

Medical Council verdict mustn't be bypassed: Supreme Court to High Courts

Legal Correspondent

NEW DELHI: The Supreme Court has strongly deprecated the practice of High Courts passing interim orders on writ petitions filed by medical colleges for increasing the number of seats in cases when the Medical Council of India had not granted approval for such increase.

Cascading effect

Allowing an appeal from the MCI, a Bench of Justices H.L. Dattu and C.K. Prasad, said: "In normal circumstances the High Court should not issue interim order granting permission for increase of the seats. The High Court ought to realise that granting such permission by an interim order has a cascading effect. By virtue of such orders, students are admitted [as in the present case] and though many of them had taken the risk knowingly, a few may be ignorant."

Destructive to law

Writing the judgment, Justice Prasad said: "In most such cases when finally the issue is decided against the College, the welfare and plight of the students are ultimately projected to arouse the sympathy of the court. It results in a very awkward and difficult situation. If on ultimate analysis it is found that the college's claim for increase of seats is untenable, in such an event the admission of students with reference to the increased seats shall be illegal. We cannot imagine anything more destructive of the rule of law than a direction by the court to allow continuance of such students whose admissions is found illegal in the ultimate analysis."

Disapproving of the tendency, the Bench said: "This Court is entrusted with the task to administer law and uphold its majesty. Courts cannot, by [their] fiat, increase the seats, a task entrusted to the Board of Governors [of the MCI] and

• 'Courts cannot sanction increase in number of seats in medical colleges'

• 'Illegal to pass interim order if the Council has deemed request untenable'

that too by an interim order."

The Bench pointed out that various issues, such as date of submission of application form, the schedule prescribed by the MCI for various programmes, the infrastructure available in the college, etc., could not be determined by the court through an interim order.

Risk to students

The Bench said: "Therefore, we make it clear that the High Court ought not to grant such interim orders in any of the cases where the MCI has not granted permission in terms of Section 10A of the Medical Council Act. If interim orders are granted to those institutions which have been established without fulfilling the prescribed conditions to admit students, it will lead to serious jeopardy to the students admitted in these institutions."

Extant case

In the present case, the MCI was aggrieved by the interim order dated August 24, 2011, passed by a Division Bench of the Karnataka High Court, whereby it had permitted JSS Medical College, Mysore, to increase the seats for its MBBS course from 150 to 200 for the academic year 2011-2012.

The Bench, allowing the appeal, said: "We are of the opinion that the High Court erred in permitting the increase of the seats by an interim order. The interim order passed by the High Court is unsustainable."

The Bench directed the High Court to consider and dispose of the case on merit expeditiously.