06.04.2016 and 10.04.2016 received from Dr. Karabi Baral, Bankura (Co-ordinator) and letters dated 9th April, 2016 and 15.04.2016 received from the college authorities with regard to renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, U.P. u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (6th April, 2016) alongwith previous assessment report (20th& 21st January, 2016) as well as letters dated 06.04.2016 and 10.04.2016 received from Dr. Karabi Baral, Bankura (Co-ordinator) and letters dated 9th April, 2016 and 15.04.2016 received from the college authorities and noted the following:-

1. Deficiency of faculty is 6.06 % as detailed in the report.

2. *Shortage of Residents is 8.23 % as detailed in the report.*
3. *Bed occupancy is 42.46 % on day of assessment.*
4. *Many Residents are not staying in the campus.*
5. *Most of the patients were admitted on day of assessment without any genuine health problems. Most of Bed Tickets were incomplete.*
6. *In Obstetrics ward, 15 patients were present; but bed tickets of none of these did not show gravida, para, BP measurement, expected Date of Delivery. In General Surgery & allied specialties, many patients had appeared in socks, jeans & T shirts and neither did they appear as patients nor did they have any acute problem meriting admission.*
7. *OPD: At 10 a.m. when assessors entered the college, very few patients were seen in OPD. In General Surgery, many kids were found playing in front of OPD; however authorities claimed 85 patients in General Surgery OPD.*
8. *NIL Major operation was posted in General Surgery, Orthopaedics & O.G. on day of assessment as verified during morning visit and again in the afternoon. During morning visit 1 patient of Cholecystectomy was kept but operation was not performed till 3 p.m. There was only 1 Major operation each in Ophthalmology & ENT. There was only 1 Minor operation on day of assessment.*
9. *ICUs: There were only 2 patients in SICU on day of assessment.*
10. *MRD: It is manual & computerized. Deficiency remains as it is.*
11. *Data of OPD attendance, Casualty attendance, Bed Occupancy, Number of Major & Minor operations, number of Deliveries, Radiological & Laboratory investigations appear to be inflated.*
12. *Workload of CT scan was NIL on day of assessment.*
13. *In Histopathology, specimen of Vaginal Hysterectomy purportedly done on 05/04/2016 was not available. Technician could not produce 11 specimens of previous day in front of assessors. Specimen & Block of a patient operated on 12/02/2016 also could not be produced.*
14. *PNDT certificate is issued in the names of Dr. D.P. Agrawal & Dr. Sishir Gupta, both of whom have left the institute. Hence there is no valid PNDT certificate on date.*
15. *RHTC: Residential accommodation is not available. Deficiency remains as it is.*
16. *The members of the Executive Committee also perused the observation of assessors & findings of the office in respect of the following faculty:*

(a) *Dr. Shyam Sunder Keshary, Professor of Pharmacology;*

(b) *Dr. Priyanka Kesharwani, Asso. Prof. of Community Medicine;*

(c) *Dr. A.K. Srivastava, Professor of Community Medicine.*

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 of 150 MBBS students at Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh Univeristy, Faizabad, U.P. u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council also decided to refer the matter to the Ethics Committee for necessary action in the matter."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016.

The matter has also been referred to the Ethics Section for further necessary action in the matter.

The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 16.06.2016 has forwarded a copy of the compliance/representation/documents dated 01.06.2016 forwarded by the the Dean, Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 26.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 06.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. ..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of

about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 16.60%, residents was 58.8% and the bed occupancy was found to be 11.4%. Similarly in the last compliance verification assessment conducted on 06.04.2016 of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh, apart from other deficiencies of teaching faculty was found to be 6.6%, residents was 8.23% and the bed occupancy was found to be 42.46%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%,

compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further brought to the notice of the Executive Committee that regulation 8(3)(1)(d) will be applicable to any institution wherein during the course of assessment if any teaching faculty/resident is found with fake ducoments. Herein this case, following 3 teaching faculty members were found with fake releving orders from previous institution (Hind Institute of Medical Sciences, Barabanki, UP). The Principal of Hind Institution of Medical Sciences, Barabanki vide its communication dated 23.02.2016 had confirmed that the releving certificates submitted by these 3 faculty members were not issued by them nor the signature of the Principal is of himself. The relevant portion of the regulation 8(3)(1)(d) is reproduced as under:-

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

If it is observed that 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 M.B.B.S. degree / processing the applications for postgraduate courses for two Academic Years – i.e. that Academic Year and the next Academic Year also……"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant***

colleges for furnishing compliance to the deficiencies noticed in the inspections"*. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, U.P., the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the

same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh Univeristy, Faizabad, U.P., during the compliance verification inspection carried out on 26.02.2016 the Bed Occupancy was found to be only 42.46%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection was beyond than the limits prescribed under Regulation 8(3)(1)(b) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High

Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical*

professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI

are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 5th batch (150 seats) of Mayo Institute of Medical Sciences, Barabanki, Uttar Pradesh under Dr. Ram Manohar Lohiya Awadh University, Faizabad, U.P., does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

108. <u>Renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.</u>

Read: the matter with regard to renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, ICARE Institute of Medical Sciences & Research, Haldia, West Bengal, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment of the physical and other teaching facilities available for renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was carried out by the Council Assessors on 5th& 6th November, 2015. The assessment report (5th& 6th November, 2015 was considered by the Executive Committee of the Council at its meeting held on 27/11/2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (5thand 6th November, 2015) and noted the following:-

1. *OPD: Plaster room & Plaster cutting room are common.*
2. *ICUs: Details of beds occupied in ICCU & ICUs are not provided.*
3. *Details of Central Research Laboratory are not provided.*
4. *Pathology department: Available specimens are only 33.*
5. *Community Medicine department: Practical laboratory is not available. Specimens are old.*
6. *RHTC: Residential accommodation is not available. Activities under National Health programmes are inadequate. Cold chain equipment is not available; Vaccine carrier cannot be a substitute for cold chain equipment. (P. 60)*
7. *UHC: Specialists' visits are not organized.*
8. *General cleanliness of hostel mess needs improvement.*
9. *Many Professors have only table & chairs.*
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 6thbatch (100 seats) of MBBS students at ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 03 /12/2015 and copy to the college authorities with the request to submit the compliance report.

In response to above, the Principal, ICARE Institute of Medical Sciences & Research Haldia had submitted the Compliance report dated 02.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 19th February, 2016.

The Council Assessors had also submitted a copy of letter dated 19/02/2016 received from the Principal, ICARE Institute of Medical Sciences & Research, Haldia alongwith the assessment report.

Further, the Council Office had received another letter/representation dated 14.03.2016 from the Principal, ICARE Institute of Medical Sciences and Research, Haldia.

The compliance verification assessment report (19th February 2016) alongwith previous assessment report (5th& 6th November, 2015) as well as letter dated 19/02/2016 and 14.03.2016 received from the Principal, ICARE Institute of Medical Sciences & Research, Haldia with regard to renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017 was considered by the Executive Committee of the Council at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (19th February 2016) alongwith previous assessment report (5th& 6th November, 2015) as well as letter dated 19/02/2016 and 14.03.2016 received from the Principal of the college and noted the following:-

1. *Deficiency of faculty is 67 % as detailed in the report.*
2. *Shortage of Residents is 85 % as detailed in the report.*
3. *Bed occupancy was only 08 % on day of assessment which is grossly inadequate. Many wards were closed.*
4. *OPD attendance was only 250 on day of assessment which is grossly inadequate.*
5. *Casualty attendance was only 09 on day of assessment. No Casualty Medical Officer was present on day of assessment.*
6. *There was NIL Major & NIL Minor operation on day of assessment.*
7. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
8. *Radiological & Laboratory investigation workload is inadequate. Separate register for Laboratory investigation is not available.*
9. *Histopathology & Cytopathology workload is NIL on day of assessment.*
10. *ICUs: ICCU beds are not available. MICU & ICCU are common.*
11. *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 6thbatch of 100 MBBS students at ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016. The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students for the academic year 2016-2017.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the the Principal, ICARE Institute of Medical Sciences & Research, Haldia, West Bengal for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 02.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 19.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. …….... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the last compliance verification assessment conducted on 19.02.2016 of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal, apart from other deficiencies of teaching faculty was found to be 67%, residents was 85% and the bed occupancy was found to be 8%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of

MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3le Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after

pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata, during the compliance verification inspection carried out on 19.02.2016 the deficiency of Faculty was found to be 67%, the deficiency of Resident was found to be 85% and the Bed Occupancy was found to be only 0.8%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)é ..

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands

revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*
>
> ***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*
>
> ***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*".....**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning....."*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of renewal of permission for MBBS course for 6th batch (100 seats) of ICARE Institute of Medical Sciences & Research, Haldia, West Bengal under West Bengal University of Health Sciences, Kolkata, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

109. <u>Sree Balaji Medical College and Hospital, Chennai – Renewal of Permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 150-250 for the academic session 2016-17.</u>

Read: the matter with regard to Sree Balaji Medical College and Hospital, Chennai ï Renewal of Permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 150-250 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Dean, Sree Balaji Medical College & Hosptial, Chennai, the

direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 150-250 u/s 10 A of the IMC Act, 1956 at Sree Balaji Medical College and Hospital, Chennai under Bharath University, Chennai for the academic session 2016-17 was carried out by the Council assessors on 29th & 30th October, 2015. The assessment report was considered by the Executive Committee at its meeting held on 27.11.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (29th & 30th October, 2015) and noted the following:-

1. *Deficiency of faculty is 53.22 % as detailed in the report.*
2. *Shortage of Residents is 53.08 % as detailed in the report.*
3. *Tutors in Preclinical &paraclinical departments are getting stipend instead of salary.*
4. *OPD: Dressing room/Minor procedure room is not available in Ophthalmology OPD.*
5. *Wards: More than 50 % of patients did not require admission as under:*
   - *(a) General Medicine: Genuine bed occupancy is only 55 %. On cross verification with MRD, it was observed that case sheets were tampered with manipulation of date of admission.*
   - *(b) General Surgery: Genuine bed occupancy is 50 %. Others were admitted for trivial reasons.*
   - *(c) Orthopaedics: Genuine bed occupancy is 50 %. Others were admitted for trivial reasons.*
   - *(d) ENT: Wards are not as per MSR norms. Total 60 beds are scattered in 4 rooms which have only Nursing station & no other ancillary facility.*
   - *(e) Some wards are not as per MSR norms.*
6. *Bed occupancy is 64.95 % as verified by assessors.*
7. *Data of clinical material, Radiological & laboratory investigations provided by institute are highly inflated.*
8. *There was only 1 Major & NIL Minor operation on day of assessment upto 11:00 a.m.*
9. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment upto 11:00 a.m.*
10. *Workload of Histopathology was only 02 & of Cytopathology only 05 on day of assessment.*
11. *Casualty: Casualty O.T. is a Minor procedure room & not Minor O.T.*
12. *O.T.: O.T. no. 3 was locked at 10:45 a.m.*
13. *ICUs: ICCU has only 4 beds against requirement of 5. Burns ICU & Surgical Post-operative critical care unit is not available.*
14. *Only 4 static X-ray machines are available against requirement of 5.*
15. *CSSD: Separate Receiving & Distribution points are not available.*
16. *Dean's office is smaller than required.*
17. *Students' Hostel: Available accommodation is 470 against requirement of 938. There is no Study room & Recreation room in Boys' hostels. There is no Study room in Girls' hostel.*
18. *Interns' Hostels: Available capacity is 184 against 250 required. Male Interns' hostel is under repair. In female Interns' hostel there is no Visitors' room & Study room.*
19. *Residents' Hostels: There is no Study & Recreation room.*
20. *RHTC: Mess is not available. Cold Chain equipment is not available.*
21. *Other deficiencies as pointed out in the assessment report.*

In view of 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 150 to 250 u/s 10A of the IMC Act, 1956 in respect of Sree Balaji Medical College and Hospital, Chennai under Bharath University, Chennai for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 03.12.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Dean, Sree Balaji Medical College and Hospital, Chennai had submitted the compliance vide letter dated 30.12.2015 which was verified by the Council assessors by way of compliance verification assessment on 12.02.2016.

The compliance verification assessment report (12.02.2016) alongwith previous assessment report (29th & 30th October, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (12.02.2016) along with assessment report (29th& 30th October, 2015) and noted the following:-

1. *Most of the patients admitted in General Medicine ward had minor ailments not necessitating admission.*
2. *Though MRD is computerized, all IPD admission tickets are hand written.*
3. *In General Surgery, very few post-operative patients were found in Surgical wards. Only a few IV drip sets were seen. O.T. list for 11/02/2016 collected from O.T. does not match with post-operative patients. Out of 16 post-operative patients, only 5 were found in wards & post-operative care unit.*
4. *In Orthopaedics, most of admitted patients had minor ailments. Very few post-operative patients were found in wards. Only a few IV drip sets were seen. O.T. list for 11/02/2016 collected from O.T. does not match with post-operative patients. Out of 12 post-operative patients, only 7 were found in wards & post-operative care unit.*
5. *Interns' Hostel: It is still under repair.*
6. *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 150-250 in respect of Sree Balaji Medical College and Hospital, Chennai under Bharath University, Chennaiu/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 14.05.2016.The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 150-250 in MBBS course for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre

& Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 forwarded by the Dean, Sree Balaji Medical College & Hosptial, Chennai for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 30.12.2015 in the Council Office and was verified by physical verification assessment by the Council on 12.02.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned…... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19".

The members of the Executive Committee of the Council observed that:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Renewal of Permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 150-250 for the academic session 2016-17 of Sree Balaji Medical College & Hosptial, Chennai, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical

verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of Renewal of Permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 150-250 of Sree Balaji Medical College & Hosptial, Chennai, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

110. <u>Pondicherry Institute of Medical Sciences, Pondicherry - Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.</u>

Read: the matter with regard to Pondicherry Institute of Medical Sciences, Pondicherry - Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 21/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Director-Principal, Pondicherry Institute of Medical Sciences, Pondicherry, the direction issued by the Oversight

Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 u/s 10 A of the IMC Act, 1956 at Pondicherry Institute of Medical Sciences & Research, Pondicherry under Pondicherry University, Pondicherry for the academic session 2016-17 was carried out by the Council assessors on 4th & 5th January, 2016. The assessment report was considered by the Executive Committee at its meeting held on 30.01.2016 and it was decided as under:-

"The Executive Committee of the Council considered the assessment report (4th and 5th January, 2016) alongwith the additional information submitted by the Assessors vide letter dated 26.01.2016 and noted the following:

1. *Lecture theaters: Only 2 Lecture theaters of capacity 180 are available against requirement of 3.*
2. *Residential Quarters: NIL quarters are available for non-teaching staff.*
3. *OPD: There are only 2 examination cubicles in General Surgery department. Dressing room is common for males/females.*
4. *Wards: Ward # 9 contains patients of both General Surgery & ENT. All the Surgical beds are occupied by patients of Neurosurgery; Urology, Plastic Surgery, CVTS intermingling with patients of General Surgery. Surgical cases are few; that too like Cellulitis, Diabetic Ulcer, Bedsore, Cebaceous Cyst, etc. Only a few cases of hernia & 1 case of Cancer Colon was seen. Distance between 2 beds is < 1.5 m. All wards do not have Demonstration Rooms. Pantry is not available. (*
5. *OPD attendance is only 794 against 1,100 required. It is even less than 800 required for a recognized college with intake of 100.*
6. *Bed occupancy was 74 % on day of assessment.*
7. *Casualty: 19 beds are available against requirement of 25.*
8. *Operative workload is less.*
9. *Other deficiencies as pointed out in the assessment report.*

In view of 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 to 150 u/s 10A of the IMC Act, 1956 in respect of Pondicherry Institute of Medical Sciences, Pondicherry under Pondicherry University for the academic year 2016-2017."

The above decision was communicated to the Central Govt. vide Council letter dated 31.01.2016 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Director/Principal, Pondicherry Institute of Medical Sciences, Pondicherry had submitted the compliance vide letter dated 09.02.2016 which was verified by the Council assessors by way of compliance verification assessment on 11.03.2016.

The compliance verification assessment report (11.03.2016) alongwith previous assessment report (4th & 5th January, 2016) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (11.03.2016) along with assessment report (4th and 5th January, 2016) and noted the following:-

1. *There is very less number of patients in different wards. It was observed that true medical or surgical cases are few in respective Medical or Surgical wards as under:*

   (a) *Patient Mr. Thomas – Reg No. 1259047, Bed No. 51(MMW-2) admitted with pseudophobia for refraction.*

(b) *Patient – Iyyadurai, 40/M-Reg.No. 1259481, Bed No. – 77(MMW-3) admitted with Myalgia/muscle pain.*
(c) *Patient in Bed No. 25 in Male Medical Ward was admitted with accident and injury in left hand.*
(d) *Patient in Bed No. 26 in Male Medical Ward was admitted with low backache.*
(e) *Patient in Bed No. 53 in Male Medical Ward was admitted with swelling in the popliteal region.*
(f) *Patient in Bed No. 40 in Male Medical Ward was admitted with postoperative Cholecystectomy.*
(g) *Patient in Bed No. 47 in Male Medical Ward was admitted with Sputum positive Pulmonary Tuberculosis.*
(h) *Patient –Mrs. Rani-Reg No. 1259145, Bed No. 43 (FMW) admitted on 10.3.2016 with Right leg, hand and shoulder pain for 2 months.*

2. *One patient Mr. Harikrishnan, Regn. # 1259479, Bed # 81 was admitted with complaint of epigastric pain on 09/03/2016; however no advice was given till 11 a.m. on 11/03/2016.*
3. *One patient Mr. Arumugam Regn. # 1240099, Bed # 88 was admitted for Heamarrhoidectomy and was discharged on 07/03/2016. But he was still in his bed at time of round during assessment on 11/03/2016.*
4. *On random verification it was found that Major Operations in General Surgery varied from NIL to 3 during 3 month period. Daily average was 1.5 which is inadequate.*
5. *Out of 13 post-operative cases, 8 were of Diabetic Ulcer only implying thereby poor variety of teaching material.*
6. *While checking Bed Head ticket / Indoor patient files, it was observed that there is no OPD sheet or Emergency sheet with provisional diagnosis or advice on admission in most of admitted cases. In many cases provisional diagnosis or treatment was not written even after 2 days.*
7. *PG course is running in Ophthalmology; however unit faculty complement is incomplete as there is no Asso. Prof.*
8. *Data of Bed Occupancy given by the institute are inflated. Although 76 % bed occupancy is claimed, 35 % of beds in General Medicine (i.e. 49 out of 140) & 31 % (i.e. 41 out of 131) of beds in General Surgery were vacant at time of taking round.*
9. *Residential Quarters: Nil Residential Quarters are available for non-teaching staff. Deficiency remains as it is.*
10. *Other deficiencies as pointed out in the assessment report.*

The Executive Committee of the Council further perused the following remarks from the letter of assessors dt. 11/04/2016:

"Though the overall bed occupancy is about 76% (471 out of 620), as mentioned in page-8 of A-III form, the number of patients in Surgery wards and Medicine wards was low (only 91 patients found out of 140 beds in General Medicine wards & only 90 patients found out of 131 beds in General Surgery wards, PIMS).

2. Moreover, there is lack of proper clinical materials in those wards on the day of assessment,as mentioned in sl.no.- 4 & sl.no.- 6 of A-III form (like- patients with photophobia for refraction, myalgia/muscle pain, with low backache, postoperative cholecystectomy, right leg, hand and shoulder pain etc. were found admitted in different wards of ***General Medicine department,*** *PIMS)."*

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 in respect of Pondicherry Institute of Medical Sciences, Pondicherry under Pondicherry University u/s 10A of the IMC Act, 1956 for the academic year 2016-2017."

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016.The Central Government

vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 100-150 in MBBS course for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 21.06.2016 & 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 17.06.2016 forwarded by the Director-Principal, Pondicherry Institute of Medical Sciences, Pondicherry for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council.The said compliance report of the college which was submitted by the college on 09.02.2016 in the Council Office and was verified by physical verification assessment by the Council on 11.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant

fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19".

The members of the Executive Committee of the Council observed that :-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward*

*reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 of Pondicherry Institute of Medical Sciences, Pondicherry, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 of Pondicherry Institute of

Medical Sciences, Pondicherry, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

111. <u>GSL Medical College, Rajahmundary– Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 150-200 for the academic session 2016-17</u>.

Read: the matter with regard to GSL Medical College, Rajahmundaryï Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 150-200 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 16/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 11/15.6.2016 of the Principal, G.S.L Medical College, Rajahmundry, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 150-200 u/s 10 A of the IMC Act, 1956 at GSL Medical College, Rajahmundary under the Dr. NTR University of Health Sciences, Vijayawada for the academic session 2016-17 was carried out by the Council assessors on 13th & 14th October, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.10.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (13th & 14th October, 2015) alongwith two complaints dated 13.10.2015 and 15.10.2015 from Dr. Ganni Bhaskara Rao, Member of MCI, Associate Professor Dept. of General Surgery, GSL Medical College & General Hospital, Rajahmundary and Principal, GSL Medical College & General Hospital, Rajahmundary and observed that the Principal of the institute had abruptly called off the assessment for renewal of permission. It was also observed that the Dean had failed to submit attendance sheet of faculty & Residents to assessors within stipulated time. Even SAF & Declaration Forms of Faculty & Residents have not been submitted.

It was further observed by the Executive Committee that the assessment report reads as under:

"We the team of following assessors (vide MCI order 370(i)(RI-3)VG/2015-Med; Dated 13-10-15) reached the Dean's office of GSL Medical College, Rajamundry on 13-10-15 at 9.10 am.

The Dean of the said institution came to his office at 9.20am. We handed over the check list of documents to be submitted and the proforma for recording attendance of the faculties and residences to him with a request to return the attendance sheet duly filled within 11 am or call the faculties/ residents to his office for their signature.

We waited till 11 am for the same to be handed over to us but the Dean was unable to do so; neither could he assure the physical presence of the faculties / residents of the clinical departments till 12.30 pm(viz: unsigned attendance sheet of General Surgery department attached herewith).

At 10 am we attended the central registration counters. The person at the counter could not produce the department wise OPD/IPD records of 13th October as well as June '15(chosen arbitrarily). (Srl. No. 1 of verification data)

CASUALTY WARD

- *4 patients who had recently received chemotherapy were admitted without any obvious emergency problems.*

- *No MO was available----only JR's were present. (Srl. No. 3 of verification data)*

- *Radiological facilities were poor (i.e. no guard screen / table).*

- *Records of only 1 to 2 minor operations in the past few days.*

- *Pain clinic of poor facility(i.e. no drugs)*

- *Injection room had no proper records (i.e. name of patient's / drugs not available, neither any facility of resuscitation in case of reactions available) (Srl. No. 5 of verification data) .*

OPD

- *Most of the faculties /residents on duty in OPD/ Wards had no college ID proof(Srl. No. 6/7/8/17 of verification data)*

- *In Gynae OPD no patients / no records found (Srl. No. 9 of verification data).*

- *Fake records in Obstetrics OPD (i.e. no diagnosis / treatment records, only name of the patients). (Srl. No. 10 of verification data).*

LABOUR ROOM

- *Birth register records for onward information to Corporation not available(Srl. No.11 of verification data)*

- *No duty roster of faculties or residents(Srl. No. 16 of verification data)*

- *In obstetrics ward unit wise distribution of beds not seen(Srl. No. 12 of verification data)*

- *No IPD records after 7-10-15. (Srl. No. 15 of verification data)*

BLOOD BANK

- *Unable to show separate units supplied to this institute(Srl. No. 13 of verification data)*

RADIOLOGY

- *HOD was unable to identify his staff members / residents*

- *Departmental attendance muster without mention of month (Srl. No. 14 of verification data).*

OT COMPLEX

- *Unit wise / monthly operative / anaesthesia records not available(Srl. No. 18 of verification data)*

SURGICAL WARDS

- *Only 2 male patients were admitted till 12 noon.*

- *Data collected at 2.30 pm from the central registration counter regarding the OPD / IPD /Central lab / others were cross checked randomly and we found certain mismatches for example a)casualty admission register showed 22 admissions while central registration data showed 9 (Srl. No. 20 of verification data).*

- *Central registration showed 6 female admissions in medical ward while physical verification failed to show any admission.*

- *Central registration showed 2 female surgical admissions while physical verification reveled only 1 (Srl. No. 24 of verification data).*

- *Central registration showed 7 male admissions on physical verification only 3 admissions were noted.*

- *No records in IPD admissions on 12-10-15 available in one of the female surgical wards (Srl. No. 26 of verification data).*

- *Ward records of sending patients to OT not available (Srl. No. 27 of verification data).*

While the above disparities were being put on record, the Dean unilaterally announced, on behalf of the college authorities, that they were not willing to continue with the inspection process any further. The letter in this regard was submitted at 4.10 pm.

The verified declaration form and other records(as per the check list) were also not handed over to us stating that it does not make any sense as they want to abandon the procedure of inspection, however the Dean had submitted the edited video graphic records in a pen drive."

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 150-200 u/s 10A of the IMC Act, 1956 in respect of GSL Medical College, Rajahmundary under the Dr. NTR University of Health Sciences, Vijayawada for the academic year 2016-2017."

The above decision was communicated to the Central Govt. vide Council letter dated 05.11.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, GSL Medical College, Rajahmundry had submitted the compliance vide letter dated 01.12.2015 which was verified by the Council assessors by way of compliance verification assessment on 26.04.2016.

The compliance verification assessment report (26.04.2016) alongwith previous assessment report (13th & 14th October, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (26.04.2016) along with previous assessment report (13th & 14th October, 2015) and noted the following:-

1. *Deficiency of faculty is 34.69 % as detailed in the report.*
2. *Shortage of residents is 31.85 % as detailed in the report.*
3. *OPD attendance was 1,854 on day of assessment which is less than minimum 2,000 required as Qualifying Criterion.*
4. *Bed occupancy as verified by assessors on day of assessment at 10 a.m. was 24.85 % (i.e. 261 out of 1050 beds) which is grossly inadequate.*
5. *Data of Clinical material, Laboratory investigations given by institute are inflated.*
6. *There was only 1 Normal Delivery & 1 Caesarean Section on day of assessment till 1:30 a.m.*
7. *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 150-200 in respect of GSL Medical College, Rajahmundary under the Dr. NTR University of Health Sciences, Vijayawada u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation

(Amendment),2010(Part II), dated 16th April, 2010 and amended on 18th March, 2016, 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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 of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016.

The Council vide another letter dated 15.05.2016 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 150-200 in MBBS course for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each

case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 16.06.2016 & 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 11.06.2016 & 15.06.2016 forwarded by the Principal, G.S.L Medical College, Rajahmundry for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 01.12.2015 in the Council Office and was verified by physical verification assessment by the Council on 26.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned…... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be

rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During compliance verification assessment conducted on 26.04.2016 of GSL Medical College, Rajamundry apart from other deficiencies, the deficiency of teaching faculty was found to be 34.69%, residents was 31.85%, OPD was 1.854 and the bed occupancy was found to be 24.85%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(a) will be applicable to any institution which is in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch). Regulation 8(3)(1)(a) provides that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year, so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(a) Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

It is further brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that : -

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 150-200 of GSL Medical College, Rajahmundary, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 150-200 of GSL Medical College, Rajahmundary, during the compliance verification inspection carried out on 26.04.2016 the deficiency of Faculty was found to be 34.69%, the deficiency of Resident was found to be 31.85% and the Bed Occupancy was found to be only 24.85%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(a) and 8(3)(1)9c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (a) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)…..

(a) <u>Colleges in the stage of Letter of Permission upto II renewal (i.e. Admission of third batch).</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 30% and/or bed occupancy is <50% (45% in North East, Hilly terrain, etc.), Compliance of rectification of deficiencies from such an institute will not be considered for issue of Letter of Permission (LOP)/renewal of permission in that Academic Year….."

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the*

insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application for Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 150-200 of GSL Medical College, Rajahmundary, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

112. <u>Al-Ameen Medical College & Hospital, Bijapur– Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.</u>

Read: the matter with regard to Al-Ameen Medical College & Hospital, Bijapurï Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 10/16.6.2016 of the Dean, Al-Ameen Medical College & Hospital, Bijapur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 u/s 10 A of the IMC Act, 1956 at Al-Ameen Medical College & Hospital, Bijapur under Rajiv Gandhi University of Health Sciences, Bangalore for the academic session 2016-17 was carried out by the Council assessors on 4th & 5th March, 2015. The assessment report was considered by the Executive Committee at its meeting held on 22.03.2016 and it was decided as under:-

"The Executive Committee of the Council considered the assessment report (04.03.2016 & 05.03.2016) and noted the following:-

1. *Deficiency of faculty is 26.81 % as detailed in the report.*
2. *Shortage of Residents is 54.16 % as detailed in the report.*
3. *Dr. S.M. Rashinkar has only 09 years of administrative experience against requirement of 10 y and hence not qualified to hold the post.*
4. *Many Residents are not staying in the campus.*
5. *Many of Senior/Junior Residents do not each other. They also do not know their duty hours.*
6. *Bed occupancy is 20.19 % on day of assessment.*
7. *OPD attendance is 355 against requirement of 1,200 on day of assessment.*
8. *OPD: Waiting area is not adequate. Examination rooms are very small cubicles. Teaching areas are small cubicles. Dressing room for males/females is not available. Minor O.T. is not as per norms. In Ophthalmology OPD, Minor Procedure room is not available.*
9. *Patients having minor complaints like Fever, Bodyache, Joint Pain are admitted in General Medicine, Paediatrics, Orthopaedics wards.*
10. *In Orthopaedics ward, not a single patient with plaster POP or Back slab was found, implying ward was filled with patients just to fill in the numbers.*
11. *Wards: Demonstration rooms are very small. Many wards, like Psychiatry ward, are not as per MSR Regulations.*
12. *There were only 3 Major & 2 Minor operations on day of assessment.*
13. *Radiological investigation workload is grossly inadequate on day of assessment as under:*
    (a) Plain X-rays: 32;
    (b) Ba, IVP: NIL;
    (c) CT Scan: 2.
14. *Laboratory investigation workload is inadequate.*
15. *Histopathology workload was only 02 & Cytopathology workload was only 01 for the day of assessment.*

16. *O.T.s: Central O_2 & Central Suction and Infusion Pumps are not available in some O.T.s. Defibrillators are not available.*
17. *ICUs: There was NIL patient in SICU, 1 in NICU & 2 in PICU on day of assessment.*
18. *Radiodiagnosis Department: Only 2 Mobile X-ray machines are available against requirement of 6. Only 2 Static X-ray machines are available against requirement of 5. AERB approval is not available. Only 2 USG machines are available against requirement of 3.*
19. *Central Research Laboratory is not available.*
20. *Audiometry & Speech therapy rooms are available but very small in size.*
21. *MRD: ICD X classification is not followed.*
22. *MEU: No activity has been undertaken by MEU during the year.*
23. *Lecture Theaters: Capacity of Hospital Lecture Theater is only 140 which is inadequate. E class facility is not available in 2 Lecture Theaters out of 4 in the college and also in Hospital Lecture Theater. Audiovisual aids are not available in 2 Lecture Theaters.*
24. *Central Library: Air-conditioning is non-functional. Capacity of Students' reading Room (Inside) is 110 against requirement of 150. Separate Staff reading room is not available.*
25. *Students' Hostels: Recreation room is not available. Study room is available but it is not air-conditioned and Computer with Internet is not available. (P. 22)*
26. *Interns' hostels: Available accommodation is 70 against requirement of 100. Recreation room is not available. Study room is available but it is not air-conditioned and Computer with Internet is not available.*
27. *Residents' Hostels: Available accommodation is 50 against requirement of 115. Recreation room is not available. Study room is available but it is not air-conditioned and Computer with Internet is not available.*
28. *Anatomy Department: MRI & CT films are not available.*
29. *Microbiology Department: Only 2 Service Laboratories are available against requirement of 7.*
30. *Some Demonstration Rooms are not in use. Some are smaller than required.*
31. *RHTC: PHC Tikota which is shown as RHTC belongs to Govt. of Karnataka. All the staff are of Govt. of Karnataka. No students are posted. Two commercial shops are shown as hostel which do not have windows, toilets or mess facilities. Specialists' visits are not available. Activities under National Health Programmes are carried out by Govt. staff.*
32. *UHC: Specialists' visits are not organized.*

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 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 2016-2017 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) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

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 above decision was communicated to the Central Govt. vide Council letter dated 22.03.2016 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

The Council vide letter dated 22.03.2016 also communicated the decision of the Executive Committee dated 22.03.2016 to the college authorities and directed 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 reference to above, the Dean, Al-Ameen Medical College & Hospital, Bijapur had submitted the compliance vide letter dated 31.03.2016 which was verified by the Council assessors by way of compliance verification assessment on 28.04.2016.

The compliance verification assessment report (28.04.2016) alongwith previous assessment report (4th & 5th March, 2016) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (28.04.2016) along with previous assessment report (4th& 5th March, 2016) and noted the following:-

1. *Deficiency of faculty is 18.93 % as detailed in the report.*
2. *Shortage of Residents is 17.14 % as detailed in the report.*
3. *Many Residents are still not staying in the campus. Many rooms are occupied by II year students.*
4. *Many Senior/Junior residents still do not know each other. Deficiency of not knowing duty hours continues.*
5. *Bed occupancy is 37.64 % (i.e. 256 out of 680 beds) on day of assessment. There was NIL patient in Ophthalmology & very few in Paediatrics.*
6. *OPD: Waiting area is inadequate. Examination rooms are very small cubicles.*
7. *Patients having minor complaints like Bodyache, Joint pain, Backache were admitted in General Medicine, Paediatrics, Orthopaedics wards who did not merit admission.*
8. *Wards: Demonstration rooms are very small in most of the wards with maximum capacity of 10 students. Wards are not as per MSR Requirements. Most of the old wards are divided into cubicles of not more than 6 patients. Nursing staff does not have a view of all the patients in many wards. New wards did not have electric supply. There were no fans.*
9. *There was NIL Ophthalmology & NIL ENT operations at time of visit.*
10. *Histopathology & Cytopathology workload was NIL on day of assessment at 1 p.m.*
11. *ICUs: There was no patient on ventilator support.*
12. *Central research Laboratory facilities are inadequate.*
13. *Audiometry room is small & not properly insulated.*
14. *Lecture Theater: Capacity of Hospital Lecture Theater is only 144 which is inadequate. E class facility &Audiovisual aids are not available in 2 out of 4 Lecture Theaters in the college & also Hospital Lecture Theater.*
15. *Central Library: Air-conditioning is inadequate for space.*
16. *Students' Hostels: Ancillary facilities are inadequate as detailed in the report.*
17. *Microbiology department: Only 4 Service laboratories are available against requirement of 7.*

18. *Deficiency of inadequate Demonstration rooms remains as such as detailed in the report.*
19. *Deficiency of RHTC belonging to Govt. of Karnataka remains as such. MOU gives dean only supervisory powers but no disciplinary control.*
20. *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. to reiterate its earlier decision not to renew the permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 in respect 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 2016-2017.

The Committee further decided to continue the application of clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment), 2010 (Part II) dated 16th April, 2010 and amended on 18th March, 2016."

The above decision of the Executive Committee was communicated to the Central Government vide this office letter dated 15.05.2016 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 100-150 in MBBS course for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 10.06.2016 & 16.06.2016 forwarded by the Dean, Al-Ameen Medical College & Hospital, Bijapur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college

which was submitted by the college on 31.03.2016 in the Council Office and was verified by physical verification assessment by the Council on 28.04.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned..... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned....."

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in

the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 26.81%, residents was 54.16% and the bed occupancy was found to be 20.19%. Similarly in the last compliance verification assessment conducted on 28.04.2016 of Al-Ameen Medical College & Hospital, Bijapur apart from other deficiencies, the deficiency of teaching faculty was found to be 18.93%, residents was 17.14% and the bed occupancy was found to be 37.64%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had

upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that :-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of

permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 at Al-Ameen Medical College & Hospital, Bijapur under Rajiv Gandhi University of Health Sciences, Bangalore, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon3le Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical

college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for Renewal of Permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 at Al-Ameen Medical College & Hospital, Bijapur under Rajiv Gandhi University of Health Sciences, Bangalore, during the compliance verification inspection carried out on 28.04.2016 the deficiency of Faculty was found to be 18.93%, the deficiency of Resident was found to be 17.41% and the Bed Occupancy was found to be only 37.64%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b) and 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b & c) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)…..

"…..(b) <u>Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)</u>

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..”

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*“……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

> ***30.*** *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

> *"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of Renewal of Permission for admission of 4th 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, does not fall within the ambit of the directions issued by the Oversight

Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

113. <u>Kannur Medical College, Kannur – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.</u>

Read: the matter with regard to Kannur Medical College, Kannur ï Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 15.6.2016 of the Principal, Kannur Medical College, Kannur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

It may be stated that the first assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 u/s 10 A of the IMC Act, 1956 at Kannur Medical College, Kannur under Kerala University of Health Sciences, Thrissur for the academic session 2016-17 was carried out by the Council assessors on 28th & 29th September, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.10.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (28th & 29th September, 2015) and noted the following:-

1. *Deficiency of faculty is 34.05 % (i.e. 47 /138) as detailed in the report.*
2. *Shortage of Residents is 49.4 % (i.e. 42/85) as detailed in report.*
3. *Teaching Beds: Although space for total 650 beds exists, due to renovation, lot of adjustment was made in various wards.*
4. *OPD attendance is given by the college as 1353 on day of assessment which appears to be exaggerated. Modest attendance was there.*
5. *There were only total 71 patients in the whole hospital as per observation of assessors giving bed occupancy of 10.14 % only. The figures given by the institute of 118 admissions & bed occupancy of 93 % on day of assessment are false.*
6. *There were total 10 major operations listed on day of assessment.*
7. *There were NIL Normal deliveries & NIL Caesarean Section on day of assessment.*
8. *The figures of Radiological & laboratory investigations look doubtful looking into bed occupancy of 10.14 %.*
9. *Casualty: Separate Casualty for O.G. is not available.*
10. *There was NIL patient in ICCU, SICU & NICU/PICU & only 1 in MICU on day of assessment.*
11. *Only 5 mobile X-ray machines are available against requirement of 6 as per Regulations.*
12. *Only 3 static X-ray machines are available against requirement of 6 as per Regulations.*
13. *Examination Hall: There are 2 examination halls with capacity of 100 each against requirement of capacity of 250.*
14. *Lecture Theaters: There are 3 lecture theaters of capacity 180 against requirement of 4 as per Regulations.*
15. *Central Library: It is not air-conditioned.*
16. *Interns' Hostel: Available accommodation is for 64 interns against requirement of 100 as per Regulations.*

17. *Nursing staff: Only 237 Nursing staff are available against requirement of 372.*
18. *CSSD was closed at 5 p.m. indicating not much of emergency work.*
19. *Facility of Videography was not provided to one of assessors.*
20. *Declaration Forms were not ready. Signatures of the concerned faculty, HOD & Dean were made on the spot in several cases.*
21. *Several Annexures as detailed in report were not provided in spite of repeated requests.*
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 5th batch of MBBS students against the increased intake i.e. from 100 to 150 u/s 10A of the IMC Act, 1956 in respect of Kannur Medical College, Kannur under Kerala University of Health Sciences, Thrissur for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 02.11.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Kannur Medical College, Kannur had submitted the compliance vide letter dated 05.12.2015 which was verified by the Council assessors by way of compliance verification assessment on 01.03.2016.

The compliance verification assessment report (01.03.2016) alongwith previous assessment report (28th & 29th September, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (01.03.2016) along with assessment report (28th& 29th September, 2015) and noted the following:-

1. *Bed occupancy was 69 % on day of assessment against 75 % required.*
2. *Wards: Male & Female ENT ward is common. Beds for male & female Ophthalmology patients are common in one single hall. Washroom facilities are common. For 30 beds of female Ophthalmology/ENT, there is only 1 bathroom & latrine.*
3. *Majority of patients are admitted on 28th& 29th February 2016. There are large number of patients with trivial complaints admitted for no reason. Many patients in O.G. ward were not pregnant and admitted with complaints not related with pregnancy & conception. Patients of ENT are admitted in General Surgery ward. One ward in Orthopaedics was totally vacant.*
4. *Data of OPD attendance given by institute is unreasonable & highly inflated. OPD attendance, as observed by assessors is around 600 which is inadequate. At 9:00 a.m., computer showed around 70 patients when OPD starts at 9:00 a.m. Number of patients in individual OPDs when checked by assessors at that time revealed patients who can be counted on fingertips. On verification, no patient was seen in Tb & Chest OPD but in register, many patients were registered. Psychiatry & ENT OPDs were also vacant while the register showed 102 & 112 patients.*
5. *O.T.: On day of assessment, on verification it was observed that there were 3 patients in O.T. & 8 in Preoperative ward – i.e. total 11 cases; however, O.T. list showed 42 operations scheduled. There is Data mismatch.*
6. *Blood bank has issued only 3 units on day of assessment.*
7. *There was only 1 Normal Delivery on day of assessment.*
8. *ICUs: In PICU/NICU, patients are admitted who do not require intensive care.*
9. *Radiodiagnosis Department: 1 static X-ray machine of 300 mA is not working since long; resultantly there is deficit of 1 static X-ray machine.*
10. *Central Library: It is only partly air-conditioned. Second reading room for students, staff reading room, computer room with Medlar & Internet & other areas are still not air-conditioned.*

11. *CSSD: Issue of sterilized material appears to be less on day of assessment.*
12. *USG: Data supplied by institute shows total 68 patients examined for USG; however at the time of visit in the morning hours, only 1-2 patients were seen.*
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 in respect of Kannur Medical College, Kannur under Kerala University of Health Sciences, Thrissur u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18th March, 2016, 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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 of the Executive Committee was communicated to the Central Government vide this office letter dated 15.05.2016 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

The Council vide another letter dated 15.05.2016 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 100-150 in MBBS course for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) *there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and*

(ii) *there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,*

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 15.06.2016 forwarded by the Principal, Kannur Medical College, Kannur for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 05.12.2015 in the Council Office and was verified by physical verification assessment by the Council on 01.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are

any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of teaching faculty was found to be 34.05%, residents was 49.4% and the bed occupancy was found to be 10.14%. Similarly in the last compliance verification assessment conducted on 01.03.2016 of Kannur Medical College, Kannur apart from other deficiencies, the deficiency of bed occupancy was found to be 69%.

It is brought to the notice of the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that :-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for

the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Kannur Medical College, Kannur under Kerala University of Health Sciences, Thrissur, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

"…..31. MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon'ble Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

In view of above, the Executive Committee of the Council is of the opinion that the application of Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Kannur Medical College, Kannur under Kerala University of Health Sciences, Thrissur, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

114. <u>Rohilkhand Medical College & Hospital, Bareilly – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.</u>

Read: the matter with regard to Rohilkhand Medical College & Hospital, Bareilly ï Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 20.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Dean/Principal, Rohilkhand Medical College & Hospital, Bareilly, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that the first assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Rohilkhand Medical College & Hospital, Bareilly under M J P Rohilkhand University, Bareilly u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 was carried out by the Council assessors on 28th & 29th October, 2015. The assessment report was considered by the Executive Committee at its meeting held on 28.12.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (28th and 29th October, 2015) alongwith complaints dated 11.04.2015 & 05.11.2015 from Dr. Varsha Chaudhary, Associate Professor, Department of Community Medicine, Rohilkhand Medical College, Bareilly and Sh. Durgesh Sengar, Chairman, Rashtriya Bhrashtachar Unmulan Samiti, Delhi and noted the following:-

1. *Deficiency of faculty is 8.78 % as detailed in report.*
2. *Shortage of Residents is 7.14 % as detailed in report.*
3. *Data of OPD attendance provided by institute at 1,610 are inflated. Actual OPD is around 1,000 which is inadequate against requirement of 1,200.*
4. *Bed occupancy as observed by assessors is 38.75 % (i.e. 279/720) on 1st day of assessment. Data of 80 % provided by institute are inflated.*
5. *Total number of actual Major operations on day of assessment are only 04. Data of 25 Major operations provided by institute are inflated.*
6. *Total number of actual Minor operations on day of assessment are only 10. Data of 70 Minor operations provided by institute are inflated.*
7. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment. There was no woman in Labour room.*
8. *Data of Radiological & Laboratory investigations as provided by institute are inflated.*
9. *Emergency O.T. is non-functional for last 1 year.*
10. *Facilities in Central Research laboratory are inadequate.*
11. *Wards: There is no Demonstration room in male medical ward. In Tb & Chest ward, distance between 2 beds is < 1.5 m.*
12. *RHTC: Family folders are not maintained. Temperature chart is not maintained in cold chain equipment. 2 MSW & 1 PHN do not have required qualification.*
13. *UHC: Family folders are not maintained. 2 MSW & 1 PHN do not have required qualification.*
14. *Most of the beds in the wards appeara vacant and the bed occupancy is grossly inadequate.*
15. *The nursing stations in most of the wards are not in proper place. Staff nurses are not visible in most of the wards.*
16. *The faculty chambers are inadequate for the number of faculty in most departments.*
17. *Most of the patients in medical wards are projected as being of dengue fever with temperature charts revealing normal body temperature.*
18. *Most of the patients in medical wards are admitted on account of trivial complaints which did not warrant admission and are not useful for teaching purposes.*

19. *In surgical wards, most of the patients are of vague, mild and occasional pain abdomen which has not been investigated with any test at all and the patients does not appear to be in need of admission.*
20. *Many individuals occupying the beds in surgical wards were presented as patients but no medical record was available for them and on enquiring from the individuals, they confirmed that they are not patients but only attendants.*
21. *Almost all the medical files of admitted patients have similar wordings in the Nursing notes for three times a day.*
22. *Some medical files were shown as patient files but the patients were not traceable in the ward and were then depicted as having left against medical advise (LAMA) prior to the inspection. It appears that record of already discharged patients was presented as that of currently admitted patients. However, this was not supported by the physical presence of these patients.*
23. *Most of the patients in the OT lists of different surgical departments for the day of inspection were not present in the Operation theatre or in the wards.*
24. *None of the patients of the previous days surgery OT list were present in the ward/surgical ICU.*
25. *The PAC room appears uninhabited and has no doctor, register or any equipment.*
26. *In Ophthalmology ward, none of the patients of OT list of previous two days (26th and 27th October, 2015) are available in the ward nor were any of them discharged as per the discharge register.*
27. *In TB and Chest, there are 3 postgraduate seats. However, there are no Professors or Associate Professors which grossly affects undergraduate and postgraduate teaching.*
28. *In the Deptt. of Radiodiagnosis, the yearly PG intake is 2 and there is no Professor. This adversely affects PG teaching & UG teaching.*
29. *In Dermatology, the PG intake is three while there are only two Professors. This adversely affects PG teaching & UG teaching.*
30. *Other deficiencies as pointed out in the assessment report.*

In view of 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 to 150 u/s 10A of the IMC Act, 1956 in respect of Rohilkhand Medical College & Hospital, Bareilly under M J P Rohilkhand University, Bareilly for the academic year 2016-17."

The above decision was communicated to the Central Govt. vide Council letter dated 31.12.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Dean/Principal, Rohilkhand Medical College & Hospital, Bareilly had submitted the compliance vide letter dated 23.01.2016 which was verified by the Council assessors by way of compliance verification assessment on 30.03.2016.

The compliance verification assessment report (30.03.2016) alongwith previous assessment report (28th & 29th October, 2015) was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (30.03.2016) along with previous assessment report (28th& 29th October, 2015) and noted the following:-

1. *Shortage of Residents is 9.30 % as detailed in the report.*
2. *On random verification, it was observed that at least 4 Senior Residents are not staying in the campus. Many other Senior Residents who are above 60 y of age are also not staying in the campus.*
3. *OPD data provided by institute are highly inflated. Assessors visited OPD at 10 a.m., 12 noon & 1 p.m. and very few patients were seen in OPD during all 3 visits. Actual OPD attendance on day of assessment was around 750 on day of assessment against requirement of 1,200.*

4. *Bed occupancy was 45 % on day of assessment.*
5. *Many patients were admitted on 28/03/2016 & 29/03/2016 as verified from case sheets. In many patients who were admitted day before assessment, complaints did not match with treatment mentioned on case paper. In General Surgery ward, 20 patients were admitted the day before with trivial complaints and had not received even oral drugs and post admission investigations were not carried out.*
6. *Total number of Major operations on day assessment is only 06 which is inadequate.*
7. *Total number of Minor Operations as verified by assessors was only 01; however, the register showed 05 Minor operations.*
8. *There was NIL Normal Delivery & NIL Caesarean Section on day of assessment.*
9. *Data of Clinical Material, Radiological & Laboratory investigations as provided by institute are inflated.*
10. *Emergency O.T. is non-functional.*
11. *Facilities in Central Research Laboratory are inadequate.*
12. *Patients in Paediatrics ward were of adult age and case sheets did not match with complaints & treatment.*
13. *Nursing stations are not in proper places in many wards.*
14. *Medical files of many admitted patients have similar wordings in the Nursing notes. One such file is of patient named Jyoti.*
15. *Workload of Special investigations like Ba, IVP was NIL on day of assessment.*
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 5th Batch of MBBS students against the increased intake i.e. from 100-150 in respect of Rohilkhand Medical College & Hospital, Bareilly under M.J.P Rohilkhand University, Bareilly u/s 10A of the IMC Act, 1956 for the academic year 2016-2017.

The Executive Committee of the Council further decided to apply clause 8(3)(1)(c) of Establishment of Medical College Regulation (Amendment),2010(Part II), dated 16th April, 2010 and amended on 18th March, 2016, which reads as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

In view of above, it was decided not to consider the Institute for processing applications for postgraduate courses in the current Academic year (2017-18) 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 of the Executive Committee was communicated to the Central Government vide this office letter dated 15.05.2016.

The Council vide another letter dated 15.05.2016 issued the Show Cause Notice to the college authorities to explain as to why the Council should not proceed to recommend to the Central Govt. for withdrawal of recognition of MBBS degree/Postgraduate course of the institute and stoppage of admissions in permitted postgraduate course.

The Central Government vide its letter dated 10.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 100-150 in MBBS course for the academic year 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and
(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 20.06.2016 has forwarded a copy of the compliance/representation/documents dated 16.06.2016 forwarded by the Dean/Principal, Rohilkhand Medical College & Hospital, Bareilly for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given and had availed the opportunity of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance report of the college which was submitted by the college on 23.01.2016 in the Council Office and was verified by physical verification assessment by the Council on 30.03.2016.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***".....31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with*

the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the first inspection, apart from other deficiencies, the deficiency of the bed occupancy was found to be 38.75%. Similarly in the last compliance verification assessment conducted on 30.03.2016 of Rohilkhand Medical College & Hospital, Bareilly apart from other deficiencies, the deficiency of the bed occupancy was found to be 45%.

It is brought to the notice of the Executive Committee that Regulation 8(3)(1)(b) will be applicable to any institution which is at the stage of third and fourth renewal of permission, as well as renewal of permission of increased intake. Regulation 8(3)(1)(b) provides that during any regular inspection, if a medical college is found to have deficiency of teaching faculty and / or residents, being more than 20% and / or the bed occupancy is found to be less than 65%, such an institute shall not be given an opportunity to rectify any such deficiency and will

not be considered for renewal of permission for that academic year so as to ensure strict compliance with the IMC Act, 1956 and the Regulations made thereunder. The relevant portion of the same is reproduced as under:-

"…..(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

It is further brought to the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses</u>

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned

matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that :-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, members of the Executive Committee observed that in the case of Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Rohilkhand Medical College & Hospital, Bareilly, the institution was given opportunity of submitting compliance after rectification of deficiencies as had been communicated by the Council after the initial inspection when the concerned institution had submitted its compliance and MCI had verified such compliance by conducting a compliance verification assessment. Such compliance verification assessment report has been considered by the Executive Committee and upon such consideration an appropriate decision has been taken in the instant case. Thus this institution is not covered within aforementioned 2nd condition ï i.e. where it had not been afforded an opportunity for furnishing compliance.

The Executive Committee further noted that the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines :-

> **"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned. é é é é é é é é é é é é é é é ... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:
>
> (A) *Initial assessment* of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.
>
> (B) *Inspection* should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.
>
> (C) *Intimation of the result or outcome of the inspection* would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.
>
> (D) *If compliance* is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.
>
> (E) *The result of such verification* if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concernedé é ò

The Executive Committee after a perusal of the aforesaid judgements observed that the Hon'ble Supreme Court has directed that only such applicant - medical colleges shall be inspected which fulfill the qualifying criteria as provided

in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant ï medical colleges which fulfil the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies are found to be still persisting, the applicant medical college shall stand disentitled for grant of permission / renewal of permission for the concerned academic year and its application shall be rejected by the Central Govt., after considering the recommendation of the Council.

Thus the Executive Committee observed that in view of the aforesaid judgements of the Hon0le Supreme Court, all applicant medical colleges could be provided only one opportunity to rectify the deficiencies as found during the initial inspection and submit its compliance whereafter the same could be verified by way of a compliance verification inspection. Thereafter, there was no permissibility to provide any further opportunity to an applicant medical college to submit any further compliance in respect of the deficiencies persisting in the medical college.

The Executive Committee further observed that for Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Rohilkhand Medical College & Hospital, Bareilly, during the compliance verification inspection carried out on 30.03.2016 the deficiency of Bed Occupancy was found to be only 45%. Thus the deficiencies of Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(b & c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1) (b & c) of Establishment of Medical College Regulations, 1999 which reads as under:-

8(3)(1)…..

"…..(b) <u>Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch)</u>

If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is <65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic Year…"

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

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.

8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.

……..

13. Both the appeals are allowed to the above extent, but with no order as to costs….."

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

***30.** …….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P.*

Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of above, the Executive Committee of the Council is of the opinion that the application of Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Rohilkhand Medical College & Hospital, Bareilly, does not fall within the ambit of the directions issued by the Oversight Committee or the guidelines framed for processing of applications by the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19 and it was further decided to return the application to the Central Government.

115. <u>Maharajah's Institute of Medical Sciences, Nellimarla – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.</u>

Read: the matter with regard to Maharajah's Institute of Medical Sciences, Nellimarla – Renewal of Permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Principal, Maharajah's Institute of Medical Sciences, Nellimarla, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that an assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 u/s 10 A of the IMC Act, 1956 at Maharajah's Institute of Medical Sciences, Vizianagaram under NTR University of Health Sciences, Vijayawada for the academic session 2015-16 was carried out by the appointed assessors on 5th & 6th December, 2014. The

Assessment report was considered by the Executive Committee at its meeting held on 13.01.2015 and 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 Vizianagram district where the college is located and they have shown proof of residence in vishakhapatanam which is at a distance of 65 KM. The faculty attendence 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 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 with the directions 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.

In response to above, the Principal, Maharajah's Institute of Medical Sciences, Vizanagaram vide letter dated 18.02.2015 had submitted the reply of the show cause notice.

The compliance verification assessment for 100 MBBS seats was carried out by the Council assessor on 20.05.2015 for 100 seats.

The compliance verification assessment report (20.05.2015) alongwith previous assessment report (5th & 6th December, 2014) was considered by the Executive Committee at its meeting held on 04.06.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (20.05.2015) along with assessment report (5th & 6th December, 2014) and noted the following:-

1. *Deficiency of faculty is 32 % as detailed in the report.*
2. *Shortage of Residents is 37.50 % as detailed in the report.*
3. *Area of Dean's office & Medical Superintendent's office are smaller than required. Deficiency remains as it is.*
4. *Duty room for doctors, Pantry, treatment rooms are not available in wards of General Surgery & Psychiatry.*
5. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to give final opportunity to the college authorities for submission of compliance for rectification of the above deficiencies within 01 month for further consideration of the matter."

The above decision was communicated to Central Govt. vide Council letter dated 11.06.2015 and copy to the college authorities with the request to submit the compliance.

In reference to above, the Principal, Maharajah's Institute of Medical Sciences, Vizianagaram had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 20.08.2015 for 100 seats.

The compliance verification assessment report (20.08.2015) alongwith previous assessment report (20th May, 2015 & 5th & 6th December, 2014) was considered by the Executive Committee at its meeting held on 21.09.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (20.08.2015) conducted for verification of available facilities of faculty, Residents, infrastructure and other requirements for recognized intake of 100 students and noted the following:-

1. *Deficiency of faculty is 9.2 % as detailed in the report.*
2. *Shortage of Residents is 37.9 % as detailed in the report. Many Residents are not staying in the campus.*
3. *No Declaration Forms were submitted by any of faculty & Residents. Form 16 was not available for any employee. Appointment order, Joining Letter, Relieving order, were not available and could not be verified.*
4. *Bed occupancy was 25.9 % on day of assessment.*
5. *OPD attendance was only 620 at end of OPD timing on day of assessment.*
6. *There was only 1 Normal Delivery & NIL Caesarean Section on day of assessment.*

7. *Workload of Plain X-rays was only 58 on day of assessment. NIL Ba & IVP investigations were carried out on day of assessment.*
8. *Laboratory investigations workload was inadequate on day of assessment.*
9. *Records of admission in various wards are not properly maintained. Large number of patients admitted in wards appeared healthy normal adults and did not require admission. In General Surgery wards, there was not a single patient on I.V. fluids. Some of the wards which had a few patients in the morning were deserted by afternoon.*
10. *There was not a single delivered lady in Obstetric ward. No newborn was seen. There was no operated lady in O.G. wards.*
11. *In most of the wards, there were no I.V. stands, side lockers, dust bins, suction machine & B.P. instruments.*
12. *Area of Dean's office & Medical Superintendent's office are smaller than required. Deficiency remains as it is.*
13. *Duty room for Doctors, Pantry, Treatment room are not available in wards of General Surgery & Psychiatry. Deficiency remains as it is.*
14. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to give final opportunity to the college authorities for submission of compliance for rectification of the above deficiencies within 01 month for further consideration of the matter."

The above decision was communicated to the Central Govt. vide Council letter dated 05.10.2015 and copy marked to the college authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Maharajah's Institute of Medical Sciences, Vizianagaram had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 20.01.2016 for 100 seats.

The compliance verification assessment report (20.01.2016) alongwith previous assessment report (20.08.2015, 20th May, 2015 & 5th & 6th December, 2014) was considered by the Executive Committee at its meeting held on 30.01.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (20.01.2016) along with assessment report (20.08.2015, 20th May, 2015 & 5th & 6th December, 2014) conducted for verification of available facilities of faculty, Residents, infrastructure and other requirements for recognized intake of 100 students and noted the following:-

1. *Deficiency of faculty is 16.03 % as detailed in the report.*
2. *Shortage of Residents is 13.43 % as detailed in the report.*
3. *Bed occupancy is 33 % on day of assessment.*
4. *There were NIL patient in SICU & only 2 patients 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 reiterate its earlier decision with regard to 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 further decided that since the gross deficiencies of teaching faculty, residents, & infrastructure are still persisting inspite of repeated opportunities being given to the institute to rectify the same over a period of time, why the recognition for the award of MBBS degree granted

by under NTR University of Health Sciences, Vijayawada in respect of students being trained at Maharajah's Institute of Medical Sciences, Vizianagaram be not withdrawn u/s 19 of the IMC Act, 1956. It was further decided that the institute be directed not to make further admissions from the academic year 2016-17 onwards.

The Committee further decided to place the matter before the General Body of the Council."

The above recommendation of the Executive Committee was considered by the General Body of the Council at its meeting held on 30.03.2016 and it was decided as under:-

"……The Council also noted that in spite of repeated opportunities being given to Maharajah's Institute of Medical Sciences, Vizianagaram under NTR University of Health Sciences, Vijayawada, it has not rectified the gross deficiencies of teaching faculty, residents, & infrastructure facilities for removal of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16.04.2010. The Council further noted that in the latest compliance verification assessment report (20.01.2016), the deficiencies are still persisting.

In view of above, the General Body of the Council decided to recommend to the Central Govt. for withdrawal of recognition for the award of MBBS degree granted by NTR University of Health Sciences, Vijayawada in respect of students being trained at Maharajah's Institute of Medical Sciences, Vizianagaram u/s 19 of the IMC Act, 1956 and further to request the Central Govt. to ask the institution to stop admissions with immediate effect for the academic year 2016-17."

The above decision of the General Body of the Council was communicated to the Central Govt. vide Council letter dated 06.05.2016 with copy to other concerned authorities.

The matter with regard to renewal of permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Maharajah's Institute of Medical Sciences, Nellimarla under Dr. NTR University of Health Sciences, Vijayawada u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided that as the decision of the General Body shown above has already been communicated to the Central Government, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for fresh batch against the increased intake i.e. from 100 to 150 for the Academic Year 2016-2017.

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016.The Central Government vide its letter dated 15.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 100-150 in MBBS course for the academic year 2016-17 and also against recognized intake of 100 seats for the academic session 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 21.06.2016 forwarded by the Principal, Maharajah's Institute of Medical Sciences, Nellimarla for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given repeated opportunites and had availed those opportunites of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance reports of the college which were submitted by the college in the Council Office were verified by physical verification assessments by the Council.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned…... The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government.

In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the last compliance verification assessment conducted on 20.01.2016 of Maharajah's Institute of Medical Sciences, Nellimarla apart from other deficiencies, the deficiency of teaching faculty was found to be 16.03%, residents was 13.43% and the bed occupancy was found to be 33%.

It is brought to the notice of the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced 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 inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education

Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that -

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note the Executive Committee observed that for renewal of permission for admission of 4th Batch of MBBS students against the increased intake i.e. from 100-150 at Maharajahs Institute of Medical Sciences, Nellimarla for the academic session 2015-16, during the inspection carried out on 5th and 6th Dec. 2014 the deficiency of Faculty was found to be 65.49% and the deficiency of Resident was found to be 22.3%. Further during the first compliance verification inspection carried out on 20.05.2015 the deficiency of Faculty was found to be 32% and the deficiency of Resident was found to be 37.50%. Thereafter, during the 2nd compliance verification inspection carried out on 20.08.2015 the deficiency of Resident found to be 37.9% and the Bed occupancy was found to be 25.9%. During the 3rd compliance verification inspection carried

out on 20.01.2016 the deficiency of Faculty was found to be 16.03%, deficiency of Resident was found to be 13.43% and the Bed occupancy was found to be 33%. Thus the deficiencies of Faculty / Residents or Bed Occupancy found in the medical college during the aforesaid inspection were beyond than the limits prescribed under Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999 which read as under:-

> 8(3)(1)é ..
> (c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses
>
> If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High*

Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.

9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.
……..

13. Both the appeals are allowed to the above extent, but with no order as to costs…..”

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

*“……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*

***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

***29.** A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the*

Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected…….”*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of abovementioned Statutory provisions and the directions of Hon'ble Supreme Court to strictly adhere to the Statutory Regulations of the MCI,

Executive Committee is of the opinion that the application of renewal of permission for admission of 5th Batch of MBBS students against the increased intake i.e. from 100-150 at Maharajahôs Institute of Medical Sciences, Nellimarla under Dr. NTR University of Health Sciences, Vijayawada u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 do not fall within the ambit of the directions given by the Oversight Committee and it was further decided to return the application to the Central Government.

116. <u>Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune – Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.</u>

Read: the matter with regard to Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune ï Renewal of Permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 for the academic session 2016-17.

The Executive Committee of the Council perused letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20/21.6.2016 of the Principal, Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"It may be stated that an assessment to assess the physical and other teaching facilities available for renewal of permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 100-150 u/s 10 A of the IMC Act, 1956 at Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune under Maharashtra University of Health Sciences, Nashik for the academic session 2015-16 was carried out by the appointed assessors on 6th & 7th January, 2015. The Assessment report was considered by the Executive Committee at its meeting held on 10.02.2015 and it was decided as under:-

"The Executive Committee of the Council considered the Council Assessors report (6th & 7th January, 2015) and noted the following:-

1. *Dean's office is not available in teaching hospital.*
2. *Though this is I renewal for increase from 100 to 150, the beds in General Medicine, Paediatrics, General Surgery, Orthopaedics have not been increased proportionately from those required for college with 100 intake.*
3. *There was no patient in ICCU & RICU and only 1 patient in SICU on day of assessment.*
4. *Shortage of residents is 8.2 % as detailed in report.*
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 2nd Batch of MBBS students against the increased intake i.e. from 100-150 of Maharashtra Institute of Medical Sciences & Research, Pune under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2015-2016."

The above decision was communicated to the Central Govt. vide Council letter dated 10.02.2015 and copy marked to the College authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 15.04.2015.

The compliance verification assessment report (15.04.2015) alongwith previous assessment report (6th & 7th January, 2015) was considered by the Executive Committee at its meeting held on 29.04.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (15.04.2015) along with assessment report (6th & 7th January, 2015) and representation dated 18.04.2015 received from the college and noted the following:-

1. *Deficiency of faculty is 14% as detailed in report.*
2. *Shortage of Residents is 17.6% as detailed in the report.*
3. *Bed occupancy is 43.4% on the day of assessment.*
4. *Wards are congested as there are too many beds in small area.*
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 2nd batch of MBBS students against the increased intake i.e. from 100-150 of Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune under Maharashtra University of Health Sciences, Nashik u/s 10A of the IMC Act, 1956 for the academic year 2015-2016.

The Executive 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 above decision was communicated to the Central Govt. vide Council letter dated 12.05.2015.

The Council vide letter dated 12.05.2015 communicated the decision of the Executive Committee dated 29.04.2015 to the college authorities and directed to explain as to why the Council should not proceed to recommend to the Central Govt. for not processing application for postgraduate course in the academic year and for withdrawal of recognition of MBBS degree/Postgraduate courses of the institution and stoppage of admissions in permitted postgraduate courses.

In reference to above, the Principal, Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 20.08.2015 for 100 seats.

The compliance verification assessment report (20.08.2015) alongwith previous assessment report (15th April, 2015 & 6th & 7th January, 2015) was considered by

the Executive Committee at its meeting held on 21.09.2015 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (20.08.2015) conducted for verification of available facilities of faculty, Residents, infrastructure and other requirements for recognized intake of 100 students and noted the following:-

1. *Deficiency of faculty is 10.65 % (i.e. 13 out of 122) as detailed in the report.*
2. *Shortage of Residents is 8.95 % (i.e. 6 out of 67)*
3. *Bed occupancy is 62.9 % (i.e. 321 out of 510) as actually observed on day of assessment is as under:*

#	Department	Beds Occupied
1	General Medicine	57
2	Paediatrics	30
3	Tb & Chest	23
4	Skin & VD	8
5	Psychiatry	0
6	General Surgery	69
7	Orthopaedics	27
8	E.N.T.	8
9	Ophthalmology	24
10	Obst. & Gynaec.	75
	TOTAL	321

The data given by the institute are exaggerated. 10-20 % of the patients had been admitted in the wards but did not merit admission. E.g. abdominal pain patients in General Surgery wards& Backache in Orthopaedics wards.

4. *Wards: Some wards are still congested. Distance between 2 beds is less than required.*
5. *O.T.: Preoperative ward has 4 beds & Postoperative ward has 6 beds which are acutely congested. There were 15 patients in pre & postoperative wards at the time of taking round. There is no Central Nitrous supply. There are 2 tables in Ophthalmology O.T. which is not as per norms.*
6. *Number of C.T. Scan on day of assessment is only 09 which is inadequate.*
7. *The following faculty were found not to be staying in accommodation claimed to have been provided by the college:*

(a) *Dr. Mihir Chaudhary, Tutor in Forensic Medicine;*
(b) *Dr. Swapnil Thorat, Tutor in Forensic Medicine.*

8. *ICUs: ICU & RICU are amalgamated which has 10 beds; occupancy was only 3 on day of assessment. There was only 1 patient in Surgical ICU.*
9. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to give final opportunity to the college authorities for submission of

compliance for rectification of the above deficiencies within 01 month for further consideration of the matter."

The above decision was communicated to the Central Govt. vide Council letter dated 05.10.2015 and copy marked to the college authorities with the request to submit the detailed point wise compliance.

In reference to above, the Principal, Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune had submitted the detailed compliance which was verified by the Council assessors by way of compliance verification assessment on 22.01.2016 for 100 seats.

The Compliance verification report (22.01.2016) of the physical and the other teaching facilities available for 100 MBBS seats Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune was considered by the Executive Committee at its meeting held on 31.01.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (22.01.2015) along with assessment report (20.08.2015, 15th April, 2015 & 6th & 7th January, 2015) and perusal of the report of Assessors, the operative part reads as under:

"As the Class III & IV employees are on strike from 12/01/2016 till date, the college and the hospital were closed and locked. As no water is available, all faculty & residents went out. Only Principal & Medical Superintendent are available. So for verification, nothing is available and compliance couldn't be verified……

All the patients were shifted out of the hospital. So clinical data is NIL."

In view of above, the Executive Committee of the Council decided to direct the Dean of Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune to submit when the strike would be called off and the office is directed to arrange for another assessment."

As per the above decision the Council vide letter dated 31.01.2016 requested the college authorities to intimate the Council when the Strike would be called off for taking further necessary action in the matter.

Upon receipt of the letter from the college authorities, the Compliance Verification Assessment was carried out by the Council Assessors on 11.03.2016 for 100 seats. The compliance Verification Assessment report (11.03.2016) alongwith previous assessment report (22nd January, 2016, 20.08.2015 & 15th April, 2015 & 6th & 7th January, 2015) was considered by the Executive Committee at its meeting held on 22.03.2016 and it was decided as under:-

"The Executive Committee of the Council considered the compliance verification assessment report (11.03.2016) along with assessment report (20.08.2015 & 15th April, 2015 & 6th & 7th January, 2015) and noted the following:-

1. *Deficiency of teaching faculty is 6.68 % as detailed in the report.*
2. *Bed occupancy is 68.30 % on day of assessment.*
3. *In Orthopaedics ward, many patients were admitted who did not merit admission.*
4. *ICUs: In ICCU there was only 1 patient on day of assessment. Not all patients in MICU & MICU needed intensive care.*
5. *OPD: At 09: 30 a.m., very few patients were found at the registration counters. During round of OPDs between 10 & 11 a.m., not many patients were found in various OPDs.*
6. *In O.G. OPD, no separate Cancer Detection clinic & Family Planning clinic was available. In Paediatrics OPD, Dietician's room is used as Child Rehabilitation clinic.*

7. *In Endoscopy room of ENT OPD, Inj. Lignocaine with expiry date of December 2012 was kept. Audiometry room is not soundproof. No Speech therapy room, machines, staff are available.*
8. *Out of 6 Major operations mentioned in Orthopaedics OT register in last 3 days, only 1 was present in the ward. Others could not be traced.*
9. *Other deficiencies as pointed out in the assessment report.*

In view of the above, the Executive Committee of the Council decided to reiterate its earlier decision with regard to application of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment),2010(Part II), dated 16th April, 2010 and to return the postgraduate applications of Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune recommending disapproval of the scheme.

The Executive Committee of the Council further decided that since the gross deficiencies of teaching faculty, residents, & infrastructure are still persisting inspite of repeated opportunities being given to the institute to rectify the same over a period of time, why the recognition for the award of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune be not withdrawn u/s 19 of the IMC Act, 1956. It was further decided that the institute be directed not to make further admissions from the academic year 2016-17 onwards.

The Committee further decided to place the matter before the General Body of the Council."

The above recommendation of the Executive Committee was considered by the General Body of the Council at its meeting held on 30.03.2016 and it was decided as under:-

"……..The Council also noted that in spite of repeated opportunities being given to Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune, it has not rectified the gross deficiencies of teaching faculty, residents, & infrastructure facilities for removal of clause 8(3)(1)(c) of Establishment of Medical College Regulations (Amendment), 2010 (Part II), dated 16.04.2010. The Council further noted that in the latest compliance verification assessment report (11.03.2016), the deficiencies are still persisting.

In view of above, the General Body of the Council decided to recommend to the Central Govt. for withdrawal of recognition for the award of MBBS degree granted by Maharashtra University of Health Sciences, Nashik in respect of students being trained at Maharashtra Institute of Medical Sciences & Research, Talegaon, Pune u/s 19 of the IMC Act, 1956 and further to request the Central Govt. to ask the institution to stop admissions with immediate effect for the academic year 2016-17."

The above decision of the General Body of the Council was communicated to the Central Govt. vide Council letter dated 06.05.2016 with copy to other concerned authorities.

The matter with regard to renewal of permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 at Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune under Maharashtra University of Health Sciences, Nashik u/s 10 A of the IMC Act, 1956 for the academic session 2016-17 was considered by the Executive Committee at its meeting held on 13.05.2016 and it was decided that as the decision of the General Body shown above has already been communicated to the Central Government, the Executive Committee of the Council decided to recommend to the Central Govt. not to renew the permission for fresh batch against the increased intake i.e. from 100 to 150 for the Academic Year 2016-2017.

The above decision of the Executive Committee was communicated to the Central Govt. vide this office letter dated 15.05.2016. The Central Government vide its letter dated 15.06.2016 had conveyed its decision to the college authorities as well as other concerned authorities not to admit any students against increased intake from 100-150 in MBBS course for the academic year

2016-17 and also against recognized intake of 100 seats for the academic session 2016-17.

Thereafter, the Council Office received a letter/decision dated 13.06.2016 issued by the Oversight Committee appointed by the Hon'ble Supreme Court which reads as under:-

"In view of the submission made by Secretary, Govt. of India, Ministry of Health & Family Welfare (MHFW) before the OC today, inter alia, stating that

(i) there were around 150 proposals u/s 10A of IMC Act that were not notified for approval in respect of Under Graduate Courses and 118 proposals for Super Speciality Courses for 2016-17 and

(ii) there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in inspections,

OC has, purely as a onetime measure and in exercise of powers conferred upon it vide paragraph 105 of judgment dated 02 May 2016 of Hon'ble Supreme Court in Civil Appeal no. 4060 of 2009 in Modern Dental College and Research Centre & Others vs State of Madhya Pradesh & Others to issue remedial directions, decided in its meeting of 13 June 2016, to permit all applicant colleges which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17, be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration…."

Now, the Central Govt. vide its letter dated 22.06.2016 has forwarded a copy of the compliance/representation/documents dated 20.06.2016 and 21.06.2016 forwarded by the Principal, Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune for necessary action in the light of order dated 13.06.2016 of Oversight Committee.

In this regard, it is stated that the college was given repeated opportunites and had availed those opportunites of submitting the compliance of the deficiencies pointed out in the assessment report of the Council. The said compliance reports of the college which were submitted by the college in the Council Office were verified by physical verification assessments by the Council.

The Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19, while dealing with the various aspects of the processing of the scheme / application of the medical colleges for grant of permission / renewal of permission, was pleased to frame the following guidelines:-

***"…..31.** MCI and the Central Government have been vested with monitoring powers under Section 10-A and the Regulations. It is expected of these authorities to discharge their functions well within the statutory confines as well as in conformity with the Schedule to the Regulations. If there is inaction on their part or non-observance of the time schedule, it is bound to have adverse effect on all concerned….. The Schedule giving various stages and time-limits must accommodate every possible eventuality and at the same time must comply with the requirements of observance of natural justice at various levels. In our view the Schedule must ideally take care of:*

(A) Initial assessment of the application at the first level should comprise of checking necessary requirements such as essentiality certificate, consent for affiliation and physical features like land and hospital requirement. If an applicant fails to fulfil these requirements, the application on the face of it, would be incomplete and be rejected. Those who fulfil the basic requirements would be considered at the next stage.

(B) Inspection should then be conducted by the Inspectors of MCI. By very nature such inspection must have an element of surprise. Therefore sufficient time of about three to four months ought to be given to MCI to cause inspection at any time and such inspection should normally be undertaken latest by January. Surprise inspection would ensure that the required facilities and infrastructure are always in place and not borrowed or put in temporarily.

(C) Intimation of the result or outcome of the inspection would then be communicated. If the infrastructure and facilities are in order, the medical college concerned should be given requisite permission/renewal. However, if there are any deficiencies or shortcomings, MCI must, after pointing out the deficiencies, grant to the college concerned sufficient time to report compliance.

(D) If compliance is reported and the applicant states that the deficiencies stand removed, MCI must cause compliance verification. It is possible that such compliance could be accepted even without actual physical verification but that assessment be left entirely to the discretion of MCI and the Central Government. In cases where actual physical verification is required, MCI and the Central Government must cause such verification before the deadline.

(E) The result of such verification if positive in favour of the medical college concerned, the applicant ought to be given requisite permission/renewal. But if the deficiencies still persist or had not been removed, the applicant will stand disentitled so far as that academic year is concerned……"

Thus the Hon'ble Supreme Court has directed that only those applicant - medical colleges shall be inspected who fulfill the qualifying criteria as provided in the Establishment of Medical College Regulation, 1999. In case the applicant failed to fulfil the threshold requirements the application will be incomplete and be rejected. The applicant – medical colleges which fulfils the qualifying criteria shall be inspected and that the inspection must have an element of surprise. The deficiencies found during the inspection would be communicated to the applicant medical colleges and time shall be granted to report compliance after rectifying the said deficiencies. Thereafter the Council shall cause a compliance verification inspection and in case the deficiencies persist the applicant shall stand disentitled for the academic year and its application be rejected.

Thus, the medical college was permitted to submit their compliances after they have been granted an opportunity to rectify the deficiencies found during the first inspection and have been inspected again after they had submitted their compliance reports, in terms of the judgement of the Hon'ble Supreme Court in the case of Royal Medical Trust (Regd) & Anr. Vs Union of India- (2015) 10 SCC 19.

During the last compliance verification assessment conducted on 11.03.2016 of Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune apart from other deficiencies, the deficiency of bed occupancy was found to be 68.30%.

It is brought to the notice of the notice of the Executive Committee that Regulation 8(3)(1)(c) will be applicable to any institution which are already recognized for award of MBBS degree and/or running postgraduate courses. Regulation 8(3)(1)(c) provide that during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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 so as to ensure strict compliance with the IMC Act, 1956 and the Regulation made thereunder. The relevant portion of the same is reproduced as under:-

8(3)(1)…..
(c) <u>Colleges which are already recognized for award of MBBS degree</u>

and/or running postgraduate courses

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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."

It is further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28.05.2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999 and no opportunity could be gtanted to an institution who has failed to fulfill the minimum requirements as provided in the said Regulations. The said judgement had been challenged before the Hon'ble Supreme Court wherein no stay was granted and leave was granted in the matter. It is also necessary to note that the Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29.09.2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies.

The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27.04.2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the appeals filed by the Council. Thus the judgment dated 28.05.2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999".

The members of the Executive Committee of the Council observed that -

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its*

*proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

Upon perusal of Agenda Note the Executive Committee observed that for renewal of permission for admission of 2nd Batch of MBBS students against the increased intake i.e. from 100-150 at Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune under Maharashtra University of Health Sciences, Nashik, during the compliance verification assessment carried out on 15.04.2015 the deficiency of Faculty was found to be 14%, resident was 17% and the Bed Occupancy was found to be only 43.04.%. During the 2nd compliance verification assessment carried out on 20.8.2015 the deficiency of Faculty was found to be 10.65% and the Bed Occupancy was found to be only 62.9%. Further during the 3rd compliance verification inspection carried out on 11.03.2016 the Bed Occupancy was found to be only 68.3%. Thus the deficiency of Bed Occupancy found in the medical college during the last inspection was beyond than the limits prescribed under Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999.

The Executive Committee perused Regulation 8(3)(1)(c) of Establishment of Medical College Regulations, 1999 which read as under:-

8(3)(1)é ..
(c) Colleges which are already recognized for award of MBBS degree and/or running postgraduate courses

If it is observed during any inspection/assessment of the institute that the deficiency of teaching faculty and/or Residents is more than 10% and/or bed occupancy is <70%, compliance of rectification of deficiency from such an institute will not be considered for issue of renewal of permission in that Academic year and further 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.ò

The Executive Committee further observed that the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., vide its judgment dated 28/05/2015, had upheld the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999. In the Special Leave Petition filed by the medical college no stay was granted and leave has been granted in the same. The Hon'ble Larger Bench of the Hon'ble Delhi High Court in WP (C) No. 7106/2015 titled as Malla Reddy Institute of Medical Science & Anr. Vs. Union of India & Anr. And WP (C) No. 8541/2015 titled as Lord Buddha Siksha Pratisthan & Anr. Vs. Union of India & Anr., vide its judgment dated 29/09/2015 had even though upheld the validity of the aforesaid Regulations however had observed that an opportunity should be given to the medical college to rectify the deficiencies. The Council had approached the Hon'ble Supreme Court by way of SLP (C) No.31535/2015-Medical Council of India Vs. Malla Reddy Institute of Medical Science & Anr. And SLP (C) No.30742/2015- Medical Council of India Vs. Lord Buddha Siksha Pratisthan & Anr. against the judgment dated 29/09/2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court. The Hon'ble Supreme Court vide its judgment dated 27/04/2016 in the aforementioned matters has set-aside the judgment dated 29.09.2015 passed by the Hon'ble Larger Bench of the Hon'ble Delhi High Court and has allowed the

appeals filed by the Council. The Hon'ble Supreme Court its judgement dated 27/04/2016 has held as under :-

> *"……7. Parties are in agreement that the issue referred to the Full Bench did not require even reading down of the concerned Regulation, much less examining its vires and therefore, the conclusions being drawn by the High Court on account of the impugned judgment of the Full Bench is not warranted in law.*
>
> *8. Since the Full Bench did not strike down the concerned provisos of Regulation 8(3)(1) nor directed for reading down their effect, its answers must be confined to the peculiar facts and further, in our view, the High Court on receipt of the reference erred in issuing directions contrary to the relevant provisos.*
>
> *9. In the aforesaid facts and circumstances, it is clarified that the impugned Full Bench judgment does not adversely affect the provisos (a) to (d) of Regulation 8(3) (1) of the Regulations and the Division Bench erred in allowing the writ petitions by issuing directions contrary to the relevant provisos. Consequently, the final order passed by the High Court on the basis of the impugned judgment is held to be bad in law.*
> *……..*
>
> *13. Both the appeals are allowed to the above extent, but with no order as to costs….."*

Thus the judgment dated 28/05/2015 passed by the Hon'ble Division Bench of the Hon'ble Delhi High Court in WP (C) No. 5041/2015 titled as Shree Chhatrapati Shivaji Education Society & Anr. Vs. Union of India & Anr., stands revived and is the authoritative pronouncement on the validity of Regulation 8(3)(1) of the Establishment of Medical College Regulations, 1999.

The Executive Committee also noted that in the case of MCI Vs. State of Karnataka- (1998) 6 SCC 131, the Hon'ble Supreme Court has held that the regulations of the MCI are binding and mandatory. The relevant portion of the judgement is reproduced as under:-

> *"……..**27**…….. It is the Medical Council which is primarily responsible for fixing standards of medical education and overseeing that these standards are maintained. It is the Medical Council which is the principal body to lay down conditions for recognition of medical colleges which would include the fixing of intake for admission to a medical college. We have already seen in the beginning of this judgment various provisions of the Medical Council Act. It is, therefore, the Medical Council which in effect grants recognition and also withdraws the same. Regulations under Section 33 of the Medical Council Act, which were made in 1977, prescribe the accommodation in the college and its associated teaching hospitals and teaching and technical staff and equipment in various departments in the college and in the hospitals. These regulations are in considerable detail. ……..*
>
> ***28.** …… Standards have been laid by the Medical Council, an expert body, for the purpose of imparting proper medical education and for maintaining uniform standards of medical education throughout the country. Seats in medical colleges cannot be increased indiscriminately without regard to proper infrastructure as per the regulations of the Medical Council.*

29. *A medical student requires gruelling study and that can be done only if proper facilities are available in a medical college and the hospital attached to it has to be well equipped and the teaching faculty and doctors have to be competent enough that when a medical student comes out, he is perfect in the science of treatment of human beings and is not found wanting in any way. The country does not want half-baked medical professionals coming out of medical colleges when they did not have full facilities of teaching and were not exposed to the patients and their ailments during the course of their study. …….. After the insertion of Sections 10-A, 10-B and 10-C in the Medical Council Act, the Medical Council has framed regulations with the previous approval of the Central Government which were published in the Gazette of India dated 29-9-1993 (though the notification is dated 20-9-1993). ……..*

30. *…….. Nivedita Jain case1 does not say that all the regulations framed by the Medical Council with the previous approval of the Central Government are directory or mere recommendatory. It is not that only future admissions will have to be regulated on the basis of the capacity fixed or determined by the Medical Council. The plea of the State Government that power to regulate admission to medical colleges is the prerogative of the State has to be rejected……."*

The observations made in the judgment of MCI Vs. State of Karnataka - (1998) 6 SCC 131, with reference to medical courses were re-emphasised by the Constitution Bench of the Hon'ble Supreme Court in para 57 of the judgement in the case of Dr. Preeti Srivastava Vs. State of M.P. - (1999) 7 SCC 120, wherein it has been laid down as under:-

*"…….**57**. In the case of Medical Council of India v. State of Karnataka a Bench of three Judges of this Court has distinguished the observations made in Nivedita Jain. It has also disagreed with Ajay Kumar Singh v. State of Bihar and has come to the conclusion that the Medical Council regulations have a statutory force and are mandatory. The Court was concerned with admissions to the MBBS course and the regulations framed by the Indian Medical Council relating to admission to the MBBS course. The Court took note of the observations in State of Kerala v. T.P. Roshana (SCC at p.580) to the effect that under the Indian Medical Council Act, 1956, the Medical Council of India has been set up as an expert body to control the minimum standards of medical education and to regulate their observance. It has implicit power to supervise the qualifications or eligibility standards for admission into medical institutions. There is, under the Act an overall vigilance by the Medical Council to prevent sub-standard entrance qualifications for medical courses. These observations would apply equally to postgraduate medical courses. We are in respectful agreement with this reasoning……"*

The Hon'ble Supreme Court has been pleased to reiterate the binding and mandatory character of the Regulations of the Council, through its following pronouncements:-

(i) Dr. Narayan Sharma & Anr. Vs. Dr. Pankaj Lehkar & Ors.- (2000) 1 SCC 44.
(ii) State of Punjab Vs. Dayanand Medical College-(2001) 8 SCC 664.
(iii) State of MP & Ors Vs. Gopal D. Tirthani & Ors- (2003) 7 SCC 83
(iv) Harish Verma & Ors Vs. Ajay Srivastava & Anr.- (2003) 8 SCC 69

In exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, the MCI, with prior permission from Central Govt. has framed the Establishment of Medical College Regulation, 1999. These Regulations have been amended from time to time. The Hon'ble Supreme Court in its aforementioned various pronouncements held that the Regulations of the MCI are binding and mandatory. Since, they have been framed with the prior approval of the Central Govt., the Regulations are also binding on the Central Govt.

In view of abovementioned Statutory provisions and the directions of Hon'ble Supreme Court to strictly adhere to the Statutory Regulations of the MCI, Executive Committee is of the opinion that the application of renewal of permission for admission of 3rd Batch of MBBS students against the increased intake i.e. from 100-150 at Maharashtra Institute of Medical Sciences and Research, Talegaon, Pune under Maharashtra University of Health Sciences, Nashik do not fall within the ambit of the directions given by the Oversight Committee and it was further decided to return the application to the Central Government.

117. <u>Recognition/ approval of Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melmaruvathurfor the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/ approval of Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melmaruvathur for the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Dean, Melmaruvathur Adhiparasakthi Institute of Medical Sciences and Research, Melmaruvathur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was

observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melmaruvathur, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Melmaruvathur Adhiprasakthi Institute of Medical Sciences & Research, Melmaruvathur does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

118. Recognition/approval of Malabar Medical College & Research Centre, Calicut, Kerala for the award of MBBS degree (150 seats) granted by the Kerala University of Health Sciences, Thrissur u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Malabar Medical College & Research Centre, Calicut, Kerala for the award of MBBS degree (150 seats) granted by the Kerala University of Health Sciences, Thrissur u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Principal, Malabar Medical College & Research Centre, Kerala, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward*

*reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Malabar Medical College & Research Centre, Calicut, Kerala, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Malabar Medical College & Research Centre, Calicut, Kerala does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

119. <u>Recognition/Approval of Srinivas Institute of Medical Sciences & Research Centre, Mangalore for the award of MBBS degree (150 seats) granted by Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Srinivas Institute of Medical Sciences & Research Centre, Mangalore for the award of MBBS degree (150 seats) granted by Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Dean, Srinivas Institute of Medical Sciences & Research Centre, Srinivasnagar, Mangalore, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the***

inspections"*. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Srinivas Institute of Medical Sciences & Research Centre, Mangalore, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Srinivas Institute of Medical Sciences & Research Centre, Mangalore does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

120. <u>Recognition/approval of Fathima Institute of Medical Sciences, Kadapa, Andhra Pradesh for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Fathima Institute of Medical Sciences, Kadapa, Andhra Pradesh for the award of MBBS degree (100 seats) granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 16.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 15.6.2016 of the Principal, Fathima Institute of Medical Sciences, Kadapa, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Fathima Institute of Medical Sciences, Kadapa, Andhra Pradesh, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Fathima Institute of Medical Sciences, Kadapa, Andhra Pradesh does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

121. <u>Recognition/Approval of Rama Medical College, Hospital & Research Centre, Hapur, Ghaziabad, Uttar Pradesh for the award of MBBS degree (150 seats) granted by Ch. Charan Singh University, Meerut, Uttar Pradesh u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Rama Medical College, Hospital & Research Centre, Hapur, Ghaziabad, Uttar Pradesh for the award of MBBS degree (150 seats) granted by Ch. Charan Singh University, Meerut, Uttar Pradesh u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Principal, Rama Medical College Hospital & Research Centre, Hapur, Ghaziabad, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals* ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Rama Medical College, Hospital & Research Centre, Hapur, Ghaziabad, Uttar Pradesh, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Rama Medical College, Hospital & Research Centre, Hapur, Ghaziabad, Uttar Pradesh does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

122. <u>Recognition/approval of Career Instt. of Medical Sciences & Hospital, Lucknow for the award of MBBS degree(100 seats)</u>

granted by Dr. RML Avadh University, Faizabad, Uttar Pradesh u/s 11(2) of the I.M.C. Act, 1956.

Read: the matter with regard to recognition/approval of Career Instt. of Medical Sciences & Hospital, Lucknow for the award of MBBS degree(100 seats) granted by Dr. RML Avadh University, Faizabad, Uttar Pradesh u/s 11(2) of the I.M.C. Act, 1956.

The Executive Committee of the Council perused the letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, Career Institute of Medical Sciences & Hospital, Lucknow, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Career Instt. of Medical Sciences & Hospital, Lucknow, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Career Instt. of Medical Sciences & Hospital, Lucknow does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

123. <u>Recognition/approval of Dhanalakshmi Srinivasan Medical College & Hospital, Perambalur, Tamilnadu for the award of MBBS degree(150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Dhanalakshmi Srinivasan Medical College & Hospital, Perambalur, Tamilnadu for the award of MBBS degree(150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Dean, Dhanalakshmi Srinivasan Medical College & Hospital, Peramballur, Tamilnadu, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Dhanalakshmi Srinivasan Medical College & Hospital, Perambalur, Tamilnadu, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Dhanalakshmi Srinivasan Medical College & Hospital, Perambalur, Tamilnadu does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

124. <u>Recognition/Approval of Madha Medical College and Hospital, Thandalam, Chennai, Tamilnadu for the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Madha Medical College and Hospital, Thandalam, Chennai, Tamilnadu for the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 23.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 17.6.2016 of the Director, Madha Medical College & Research, Chennai, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for

the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Madha Medical College and Hospital, Thandalam, Chennai, Tamilnadu, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Madha Medical College and Hospital, Thandalam, Chennai, Tamilnadu does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

125. <u>Recognition/Approval of Major S.D. Singh Medical College and Hospital, Fathegarh, Farrukhabad for the award of MBBS degree (100 seats) granted by ChhatrapatiShahuJiMaharaj University, Kanpur u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Major S.D. Singh Medical College and Hospital, Fathegarh, Farrukhabad for the award of MBBS degree (100 seats) granted by ChhatrapatiShahuJiMaharaj University, Kanpur u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 19.6.2016 of the Principal, Major S.D. Singh Medical College & Hospital, Fathehgarh, Farrukhabad, Uttar Pradesh, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to*

*MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Major S.D. Singh Medical College and Hospital, Fathegarh, Farrukhabad, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Major S.D. Singh Medical College and Hospital, Fathegarh, Farrukhabad application does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

126. Recognition/approval of Sapthagiri Institute of Medical Sciences & Research Centre, Bangalore for the award of MBBS degree(150 seats) granted by Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Sapthagiri Institute of Medical Sciences & Research Centre, Bangalore for the award of MBBS degree(150 seats) granted by Rajiv Gandhi University of Health Sciences, Bangalore u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Principal, Sapthagiri Institute of Medical Sciences & Research Centre, Bangalore, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the***

inspections"*. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Sapthagiri Institute of Medical Sciences & Research Centre, Bangalore, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Sapthagiri Institute of Medical Sciences & Research Centre, Bangalore does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

127. <u>Recognition/Approval of Annapoorna Medical College & Hospital, Salem, Tamilnadu the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Annapoorna Medical College & Hospital, Salem, Tamilnadu the award of MBBS degree (150 seats) granted by the Tamilnadu Dr. MGR Medical University, Chennai u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 20.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Dean, Annapoorana Medical College & Hospital, Salem, Tamil Nadu and the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Annapoorna Medical College & Hospital, Salem, Tamilnadu, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Annapoorna Medical College & Hospital, Salem, Tamilnadu does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

128. <u>Recognition/Approval of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh for the award of MBBS degree (150 seats) granted by Barkatullah University, Bhopal u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh for the award of MBBS degree (150 seats) granted by Barkatullah University, Bhopal u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Dean, Chirayu Medical College & Hospital, Bhopal M.P., the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals* ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh, application was received for recognition of MBBS degree awarded by the institute u/s 11(2) of IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Chirayu Medical College & Hospital, Bhopal, Madhya Pradesh does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

129. <u>Recognition/approval of Punjab Institute of Medical Sciences, Jalandhar, Punjab for the award of MBBS degree(150 seats)</u>

granted by Baba Farid University of Health Sciences, Faridkot u/s 11(2) of the IMC Act, 1956.

Read: the matter with regard to recognition/approval of Punjab Institute of Medical Sciences, Jalandhar, Punjab for the award of MBBS degree(150 seats) granted by Baba Farid University of Health Sciences, Faridkot u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 21.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 18.6.2016 of the Director, Punjab Institute of Medical Sciences, Jalandhar, Punjab, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Punjab Institute of Medical Sciences, Jalandhar, Punjab, application was received for recognition/approval of Punjab Institute of Medical Sciences, Jalandhar, Punjab for the award of MBBS degree(150 seats) granted by Baba Farid University of Health Sciences, Faridkot u/s 11(2) of the IMC Act, 1956.This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Punjab Institute of Medical Sciences, Jalandhar, Punjab does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

130. <u>Recognition/approval of Sri Aurobindo Institute of Medical Sciences, Indore for the award of MBBS degree granted by Devi Ahilya vishwavidyalaya, Indore against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Sri Aurobindo Institute of Medical Sciences, Indore for the award of MBBS degree granted by Devi Ahilya vishwavidyalaya, Indore against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 21.6.2016 of the Dean, Sri Aurobindo Medical College & PG Institute, Indore, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Sri Aurobindo Institute of Medical Sciences, Indore, application was received for recognition/approval of Sri Aurobindo Institute of Medical Sciences, Indore for the award of MBBS degree granted by Devi Ahilya vishwavidyalaya, Indore against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Sri Aurobindo Institute of Medical Sciences, Indore does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

131. <u>Recognition/approval of D.Y. Patil Medical College, Kolhapur for the award of MBBS degree granted by D. Y. Patil Education Society (Deemed University) Kolhapur against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of D.Y. Patil Medical College, Kolhapur for the award of MBBS degree granted by D. Y. Patil Education Society (Deemed University) Kolhapur against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 13/22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 10/20.6.2016 of the Dean, D.Y. Patil Medical College, Kolhapur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of

MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of D.Y. Patil Medical College, Kolhapur, application was received for recognition/approval of D.Y. Patil Medical College, Kolhapur for the award of MBBS degree granted by D. Y. Patil Education Society (Deemed University) Kolhapur against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of D.Y. Patil Medical College, Kolhapur does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

132. <u>Recognition/approval of National Institute of Medical Sciences & Research, Jaipur for the award of MBBS degree granted by NIMS University, Jaipur against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of National Institute of Medical Sciences & Research, Jaipur for the award of MBBS degree granted by NIMS University, Jaipur against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 16.6.2016 of the Principal & Controller, National Institute of Medical Sciences & Research, Jaipur, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

> *"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals **u/s 10A of IMC Act** for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "**and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"**. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*
>
> *To permit all applicant colleges "**which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",** be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for

the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of National Institute of Medical Sciences & Research, Jaipur, application was received for recognition/approval of National Institute of Medical Sciences & Research, Jaipur for the award of MBBS degree granted by NIMS University, Jaipur against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of National Institute of Medical Sciences & Research, Jaipur does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

133. <u>Recognition/approval of Era's Medical College & Hospital, Lucknow for the award of MBBS degree granted by Dr. R.M.L. Avath University, Faizabad against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.</u>

Read: the matter with regard to recognition/approval of Eraôs Medical College & Hospital, Lucknow for the award of MBBS degree granted by Dr. R.M.L. Avath University, Faizabad against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956.

The Executive Committee of the Council perused the letter dated 22.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 20.6.2016 of the Dean/Principal, EraôLucknow Medical College & Hospital, Lucknow, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-17",*** *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh*

*assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &

(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Eraûs Medical College & Hospital, Lucknow, application was received for recognition/approval of Eraûs Medical College & Hospital, Lucknow for the award of MBBS degree granted by Dr. R.M.L. Avath University, Faizabad against the increased intake i.e. from 100 to 150 seats u/s 11(2) of the IMC Act, 1956. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Eraûs Medical College & Hospital, Lucknow does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

134. <u>Recognition/approval of Subharti Medical College, Meerut for 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.</u>

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 perused the letter dated 15.06.2016 forwarding therewith a copy of the compliance /representation/documents dated 13.06.2016 of the Principal/ Dean, Subharthi Medical College, Meerut, the direction issued by the Oversight Committee vide its communication dt. 13/06/2016 and the agenda item which reads as under:-

"…. The Committee had considered the submission made by the Secretary, Govt. of India, Ministry of Health & Family Welfare that around 150 proposals ***u/s 10A of IMC Act*** *for MBBS course and 118 proposals for Super Speciality courses for the Academic Year 2016-17 had not been notified for approval "****and out of these there were a number of cases where opportunity may not have been afforded to the applicant colleges for furnishing compliance to the deficiencies noticed in the inspections"****. The Oversight Committee vide its order dated 13.06.2016 had decided as under:*

*To permit all applicant colleges "****which have not been afforded an opportunity to present their compliance to deficiencies communicated by MCI in the inspection/verification reports for 2016-***

17", *be given an opportunity to furnish their compliance reports, afresh, to MoHFW before 22 June 2016 (Wednesday). MCI would cause to forward reports of such fresh assessment/Inspection of each applicant college to MHFW by 20 July (Wednesday). MHFW would, thereafter, forward its proposed decision in each case alongwith the applications and fresh assessment reports to obtain to OC, latest by 25 July 2016 for consideration.*é .ò

The directions issued by the Oversight Committee vide its communication dated 13/06/2016 were considered by the Executive Committee and it was observed that the satisfaction of the following two conditions was precedent for the implementation of the aforesaid directions. In fact a reading of the communication dated 13/06/2016 itself provides the following two conditions:-

(1) The application should be u/s 10A of IMC Act for establishment of a new medical college or grant of renewal of permission to admit fresh batch of MBBS students or grant of permission for increase in intake of MBBS course & grant of renewal of permission to admit fresh batch of MBBS students against increased intake; &
(2) The applicant ï medical college had not been afforded an opportunity for furnishing compliance to the deficiencies noticed in the inspections conducted by the Council.

Upon perusal of Agenda Note, the Executive Committee observed that in the case of Subharti Medical College, Meerut, application was received for recognition/approval of Subharti Medical College, Meerut for 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. This application has not been received u/s 10A of IMC Act, 1956.

In view of above, the Executive Committee of the Council is of the opinion that the case of Subharti Medical College, Meerut does not fall within the ambit of the directions issued by the Oversight Committee and it was further decided to return the application to the Central Government.

135. <u>Remuneration to the Secretary and support staff in the Office of the Supreme Court mandated Oversight Committee on MCI.</u>

Read: the matter with regard to remuneration to the Secretary and support staff in the Office of the Supreme Court mandated Oversight Committee on MCI.

The Executive Committee of the Council perused the letter dated 22.06.2016 of the Secretary, Supreme Court mandated Oversight Committee requesting for release of payment for the following staff engaged by them initially for a period of six months :-

Sl. No.	Name & Designation	Remuneration (per month) (in Rs.)	Date of engagement
1.	Sh. P. Seshkumar, Secretary (OC)	1,77,750/-	23/05/2016
2.	Sh. M.C. Gupta, Consultant (Admn. & Accounts)	50,000/-	13/06/2016
3.	Sh. Sarvesh Kaushik, Receptionist ï cum ï Office Assistant (Through outsourcing Agency)	25,442/- + Service Tax	13/06/2016
4.	Two Security Guards (Through outsourcing Agency)	15,315/- each + Service Tax	13/06/2016
5.	Two House Keepers (Through outsourcing Agency)	13,918/- each + Service Tax	13/06/2016

The Executive Committee of the Council approved the remuneration of the above mentioned staff of the Oversight Committee as well as the Impresent Account of Rs. 20000 per month (Advance)

The minutes of the above item were read and confirmed in the meeting itself.

136. Extension of Service of Dr. Srikanta Barik.

Read: the matter with regard to extension of service of Dr. Srikanta Barik.

The Executive Committee of the Council decided to extend the contractual services of Dr. Srikanta Barik, Consultant for a further period of one year.

The minutes of the above item were read and confirmed in the meeting itself.

137. Extension of Service of Sh. Nirmal Singh.

Read: the matter with regard to extension of service of Sh. Nirmal Singh.

The Executive Committee of the Council decided to extend the contractual services of Sh. Nirmal Singh, Consultant for a further period of one year.

The minutes of the above item were read and confirmed in the meeting itself.

138. Interview for the post of Deputy Secretary (Medical) held on 28/06/2016 in the Council Office.

Read: the matter with regard to interview for the post of Deputy Secretary (Medical) held on 28/06/2016 in the Council Office.

The Executive Committee of the Council approved the recommendation of the Selection Committee as under:-

"The Selection Committee for the post of Deputy Secretary (Medical) in the Council office consisting the following members met on 28/06/2016: -

Dr. Jayshree Mehta, President	-	*Chairman*
Dr. C.V. Bhirmanandham, Vice President	-	*Member*
Dr. Baldev Singh Aulakh	-	*Member*
Dr. G.B. Gupta	-	*Member*
Dr. Reena Nayyar, Secretary I/c	-	*Member Secretary*

The Committee, after interview and discussion recommends the following as selected candidate for the post of Deputy Secretary (Medical):

Selected

1. *Dr. Saurabh Sharma*
2. *Dr. Parul Goel*
3. *Dr. Arati Sharma*
4. *Dr. Vishwanath*

Waiting List

1. *Dr. Anand Reddy*

The minutes of the above item were read and confirmed in the meeting itself.

139. Interview for the post of Joint Secretary held on 27/06/2016 in the Council Office.

Read: the matter with regard to interview for the post of Joint Secretary held on 27/06/2016 in the Council Office.

The Executive Committee of the Council approved the recommendation of the Selection Committee as under:-

"The Selection Committee for the post of Joint Secretary in the Council office consisting the following members met on 27/06/2016: -

Dr. Jayshree Mehta, President	-	*Chairman*
Dr. C.V. Bhirmanandham, Vice President	-	*Member*
Dr. K.K. Gupta	-	*Member*
Dr. G.B. Gupta	-	*Member*
Dr. Reena Nayyar, Secretary I/c	-	*Member Secretary*

The Committee, after interview and discussion recommends the following as selected candidates for the post of Joint Secretary:

Selected

1. *Dr. T. Gangadhara Goud*
2. *Dr. Jayesh Dutt*

Waiting List

1. *Dr. Rajendra Wabale*

The minutes of the above item were read and confirmed in the meeting itself.

140. **Minutes of the Migration Sub-Committee meeting held on 30.06.2016**

Read: the minutes of the Migration Sub-Committee meeting held on 30.06.2016.

The Executive Committee of the Council approved the minutes of the Migration Sub-Committee meeting held on 30.06.2016.

141. Minutes of the meeting of the Sub-Committee for finalization of Assessors' Guide, Standard Assessment Form-I, II & III & Form-A,B,C and Declaration Form for Faculty & Residents for the academic year 2017-18.

Read: the minutes of the meeting of the Sub-Committee for finalization of AssessorsôGuide, Standard Assessment Form-I, II & III & -A,B,C and Declaration Form for Faculty & Residents for the academic year 2017-18.

The Executive Committee of the Council approved the recommendations of the Sub-Committee for finalizing the AssessorsôGuide, Standard Assessment Form-I, II & III & -A,B,C and Declaration Form for Faculty & Residents for the academic year 2017-18.

The meeting ended with a vote of thanks to the Chair.

(Dr. Reena Nayyar)
Secretary I/c.

New Delhi, dated
30.06.2016

APPROVED

(Dr. Jayshree Mehta)
President