



2026:CGHC:30327

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 1137 of 2026

Order Reserved on 30.06.2026

Order Delivered on 17.07.2026

1 - Shri Rawatpura Sarkar Institute Of Medical Sciences And Research Established Under Shri Rawatpura Sarkar Lok Kalyan Trust, Regd. Under Indian Trust Act On 29th March 2000, Situated At Village Pacheda, P.O Kurru, Tehsil Abhanpur, Nawa Raipur, Raipur, Chhattisgarh Through Its Director Vishal Garg

... Petitioner(s)

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Health And Family Welfare And Medical Education, Swasthya Bhawan, State Govt. Office, Sector 19, Kotara Bhantha, Atal Nagar, Nawa Raipur, Chhattisgarh

2 - Commissioner/ Director Directorate Of Medical Education,
North Block, Swasthya Bhawan, 2nd Floor, Sector 19, Atal Nagar,
Nawa Raipur, Chhattisgarh

3 - Pt. Deendayal Upadhyay Memorial Health Science And Ayush
University Sector 40, Uparwara, Nawa Raipur, Atal Nagar,
Chhattisgarh Through Its Registrar

4 - National Medical Commission Of India, Pocket-14, Sector 8
Dwarka Phase I, New Delhi, 110077, Through Its Secretary

... Respondent(s)

(Cause Title is taken from CIS System)

For Petitioner	: Mr. Ashish Shrivastava, Senior Advocate along with Ms. Sangeeta Mishra, Mr. Rahul Ambast, Ms. Ananya Pandey, Advocates
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For State	: Mr. R.K. Gupta, Addl. A.G.
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For Respondent No. 3	: Mr. Ajay Kumar Dwivedi, Advocate
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For Respondent No. 4	: Mr. J.N. Nande along with Mr. Aniruddhh Shrivastava, Advocates
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Hon'ble Mr. Justice Amitendra Kishore Prasad

CAV Order

1. By way of this petition under Article 226 of the Constitution of India, the petitioner, Shri Rawatpura Sarkar Institute of Medical Sciences and Research, seeks urgent intervention of this Hon'ble Court against the arbitrary and erroneous action of the Department of Medical Education (DME),

Government of Chhattisgarh, whereby the petitioner's application for enhancement of undergraduate MBBS seats from 100 to 250 for the Academic Year 2026–27 has been partially disallowed. The respondent authority, vide impugned Essentiality Certificate dated 03.02.2026, has granted approval for enhancement of only 50 seats, instead of the 150 seats applied for. Consequently, the Consent of Affiliation dated 03.02.2026 issued by Pt. Deendayal Upadhyay Memorial Health Sciences and Ayush University, Raipur, has also been restricted to a total intake of 150 seats, which is also under challenge in the present petition.

2. Subject matter in brief is that the petitioner, Shri Rawatpura Sarkar Institute of Medical Sciences and Research, is a private (unaided) medical institution imparting undergraduate medical education under the aegis of Shri Rawatpura Sarkar Lok Kalyan Trust, a non-profit organization engaged in the field of education, healthcare and social welfare. The Respondent No.02, namely the Director, Medical Education, State of Chhattisgarh, is the competent authority vested with the power to assess the infrastructure, faculty, clinical material and other requisite facilities of a medical institution for the purpose of issuance of Essentiality Certificate in FORM-2. The Respondent

No.03, Pt. Deendayal Upadhyay Memorial Health Sciences and Ayush University, Chhattisgarh, Raipur, is the statutory authority empowered to grant Consent of Affiliation in FORM-3 on the basis of the Essentiality Certificate so issued. In the present case, the Respondent No.02 has issued the impugned Essentiality Certificate dated 03.02.2026 in an arbitrary and erroneous manner by partially disallowing the petitioner's application for enhancement of MBBS (UG) seats for the Academic Year 2026-27, without properly appreciating the existing infrastructure, faculty strength, and clinical material available with the petitioner institution. Consequently, the Respondent No.03 has mechanically issued the Consent of Affiliation dated 03.02.2026 restricting the intake capacity, solely on the basis of the impugned Essentiality Certificate. It is submitted that the petitioner institution fulfills all the requisite norms and standards for enhancement of seats, as evident from its application and supporting documents. However, the respondent authorities have failed to consider the same in its proper perspective and have also ignored the earlier Essentiality Certificate and Consent of Affiliation granted in the year 2025. The impugned actions have been taken without affording any opportunity of hearing to the petitioner

and are in clear violation of the principles of natural justice. Hence, the present writ petition.

- 3.** The chronological events relevant for adjudication of the present writ petition are that Shri Rawatpura Sarkar Lok Kalyan Trust (SRLKT) was established on 29.03.2000 as a non-profit welfare organization dedicated to the upliftment of underprivileged sections of society. Thereafter, in the year 2024, the petitioner institute was established as a self-financing (unaided) medical institution under the aegis of the said Trust. On 16.01.2025, the Directorate of Medical Education, Chhattisgarh issued an Essentiality Certificate granting approval for 100 MBBS seats for the Academic Year 2025–26, which was made valid for a period of three years. Subsequently, on 17.01.2025, Pt. Deendayal Upadhyay Memorial Health Sciences and Ayush University, Chhattisgarh, Raipur issued the corresponding Consent of Affiliation for 100 MBBS seats. Thereafter, the petitioner submitted an application before the competent authority seeking issuance of an Essentiality Certificate for enhancement of intake from 100 to 250 MBBS seats for the Academic Year 2026–27. An inspection of the petitioner institute was conducted on 16.01.2026, and thereafter, on 24.01.2026, Respondent No.02 issued a communication

alleging certain deficiencies on the basis of the said inspection. However, the inspection report was never furnished to the petitioner. The petitioner, vide communication dated 29.01.2026, submitted its reply clarifying that all the alleged deficiencies had been duly rectified and requested the authorities to conduct a re-inspection. Pursuant thereto, a re-inspection was carried out; however, the report of such re-inspection has not been supplied to the petitioner till date. Thereafter, on 03.02.2026, Respondent No.02 issued the impugned Essentiality Certificate granting enhancement of only 50 additional MBBS seats, allegedly without considering the petitioner's reply or the outcome of the re-inspection. Consequently, on the same date, i.e., 03.02.2026, Respondent No.03 University issued the Consent of Affiliation restricted to the intake sanctioned under the impugned Essentiality Certificate.

4. Following reliefs have been prayed in this petition:-

“10.1 That, it is prayed that this Hon'ble Court may kindly be pleased to call for the entire records concerning the case of the petitioner from the possession of the respondents for its kind perusal.

10.2 That, this Hon'ble Court may kindly be

pleased to issue appropriate writ quashing and setting aside the impugned Essentiality Certificate dated 03.02.2026 (Annexure P/1) as well as Consent of Affiliation dated 03.02.2026 (Annexure P/2) issued by the Respondents No. 02 & 03 respectively, declaring the same to be illegal and inoperative in law.

10.3 That, this Hon'ble Court may kindly be pleased to issue appropriate writ commanding the Respondents to issue fresh EC and COA to the petitioner for 250 seats for UG-MBBS Courses for AY 2026-27.

10.4 Any other relief/reliefs which this Hon'ble Court may think fit and proper in the facts and circumstances of the case, with cost of the petition may also please be granted to the petitioners.”

5. Brief facts of the case are that the petitioner is a private unaided medical college imparting graduate medical education under the aegis of Shri Rawatpura Sarkar Lok Kalyan Trust, a registered trust established on 29.03.2000, and functioning as a self-financing institution at Raipur (Chhattisgarh). The present petition has been filed seeking enforcement of the petitioner's fundamental rights under Articles 14 and 19(1)(g) of the Constitution of India and for

issuance of appropriate writ directing the respondents to grant revised Essentiality Certificate (EC) and Consent of Affiliation (COA) for enhancement of 150 MBBS (UG) seats for the Academic Year 2026–27. The petitioner had applied for the said enhancement vide application dated 05.01.2026; however, Respondent No.02 issued a letter dated 24.01.2026 alleging certain deficiencies based on an inspection report dated 16.01.2026, which was never supplied to the petitioner, and many of such deficiencies were either rectified on the spot or were within permissible limits. The petitioner thereafter sought re-inspection vide letter dated 29.01.2026, pursuant to which re-inspection was conducted on 02.02.2026, but the report thereof has also not been furnished. Despite this, Respondent No.02, without affording any opportunity of hearing and without supplying inspection reports, arbitrarily issued the impugned EC dated 03.02.2026 partially disallowing the enhancement of seats. Consequently, Respondent No.03 University issued the impugned COA dated 03.02.2026 solely based on the defective EC, without independent application of mind and in violation of Section 39(3) of the Act of 2008. The petitioner institution fulfills all requisite norms relating to infrastructure, faculty and clinical material, and had earlier been granted

EC and COA in 2025, which have been ignored by the respondents. The petitioner also submitted a representation dated 27.02.2026 highlighting these irregularities; however, no relief has been granted. The actions of the respondents are arbitrary, illegal, violative of principles of natural justice, and contrary to statutory regulations including the Establishment of New Medical Institutions, Assessment and Rating Regulations, 2023 and the scheme of the National Medical Commission Act, 2019, leaving the petitioner with no efficacious alternative remedy except to approach this Court.

- 6.** Mr. Ashish Shrivastava, learned Senior Advocate appears along with Ms. Sangeeta Mishra, Mr. Rahul Ambast, Ms. Ananya Pandey, Counsel for the petitioner submit that the present writ petition raises substantial questions of law relating to arbitrariness in administrative action, violation of principles of natural justice, and non-compliance with statutory mandates governing medical education in India. The impugned Essentiality Certificate dated 03.02.2026 issued by Respondent No.02 and the consequential Consent of Affiliation dated 03.02.2026 issued by Respondent No.03 are ex facie illegal, arbitrary, and unsustainable in law. It is submitted that the entire action of

the respondents is vitiated on account of gross violation of the principles of natural justice. The foundation of the impugned action rests upon inspection reports dated 16.01.2026 and re-inspection dated 02.02.2026; however, neither of these reports were ever supplied to the petitioner nor any opportunity of hearing was granted. It is a settled proposition of law that any authority taking adverse action must disclose the material relied upon so as to enable the affected party to respond effectively. The Hon'ble Supreme Court in ***T. Takano v. SEBI (2022) 8 SCC 162*** and ***Amit Kumar Sharma v. Union of India (2023) 20 SCC 486*** has categorically held that non-supply of material relied upon vitiates the entire decision-making process. In the present case, the petitioner was deprived of any meaningful opportunity to rebut the alleged deficiencies. It is further submitted that even assuming, without admitting, that certain deficiencies existed, the petitioner had specifically responded vide letter dated 29.01.2026 stating that such deficiencies stood rectified and had requested re-inspection. Though a re-inspection was conducted on 02.02.2026, the report thereof was never communicated. Shockingly, the impugned EC came to be issued on the very next day i.e., 03.02.2026, without granting any opportunity to the

petitioner to address the findings of the re-inspection. Such undue haste clearly reflects a pre-determined and arbitrary exercise of power, rendering the impugned action liable to be quashed.

7. It is also pertinent to submit that the alleged deficiencies, as reflected in the communication dated 24.01.2026, are vague, general, and largely informational in nature. In fact, the petitioner institution fulfills all the prescribed norms relating to infrastructure, faculty strength, and clinical material for enhancement to 250 MBBS seats, as per the National Medical Commission Act, 2019 and the applicable Regulations of 2023. The respondents have failed to consider the detailed material placed on record by the petitioner demonstrating full compliance. Another significant aspect which has been completely overlooked by the respondents is that the petitioner institution had already been granted an Essentiality Certificate dated 16.01.2025 and Consent of Affiliation dated 17.01.2025 for 100 seats, which continue to remain valid for a period of three years. The respondents have failed to appreciate that the petitioner's infrastructure has only improved thereafter, including enhancement of hospital capacity and facilities. Thus, the impugned decision is not only arbitrary but also

contrary to the record and past conduct of the respondents themselves.

8. It is submitted that the issuance of an Essentiality Certificate by the State Government is a quasi-judicial function, which must be exercised in a fair, transparent, and reasoned manner. The Hon'ble Supreme Court in ***Chintapurni Medical College and Hospital v. State of Punjab (2018) 15 SCC 1*** and ***Sukh Sagar Medical College v. State of Madhya Pradesh (2021) 13 SCC 587*** has clearly held that the State cannot act arbitrarily while granting, modifying, or revoking an Essentiality Certificate and must base its decision on objective criteria. In the present case, the respondents have acted in complete disregard of these settled principles. It is further submitted that the action of Respondent No.02 is also in violation of the statutory scheme under the Establishment of New Medical Institutions, Assessment and Rating Regulations, 2023. Regulation 30 specifically contemplates grant of reasonable opportunity to rectify deficiencies before any adverse decision is taken. The denial of such opportunity in the present case renders the impugned action illegal and void. Additionally, the Respondent No.03 University has acted mechanically in issuing the impugned Consent of Affiliation

solely on the basis of the defective Essentiality Certificate, without independent application of mind and in violation of Section 39(3) of the Ayush and Health Sciences University of Chhattisgarh Act, 2008. The University was duty-bound to assess compliance independently, which has not been done.

9. It is also submitted that the respondents have failed to adhere to procedural timelines and fairness as emphasized by the Hon'ble Supreme Court in ***Mridula Dhar v. Union of India (2005) 2 SCC 65***. The impugned action has far-reaching consequences. The petitioner institution has invested substantial resources in infrastructure, faculty, and facilities based on legitimate expectations arising from prior approvals. The arbitrary restriction of seats not only results in severe financial loss but also causes irreparable injury to the reputation and goodwill of the institution. Such harm cannot be compensated in monetary terms. It also infringes the petitioner's fundamental right under Article 19(1)(g) to carry on occupation, as the restriction imposed is neither reasonable nor in accordance with law. The Hon'ble Supreme Court in ***Maneka Gandhi v. Union of India (1978) 1 SCC 248*** has held that any administrative action affecting rights must be fair, just, and reasonable, which is clearly not

the case here. In view of the aforesaid facts and settled legal position, it is most respectfully submitted that the impugned Essentiality Certificate dated 03.02.2026 and Consent of Affiliation dated 03.02.2026 are liable to be quashed and set aside. It is, therefore, prayed that this Court may be pleased to direct the respondents to issue a fresh Essentiality Certificate and Consent of Affiliation permitting enhancement of MBBS seats up to 250 for the Academic Year 2026–27, in the interest of justice, equity, and good conscience.

- 10.** Mr. R.K. Gupta, learned Addl. A.G. appearing for the State/ respondents No.1 & 2 submits that the present writ petition is misconceived, premature, and devoid of any merit, and is liable to be dismissed at the threshold. It is submitted that the impugned Essentiality Certificate dated 03.02.2026 and the consequential Consent of Affiliation issued by the University are merely preliminary steps in the statutory scheme under the National Medical Commission Act, 2019 and the Establishment of New Medical Institutions, Assessment and Rating Regulations, 2023. The final authority to grant or refuse permission for increase of MBBS seats vests exclusively with the National Medical Commission (NMC) and thereafter with the Central

Government under Regulations 32 and 33. The petitioner has an efficacious and adequate alternative statutory remedy, which it has deliberately bypassed. It is a settled principle that writ jurisdiction under Article 226 ought not to be invoked when such alternative remedy exists. It is further submitted that the petitioner has not approached this Court with clean hands and has suppressed material facts. The petitioner institution has a chequered history of compliance, including reduction of seats by the NMC in previous academic sessions due to persistent deficiencies. The present petition attempts to create a misleading narrative by ignoring these material aspects. It is submitted that the entire process undertaken by the State Government is fair, transparent, and based on expert assessment. The inspection and re-inspection were conducted by a duly constituted Expert Committee comprising senior academicians and medical professionals. The findings of the Committee revealed a substantial deficiency of approximately 22% in teaching faculty, which is a critical requirement under the Minimum Standard Requirements (MSR) prescribed by the NMC Regulations, 2023. The adequacy of teaching faculty is foundational to maintaining the quality of medical education, and any compromise in this

regard would directly affect students and public health at large. He submits that the petitioner's contention regarding violation of principles of natural justice is wholly misconceived. The petitioner was duly issued a deficiency letter dated 24.01.2026, clearly indicating the shortcomings. Upon the petitioner's own request, a re-inspection was promptly conducted on 02.02.2026. The findings of the re-inspection reaffirmed that the resources were insufficient for the requested increase in seats. It is submitted that the requirement of natural justice does not extend to granting repeated or indefinite opportunities, particularly where the deficiencies are fundamental in nature. A shortage of 22% in teaching faculty cannot be rectified overnight and does not fall within the category of minor or curable deficiencies.

- 11.** It is further submitted that the reliance placed by the petitioner on the earlier Essentiality Certificate dated 16.01.2025 is entirely misplaced. As per Explanation 1 to Regulation 9 of the NMC Regulations, 2023, an Essentiality Certificate is valid only for the specific proposal for which it is granted. The present application pertains to a fresh academic year and a distinct proposal, thereby necessitating an independent assessment. The State Government is well within its jurisdiction to conduct a fresh inspection to verify

current compliance, especially in light of past deficiencies. It is also pertinent to submit that there exists no vested or fundamental right in favour of the petitioner to claim automatic enhancement of MBBS seats. Such permission is a statutory privilege subject to strict adherence to regulatory norms. The right under Article 19(1)(g) is subject to reasonable restrictions in the interest of maintaining standards of education under Article 19(6). The Hon'ble Supreme Court has consistently held that standards in medical education cannot be compromised. The decision of the State Government is based on objective criteria, expert evaluation, and relevant material on record. It cannot be said to be arbitrary, perverse, or mala fide. It is a settled proposition that courts, in exercise of writ jurisdiction, do not sit in appeal over decisions of expert bodies, particularly in highly technical fields such as medical education, unless there is manifest illegality, which is absent in the present case.

- 12.** It is further submitted that the University (Respondent No.3) has acted strictly in accordance with Section 39(3) of the Ayush and Health Sciences University Act, 2008, which mandates issuance of Consent of Affiliation only on the basis of a valid Essentiality Certificate issued by the State

Government. The University has no independent authority to override or disregard the decision of the State in this regard. The timeline followed by the respondents is also justified and necessary to ensure adherence to the schedule prescribed for submission of applications before the NMC. There has been no undue haste or arbitrariness; rather, the respondents acted promptly to facilitate the petitioner's participation in the statutory process. It is also relevant to highlight that as per the governing guidelines and statutory framework, assessment of an application is carried out strictly with reference to the number of seats applied for. If the institution does not meet the requirements for the requested number of seats, the application cannot be partially allowed beyond permissible limits unless supported by adequate compliance. In the present case, while the petitioner sought a higher increase, the expert committee, based on objective assessment, found the institution suitable only for a limited increase, which has already been granted. Thus, the respondents have acted reasonably and in the interest of maintaining academic standards.

- 13.** Learned State counsel places emphasis on the fact that, under the applicable Rules, an institution is entitled to apply for enhancement of seats only up to a maximum of 100

seats at a time. In the present case, the petitioner institution, whose existing sanctioned intake was 100 seats, sought enhancement of more than 100 seats in a single application. It is, therefore, submitted that the very application for enhancement of seats was not in conformity with the relevant Rules and was liable to be rejected on that ground alone. It is further submitted that, notwithstanding the aforesaid inherent defect in the petitioner's application, the competent authority granted enhancement of only 50 additional seats, thereby increasing the sanctioned intake from 100 to 150 seats. However, the petitioner institution is presently claiming entitlement to an intake of 250 seats, which is wholly dehors the applicable Rules and Regulations. Accordingly, it is contended that the petitioner is not entitled to any relief as prayed for in the present petition.

- 14.** In view of the aforesaid facts and legal position, it is most respectfully submitted that the petitioner has failed to make out any case for interference under Article 226 of the Constitution of India. The impugned actions are legal, justified, and based on expert findings. Granting the relief as sought by the petitioner would amount to compelling the authorities to compromise statutory standards, which is

impermissible in law. Therefore, it is prayed that this Hon'ble Court may be pleased to dismiss the present writ petition.

- 15.** Mr. Ajay Kumar Dwivedi, learned counsel appearing for Respondent No.3 submits that the writ petition, insofar as it concerns the answering respondent, is misconceived and liable to be dismissed. It is submitted that the role of the University is purely statutory and consequential in nature. Under Section 39(3) of the Ayush and Health Sciences University of Chhattisgarh Act, 2008, the University is required to issue the Consent of Affiliation only on the basis of the Essentiality Certificate issued by the State Government and has no authority to independently assess or alter the number of seats. Accordingly, the Consent of Affiliation dated 03.02.2026 was issued strictly in terms of the Essentiality Certificate granted by Respondent No.2. It is further submitted that the assessment of infrastructure, faculty, and other requirements falls within the domain of the State Government and the National Medical Commission, and the University has no role in such evaluation. The petitioner cannot claim enhancement of MBBS seats as a matter of right, as the same is subject to fulfillment of the prescribed statutory norms. It is also contended that the petitioner institution was found deficient, particularly with

regard to teaching faculty, and therefore the decision to grant enhancement of only 50 seats is justified. The allegation of violation of principles of natural justice is also denied, as no independent hearing is contemplated at the stage of issuance of the Consent of Affiliation. It is, therefore, prayed that the writ petition, insofar as it relates to Respondent No.3, deserves to be dismissed.

- 16.** Learned counsel appearing for Respondent No.4 – National Medical Commission submits that the writ petition, insofar as it relates to the answering respondent, is misconceived and liable to be dismissed. It is submitted that the National Medical Commission is a statutory regulatory authority constituted under the National Medical Commission Act, 2019, and its role in granting permission for establishment of new medical colleges or enhancement of MBBS seats arises only upon submission of a complete application accompanied by a valid Essentiality Certificate issued by the State Government and a valid Consent of Affiliation issued by the concerned University, as required under the applicable Regulations. It is further submitted that the grievance of the petitioner pertains to the Essentiality Certificate issued by Respondent No.2 and the Consent of Affiliation issued by Respondent No.3, in which the

answering respondent has no role. It is also contended that the petitioner institution was found to have deficiencies during inspections conducted by the competent authorities, particularly with regard to faculty and other infrastructural requirements, and therefore enhancement of seats cannot be claimed as a matter of right. The answering respondent has acted strictly in accordance with the provisions of the National Medical Commission Act, 2019 and the applicable Regulations, and no ground is made out for interference by this Court. Accordingly, it is prayed that the writ petition, insofar as it relates to Respondent No.4, deserves to be dismissed.

- 17.** I have heard learned counsel for the parties and perused the material available on record.
- 18.** From the perusal of the record and for deciding the present petition, it would be appropriate to consider the provisions of the "Establishment of New Medical Institutions, Starting of New Medical Courses, Increase of Seats for Existing Courses and Assessment and Rating Regulations, 2023" (hereinafter referred to as the "Establishment of Medical Institutions, Assessment and Rating Regulations, 2023"). The relevant provisions, which are material for adjudication of the present case, are extracted below:

2. Definition – (c) MARB shall mean the Medical Assessment and Rating Board duly constituted under Section 16 of the National Medical Commission Act, 2019.

(f) "Essentiality Certificate" (in its abbreviated form EC) shall mean written permission from the central or concerned state government or the Union Territory administration as the case may be for the establishment of a new medical institution.

(g) Medical Institution" shall mean a medical institution as defined in sub-section (i) of Section 2 of the National Medical Commission Act, 2019; and shall also include a medical college in its commonly understood form.

(h) "Inspection" the expression or activity of 'inspection' shall include virtual and/or physical inspection and/or evaluation of actual and/or digital records or information.

11. MARB evaluating the application - keeping in mind the objective of the Act, without prejudice to anything mard elsewhere in the Regulations, the MARB shall evaluate the applications received from the eligible entity under ction 9 above, based on all of the following broad criteria viz...

a. The desirability and feasibility of setting up the medical institution at the proposed location.

b. Assess whether the eligible entity fulfils the required conditions prescribed by the corresponding MSRs in vogue, which shall include physical

infrastructure, qualified faculty, and adequate clinical material in terms of hospital, laboratory, patients, clinical procedures and others as specified in the corresponding MSR/s.

c. Assess whether the scheme submitted by the applicant shows that, once established the medical institution will reasonably sustain itself.

CHAPTER-III

SCHEME FOR INCREASE OF SEATS FOR THE EXISTING COURSES IN A MEDICAL INSTITUTION

17. No medical institution shall increase the seats of any of the ongoing courses without prior permission of the MARB.

Provided no grant of permission for an increase in seats will be given by the MARB if the medical institution has not admitted earlier sanctioned seats.

18. Without prejudice to anything stated in section 17 above, the application for an increase in the seats shall be accompanied with-

- (a) Consent of affiliation from the recognized university concerned for the proposed number of seats in the specified courses in writing; and
- (b). Such prescribed application fees and bank guarantees as determined by the MARB from time to time by way of Notification; and
- (c) Any other documents as may be prescribed while inviting applications.

19. Once the application for an increase of seats is

received from the medical institution, the MARB shall what the same on its merit before granting approval.

Provided the same criteria indicated in Chapter 11 of these Regulations shall apply mutatis mutandis for such evaluation.

CHAPTER-IV

ASSESSMENT AND RATING

20. Assessment by the MARB for the purpose of rating a medical institution - The MARB shall conduct an sessment and rating of all medical institutions and shall be vested with all such authority in discharging its functions under the Act.

Provided, without prejudice to anything stated in these Regulations, the MARB may appoint one or more independent third-party agency or agencies to conduct an assessment and rating of medical institutions, and on its behalf.

Provided further the MARB may prepare detailed guidelines in appointing independent third-party agency or agencies to carry on the work of assessment and rating of medical institutions.

Provided further that, if appointed the independent third-party agency or agencies shall have such power as indicated in their appointment letter issued by the MARB.”

- 19.** It would be apposite to refer to the recent public notice/instructions dated 22.12.2025 issued by the National

Medical Commission, through the Medical Assessment and Rating Board (MARB), inviting online applications for the establishment of new medical colleges intending to commence various undergraduate medical courses. The aforesaid notice also prescribes important instructions governing the submission and processing of applications. It sets out the eligibility conditions, procedural requirements, timelines, and the manner in which applications are required to be submitted through the online portal. The application process, as delineated in the said notice, is reproduced hereunder:

“ **IMPORTANT INSTRUCTIONS**

1. Application process

Application process may be inferred from the guiding document as annexed herewith as Annexure A. (See annexure A - Guidelines for UG applications)

2. Scheme as per section 28(2) of NMC Act, 2019

An accepted application with all mandatory relevant documents and containing such particulars, accompanied by such fee and in such manner as may be specified by relevant regulations shall form a valid scheme for the purpose of section 28(2) of the Act. An incomplete application shall not be considered as a valid scheme.

3. Assessment will be done as per the MSR for requested number of seats. If facilities are not

sufficient for the requested number of seats, allotment of lesser number of seats will not be considered. (For example, if an applicant has applied to establish a new college for 150 seats, the assessment will be done as per MSR for 150 seats and accordingly decision will be taken with regard to sanction to the college. If the requirements are not adequate for 150 seats, the application will be rejected and will not be considered for establishment of the institution with lesser number of seats like 50 or 100 even though available facilities may be adequate for such lesser number of seats) .No further communication with regard to this shall be entertained at any time and at any level.

4. An applicant can apply for increase in intake of maximum of 100 seats at a time.

5. Assessment

- (Assessment will be carried out for the accepted application which shall be considered as forming a valid scheme to open a Medical Institution. Incomplete Application will be rejected and no further communication will be entertained. The assessment process includes the assessment of the faculty, infrastructure, Institution through and clinical load of the Institution through physical/virtual/hybrid mode.
- Notwithstanding anything stated elsewhere, the MARB determines the appropriate method of assessment and/or inspection, before granting permission to the applicant to establish a medical institution or increase in the intake of seats. Provided

such methods shall include, but not be limited to scrutiny of documents in digital or another form, NMC AEBAS attendance, verification of Live Video Feed, Photographs, Hospital Management Information System (HMIS) data or physical/virtual assessment on any day at any time etc.

- The MARB will assess the accepted applications for establishment of a medical college through a team of assessors. MARB reserves the right to assess through either physical or virtual/hybrid mode. The assessment process for UG applications may be conducted over two days, if not completed in one day.
- The assessors will conduct the assessment to examine the infrastructure, quality of medical education, faculty, AEBAS data, clinical material & other clinical indicators, and financial status of the college to ensure compliance with latest NMC guidelines. They may also conduct interactions with staff & students during the assessment.
- For applications with respect to establishment of new MBBS College, all Faculty as per MSR shall be registered in the AEBAS of NMC and shall be physically present in the institution within 15 days from the last date of submission of applications. If any college has applied for increase in intake of seats, it should have mandatorily maintained the faculties and staff as per the MSR for the existing seats for the previous academic years. They shall have the additional faculties required for the

requested number of increase in the intake of seats and such faculties shall be registered in AEBAS and physically present in the institution within 15 days from the last date of submission of application. If they have failed to maintain the required faculty position as mandated above, the application for the increase in the intake of seats shall not be considered. And they shall be liable for the penalty to be decided by MARB. On the day of Inspection, faculty and staff registered in AEBAS and physically present before 10 AM will only be considered for assessment.

- **THE REGULATORY FRAMEWORK DOES NOT CONTEMPLATE A "WORK-IN-PROGRESS" STATUS AT THE TIME OF APPLICATION: RATHER, IT OBLIGATES READINESS AND DEMONSTRABLE COMPLIANCE AB INITIO. THEREFORE, ANY PLEA OF BEING IN THE PROCESS OF COMPLETING INFRASTRUCTURE OR REQUESTING ADDITIONAL TIME DEFEATS THE VERY OBJECT OF THE SCHEME UNDER THE ACT AND REGULATIONS AND IS WHOLLY IMPERMISSIBLE. FURTHER, REFUSAL / NON COOPERATION IN THE ASSESSMENT PROCESS SHALL ALSO BE LIABLE FOR REJECTION OF APPLICATION."**

20. So far as the Essentiality Certificate is concerned, the

aforesaid notice prescribes the format in which the certificate is required to be issued and also stipulates the requisite conditions that are required to be fulfilled. The relevant format of the Essentiality Certificate, along with the conditions prescribed therein, is reproduced hereinbelow:

“ESSENTIALITY CERTIFICATE

(To be provided by the respective State Government/UT)

FileNo.

Date

Name of issuing authority/Department

Name of the State Government/UT Government

Herewith, Essentiality Certificate (EC) as per requirement in NMC regulation is accorded to

_(name of the proposed medical college), for establishment of new Undergraduate Medical College/Institution at (complete address of the proposed Institution).

1. This Essentiality Certificate shall be valid and applicable to all the new Post- Graduate courses to be started by this Medical College/Institution in future & for increase in intake of seats for both Under-Graduate & Post-Graduate Courses.
2. The government has confirmed the desirability and feasibility of establishing this Institution based on the current need of the Doctors in this area.

3. It is further certified that in case fresh admissions in UG or PG courses are stopped by the NMC for any reason, the State/UT Government shall take over the responsibility of the students already admitted in the College with the direction of the NMC.

4. Relevant information to justify essentiality is as below-

i. No. of UG medical college/institutions already existing in the respective state/UT.

ii. No. of PG stand alone medical college/institutions already existing in the respective state/UT.

iii. Number of UG admissions in the medical colleges in the respective State/UT.

iv. Number of PG admissions of the applied specialties in the medical colleges of the respective State/UT.

v. Total population of the respective State/UT.

vi. Total number of allopathic doctor population registered with the State Medical Council of the respective State/UT.

vii. Doctor population ratio in the respective State/UT.”

21. Though learned counsel for the petitioner institution has submitted that adequate opportunity was not afforded to it and that the relevant enquiry report and other documents were not supplied, thereby depriving the institution of an opportunity to rectify the deficiencies, the said submission does not merit acceptance. It has been contended that, had

the enquiry report and the deficiencies noticed by the inspecting authorities been communicated to the petitioner institution, the same could have been rectified before the impugned decision was taken. According to the petitioner, the non-supply of the relevant material has resulted in violation of the principles of natural justice. The aforesaid contention, however, does not appear to be in accordance with law. The record reveals that the enquiry for issuance of the Essentiality Certificate as well as the enquiry relating to the proposal for enhancement of intake capacity of the medical college were conducted in the premises of the petitioner institution itself. The inspection was carried out with the knowledge and participation of the officers and representatives of the petitioner institution, who assisted the enquiry team during the inspection. The deficiencies, if any, were those existing in the infrastructure and facilities of the institution, which were within the exclusive knowledge of the petitioner institution. In such circumstances, the submission that the petitioner institution was unaware of the deficiencies or was deprived of an opportunity to rectify the same merely because a copy of the enquiry report was not supplied does not inspire confidence. The deficiencies recorded during the inspection pertained to matters existing within the institution

and were observed during the inspection conducted in the presence of its officials. Therefore, the plea that the petitioner institution had no knowledge of such deficiencies cannot be accepted.

- 22.** Secondly, the record further reveals that, upon the request made by the petitioner institution, a re-inspection was also conducted. The first inspection was carried out on 05.01.2026. Thereafter, a notice dated 24.01.2026 was issued, pursuant to which a re-inspection was conducted on 02.02.2026. Even during the re-inspection, the deficiencies noticed during the earlier inspection were found to be subsisting and remained unrectified. Thereafter, upon due consideration of the assessment report submitted by the Committee, the competent authority issued the Essentiality Certificate on 03.02.2026 after taking into consideration all relevant aspects of the matter. The principal deficiency noticed by the inspecting team pertained to the shortage of teaching faculty. Such deficiency cannot be treated as a minor or technical irregularity capable of being cured merely by grant of additional time. Adequate teaching faculty constitutes the very foundation for imparting quality medical education and is one of the essential requirements for grant of an Essentiality Certificate as well as for consideration of

any proposal seeking enhancement of intake capacity. The deficiency in faculty strength was found to exist not only during the initial inspection but also during the re-inspection conducted after affording sufficient opportunity to the petitioner institution to rectify the shortcomings. In such circumstances, it cannot be said that the petitioner institution was denied a reasonable opportunity to comply with the prescribed norms.

- 23.** Apart from the aforesaid deficiencies, the application submitted by the petitioner institution itself suffers from an inherent infirmity. As per the applicable Regulations and Guidelines governing enhancement of intake capacity, an existing medical institution is permitted to apply for enhancement of seats only up to a maximum of 100 seats at a time. However, from the pleadings as well as the application submitted by the petitioner institution, it is evident that the petitioner sought enhancement of intake capacity by 150 seats in a single application, which is *ex facie* contrary to the governing Regulations. Thus, the very application seeking enhancement of intake capacity was not maintainable, being in violation of the prescribed eligibility conditions. The assessment process prescribed under the applicable Regulations contemplates evaluation of the

institution with regard to faculty strength, infrastructure, clinical material and other statutory requirements through physical, virtual or hybrid modes, as may be determined by the Medical Assessment and Rating Board (MARB). In the present case, the assessment was carried out through physical inspection. The MARB is empowered to determine the appropriate mode of assessment, which may include scrutiny of documents in digital or any other form, verification through the National Medical Commission AEBAS attendance system, examination of live video feeds, photographs, Hospital Management Information System (HMIS) data, and physical or virtual assessment at any time.

- 24.** The applicable Regulations further mandate that every institution seeking enhancement of intake capacity must have maintained the requisite faculty and staff strength prescribed under the Minimum Standard Requirements (MSR) for its existing intake during the preceding academic years. In addition thereto, the institution must possess the additional faculty required for the proposed increase in seats, and such faculty members must be duly registered in the AEBAS system and be physically present in the institution within fifteen days from the last date prescribed for submission of the application. The Regulations further

provide that where an institution fails to maintain the prescribed faculty strength in the manner stipulated, its application for enhancement of intake capacity shall not be considered and it shall also be liable for such penalty as may be imposed by the Medical Assessment and Rating Board (MARB). In the present case, the petitioner institution admittedly failed to satisfy the mandatory requirement relating to faculty strength. Consequently, the competent authority committed no illegality in declining to grant the benefit sought by the petitioner institution.

- 25.** From a perusal of the aforesaid Guidelines and the pleadings of the parties, it is evident that the petitioner institution has failed to satisfy the mandatory requirements prescribed for enhancement of intake capacity. Firstly, the petitioner institution submitted an application seeking enhancement of intake capacity by more than 100 seats at a time, which is ex facie contrary to the applicable Regulations and Guidelines. The Regulations clearly contemplate that an institution may seek enhancement only up to a maximum of 100 seats in a single application. Therefore, the application itself was not in conformity with the prescribed statutory framework. Secondly, the inspection reports reveal that there was a substantial deficiency in the strength of teaching

faculty. The inspections were conducted on two separate occasions, yet the requisite number of faculty members was not found to be available during either inspection. The applicable Guidelines specifically mandate that an institution applying for enhancement of intake capacity must not only maintain the prescribed faculty strength for its existing intake but must also have the additional faculty required for the proposed increase in seats. Such faculty members are required to be duly registered in the AEBAS system and be physically present in the institution within fifteen days from the last date prescribed for submission of the application. The petitioner institution admittedly failed to satisfy this mandatory requirement. In view of the aforesaid deficiencies, the application submitted by the petitioner institution for enhancement of intake capacity was itself liable to be rejected. Consequently, the petitioner cannot claim, as a matter of right, issuance of an Essentiality Certificate for the entire enhancement sought by it. On the contrary, the record reflects that despite the aforesaid deficiencies, the respondent-State, after taking into consideration the inspection reports, the available infrastructure, clinical load and other relevant parameters, granted enhancement of 50 seats only and accordingly

issued the Essentiality Certificate to that limited extent. Thus, the respondents adopted a balanced and pragmatic approach by restricting the enhancement to the extent justified by the available infrastructure, faculty strength and clinical material, instead of rejecting the proposal in its entirety. In such circumstances, this Court is of the considered opinion that the action of the respondent authorities neither suffers from arbitrariness nor from any procedural or legal infirmity warranting interference in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India.

- 26.** In the matter of **Medical Council of India v. Vedantaa Institute of Academic Excellence Pvt. Ltd. & Ors., (2018) 7 SCC 225**, the Hon'ble Supreme Court has held that where the deficiencies found during inspection are of the nature contemplated under Regulation 8(3), the college cannot be permitted to rectify them in that academic year merely on the basis of judicial directions. The Hon'ble Court further held that High Courts should not direct grant of permission or admissions contrary to the statutory Regulations and that gross deficiencies disentitle the institution from renewal or enhancement.
- 27.** In the matter of **Subharti Medical College v. Union of India,**

AIRONLINE 2017 SC 642, wherein the case concerned enhancement of MBBS intake from 100 to 150 seats and the inspection disclosed deficiencies relating to faculty, residents, bed occupancy and clinical material. The Hon'ble Supreme Court upheld the refusal of permission and held that the Central Government is entitled to rely upon the inspection report where deficiencies are substantial. The Hon'ble Court reiterated that enhancement of seats is not a matter of right and depends upon strict compliance with the statutory requirements.

28. In Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS) & Ors., (2016) 11 SCC 530, the Hon'ble Supreme Court held that the standards prescribed by the Medical Council/NMC are mandatory. If deficiencies are found during inspection, permission cannot be granted merely on sympathetic considerations. The Court observed that maintenance of medical education standards overrides private or institutional interests.

29. Furthermore, in Royal Medical Trust (Regd.) v. Union of India, (2015) 10 SCC 19, the Hon'ble Supreme Court laid down principles governing grant of permission to medical colleges. It held that compliance with minimum standards is indispensable and deficiencies affecting medical education

cannot be ignored. It also held that judicial review is confined to examining the decision-making process and not substituting the expert opinion of the regulatory authorities.

- 30.** Considering the overall facts and circumstances of the case, aforesaid dictums laid down by the Hon'ble Supreme Court, this Court is of the considered opinion that the contention advanced by the petitioner institution regarding non-supply of the inspection reports dated 23.01.2026 and 02.02.2026 does not merit acceptance. The inspections were admittedly conducted in the presence of the representatives and officers of the petitioner institution, who actively participated in and assisted the inspection team. The principal deficiency noticed during both inspections related to the shortage of teaching faculty, a fact which was within the exclusive knowledge of the petitioner institution itself. Significantly, upon a careful perusal of the pleadings and submissions advanced on behalf of the petitioner institution, this Court finds that nowhere has it been pleaded or asserted that, as on the relevant date, the institution possessed the requisite number of teaching faculty as prescribed under the applicable Regulations. In the absence of such a specific assertion, the plea that the deficiencies could have been rectified had the inspection reports been supplied cannot be accepted. The deficiency pertaining to faculty strength is not one which could be cured

within a short span of time merely upon communication of the inspection report. Availability of the prescribed number of qualified faculty members is a substantive and mandatory condition for grant of an Essentiality Certificate and for consideration of enhancement of intake capacity.

- 31.** Likewise, the submission regarding denial of an opportunity of hearing is also liable to be rejected. The inspection itself was conducted in the presence of the officers and representatives of the petitioner institution, who had full knowledge of the inspection process and the deficiencies noticed therein. In such circumstances, it cannot be contended that the petitioner institution was deprived of an effective opportunity to present its case or that the principles of natural justice stood violated.
- 32.** The third contention advanced on behalf of the petitioner institution, namely, that the Essentiality Certificate or permission for enhancement of intake capacity could be refused or reduced only upon proof of fraud or misrepresentation, is equally misconceived and deserves to be rejected. The applicable Regulations do not make fraud a pre-condition for refusal of enhancement of seats. The competent authority is required to examine whether the institution satisfies the statutory norms and minimum standards prescribed under the Regulations. In the present

case, apart from the serious deficiency in faculty strength, the petitioner institution had itself submitted an application seeking enhancement of 150 seats, whereas the applicable Regulations permit an application for enhancement of only 100 seats at a time. This constitutes an inherent defect in the very application submitted by the petitioner institution.

33. For all the aforesaid reasons, this Court is of the considered opinion that the respondent authorities have rightly taken into consideration the available infrastructure, clinical material and, more particularly, the deficiency in the requisite teaching faculty while issuing the Essentiality Certificate and restricting the enhancement of intake capacity to 50 seats instead of the 150 seats sought by the petitioner institution. The impugned decision does not suffer from any arbitrariness, perversity or illegality warranting interference under Article 226 of the Constitution of India.

34. Accordingly, finding no merit in the writ petition, the same deserves to be and is hereby **dismissed**.

35. No order as to costs.

Sd/-

(Amitendra Kishore Prasad)

Judge