

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

Civil Appeal No 1321 of 2022

(Arising out of SLP(C) No 1710 of 2022)

National Medical Commission & Anr

.... Appellant(s)

Versus

**Annasaheb Chudaman Patil Memorial
Medical College & Ors**

....Respondent(s)

WITH

Civil Appeal Nos 1322-1323 of 2022

(Arising out of SLP(C) Nos 2234-2235 of 2022)

O R D E R

1 Leave granted.

2 Both the National Medical Commission¹ as well as the Medical College are before this Court, aggrieved by an order of a Division Bench of the High Court of Judicature at Bombay, at its Bench at Aurangabad, dated 25 January 2022.

3 The Medical College was established in 1992 with an annual intake capacity of 100 seats for the MBBS course. The Medical College submitted an application on 30 November 2020 for increase in the intake capacity from 100 to 150 MBBS seats for the academic year 2021-22. On 15 July 2021, renewal of recognition was granted for the academic year 2021-22 with the condition that the continuation of recognition would be in accordance with law. The assessors appointed by the NMC conducted a physical inspection on 8/9 October 2021 for

1 “NMC”

increase in the intake capacity and a letter of intent was issued on 16 November 2021. The Medical College submitted an undertaking on 23 November 2021, following which on 25 November 2021, permission was granted for increase in the intake capacity from 100 to 150 seats. On 14 January 2022, a surprise inspection was conducted of the Medical College. Based on the report of the inspection, on 19 January 2022, the Medical Assessment and Rating Board withdrew the letter of permission for increase in the intake capacity and directed a stoppage of the admissions for 2021-22.

4 We have heard Mr Tushar Mehta, Solicitor General appearing on behalf of the NMC, with Mr Gaurav Sharma and Dr Abhishek Manu Singhvi with Mr Nidhesh Gupta, senior counsel appearing on behalf of the Medical College.

5 Writ Petition No 1280 of 2022 was instituted before the Aurangabad Bench of the High Court by the Medical College. The High Court, by its order dated 25 January 2022, gave an option to the Medical College either to agree to a re-inspection or to avail of the appellate remedy. The Medical College having stated that “the petitioner would go with the option of having a fresh inspection”, the following order was passed by the High Court:

“11. The respondent Nos. 1 and 2 shall conduct the inspection preferably by 30.01.2022 and based on the inspection may take a fresh decision with regard to the permission to admit the students. The said decision shall be taken preferably by 03.02.2022 as it is submitted that the last date for admission would be by 07.02.2022.

12. While passing the fresh order the impugned order would not be an impediment, nor the respondents shall be guided by the same. The fresh decision shall be taken on the basis of the fresh inspection made and the report received.”

6 The order of the High Court has been challenged by NMC on the ground that the impugned order does not notice the provisions of the National Medical

Commission Act 2019. This order, it is urged, was passed on the first day of hearing, without calling for a reply to the writ petition. Mr Tushar Mehta, Solicitor General, urged that in substitution of a surprise inspection, the Division Bench has fixed an appointed date for inspection, which defeats the purpose. The Solicitor General has also adverted to serious deficiencies which were noticed in the inspection report, including falsification of records and admitting false patients at the time of admission.

- 7 The companion appeals have been filed by the Medical College. The Medical College filed a Civil Application, being Civil Application No 1200 of 2022, before the High Court for modification of the order of 25 January 2022 on the ground that the submissions which were urged before the High Court were not recorded or dealt with. The High Court disposed of the Civil Application on 2 February 2022, noting that it had not recorded the “entire arguments” advanced by the counsel for the parties since it was suggested by the Court that the directions can be given for re-inspection. The High Court also noted that counsel for the Medical College had agreed to the option of a fresh inspection.
- 8 As the record before this Court stands, both the Medical College as well as NMC are aggrieved by the orders of the High Court dated 25 January 2022 and 2 February 2022. NMC is aggrieved because, according to it, its decision was because of the gross deficiencies which were noted during the course of the surprise inspection and the High Court was not justified in simply ordering a fresh inspection on an appointed date without enquiring into the validity of the inspection which was already carried out. The Medical College is aggrieved because, according to it, there can be no dispute about the original complement of 100 seats. Dr Abhishek Manu Singhvi and Mr Nidhesh Gupta, senior counsel, urged that no order has been passed by NMC for withdrawal of the recognition for the original 100 seats and the impugned action is motivated.

- 9 The High Court has not dealt with the merits of the rival contentions. Hence, it would be inappropriate to enter upon the merits of the dispute, for the first time, in proceedings under Article 136 of the Constitution. The High Court having not dealt with the merits of the rival contentions, we set aside the impugned orders of the High Court dated 25 January 2022 and 2 February 2022 and restore Writ Petition No 1280 of 2022 for admission before the High Court.
- 10 All the rights and contentions of the parties are kept open to be urged before the High Court.
- 11 Having regard to the urgency of the matter in view of the impending counselling for medical admissions, we request the High Court to take up the petition with all reasonable despatch.
- 12 The Solicitor General has submitted that NMC would seek reasonable time before the High Court for placing its counter affidavit on the record. Any such request may be made before the High Court, which can be considered.
- 13 The appeals are disposed of in the above terms.
- 14 Pending application, if any, stands disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Surya Kant]

New Delhi;
February 14, 2022
-S-

ITEM NO.8+34 Court 4 (Video Conferencing) SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).1710/2022

(Arising out of impugned final judgment and order dated 25-01-2022 in WP No. 1280/2022 passed by the High Court of Judicature at Bombay at Aurangabad)

NATIONAL MEDICAL COMMISSION & ANR.

Petitioner(s)

VERSUS

ANNASAHEB CHUDAMAN PATIL MEMORIAL
MEDICAL COLLEGE & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.16605/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.16606/2022-EXEMPTION FROM FILING AFFIDAVIT and IA No.17637/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

SLP(C) No. 2234-2235/2022 (IX)

(FOR ADMISSION and I.R. and IA No.21205/2022- EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 14-02-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE SURYA KANT

For Petitioner(s)

Mr. Tushar Mehta, SG
Mr. Gaurav Sharma, AOR
Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.
Mr. Gaurav Sharma, AOR

Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Avijit Mani Tripathi, AOR
Mr. Azeem Samuel, Adv.
Ms. Preeti Sehrawat, Adv.

For Respondent(s)

Mr. Nidhesh Gupta, Sr. Adv.
Mr. Avijit Mani Tripathi, AOR
Ms. Preeti Sehrawat, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Leave granted.
- 2 The appeals are disposed of in terms of the signed order.
- 3 Pending application, if any, stands disposed of.

**(SANJAY KUMAR-I)
AR-CUM-PS**

**(SAROJ KUMARI GAUR)
COURT MASTER**

(Signed order is placed on the file)