

Medical Council Of India vs Indian Doctors From Russia Welfare ... on 8 March, 2002

Equivalent citations: AIR 2002 SUPREME COURT 1565, 2002 (3) SCC 696, 2002 AIR SCW 1461, 2002 ALL. L. J. 964, 2002 (2) SUPREME 279, (2002) 2 SUPREME 279.2, (2002) 2 JT 589 (SC), 2002 (1) UJ (SC) 646, 2002 (4) SRJ 249, 2002 (2) SLT 466, (2002) 2 UPLBEC 1161, (2002) 2 ALL WC 1120, (2002) 2 SERVLR 633, (2002) 2 SCT 344, (2002) 2 SCALE 521, (2002) 2 ESC 72

Bench: S.Rajendra Babu, K.G. Balakrishnan, P. Venkatarama Reddi

CASE NO.:

Appeal (civil) 2779 of 2000

PETITIONER:

MEDICAL COUNCIL OF INDIA

Vs.

RESPONDENT:

INDIAN DOCTORS FROM RUSSIA WELFARE ASSOCIATIONS & ORS.

DATE OF JUDGMENT: 08/03/2002

BENCH:

S.Rajendra Babu, K.G. Balakrishnan & P. Venkatarama Reddi

JUDGMENT:

[WITH C.A. Nos. 2808/2000, 2809/2000, 2811-2863/2000, 2787-2803/2000, 2804-2807/2000, 2810/2000, 2782-2786/2000, T.P. (C) No. 103/2000 and W.P. (C) No. 215/2001] J U D G M E N T
RAJENDRA BABU, J. :

CIVIL APPEAL NOS. 2779/2000, 2808/2000, 2809/2000, 2811-2863/2000, 2787-2803/2000, 2804-2807/2000, 2810/2000, 2782-2786/2000 Writ Petitions were filed in different High Courts by persons who had undergone courses in medicine in medical colleges in the erstwhile USSR. After disintegration of USSR, their admissions ran into difficulties either not having studied in recognised colleges or partly in recognised and partly in non-recognised colleges or they had not completed their courses in full. The Medical Council of India (for short 'MCI') also entertained serious doubts as to the genuineness of some courses undergone by

various students, thus leading to difficulties on the question of recognising their degrees and their registration as Medical Practitioners. MCI took the stand that when their initial admission in non-recognised institution could not be accepted, their transfer to recognised colleges subsequently cannot be of any benefit. MCI also passed various types of orders either during the pendency of the proceedings before the courts or otherwise in relation to recognition of the degrees or registration of such persons as practitioners. The Delhi High Court allowed those writ petitions and granted reliefs to the concerned doctors which orders stood affirmed on appeal, while Allahabad High Court granted interim order, which stood affirmed on appeal MCI is in appeal before us.

Several contentions have been raised in support of the orders under appeal and opposing them. In fact, this Court also made an interim order on April 17, 2000.

This Court, while hearing this matter on different occasions, made the observations in the best interest of all concerned that the Government of India should formulate an appropriate policy bearing in mind the human problem arising in relation to the doctors in question.

Now, Section 13 of the Indian Medical Council Act, 1956 [hereinafter referred to as 'the Act'] has been amended by Act No. 34 of 2001 which would cover situations as arising in the present cases. The Regulations for conduct of the screening test and for issue of Eligibility Certificate by the MCI to the students proceeding abroad for studies in medicine have been approved by the Government of India and sent to the MCI. The MCI has sent the same on 18.2.2002 to the Government of India Press for publication in the Gazette and those Regulations, in brief, provide as follows :-

- (i) An Indian citizen possessing a primary medical qualification awarded by any of the medical institutions outside India and desirous of getting provisional or permanent registration with the Medical Council of India or any State Medical Council on or after 15.3.2002 shall have to qualify a Screening test conducted by the prescribed authority for the purpose of their registration in India. A person seeking permanent registration shall not have to qualify the Screening test if he or she had already qualified the same before getting his or her provisional registration.
- (ii) The primary medical qualification possessed by the Indian citizen should be a recognised medical qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated.
- (iii) Any Indian citizen who is desirous of taking admission in an undergraduate medical course abroad on or after 15th March, 2002 shall have to obtain an Eligibility Certificate from the MCI stating that he or she fulfils the minimum eligibility criteria laid down by the MCI for admission in MBBS course in India. He shall also have to produce the same at the time of appearing in the Screening test, after completion of

his degree abroad, for the purpose of obtaining registration in India.

Under the provisions of the Act a person has to successfully complete compulsory internship of one year after getting provisional registration and all persons who applied for provisional registration and have to do the internship on or after 15.3.2001 will be required to qualify the screening test as per the provisions of the Screening Test Regulations, 2002, as they would become eligible for permanent registration on or after 15.3.2002, that is, after successful completion of one year internship. However, the Government noticed that there are a number of persons who have applied to the MCI for grant of provisional registration after completion of their degree abroad prior to 15.3.2001 and have not been granted provisional registration by the MCI for the various reasons, such persons fall into following categories :-

- (a) Those who did not undergo the complete duration of six years of the medicine course from institutes recognised by MCI;
- (b) Those who did not fulfil the minimum eligibility criteria for joining medical course laid down by MCI at the time of their admission in the medical institutions abroad, particularly in the erstwhile States of USSR; and
- (c) Those who came back with medical degree which are not recognised by the MCI.

In order to regulate the grant of registration to such persons who have completed their degree abroad prior to March 15, 2001, the following guidelines are placed before this Court by the Government of India :-

(A) The case of all persons who applied for registration to MCI prior to 15.3.2001 shall be dealt with according to the provisions of the Act as existing prior to the commencement of the IMC (Amendment) Act, 2001 subject to the following :-

(i) Those students who obtained degrees where the total duration of study in recognised institutions is less than six years (i.e. where a part of the study has been in unrecognised institutions, or the total length of study in a recognised institution is short of six years), shall be granted registration by MCI provided that the period of shortfall is covered by them by way of additional internship over and above the regular internship of one year. In other words, for such categories of students, the total duration of study in recognised institution plus the internship, would be seven years, which is the requirement even otherwise.

(ii) Where students who did not meet the minimum admission norms of MCI for joining undergraduate medical course, were admitted to foreign institutes recognised by MCI, this irregularity be condoned. In other words, the degrees of such students be treated as eligible for registration with MCI.

(B) All students who have taken admission abroad prior to 15.3.2002 and are required to qualify the Screening Test for their registration as per the provisions of the Screening Test Regulations, 2002 shall be allowed to appear in the Screening test even if they also come in the categories of circumstances contained in A(ii) above, as the relaxation contained therein would also be applicable in their case. In other words, any person at present undergoing medical education abroad, who did not conform to the minimum eligibility requirements for joining an undergraduate medical course in India laid down by MCI, seeking provisional or permanent registration on or after 15.3.2002 shall be permitted to appear in the Screening Test in relaxation of this requirement provided he had taken admission in an Institute recognised by MCI. This relaxation shall be available to only those students who had taken admission abroad prior to 15.3.2002. From 15.3.2002 and onwards all students are required to first obtain an Eligibility Certificate from MCI before proceeding abroad for studies in Medicine.

(C) The categories of students not covered in A(i) & (ii) above and whose entire period of study has been in medical college not recognised by MCI, will be allowed to appear in the Screening test for the purpose of their registration provided they fulfil all the conditions laid down in the IMC (Amendment) Act, 2001. In other words, the qualification obtained by them must be qualification recognised for enrolment as medical practitioner in the country in which the institution awarding the same is situated and they must be fulfilling the minimum eligibility qualification laid down by MCI for taking admission in an undergraduate medical course in India. They shall not be entitled for any relaxation.

In the special features and circumstances arising in these cases, it is unnecessary to consider the various contentions urged on behalf of the parties but, we propose to dispose of these matters by approving the guidelines set forth above in exercise of powers under Article 142 of the Constitution and these guidelines will be applicable to all such persons who are similarly situated whether they are parties before this Court or not. In respect of those who have already applied for registration to MCI, the same shall be granted or refused within a period of 15 days from today in terms of this order. On grant of such registration, the students shall undergo the internship or the housemanship, if needed. It is made clear that these guidelines approved by us are by way of one time measure. Future cases will be governed by the revised Regulations framed by MCI as approved by the Government.

The orders of the High Courts shall stand displaced by this order and these appeals shall stand disposed of accordingly. Any proceeding pending in any High Court relating to these matters shall stand withdrawn to this Court and disposed of in the same terms as aforesaid.

The writ petition will stand disposed of accordingly.

Writ petition filed in the High Court is withdrawn and disposed of in the same terms as aforesaid.

.J. [S. RAJENDRA BABU] .J. [K.G. BALAKRISHNAN] .J. [P. VENKATARAMA REDDI] MARCH 8, 2002.