

ITEM NO.52

COURT NO.5

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 42 OF 2014

KANNUR MEDICAL COLLEGE & ANR

Petitioner(s)

VERSUS

U.O.I & ORS

Respondent(s)

(With appln(s) for directions, permission to place addl. documents and office report)

WITH W.P(C) NO. 172 of 2014

(With appln(s) for directions, permission to place addl. documents and office report)

W.P(C) NO. 186 of 2014

(With office report)

W.P(C) NO. 187 of 2014

(With office report)

W.P(C) NO. 188 of 2014

(With office report)

W.P(C) NO. 189 of 2014

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W.P(C) NO. 190 of 2014

(With office report)

W.P(C) NO. 191 of 2014

(With office report)

W.P(C) NO. 192 of 2014

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W.P(C) NO. 197 of 2014

(With office report)

W.P(C) NO. 202 of 2014

(With office report)

W.P(C) NO. 216 of 2014

(With office report)

W.P(C) NO. 241 of 2014

(With office report)

(With appln. for directions in all matters)

Date: 21/04/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. PATNAIK

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA

-2-

For Petitioner(s) Mr. Gopal Subramaniam, Sr. Adv.
M/s. SUK Sagar, Bina Madhavan,
P.E. Joseph, Akanksha Mehra, Adv. for
M/S. Lawyer'S Knit & Co.

In WP 172/2014 Mr. U.U. Lalti, Sr. Adv.
Mr. A. Sharan, Sr. Adv.
M/s. SUK Sagar, Bina Madhavan,
P.E. Joseph, Akanksha Mehra, Adv. for
M/S. Lawyer'S Knit & Co.

For Respondent(s) Mr. Sidharth Luthra, ASG.
Mr. Rajiv Kumar, Adv.
Ms. Sushma Suri, Adv.
Mr. Gaurav Agarwal, Adv.

Mr. Paramjeet Singh, Sr. Adv.
Ms. Amandeep Kaur, Adv.
Mr. Gaurav Agrawal, Adv.

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

The writ petition (C) No.42 of 2014 is allowed.

Rest of the writ petitions will be listed
separately on 7.5.2014.

(SUMAN WADHWA)
AR-cum-PS

(SHARDA KAPOOR)
COURT MASTER

Signed order is placed on the file.
REVISED

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 42 OF 2014

KANNUR MEDICAL COLLEGE & ANR

Petitioner(s)

VERSUS

U.O.I & ORS

Respondent(s)

O R D E R

1. We have heard learned counsel for the parties.

2. The petitioners had applied to the Medical
council of India (for short 'MCI') for starting of the
following Post Graduate courses under Section 10-A of the
Indian Medical Council Act, 1956.

"1.	MD (General Medicine)	6.MD(Paediatrics)
2.	MD (DVL)	7.MD (Anaesthesia)
3.	MS (ENT)	8.MS (Orthopaedics)
4.	MS (OBG)	9.MS(General Surgery)
5.	MD (Radiology)	

3. The MCI by its letter dated 26.12.2013 has rejected the application of the petitioners mainly on the ground that the consent of affiliation has not been obtained by the college authorities for the aforesaid courses and that application fee of Rs.4.0 lakhs has not been submitted to the MCI. Petitioners have in this writ petition prayed for quashing of the said letter dated 26.12.2013 and their case is that they have given the consent of affiliation and paid the application fee to the MCI.

4. It is not disputed that the MCI had received along with application of the petitioner a copy of the consent of affiliation dated 29.7.2011 of the Kerala University of Health and Allied Sciences, which is extracted hereunder:

CONSENT OF AFFILIATION

The Kerala University of Health Sciences hereby gives Consent to affiliation for the following Post Graduate Courses at Kanpur Medical College, Anjarakandy, P.O. Mambra, Kannur from the academic year 2012-13.

Proposed Intake

- | | |
|--|---|
| 1. Anaesthesiology (M.D.) | 4 |
| 2. Dermatology, Venereology & Leprosy (MD) | 4 |
| 3. Emergency Medicine (M.D.) | 4 |

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- | | |
|-------------------------------|---|
| 4. General Medicine (MD) | 4 |
| 5. Paediatrics (MD) | 4 |
| 6. Paediatrics (D.C.H) | 4 |
| 7. Respiratory Medicine (MD) | 4 |
| 8. Psychiatry (MD) | 4 |
| 9. Radio-diagnosis (M.D.) | 4 |
| 10. Oto Rhinolaryngology M.S. | 4 |
| 11. General Surgery (M.S.) | 4 |
| 12. Ophthalmology (M.S.) | 4 |
| 13. Orthopaedics (M.S.) | 4 |

14.Obstretics & Gynaecology (M.S.)	4
15.Obstretics & Gynaecology (F.G.O.)	4
16.Orthopaedics (D.Ortho)	4

The Kerala University of Health Sciences will consider the grant to Provisional affiliation to the proposed additional courses subject to the recognition by the respective Central Council, fulfillment of conditions specified by the State Government and Kerala University of Health Sciences for starting the courses and final inspection by the Kerala University of Health Sciences.

The grant of Consent of Affiliation shall not entitle the institution to make admissions to the proposed additional courses Admissions as per prescribed rules shall be made only after Provisional affiliation is granted to the additional courses by the Kerala University of Health Sciences.

This Consent of Affiliation is valid for 2012-13 & 2013-14."

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5. According to the MCI the aforesaid consent of affiliation was valid for 2012-13 and 2013-14, but the application of the petitioners for starting the new courses was for 2014-2015 and hence the consent of affiliation was not valid for the year 2014-2015.

6. We have gone through the Regulation of MCI for opening a New or Higher Course of Study or Training (including a post-graduate Course of Study or Training) in a Medical College or Institution notified by the MCI by Notification dated 14.8.2000. The relevant clause 3.3 relating to consent of affiliation is extracted herein from the aforesaid regulation:

"The Consent of Affiliation in the prescribed format with respect to opening of New or Higher Course of Study or Training (including Post Graduate Course of Study or Training) and increase of admission capacity in any Course of Study or Training (including a Post Graduate Course of Study or Training) has been obtained by the medical college/institution from the University to which it is affiliated."

7. It will be clear from the aforesaid language of clause 3.3 of the Regulations that consent of affiliation in the prescribed format with respect to opening of New or Higher course of study or training including post graduate course of study or training has to be obtained by the Medical College/Institution from the University to which it is

affiliated.

-5-

8. A reading of the consent of affiliation dated 29.7.2011 of the Kerala University of Health and Allied Sciences extracted above would show that Kerala University of Health and Allied Sciences has given consent of affiliation for the post graduate courses at the medical college of the petitioners "from the academic year 2012-2013." Hence, the concept of affiliation that had been granted by the Kerala University of Health and Allied Sciences was from the academic year 2012-2013. The fact that in the last portion of the consent of affiliation it is stated that the consent of affiliation was valid for 2012-2013 and 2013-14 would not make a material difference because what was required was consent of affiliation for the new post graduate courses and the Kerala University of Health and Allied Sciences had agreed in principle to give its consent for affiliation for the aforesaid new courses.

9. That apart from the format prescribed in the application in Form 3 extracted hereinbelow, we find that consent of affiliation is not for particular academic year:

CONSENT OF AFFILIATION

FORM-3

No.....

University of.....

Place.....

Dated.....

-6-

CONSENT OF AFFILIATION

On the basis of the report of the Local Inquiry Committee, the University of.....has agreed in principle, to affiliate the proposed course ofto be opened atby the (Name of the college) subject to grant of permission by the Government of India, Ministry of Health and Family Welfare, New Delhi under/Section 10(A) of the Indian Medical Council Act, 1956 (102 of 1956)."

10. For the aforesaid reasons we quash the impugned communication dated 26.12.2013 of the MCI to the Dean/Principal of the petitioner college

and direct that the MCI and the Central Government will consider the case of the petitioners for starting the aforesaid new courses and pass orders and complete the process under the relevant Sec. 10-A of the Indian Medical Council Act, 1956 by 31st May, 2014.

11. We make it clear that this order has been passed by this Court considering the facts of this case and will not be a precedent for other cases.

12. The writ petition is allowed.

.....J.
(A.K. PATNAIK)

.....J.
(FAKKIR MOHAAMED IBRAHIM KALIFULLA)

NEW DELHI,
APRIL 21,2014
ITEM NO.52 COURT NO.5 SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 42 OF 2014

KANNUR MEDICAL COLLEGE & ANR Petitioner(s)
VERSUS

U.O.I & ORS Respondent(s)

(With appln(s) for directions, permission to place addl. documents and office report)
WITH W.P(C) NO. 172 of 2014
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W.P(C) NO. 241 of 2014
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(With appln. for directions in all matters)

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For Respondent(s) Mr. Sidharth Luthra, ASG.
Mr. Rajiv Kumar, Adv.
Ms. Sushma Suri, Adv.
Mr. Gaurav Agarwal, Adv.

Mr. Paramjeet Singh, Sr. Adv.
Ms. Amandeep Kaur, Adv.
Mr. Gaurav Agrawal, Adv.

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

List the writ petition No. 172/2014 on 2.5.2014.
Rest of the writ petitions are allowed.

(SUMAN WADHWA) (SHARDA KAPOOR)
AR-cum-PS COURT MASTER

Signed order is placed on the file.
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. 42 OF 2014

KANNUR MEDICAL COLLEGE & ANR Petitioner(s)

VERSUS

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10. For the aforesaid reasons we quash the impugned communication dated 26.12.2013 of the MCI to the Dean/Principal of the petitioner college and direct that the MCI and the Central Government will consider the case of the petitioners for starting the aforesaid new courses and pass orders and complete the process under the relevant Sec. 10-A of the Indian Medical Council Act, 1956 by 31st May, 2014.
11. We make it clear that this order has been passed by this Court considering the facts of this case and will not be a precedent for other cases.
12. All the writ petitions are allowed.

.....J.
(A.K. PATNAIK)

.....J.
(FAKKIR MOHAAMED IBRAHIM KALIFULLA)

NEW DELHI,
APRIL 21,2014