SUPREME COURT OF INDIA

Medical Council of India

Vs.

J.Saai Prasanna & Ors.

SLP No.23641-23653 of 2008

(R.V. Raveendran and A.K.Patnaik,JJ.,)

09.05.2011

ORDER

1. The Medical Council of India (`MCI' for short), the petitioner herein, challenges the order of the Andhra Pradesh High Court dated 2.5.2008 in a batch of writ petitions filed by students possessing medical qualifications from a foreign University, directing (i) MCI to grant provisional registration under Section 25(1) of the Indian Medical Council Act, 1956 (`Act' for short) to all those students who have completed the screening test in accordance with the provisions of section 13(4A) of the Act read with Screening Tests Regulations, 2002 (`Screening Regulations' for short); and (ii) MCI/State Medical Council, as the case may be, to grant permanent registration under section 25(4) and section 15 of the Act on the production of valid certificates in proof of completion of compulsory internship for one year.

2. The private respondents are students who claim that they have completed the MBBS course in International Medical and Technological University (`IMT University' for short), a foreign University situated in Tanzania. The said university was established in Tanzania, by Vignan Education Foundation, an organization based in India. They fall under two categories. The first category are those who underwent the first two terms (Pre-clinical and Para clinical courses of 18 months each) between October 1998 and May 2002 at Katuri Medical College and Hospital, Guntur (which was, at that point of time, an unrecognized medical college) and the last term (the clinical course of 18 months) at Tanzania between June 2002 to November 2003/January 2004. The second category of students are those who underwent the entire course of study at Tanzania.

3. All these students, after successful completion of the course, underwent the Screening Test conducted by the National Board of Examinations as provided under the Screening Regulations. Some of the students were declined provisional registration and therefore could not do the internship in India and obtain permanent registration. Some of the students were granted provisional registration, completed the internship, but were declined permanent registration. Some students, after securing provisional registration and completing the internship, were granted permanent registration, but subsequently their registrations were cancelled. They all approached the High Court of Andhra Pradesh for relief.

4. The said petitions were resisted by MCI primarily on the following two grounds: (i) where an Indian student does any study in a medical college in India, established without the permission from the Central Government under Section 10A of the Act, is automatically disqualified from getting recognition of his medical degree, even if such degree is granted by a foreign University; and (ii) if a student's primary medical qualification is not a recognized qualification for enrolment as a medical practitioner in the country in which the Institution granting the medical qualification is situated, he will not be entitled to participate in the screening test examination.

5. The High Court, after exhaustive consideration, allowed the writ petitions holding that the writ petitioners fulfilled the requirements of the section 13(4A) of the Act and regulation (4) of the Screening Regulations, that is, (i) they were citizens of India, (ii) they had obtained a medical qualification outside India, granted by a medical institution (IMT University) in Tanzania, (iii) the medical qualification granted by the said medical institution in Tanzania is recognized for the purpose of enrolment as a medical practitioner in Tanzania, (iv) the Indian Embassy in Tanzania has confirmed that the medical qualification granted by IMT University, Tanzania (which granted the medical qualifications to the writ petitioners) was a recognized qualification for enrolment as a medical practitioner in Tanzania; and (v) the writ petitioners appeared and qualified in the screening test conducted by National Board of Examinations in India. As a consequence, the High Court held that the foreign medical qualification of the writ petitioners was deemed to be a recognized medical qualification for the purpose of the Act and that subject to completion of the required internship, they were entitled to be enrolled on the medical register maintained by any State Medical Council or to have their names entered in the Indian Medical Register.

6. Section 13(4A) of the Act and Regulation 4 of the Screening Regulations referred to in the decision are extracted below:

> "13. Recognition of medical qualification granted by certain medical institutions whose qualifications are not included in the First or Second Schedule –
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> xxx xxx xxx
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> 4A. A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognized for enrolment as medical practitioner in that country after such date as may be specified by the Central Government under sub-section (3), shall not be entitled to be enrolled on any Medical Register maintained by a State Medical Council or to have his name entered in the Indian Medical Registers unless he qualifies the screening te4st in India prescribed for such purpose and such foreign medical qualification after such person qualifies the said screening test shall be deemed to be the recognized medical qualification for the purposes of this Act for that person."

Regulation 4 of the screening Regulations as it originally stood is extracted below:

> "4. Eligibility Criteria - No person shall be allowed to appear in the screening test unless :
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> (i) he/she is a citizen of India either whose name and the institution awarding it are included in the World Directory of Medical Schools, published by the world Health organization, or and possesses any primary medical qualification, which is confirmed by the Indian Embassy concerned to be a recognized qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated;
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> (ii) He/she had obtained `Eligibility Certificate' from the Medical Council of India as per the `Eligibility Requirement for taking admissions in an undergraduate medical course in a Foreign Medical Institution Regulations, 2001'. This requirement shall not be necessary in respect of India citizens, who have acquired the medical qualifications from foreign medical institutions or have obtained admission in foreign medical institution before 15th March, 2002."

7. The High Court by the impugned judgment elaborately considered the various issues with reference to section 13(4A) of the Act and Regulation 4 of the Screening Regulations, and answered the questions of law as under:

> "(i) When the Parliament chose to treat all Indian citizens who obtained medical qualification from abroad as one category, there is no scope to resort to classifying those who underwent part of the course in Indian institutions as a separate category.
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> (ii) Medical qualification granted by IMT University, Tanzania, is recognized for enrolment as a medical practitioner in Tanzania and it is neither specifically nor impliedly excluded from the purview of Section 13(4A) of the Act.
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> (ii) Once a Medical Graduate of a foreign university qualifies the screening test, the primary medical qualification acquired by such person from the medical institution abroad is deemed to be a recognized medical qualification for the purposes of the Act. Such person cannot be denied grant of permanent/provisional registration. On a careful consideration of the facts and the legal position, we find no error in the impugned judgment of the High Court. The special leave petitions are therefore liable to be dismissed.

8. MCI contends that where student of a foreign University undergo a part of his training in an Institution in India which has not obtained the permission from the Central Government/MCI, as required under section 10A of the Act, such students are not eligible for registration as medical practitioners in India. The requirements for recognition of a medical qualification granted by a medical institution outside India are different from requirements

for recognition of medical qualification granted by Universities or medical institutions in India. It is no doubt true that if a student in India, does a course of study in medicine in a medial college in India which does not have the permission of the Central Government under Section 10A of the Act, the medical qualification granted to any student of that college will not be a recognized medical qualification for the purposes of the Act and consequently such student will not be entitled to be enrolled in the India Medical Register or State Medical Register. But medical qualifications granted by medical institutions outside India are dealt within a special provision, that is Section 13(4A) of the Act. Necessarily, for examining the validity of the medical qualification granted by a medical institution in any country outside India, the norms and tests of the country where the medical institution is situated, will have to be fulfilled for recognition of the degree in that country and the norms that are prescribed by the Indian Medial Council Act, 1956 in regard to Indian medical institutions will have no relevance. So long as the medical institutions in a country outside India has granted a medial qualification and that medical qualification is recognized for enrolment as medical practitioner in that country, all that is required for the purpose of enrolment in the medical register in India is qualifying in the screening test in India. In the case of persons who obtained a medical qualification in a medical institution outside India, the question as to where the course of study was undergone is not relevant. The course of study could be in that country or if the norms of the Medical Council of that country so permitted, the course of study could be partly in that country and partly in another country including India. Once that country recognizes a medical qualification granted by the institution in that country for the purpose of enrolment as a medical practitioner in that country, and such medical degree holder passes the screening test in India, the Medical Council of India can not refuse to recognize such degree on the ground that the student did a part of his study in an Institution in India as a part of his medical study programme for the foreign institution. As stated above, as far as the provisions of the Act at the relevant point of time, all that was required for an Indian citizen holding a medical qualification from a foreign country for being enrolled in the medical register was that he should qualify in the screening test in India. Therefore, the fact that such a medical graduate underwent a part of the medical course of a foreign university, in an Indian college which was not recognized in India, will not be relevant.

9. Learned counsel for the MCI submitted that unscrupulous operators in India may commence and conduct courses in unauthorized institutions in India and make the students take their examination in a foreign country to secure a degree outside India and thereafter flood India with inadequately and improperly educated Medical graduates, by appearing and passing in the screening test. This apprehension is without any basis as the Screening Regulations have now been amended by the Screening Test Regulations (Amendment), 2010 whereby clause (3) has been added in Regulation 4 to the following effect:

> "(3) He/she has studied for the medical course at the same institute located abroad for the entire duration of the course from where he/she has obtained the degree."

10. The second contention of MCI is also untenable. It is true that if the primary medical qualification of the candidate was not a recognized qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated,

such candidates will not entitled to take part in the screening test examination in India. In this case the High Commission of India in Tanzania has confirmed the following: (i) that Tanzania Medical Council has recognized the curriculum and medical degree of MBBS of International Medical & Technological, University Dar es Salaam, Tanzania as equivalent to MD degree in Tanzania; and (ii) that the medical degrees offered to the said International Medical & Technological University, Tanzania are recognized by Medical Council of Tanzania and the MBBS graduates of the said university are eligible for registration as Medical practitioners by the Medical Council of Tanzania under the provisions of the Medical Practitioners & Dentists Act, Cap 152 of the Laws of Tanzania. Therefore, the question of such primary degree not being recognized in India for the purpose of sitting in the screening test examination does not arise.

11. In the circumstances, we find no reason to interfere with the judgment of the High Court. We may, however, refer to an apprehension expressed by the learned counsel for the MCI. He submitted that these petitioners have completed the course in 2003-2004 and many had undergone the screening test in 2005 and they have not been practicing thereafter and therefore their knowledge is likely to be rusted. This court had put a query to the MCI on 12.8.2010 as to whether MCI will be willing to consider the case of such students, for permanent registration on undergoing a special package of internship. Learned counsel for MCI, on instructions, submitted that if this Court upholds the judgment of the High Court, then the writ petitioners may be required to undergo three separate papers of pre-clinical, para-clinical and clinical medicine, each of 100 marks and thereafter again undergo a separate internship. As the Screening Regulations provide for a single paper, and all the writ petitioners have successfully completed the screening test, the students need not be required to pass three special papers again. However, in view of the long gap from the completion of the course, even those who have completed their internship will have to undergo internship afresh for one year to obtain permanent registration. On the other hand, those who have not done the internship in pursuance of the provisional registration shall be entitled to undergo the internship now and then seek permanent registration. To ensure that the students undergo such internship after provisional registration, the students concerned shall inform the MCI about commencement and completion of internship.

12. It is stated that some students, that is respondents 1 and 2 in SLP (C) No.23652/2008 and respondent No.3 in SLP (C) No.23653/2008, have undergone the entire course in Tanzania and fall under the second category. They have been granted provisional registration and completed their internship. They are entitled to permanent registration. Learned counsel for MCI fairly submitted that MCI does not challenge the order of the High Court in regard to such students.

13. Subject to the requirement that the first category students should undergo a fresh internship of one year in view of the long gap from the date of the degree and internship, these special leave petitions are dismissed, upholding the decision of the High Court.

14. All applications for impleadment by the similarly situated students (that is persons having medical degree from IMT University who have done the complete course at Tanzania) or

part of the course in India and remaining part in Tanzania are allowed. They will be entitled to similar reliefs as granted above.