

Vinay Shankar

Vs

Director General of Health Services and Others

I.A. No. 10 of 1990 in Writ Petn. (C) NO.1253 of 1989

(M.N. Venkatachaliah, R.M. Sahai JJ)

26.11.1990

ORDER

1. The Indian Medical Council has moved this application for the modification of the order dated 8-2-1990 of this Court. This application is made in the context of certain directions issued by this Court in W. P. No. 1253 of 1989 on an application moved by the State of Maharashtra.

2. It is relevant to recall that the State of Maharashtra filled-up with some of the State's candidates certain seats in its Medical College which were otherwise unavailable to it having been earmarked for the All-India quota. That arrangement having been found to be in conflict with the directions issued by this Court on 20-12-1989 in the matter of allotment of seats to the candidates in waitlist in the All-India quota, some seats so allotted by the State in favour of its own local students came to exceed the permitted in-take in the concerned medical colleges. It was observed by this Court in the course of its order dated 8-2-1990 that the State Government may absorb those admissions by an appropriate and corresponding increase in the in-take.

3. The stand of the Indian Medical Council is that certain observations made in the course of the order and in particular para 8 thereof, are susceptible of being construed as a mandate to the Indian Medical Council to permit such increase in the in-take that those observations and directions having been made without an opportunity for the Medical Council of being heard should be treated as merely tentative and not final and that the Indian Medical Council, be heard in the matter

It is not necessary to go into the question whether, having regard to the nature of the directions issued the Indian Medical Council should have been heard. Sufficing it is to say that the observation cannot be construed as compelling the Indian Medical Council to abdicate its statutory obligation and to permit the increase of the in-take sought for by the State of Maharashtra without the State of Maharashtra being required to satisfy the Council as to the availability of instructional facilities to support the additional in-take. Indeed, during the pendency of this application, we are told the State of Maharashtra did furnish the requisite, particulars and data which, according to the State, should even otherwise justify the increase in the in-take so absorb the extra admissions. The case of the State of Maharashtra appears to be that if the seats kept vacant in the other colleges in the State are taken into account the extra in-take would only be marginal and could, at all events, be justified on the basis of the bed-strength and the instructional facilities available in the colleges concerned. It is submitted on behalf of the State of Maharashtra that the Medical Council, after inspection, was in fact satisfied in the matter.

4. We, however, make it clear that the order dated 8th February, 1990 does not inter-dict the performance and discharge of the statutory functions and obligations of the Medical Council. It is open to the Medical Council to look into the matter and take appropriate decisions expeditiously, unfettered by its apprehension that the order dated 8-2-1990 compels it to grant the increase even without applying its mind. In view of the fact that the students have been admitted and the State of Maharashtra appears to have furnished the requisite particulars, the Medical Council should act most expeditiously and find a way to act in aid of the State's request, unless there are cornpelling reasons against it. With these observations, I.A. No. 10 is disposed of. The State of Maharashtra is at liberty to move this Court if an appropriate decision is not taken by the Council most expeditiously.

Order accordingly.

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