

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JUNE 2018

PRESENT

THE HON'BLE MR. JUSTICE H.G.RAMESH

AND

THE HON'BLE MR. JUSTICE MOHAMMAD NAWAZ

W.P.NOs.25593 & 26302 OF 2018 (EDN-MED-ADM)

BETWEEN:

1. KOPPAL INSTITUTE OF MEDICAL SCIENCES
GANGAVATHI ROAD
KOPPAL-583 231
REPRESENTED BY ITS DIRECTOR
 2. DIRECTORATE OF MEDICAL EDUCATION
ANAND RAO CIRCLE
BANGALORE-560 009
REPRESENTED BY THE DIRECTOR ...PETITIONERS
- (BY MS.SUMANA BALIGA M., ADVOCATE)

AND:

1. UNION OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
NIRMAN BHAVAN, MOTILAL NEHRU MARG
NEW DELHI-110 011
REPRESENTED BY ITS SECRETARY
 2. MEDICAL COUNCIL OF INDIA
POCKET NO.14, SECTOR 8
DWARAKA, NEW DELHI-110 077
REPRESENTED BY ITS SECRETARY ...RESPONDENTS
- (BY SRI C.SHASHIKANTHA, ASST. SOLICITOR GENERAL FOR R1;
SRI N.KHETTY, ADVOCATE FOR R2)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE PUBLIC NOTICE DATED 31.05.2018 (ANNEXURE-H) WHEREBY

THE FIRST RESPONDENT HAS NOT RENEWED PERMISSION FOR 4TH BATCH OF MBBS COURSE IN THE PETITIONER INSTITUTION FOR THE ACADEMIC YEAR 2018-19 ETC.

THESE WRIT PETITIONS COMING ON FOR HEARING ON INTERLOCUTORY APPLICATION, THIS DAY, **H.G.RAMESH J.**, MADE THE FOLLOWING:

ORDER ON THE INTERIM PRAYER

H.G.RAMESH, J. (Oral):

1. By seeking amendment of the writ petitions, the order dated 31.05.2018 passed by Government of India (Ministry of Health & Family Welfare) is sought to be challenged by the petitioners. Government of India, by the aforesaid order dated 31.05.2018, has declined to renew the permission for admission of 4th batch of 150 MBBS students to the petitioner-Institution (*Koppal Institute of Medical Sciences, Koppal, Karnataka*) for the academic year 2018-19. The Institution is accordingly directed not to admit any student for MBBS course for the academic year 2018-19.

2. IA.No.3/2018 filed for amendment of the writ petitions to challenge the aforesaid order dated 31.05.2018 is allowed. Learned Counsel for the petitioners to file an amended writ petition by noting the amendment granted in the original writ petitions.

3. In view of the urgency pleaded to consider the interim prayer, we have heard the learned Counsel for the parties. The interim prayer is to permit the petitioner–Institution to admit 150 students to MBBS course for the academic year 2018-19.

4. As could be seen from the aforesaid order dated 31.05.2018, the Executive Committee of the Medical Council considered the assessment report based on the inspection of the Institution on 21st and 22nd of August, 2017 and has noticed the following deficiencies in the Institution:

1. Deficiency of faculty is 36.97% as detailed in the report.
2. Shortage of Residents is 56.00% as detailed in the report.
3. Teaching beds are inadequate as under:-

#	Department	Beds		
		Required	Available	Deficit
1	General Medicine	100	72	28
2	Paediatrics	45	26	19
3	Psychiatry	10	08	02
4	Skin & VD	10	08	02
5	General Surgery	100	92	08
6	Orthopaedics	45	32	13
7	Ophthalmology	15	10	05
8	ENT	15	10	05
9	O.G.	60	47	13
	Total	400	305	95

4. OPD attendance upto 2 p.m. on day of assessment is 545 against requirement of 900.
5. Speech Therapy is not available.
6. Histopathology workload is NIL on day of assessment.
7. Paramedical & Non-teaching staff: 93 Paramedical & Non-teaching staff are available against requirement of 184.
8. Wards: Pantry is not available in any ward.
9. Casualty: 12 beds are available against requirement of 20.
10. Radiodiagnosis department: CT Scan is not available. 2 Mobile X-ray machines are available against requirement of

4. 2 Static X-ray, machines are available against requirement of 3.

11. ETO Sterilizer is not available.
12. Examination Hall: 1 Examination Hall of 300 capacity is available against requirement of 2 of 250 each.
13. Lecture Theaters: Hospital Lecture Theater is not available.
14. Central Library: Available books are 3,227 against requirement of 5,000.
15. Students' Hostels: A.C. Internet & Computer are not available in Study room.
16. Residents' Hostels: A.C. Internet & Computer are not available in study room.
17. Pathology department: There is no seating arrangement in Museum. There is no facility for storage of blocks & slides.

5. Learned Counsel appearing for the Institution submitted that the deficiencies will be rectified and the interim prayer may be granted.

6. Sri N.Khetty, learned Counsel appearing for the Medical Council of India submitted that in the light of the order of the Supreme Court dated 18.06.2018 made in Writ Petition (Civil) No.634/2018, permission may be granted to the Institution to admit 150 students for MBBS course for the academic year 2018-19. We may here itself state that the aforesaid order of the Supreme Court will not enure to the benefit of the petitioners as it is stated therein that it shall not be treated as a precedent.

7. Sri C.Shashikantha, learned Assistant Solicitor General of India appearing for the Union of India, justified the order dated 31.05.2018 passed by Government of India

by referring to Regulation 8(3)(1)(b) of *Establishment of Medical College Regulations, 1999* ('the Regulations'). He submitted that rectification of the deficiencies subsequent to any inspection of the Institution or undertaking by the Institution to rectify the deficiencies can't be considered for renewal of permission in that academic year. He further submitted that the order dated 31.05.2018 declining to grant permission to the petitioner-Institution is in accordance with Regulation 8(3)(1)(b) of the Regulations referred to above.

8. It is relevant to refer to Regulation 8(3)(1)(b) of the Regulations; it reads as follows:

"8. GRANT OF PERMISSION:

(3) (1).....

(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."

(Underlining supplied)

9. In view of the kind of deficiencies noticed in the order dated 31.05.2018 which is extracted above, *prima facie*, we find that rejection of renewal of permission by Government of India is in accordance with Regulation 8(3)(1)(b) of the

Regulations. As per the said Regulation, rectification of the deficiencies subsequent to any inspection of the Institution or undertaking of the Institution to rectify the deficiencies can't be considered for renewal of permission to admit students in that academic year. In view of the clear bar imposed under Regulation 8(3)(1)(b), we are constrained to reject the interim prayer. Ordered accordingly.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

LB