



# SC Imposes Rs 5 Crore Penalty On A Medical College For Playing Fraud On It; Orders Prosecution Of Its Dean

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It must be said with consummate ease that in a landmark, latest and laudable judgment titled Sarvepalli Radhakrishnan University & Another v. Union of India & Others in Writ Petition

(Civil) No. 1001 of 2017 with Writ Petition (Civil) No. 731 of 2018 which was delivered on January 17, 2019 by a three-Judge Bench of Supreme Court and authored by Justice L Nageswara Rao for himself, Justice Sharad A Bobde and Justice R Subhash Reddy, the Supreme Court has imposed a whopping penalty of Rs 5 crore on a medical college for playing fraud on it. It also ordered prosecution of its dean. While clearly barring the R.K.D.F. Medical College Hospital and Research Centre from making admissions for the 1st year MBBS course for the next two years, the three-Judge Bench of Apex Court has also ordered prosecution of college dean SS Kushwaha under Section 193 of the Indian Penal Code. The Apex Court also directed the college to pay

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compensation of Rs. 1 lakh to each student admitted in the college for the academic year, apart from the refund amount payable to them.

To start with, para 1 of this judgment first and foremost brings out that, 'Permission was granted for the establishment of Petitioner No. 2-R.K.D.F. Medical College Hospital and Research Centre (hereinafter referred to as 'the College') by Respondent No. 1 on the recommendation of Respondent No. 2- herein- Medical Council of India, with an intake capacity of 150 MBBS seats annually for the academic year 2014-15. An inspection was conducted on 23rd and 24th of February, 2015 for grant of renewal for admitting the 2nd Bath of 150 MBBS students for the academic year 2015-16. The Medical Council of India (MCI) recommended to the Central Government to reject the permission for admission of the 2nd Batch of 150 MBBS students for the academic year 2015-16 in view of the deficiencies found in the Assessment Report. A review/reassessment was done by the Executive Committee of Respondent No. 2 at the request of the Central Government. The Executive Committee of Respondent No. 2 reconsidered the matter and recommended to the Central Government not to renew the permission for the 2nd Batch of MBBS students for the academic session 2015-16. There was a further recommendation that the College should be debarred from making admissions for the next two academic sessions. The Central Government accepted the recommendation made by Respondent No. 2 and rejected the request for renewal. Yet another review/reassessment was done by the Central Government pursuant to the directions issued by this Court in SLP (C) No. 19543 of 2015 vide order dated 8th September, 2015. A Committee was constituted to afford an opportunity of hearing to the College. The College was denied permission to admit the 2nd Batch of the MBBS students for the year 2015-16 by an order of Respondent No. 1 dated 28th September, 2015. The High Court of Delhi quashed the said order dated 28th September, 2015 and directed the Central Government to examine the matter afresh vide its order dated 29th December, 2015 in Writ Petition (C) No. 9663 of 2015. The Central Government reiterated its decision by an order dated 1st January, 2016 to not grant permission to the College to admit the 2nd Batch



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of MBBS students. One more inspection was ordered by the High Court of Madhya Pradesh on 11th May, 2016 in Writ Petition (C) No. 21223 of 2015. Respondent No. 2 filed SLP (C) No. 14729 of 2016 challenging the order dated 11th May, 2016 passed by the High Court of Madhya Pradesh. On 15th July, 2016, this Court directed that a fresh inspection should be conducted. The order dated 15th July, 2016 was modified by this Court on 9th September, 2016 by which the Oversight Committee was requested to consider the matter pertaining to the admission of students in the College for the year 2016-17.'

To be sure, it is then added in para 2 that, 'By an order dated 27th September, 2016, the Oversight Committee accorded approval to the College for admission of students for the year 2016-17. The Oversight Committee directed the College to rectify the deficiencies and submit a compliance report to the Ministry of Health & Family Welfare by 27th September, 2016. The College was informed that a bank guarantee of Rs. Two Crores in favour of Respondent No. 2 has to be furnished by 27th September, 2016. It was stated that non-compliance of the conditions imposed by the Oversight Committee would result in the College getting debarred from fresh intake for two years commencing 2017-18. The 2nd Batch of 150 students for the academic year 2016-17 were admitted pursuant to the conditional permission for renewal granted by the Central Government.'

Truth be told, it is then brought out in para 3 that, 'A joint verification inspection was conducted on 5th and 6th January, 2017 for renewal of permission to the 3rd Batch of MBBS students for the academic year 2017-18. Finding gross deficiencies in the infrastructure, clinical material, teaching faculty and other physical facilities in the College, the Executive Committee of Respondent No. 2 concluded that the undertaking given by the College on 28th September, 2016 was breached. The Committee decided to recommend to the Central Government to debar the College from admitting students for the academic years 2017-18 and 2018-19. The Central Government accepted the recommendations made by Respondent No. 2 and by an order dated 31st May, 2017 debarred the College from making admissions for the years 2017-18 and 2018-19. The High Court of

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The image is a composite of two parts. On the left is a Crate & Barrel advertisement for outdoor furniture. It features a black sofa with a patterned pillow and a coffee table in a modern outdoor setting. The text reads: 'Now Up to 50% off Outdoor Furniture' and 'SHOP NOW'. The Crate & Barrel logo is at the bottom right. On the right is a Facebook page for 'Lawyersclubindia'. The page has 104,513 likes and a 'Like Page' button. The profile picture shows the 'LAWYERS CLUB INDIA' logo. Below the page name, it says 'Share your knowledge Interactive Platform' and 'Sign'. At the bottom of the page, it says 'Be the first of your friends to like this'.

Madhya Pradesh allowed Writ Petition (C) No. 8100 of 2017 filed by the College questioning the legality of order of the Central Government dated 31st May, 2017. The College was permitted to provisionally admit 150 students. Aggrieved by the judgment dated 21st July, 2017 of the High Court of Madhya Pradesh, Respondent No. 2 filed SLP (C) No. 20400 of 2017 before this Court. The re-inspection as directed by the High Court of Madhya Pradesh was confirmed by this Court by an order dated 14th August, 2017. It was made clear in the said order that the admission of students shall be completely provisional, being dependent on the result of the inspection. It was further mentioned that the admission of students shall be liable to be cancelled if the College fails in the inspection and the students will not be entitled to claim any equity. The students were directed to be informed by the Counselling committee about the said condition. An inspection was scheduled to be conducted on 14th & 15th September, 2017 for renewal of the 4th Batch of students in College for the MBBS course. According to Respondent No. 2, the said inspection had to be aborted midway as the assessors were manhandled and physically forced to leave the College. At the request made by the College, another inspection was conducted on the 25th & 26th September, 2017. The Executive Committee of Respondent No. 2 considered the Assessment Report at its meeting held on 26th September, 2017 and decided that admissions of the 4th Batch of 150 MBBS students for the year 2017-18 should be cancelled in view of the following deficiencies found in the inspection conducted on 25th & 26th September, 2017:

I. Bed Occupancy at 10 a.m. on day of assessment was 01.07% (i.e. 7 out of 410).

II. There were no Major Surgical operation on day of assessment.

III. There was NIL Normal Delivery or LSCS on day of assessment.

IV. Data of Clinical material like Casualty attendance, Discharges, Major & Minor Operations, Radiological Investigations as provided by the Institute are inflated.

V. ICUs: There was NIL patient in NICU/PICU & only 1 patient each in ICCU, MICU, SICU on day of assessment.

VI. Blood Bank: NIL Unit was dispensed on day of assessment.

VII. Deficiency of faculty is 15.65% as detailed in the report.

VIII. Shortage of residents is 40% as detailed in the report.

IX. Diet order was not recorded in the register on day of assessment.

X. MRD is partly manual.

XI. Facilities in Central Research Laboratory are not adequate. There are NIL ongoing or completed research projects.

XII. RHTC: Cold Chain equipment are not available. Survey / MCH / Immunization / Family Welfare registers are not available. No activities under National Health Programmes are carried out.

XIII. UHCC: Cold Chain equipment are not available. Survey / MCH / Immunization / Family Welfare Registers are not available.'

Bluntly put: How can all this be dismissed lightly? How can all this be overlooked? How can all this be justified on any ground? How can all this justify mild action? How can all this not justify most strict action?

No wonder that the Executive Committee of Respondent No. 2 rightly decided to act tough as pointed out in para 4 which states that, 'The Executive Committee of Respondent No. 2 further decided that Regulation 8(3)(1)(b) of the Establishment of Medical College Regulations, 1999 ('the MCI Regulations) should be invoked in view of the deficiencies found in the bed occupancy and residents. The said decision of Respondent No. 2 was approved by the Oversight Committee.'

Be it noted, it is also clarified in para 4 as to what Regulation 8(3)(1)(b) entails. It is as follows:-

'Regulation 8(3)(1)- The permission to establish a medical college and admit students may be granted initially for a period of one year and may be renewed on yearly basis subject to verification of the achievements of annual targets. It shall be the responsibility of the person to apply to the Medical Council of India for purpose of renewal [as per latest time schedule] prior to the expiry of the initial permission. This process of renewal of permission will continue till such time the establishment of the medical college and expansion of the hospital facilities are completed and a formal recognition of the medical college is granted. Further admissions shall not be made at any stage unless the requirements of the Council are fulfilled. The Central Government may at any stage convey the deficiencies to the applicant and provide him an opportunity and time to rectify the deficiencies.

(b) Colleges in the stage of III & IV renewal (i.e. Admission of fourth & fifth batch): [If it is observed during any inspection of the Institute that the deficiency of teaching faculty and/or Residents is more than 20% and/or bed occupancy is < 65%, compliance of rectification of deficiencies from such an institute will not be considered for renewal of permission in that Academic year.]'

Needless to say, it is then divulged in para 5 that, 'Respondent No. 2 directed the College to discharge all the students admitted for the academic year 2017-18 by its letter dated 29th September, 2017. The Principal Secretary (Medical Division Department), Government of Madhya Pradesh- Respondent No.3-herein was requested to cancel the admission of students made in the College for the academic year 2017-18.'

While elaborating in detail, it is then pointed out in para 6 that, 'The communications dated 29th September, 2017 to the College and the Respondent No. 3 are subject matter of challenge in this Writ Petition. The College sought a further direction that a fresh inspection should be conducted strictly in

accordance with the Assessor's Guide. While issuing notice on 23rd October, 2017, this Court stayed the operation of the communication dated 29th September, 2017. On 24th October, 2017 it was clarified that the students admitted as per the order dated 14th August, 2017 in SLP (Civil) No. 20400 of 2017 shall be permitted to continue with their studies. Thereafter, on a consideration of the Assessment Report pursuant to the inspection dated 25th & 26th September, 2017 and the submissions made on behalf of both sides, this Court by an order dated 14th December, 2017 directed the admission of the students to be cancelled. This Court took note of the order dated 14th August, 2017 which made the admission of students subject to the result of the inspection. As the students were found not to be complicit and not having any role to play in non-compliance of the requisite standards by the College, this Court considered it expedient to direct the students to be accommodated in other colleges. By referring to the Assessment Report pursuant to the inspection done on 25th & 26th September, 2017, learned Senior Counsel for Respondent Nos. 1 and 2 submitted that the College was indulging in fraud by showing persons who were not sick as patients only for the purpose of showing compliance of the minimum requirements. The learned Senior Counsel appearing for the College refuted the said contention and argued that all the patients were genuine. As this Court was in no position to determine the truth or otherwise of the allegations, an enquiry was directed to be conducted into the correctness of the statistics, reports and material placed before this Court by the College along with the Writ Petition. For the said purpose, a committee was constituted by this Court. A senior officer deputed by the Director, Central Bureau of Investigation (CBI), was directed to head the Committee which would have two doctors of the All India Institute of Medical Sciences (AIIMS) as its members. It is relevant to note that in the said order dated 14th December, 2017 it was made clear that the College may have to face prosecution under Section 193 of the Indian Penal Code, 1860 (IPC) if the allegations made by Respondent No. 2 were found to be correct. The decision to constitute a committee by this Court was arrived at after a thorough examination of the voluminous material placed on record by the College. The material was constituted of several photographs showing patients occupying the

beds and their case sheets. A bare perusal of the photographs did not convince us that the patients were genuine. After a close scrutiny of the case sheets, we had serious doubts about the necessity for admission of persons suffering from minor ailments as in-patients.'

By the way, it is then pointed out in para 7 that, 'The students who were admitted in the College for the year 2017-18 were directed to be adjusted in the other private medical colleges in the State of Madhya Pradesh for the academic year 2018-19 by an order passed by this Court on 3rd July, 2018. The students were directed to pay the fees to the colleges to which they are admitted. It was mentioned in the said order dated 3rd July, 2018 that the entitlement of the students for refund of the fee paid for admission to the College shall be adjudicated at the final hearing of the Writ Petition.'

As it turned out, para 8 then specifies that, 'The Committee appointed by this Court on 14th December, 2017 submitted its Report on 12th July, 2018. It was mentioned in the Report inter alia, that the Committee visited the College on 29th January, 2018 around 11.30 a.m. and found that the patient waiting area for OPD Registration was totally empty. After visiting several wards in the hospital, the Committee found that the attendance of patients was abysmally low and the patients shown to be admitted in OPDs/wards were not in conformity with the actual number of patients. It was further stated in the Report that a scrutiny of the medical case files of the in-patients showed that their admission was not necessary. The case duty rosters for duty doctors as well as nurses were not available in the wards and the junior doctors on duty were not able to identify and confirm who had written the case notes/progress notes on the case files.'

More importantly, para 9 while dwelling on the conclusions of the Committee observes unambiguously that, 'The Committee collected the medical sheets of 435 patients who were shown to have been admitted in the hospital on the date of the inspection conducted on 25th & 26th September, 2017. The hard disk that was obtained from the hospital for verification of the details of patients who were admitted prior to 7th January, 2018 was examined by the CBI. It was found that



the hard disk was empty and did not contain any data. The conclusion of the Committee after a detailed enquiry revealed the following:

i. The petitioner college has claimed that 6 doctors namely, Dr. Ritesh Kumawat, Dr. MR Gaikwad, Dr. SB Petkar, Dr. Deepak Kaladagi, Dr. Jeetendra Gupta and Dr. Ram Ballabh Thakur couldn't attend the MCI inspection on 25.09.2017 as they were summoned by Court/Police in connection with a motor accident case. However, such claim were found to be incorrect.

ii. All of the six doctors namely, Dr. Ritesh Kumawat, Dr. MR Gaikwad, Dr. SB Petkar, Dr. Deepak Kaladagi, Dr. Jeetendra Gupta, Dr. Ram Ballabh Thakur, when examined, denied having received any notice from police regarding the motor accident.

iii. Out of the 10 doctors (Sr. Residents/ Jr. Residents) who were not counted by the assessors on the strength of the petitioner college as faculty on the ground that they were not residing in the college hostel, 9 doctors could be contacted. Examination of those 9 doctors revealed:

- 07 doctors confirmed during enquiry that they were not staying in the hostel in the college campus and they themselves had conveyed the MCI assessors in this regard. It is mandatory to stay in hostel as per Assessor's Guide issued by MCI for academic year 2018-19.

- The other two resident doctors, i.e. Dr. Meenal Parmar and Dr. Arpita Mishra, stated that they were staying in the hostel but were not considered on the strength of the college by the MCI assessors.

iv. Out of the 8 resident doctors which petitioner college had claimed to be on night duty and so couldn't appear before MCI assessors by 11 AM, enquiry revealed that:

- Out of the above mentioned 8 resident doctors, 6 resident doctors stated that they were not on payroll of the petitioner college on the day of inspection i.e. 25.09.2017. Even 4 of those doctors had stated that they never joined the hospital.

- 1 doctor (Dr. Ritesh Kumawat) stated that he was not present on the day of the inspection, i.e. 25.09.2017.

- And another doctor Dr. Devyani Patel was present on 25.09.2017 but she was rightly excluded by the MCI assessors as she couldn't make her presence by 12 noon (which was mandated as per Assessor's Guide).

v. The 3 doctors namely Dr. Priyank Jain, Dr. Manoj Sahu and Dr. Amit Jain, who were not treated as Sr. Resident doctors by the MCI assessors doesn't seem to be justifiable considering the fact that all three of them were treated as Sr. Resident Doctors on earlier inspection on 05.01.2017.

vi. Two tutors who have been shown as present in the assessment by the college had not attended the assessment proceedings on 25.09.2017.

vii. Due to vague and incomplete type of the addresses mentioned in the record of the petitioner college, most of the patients could not be located as merely the names of the colonies and sub areas have been found to be mentioned on the

patient case sheets. In the identified 21 patients, 8 are the employees/students of various RKDF institutions.

viii. On the basis of the medical analysis of the case sheets of the patients most doctors from AIIMS are of the similar view that it is doubtful that all these patients were actually admitted and that too for such a long duration.

ix. Most of the doctors are also of the opinion that the range of cases shown to be admitted was grossly inadequate for training of students.

x. The doctors were also of the opinion that in most of the case sheets prescriptions, operative notes, etc. appears to have been written by the same person in a very unprofessional manner. Also histopathological reports are very sketchy and incomplete.

xi. Dr. S.C. Sharma, Professor and HoD, ENT Department of petitioner's college on 25/26.09.2017. As per his opinion most of the patients appear to be fictitious.

xii. Dr. H.L. Nag, Professor, Orthopedics, AIIMS has examined 52 medical sheets of the patients shown on bed in Orthopedics Department of petitioner's college on 25/26.09.2017. He held that majority of those cases could have been managed without hospital admissions.

xiii. Dr. Naval Kishore Vikram, Professor General Medicine AIIMS has examined 97 medical patients of General Medicine and 12 patients of TB & Chest Department who were shown to be on bed on 25/26.09.2017. He has concluded that it appears doubtful that those patients were actually admitted in the hospital. Most of the patients appear to be over treated by various medications, particularly antibiotics. He also held that most of the cases had limited number of diagnosis which is grossly inadequate for training of medical students.

xiv. Dr. Pankaj Hari, Professor Paediatrics Department, AIIMS has examined 62 medical sheets of the patients shown on bed in Paediatrics Department of

petitioner's college on 25/26.09.2017. He concluded that the admitted cases have limited diagnosis which is quite inadequate for training of students in a medical college. He also raised doubt over the authenticity of those medical files.

xv. Dr. Vinod K. Khetan, Professor, Department of Dermatology and Venereology, AIIMS, examined 10 medical sheets of the patients shown on bed in Dermatology department of petitioner's college on 25/26.09.2017. He raised serious doubts over the authenticity of patient being actually admitted. He also opined that the range of cases admitted and their work up is grossly inadequate for the training of students.

xvi. Dr. Namrata Sharma, Professor, Deptt. Of Ophthalmic Sciences, AIIMS has concluded that in out of total 17 cases, admission of the 02 patients was required whereas in all other cases patient could have been managed under day care OPD.

xvii. Dr. Mamta Sood, Professor, Deptt. Of Psychiatry, AIIMS examined 08 medical sheets of the patients shown on bed in Psychiatry Department of petitioner's college on 25th/26.09.2017. Though she mostly agreed that the treatment shown to be given to the patients was appropriate, but she opined that they didn't require to be admitted.

xviii. Dr. Ongikla Bhutia, Professor, Division of Oral Maxillofacil Surgery, AIIMS examined 11 medical sheets of the patients shown on bed in Oral Maxillofacial Surgery Department of petitioner's college on 25/26.09.2017. The doctor opined that the diagnosis appeared repetitive. Neither pre-operative radiography nor post operative radiography were found on record. Consent for the surgery was also found to be absent in some cases.

xix. Dr. Deepika Deka, Professor, Deptt. Of Obstetrics and Gynaecology, AIIMS had examined 56 medical sheets of the patients shown on bed in Obstetrics and Gynaecology Department of petitioner's college on 25/26.09.2017. She raised

doubt whether actual surgery was performed or not. She also raised doubt over the genuineness shown for those patients.

xx. Dr. Subodh Kumar, Professor, Deptt. Of Surgical Disciplines, AIIMS examined 96 medical sheets of the patients on bed on 25/26.09.2017. He raised serious doubt over the genuineness of patients actually admitted. He also held that spectrum of cases shown to be admitted was grossly inadequate for training of students!'

To put things in perspective, para 10 then enumerates that, 'When the matter was listed on 5th December, 2018, Shri Vivek Tankha, learned Senior Counsel appearing for the College, submitted that the College intends to submit an apology for the lapses on their part. He requested us to give a quietus to this matter. He submitted that there are students presently studying in the institution who would be affected by any adverse order passed against the College.' In other words, Vivek Tankha who was the learned Senior Counsel who appeared for the College left no stone unturned to convince the Court that a quietus should be given to this matter as the College intended to tender an apology and the students studying there would be adversely affected! But the Bench was not quite convinced by it.

It would be imperative to mention here that para 11 while rebutting all untenable defences of College also took it to task for misleading it while also appreciating the line of action taken by MCI and observed that, 'It has been brought to our notice by the Respondent No. 2- MCI that during the inspection conducted on 23rd & 24th February, 2015 for the purpose of granting admission for the academic year 2014-15, it was found that there were patients who were fake and others who had been admitted without any significant illness. The MCI was constrained to invoke Regulation 8(3)(1)(a) and Regulation 8(3)(1)(d) of the MCI Regulation in view of the College submitting forged/fake documents for the purpose of showing compliance with the minimum requirements. A complaint was made by Dr. A.K. Banerjee, Ex-Associate Professor of Surgery of the College on 25th March, 2015 alleging that more than 50% of the doctors who were shown as

full-time Faculty Members were full-time private practitioners. Dr. Paresh Ruparel who was shown as a Professor of Surgery in the College was working as a surgeon at V.S. Hospital affiliated to MHL Medical College, Ahmedabad and was also running a private hospital. Dr Ruparel was referred to Ethics Committee and he was suitably dealt with for misdemeanor.'

Continuing in the same vein, it is then further added by the Apex Court Bench in the same para 11 that, 'Without delving deep into the details of the Report submitted by the Committee, it is clear that the College is guilty of practicing fraud on this Court. The conduct of the College administration in indulging in manipulations and hoodwinking the authorities to project compliance of the requisite minimum standards for admission of students does not deserve to be condoned. The impunity with which the College has manufactured records to convince us that they were being unnecessarily hounded by the MCI in spite of their compliance with the required standards is deprecated. The brazen attempt by the College in taking this Court for a ride by placing on record maneuvered documents to obtain a favourable order is a clear-cut act of deceit. The justification given by the College regarding the absence of certain residents has turned out to be a concocted story. Had we not initiated an enquiry by the Committee of Experts, the fraud played by the College on this Court would not have come to light. It is trite that every litigant has to approach the Court with clean hands. A litigant who indulges in suppression of facts and misrepresentation is not entitled for any relief. The conduct of the College in this case to mislead this Court for the purpose of getting a favourable order is reprehensible and the College deserves to be dealt with suitably.'

Of course, it is then elaborated in para 13 that, 'In the affidavit filed along with the Writ Petition, Mr. S.S. Kushwaha, Dean of the R.K.D.F. Medical College Hospital and Research Centre stated that the contents in the Writ Petition are true and correct to the best of his knowledge and belief. According to the College, the Assessment Report pursuant to the inspection conducted on 25th and 26th September, 2017 was unfair as the justification for the absence of six members

of the faculty was not accepted. The averment in the Writ Petition is to the effect that the said six doctors who had received summons from the Sub-inspector of Police, Bairagarh were at the police station at 11 a.m. on 25th September, 2017 in connection with the complaint relating to a motor accident case. The Committee enquired into the correctness of the claim made by the College regarding the absence of the six faculty members. Mr. Mohan Sharma, Assistant Sub-Inspector of Police of Bairagarh Police Station stated that there was no such notice issued for summoning the six doctors to the police station. On further enquiry, the six doctors namely Dr. Ritesh Kumawat, Dr. MR Gaikwad, SB Petkar, Dr. Deepak Kaladagi, Dr. Jeetendra Gupta and Dr. Ram Ballabh Thakur denied having received any notice from the police station. Dr. Ritesh Kumawat further denied having filed any complaint regarding the motor accident. On the basis of the above findings of the Committee, it is clear that a false statement has been made by the College on the basis of a fabricated document. It was averred in the Writ Petition by the College that there were 365 patients in the hospital at the time of inspection on 25th September, 2017 but the inspection team recorded that they were only seven patients available. In support of their submission, reliance was placed on the computerized data of the Medical Records Department. The hard disk that was collected by the Committee to study the details of the patients who were admitted in the hospital prior to January, 2018 turned out to be empty and no data could be retrieved. The assertion made by the College regarding the genuineness of the patients in the hospital turned out to be false in the enquiry conducted by the Committee. The Committee had serious doubts whether the patients were actually admitted. Most of the case sheets, prescriptions, operative notes, etc. appeared to be written by the same person in a very unprofessional manner. The histopathological reports were found to be sketchy and incomplete. On a thorough examination of the case sheets, the experts from AIIMS opined that admission of the patients was unnecessary in a number of cases. In view of the fake and incomplete addresses mentioned in the records of the hospital, most of the patients could not be located. Only 21 patients were identified and 8 out of these turned out to be employees/students of the College. All this goes to show that the College has

indulged in large scale malpractices in showing compliance of the minimum required standards to obtain permission for admission of students. The College further tried to mislead this Court that it is compliant in all respects, to get permission for the admission of students.'

While sparing no punches in lambasting the College for misleading the Court, it is then clearly and categorically held in para 14 that, 'The brazen manner in which the College has indulged in relying upon manipulated records to mislead this Court for the purpose of getting favourable order deserves to be dealt with in a serious manner. We find that this is a fit case where Mr. S.S. Kushwaha, Dean of the College must be held liable for prosecution under Section 193 IPC.'

It is then rightly reiterated in para 15 that, 'There have been instances of errant medical colleges making admissions to the medical courses without obtaining the requisite permission. This Court came down heavily on such deviant colleges by imposing penalties for the illegalities committed by them in the matter of admission and for putting the students' future in jeopardy. [(2015) 4 SCC 580 45.6 – Medical Council of India v. M.G.R. Educational & Research Institute University and (2016) 11 SCC 530 31, 31.2 & 31.4 – Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS)] We have noticed a disturbing trend of some medical colleges in projecting fake faculty and patients for obtaining permission for admission of students. The Committee exposes the evil design of the College in resorting to deceitful methods to cheat the authorities concerned and this Court to secure permission for admission of students. Apart from the prosecution of the Dean, the College is liable to be suitably punished for committing perjury.'

It would be instructive to note that while not being convinced of the apology tendered by the College through its learned senior lawyer Vivek Tankha, the Apex Court Bench then noted in para 16 that, 'We are unable to persuade ourselves to accept the apology offered on behalf of the College. The College has been habitually indulging in foul play which is clear from the course of events in 2015 when faculty members were found to have been working elsewhere and running



hospitals. The bravado shown by the College in an attempt to cheat the MCI, the Government and this Court has to be condemned. The Committee constituted by this Court is due to the vehemence with which the Counsels appearing for the College were trying to convince us that they are fully compliant with all the requirements. 'Apology is an act of contrition. Unless apology is offered at the earliest opportunity and in good grace, the apology is shown of penitence and hence it is liable to be rejected. If the apology is offered at the time when the contemnor finds that the Court is going to impose punishment it ceases to be an apology and becomes an act of a cringing coward'. [TN Godavarman Thirumalpad (102) v. Ashok Khot and Anr. (2006) 5 SCC 1 at Para 31]'

It is then clarified in para 17 that, 'The students who were admitted in the 1st Year MBBS Course in the College for the academic year 2017-18 were duly cautioned and informed that their admission was purely provisional and they cannot claim any equity if the College was later on found to be deficient. They have been directed to be admitted in other colleges for the years 2018-19. In the process, students have lost a precious academic year. However, they are entitled for the refund of the fee collected from them for admission to the College.'

**Finally and most importantly, it is then concluded in para 18 that, 'For the aforementioned reasons, we pass the following order:**

(i) Mr. S.S. Kushwaha, Dean of the R.K.D.F. Medical College Hospital and Research Centre i.e. Petitioner No. 2- herein is liable for prosecution under Section 193 IP. The Secretary General of this Court is directed to depute an Officer to initiate the prosecution in a competent Court having jurisdiction at Delhi.

(ii) The College is barred from making admissions for the 1st Year MBBS course for the next two years i.e. 2018-19 and 2019-2020.

(iii) A penalty of Rs. Five crores is imposed on the College for playing fraud on this Court. The amount may be paid to the account of the Supreme Court Legal Services Committee.

(iv) The students are entitled to receive the refund of fee paid by them for admission to the College for the academic year 2017-19. In addition, the College is directed to pay a compensation of Rs. One Lakh to the said students.'

Lastly, in para 19, it is held that, 'The Writ Petition is dismissed accordingly.

**WRIT PETITION (CIVIL) NO. 731 OF 2018:**

The Writ Petition is hereby dismissed in terms of the above judgment.'

In the ultimate analysis, it has to be said in all fairness that this latest, landmark and laudable judgment has sought to send a very loud and clear message to all Colleges that if they dare to break all rules and regulations and hope to get away easily by just tendering an apology, then they are themselves responsible for inviting trouble and are heading themselves into trouble for which no one but they themselves will be solely liable and held accountable and punished! They will be left with just no option but to shell out a huge penalty as we see in this high profile case where the concerned College is ordered to not just pay Rs 5 crore penalty but also to refund the fees paid by the students to the College for the academic year 2017-19 and in addition pay a compensation of Rs one lakh to the said students. All arguments and apologies tendered by the College through its learned Counsel Vivek Tankha just simply failed to cut ice with the three-Judge Bench of Apex Court who delivered this most latest and laudable judgment which has made headlines in all newspapers and all news channels! No doubt, all Colleges must always from now onwards bear this in mind and shed the false myth that they could easily take the system for granted and get away by just tendering an apology! The earlier this is done, the better it shall be for them to ensure that they too don't end up with egg on their face as we see here!



Sanjeev Sirohi  
on 04 February 2019



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