



2025:DHC:7762-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 04.09.2025

% **LPA 564/2025 & CM APPL. 55755-58/2025**

NATIONAL MEDICAL COMMISSIONAppellant

Through: Mr. Kirtiman Singh, Sr. Adv. with
Mr. T. Singhdev and Mr. Bhanu
Gulati, Advs.

versus

**INDEX MEDICAL COLLEGE, HOSPITAL AND RESEARCH
CENTRE & ORS.**Respondents

Through: Mr. Sandeep Sethi, Sr. Adv. with Mr.
Kaushal Gautam, Ms. Snehpreet Kaur
and Mr. Hemendra Jain, Advs.
Ms. Radhika Bishwajit Dubey, CGSC
with Ms. Gurleen Kaur Waraich, Mr.
Kritarth Upadhyay and Mr. Saksham
Sharma, Advs. for R-3.

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SHALINDER KAUR**

DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)

1. This intra-Court appeal has been preferred under Clause X of the Letters Patent taking exception to an order dated 22.08.2025 passed by the learned Single Judge whereby while inviting affidavits to be filed by the parties, the learned Single Judge has directed the respondents in the writ



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petition to allow the petitioner – institution (respondent No.1 herein) to participate in the ongoing NEET-UG counselling for admission in the academic session 2025-26, and further that the name of the institution shall be included in the list of colleges as per the sanctioned intake capacity, forthwith.

2. The appellant – National Medical Commission is a statutory body constituted under Section 3 of the National Medical Commission Act, 2019 (hereinafter referred to as the Commission Act, 2019), whereas the respondent No.1 is an institution which imparts medical education in allopathic system of medicine leading to award of undergraduate medical degree (MBBS).

3. The petitioner – institution has filed W.P.(C) No. 10890/2025 challenging the order dated 17.07.2025 passed by the Director Under Graduate Medical Education Board constituted under Section 16 of the Commission Act, 2019, whereby the earlier order dated 27.06.2025, by means of which conditional renewal of 250 MBBS seats was granted to the petitioner – institution, has been withdrawn with immediate effect.

4. For the academic session 2024-25, the Under Graduate Medical Education Board granted renewal of 250 seats for MBBS in favour of the petitioner – institution subject to fulfilment of all clauses mandated in Commission Act, 2019 and various other Regulations notified from time to time. Accordingly, the petitioner institution made admissions in its MBBS course for the academic session 2024-25. A public notice was issued on



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01.11.2024 by the Director Under Graduate Medical Education Board intimating the colleges which were not registered with the appellant – Commission, will not be able to access the portal created for counselling for the purposes of allotting students.

5. By means of another notice dated 25.04.2025, the petitioner – institution was directed to furnish certain additional information. The experts nominated for evaluation of the infrastructure, facilities available in the petitioner – institution observed certain deficiencies in respect of which the petitioner – institution was directed to submit written clarification on each such deficiency by means of a show cause notice dated 11.05.2025. Thereafter, it appears that a compliance report was submitted by the petitioner – institution to the show cause notice dated 11.05.2025 and on consideration thereof the Under Graduate Medical Education Board decided to grant conditional renewal of 250 UG (MBBS) seats for the academic session 2025-26; however the said renewal granted to the petitioner–institution was subject to rectification of the deficiencies in 04 months from the issuance of the said letter/ order dated 27.06.2025. It is this renewal for 250 UG (MBBS) seats in the petitioner – institution for the academic session 2025-26 which has been withdrawn by means of the order dated 17.07.2025 which has been challenged before the learned Single Judge.

6. If we peruse the order which is under challenge before the learned Single Judge in the proceedings of the writ petition, dated 17.07.2025, what we find is that the said order mentions about lodging of a FIR wherein the petitioner – institution is said to have been implicated in criminal



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conspiracy, allegations of misconduct, corrupt and unethical practices violating the statutory provisions of the assessment process of the appellant – Commission. The order further mentions that the FIR contains allegations that such actions on the part of the petitioner – institution are breach of official secrecy protocols which resulted in compromising the integrity of the Regulatory framework. The order also mentions that manipulation of the process, fabricating evidence, unauthorized sharing of information and acts of illegal gratification jeopardize the quality of medical education and public health standards in the country.

7. The order dated 17.07.2025 also states that in light of the ongoing investigation and to uphold the public trust the renewal of MBBS seats for the petitioner – institution was reconsidered by the Expert Sub-Committee of Under Graduate Medical Education Board and on careful evaluation, the competent authority has resolved to stop admissions to MBBS course for the academic session 2025-26. The impugned order also mentions that consequently the order granting conditional renewal of 250 MBBS seats dated 27.06.2025 is withdrawn with immediate effect.

8. It has been averred by learned senior counsel for the appellant that the learned Single Judge while passing the impugned order which is under challenge herein has issued the direction, though by means of an interim order, that the petitioner – institution shall be allowed to participate in the ongoing NEET UG Counselling and that its name shall be included in the list of colleges forthwith. According to the learned counsel for the appellant such a direction could not have been passed by the learned Single Judge for



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the reason that the order amounts to permitting admission of students though the order is interim in nature. It has thus been argued by learned counsel for the appellant that such an interim order is impermissible in view of various pronouncements of Hon'ble Supreme Court where it has been observed, *inter alia*, that no such admission can be permitted by means of an interim order.

9. Placing reliance on the judgment of the Hon'ble Supreme Court in ***Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS)***, (2016) 11 SCC 530, it has been argued by learned senior counsel for the appellant that since the interim order, which is under challenge herein, permits admission of the students though the renewal of the MBBS seats for the academic session 2025-26 stands withdrawn, as such an interim order of such a nature could not have been passed and, therefore, the learned Single Judge has erred in law.

10. Further canvassing the case of the appellant – Commission, it has been submitted that the FIR was lodged on 30.06.2025, that is immediately after the renewal was granted on 27.06.2025 and since the allegations in the FIR are grave in nature and the same pertain to misconduct, corrupt unethical practices violating the statutory provisions of the assessment process of the Commission, as such, permitting such an institution to take admission of the students will ultimately jeopardize the studies of the students and, therefore, it will not be in their interest; neither will it be in the interest of medical studies.



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11. It is also submitted by learned senior counsel for the appellant that though the learned Single Judge while passing the order under challenge herein has placed reliance on an order dated 21.07.2025 passed by the Hon'ble Supreme Court in SLP(Civil) No. 15865/ 2025, ***National Medical Commission & Ors. v. Madhuri Sewa Nyas & Ors.***, however, the directions issued in the said case by the Hon'ble Supreme Court have clearly been ignored though the facts of the case which engaged the attention of the Hon'ble Supreme Court in ***Madhuri Sewa Nyas (supra)*** and those of the instant matter are almost akin to each other.

12. Opposing the instant appeal, it has emphatically been argued by learned senior counsel representing the respondent No.1 (petitioner–institution) that the only reason for withdrawal of renewal as is reflected from the order dated 17.07.2025 is lodging of the FIR and since the Hon'ble Supreme Court in its order dated 21.07.2025 passed in ***Madhuri Sewa Nyas (supra)*** has clearly observed that registration of FIR *per se* is not a sufficient or valid ground to withhold the Letter of Permission for a College/Hospital, if the National Medical Commission is otherwise satisfied that the petitioner – institute possess the requisite infrastructure, facilities and amenities, as per the prescribed norms, for imparting education.

13. According to the learned senior counsel representing the respondent No.1 (petitioner–institution) in view of the said observation made by the Hon'ble Supreme Court in ***Madhuri Sewa Nyas (supra)***, since the same reason has been given while passing the order dated 17.07.2025, as such, *ex facie*, the said order is bad in law and, accordingly, the order passed by the



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learned Single Judge which is under challenge herein does not warrant any interference in this appeal in the facts of the case.

14. It has also been argued on behalf of respondent No.1 (petitioner–institution) that the case of the respondent No.1 stands on a better footing than the case of the institution concerned in *Madhuri Sewa Nyas (supra)* for the reason that in the instant case the renewal was already granted by means of the order dated 27.06.2025 which has been withdrawn by means of the order dated 17.07.2025, whereas in *Madhuri Sewa Nyas (supra)* the order of renewal was not granted and on lodging of the FIR it is only that the letter of permission was withheld. On these counts the instant appeal has been vehemently opposed.

15. We have given our anxious consideration to the competing submissions made by learned senior counsels representing the respective parties and have also perused the records available before us on this intra-Court appeal.

16. It is apparent from a perusal of the order dated 17.07.2025 that the only reason for withdrawing the renewal, as is reflected from the said order, is lodging of the FIR dated 30.06.2025. The said order does not contain any other reason for withdrawal of the renewal of 250 MBBS seats for the academic year 2025-26. The Hon'ble Supreme Court in *Madhuri Sewa Nyas (supra)* has categorically observed that registration of FIR is not a sufficient or valid ground to withhold the letter of permission for a college if the National Medical Commission is otherwise satisfied that the college



fulfils the requirement of infrastructure, facilities, and amenities as per the prescribed norms.

17. Accordingly, so far as the reliance placed by the learned Single Judge while passing the order under challenge herein dated 22.08.2025 on ***Madhuri Sewa Nyas (supra)*** is concerned, we do not find any flaw in the said approach of the learned Single Judge, however, what we notice is that while placing reliance on paragraphs 5 and 7 of ***Madhuri Sewa Nyas (supra)*** the learned Single Judge appears to have lost sight of the consequential directions issued by the Hon'ble Supreme Court which are contained in paragraphs 8 of the said order dated 21.07.2025 passed in ***Madhuri Sewa Nyas (supra)***. Paragraphs 5,7 and 8 of ***Madhuri Sewa Nyas (supra)*** are extracted hereinbelow:

“5. In purported compliance of the direction issued vide order dated 15.07.2025, the National Medical Commission has issued a Letter of Withholding Application, dated 18.07.2025, primarily on the ground that meanwhile the Central Bureau of Investigation (CBI) has registered FIR No.RC2182025A0014, dated 30.06.2025, under the Prevention of Corruption Act, 1988 and BNS, and the respondent Medical College and hospital is also named in the said FIR. On this premise, a Letter of Withholding Application has been issued.

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7. It seems to us that the registration of FIR per se is not a sufficient or valid ground to withhold the Letter of Permission for a College/Hospital with an annual intake of 100 MBBS students, if the National Medical Commission is otherwise satisfied that the College and Hospital possess the requisite infrastructure, facilities and amenities, as per the prescribed norms, for imparting the professional education to the said number of students. It goes without saying that the investigation of FIR and consequential trial proceedings, if so initiated, may take years, and that does not mean that the Medical College should remain defunct or be denied of permission to admit students despite having requisite infrastructure.



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8. Consequently, keeping in view the peculiar facts and circumstances of this case, we dispose of the instant Special Leave Petition with the following directions:

(i) National Medical Commission is directed to satisfy itself, either based upon the Expert Committee's Report dated 24.06.2025, or secure another Inspection Report from an Expert Committee comprising of higher/senior subject experts within a period of four days and, thereafter, take an appropriate decision as to whether the respondent-Medical College and Hospital be permitted to take an annual intake of 100 MBBS students or not. An appropriate decision, in this regard, will have to be taken by 31.07.2025. The commencement of counselling from today will cause no prejudice to the respondent Medical College and Hospital and if the National Medical Commission is satisfied re: compliance of norms, it shall be ensured that adequate number of students, strictly as per merit, are provided for admission against the additional seats to be sanctioned in terms of the above direction.

(ii) It is, however, clarified that the above-stated direction shall have no bearing on the fate or outcome of the FIR registered by the CBI, and such proceedings shall be independently carried out in accordance with law. ”

18. It is not in dispute that the subject matter before the Hon'ble Supreme Court in ***Madhuri Sewa Nyas (supra)*** was similar to the subject matter of the instant appeal. It is also not denied that it is the same FIR dated 30.06.2025 (RC2182025A0014), on the basis of which the order was passed by the National Medical Commission in ***Madhuri Sewa Nyas (supra)*** and on the basis of this very FIR dated 30.06.2025 the order which is challenged before the learned Single Judge in the instant case, dated 17.07.2025 has also been passed.

19. Accordingly, we are of the considered opinion that once reliance by the learned Single Judge was placed on ***Madhuri Sewa Nyas (supra)*** while passing the order under challenge herein, the directions contained in



paragraph 8 of the said order passed by the Hon'ble Supreme Court could not have been ignored.

20. While disposing of the Special Leave Petition in ***Madhuri Sewa Nyas (supra)*** vide paragraph 8 of the order, the Hon'ble Supreme Court directed the National Medical Commission to satisfy itself based on expert committee's report or secure another inspection report from an expert committee and thereafter take an appropriate decision as to whether the medical college concerned may be permitted to take an annual intake of 100 MBBS students or not.

21. Accordingly, we are of the opinion that the approach of the learned Single Judge while passing the order impugned herein, placing reliance on ***Madhuri Sewa Nyas (supra)*** does not suffer from any flaw, however, the learned Single Judge appears to have erred while not issuing the directions in tune with the directions passed by the Hon'ble Supreme Court which are contained in paragraph 8 of the order dated 21.07.2025 in ***Madhuri Sewa Nyas (supra)***.

22. We may also state that the submission of learned senior counsel representing the petitioner-institution that the case of the petitioner-institution stands on a better footing than the case of the medical college in ***Madhuri Sewa Nyas (supra)*** on the ground that in ***Madhuri Sewa Nyas (supra)*** the process of grant of renewal was not completed whereas in the instant case renewal for MBBS Course for the session 2025-26 was already granted, is not tenable in our considered opinion for the reason that the



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renewal as per the order dated 27.06.2025 was conditional and, in fact, the same was subject to rectification of deficiencies for which 04 months' time was granted from issuance of the said order dated 27.06.2025. The order dated 27.06.2025 clearly states that after submission of the compliance report by the petitioner–institution, certain deficiencies were found to exist and such deficiencies are clearly indicated therein. The appellant Commission however granted conditional renewal allegedly taking “lenient view”.

23. We are afraid we cannot agree with the approach of the Commission while granting the conditional renewal to the petitioner institution by means of the order dated 27.06.2025. There cannot be any permissible “lenient view” to grant renewal of seats for admission to MBBS course for the reason that the students pursuing such course after completion are eligible and licensed to treat human lives and in case any such “lenient view” is permitted to be taken in such matters, it may amount to putting human lives to jeopardy and risk.

24. The renewal of such seats concerning MBBS course must be passed on strict evaluation of the infrastructure, facilities, and amenities as per the requirement of the statutory framework and any leniency, as observed above, may lead to a situation where students being admitted will not get adequate and appropriate education so as to equip themselves to treat human lives.

25. Accordingly, we are of the opinion that as directed in *Madhuri Sewa*



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Nyas (supra) by the Hon'ble Supreme Court, in the instant case as well the National Medical Commission ought to be satisfied about the availability of the requisite infrastructure, facilities and amenities as per the requirement of the statutory provisions and only then the petitioner as an institution may be permitted to take annual intake of students.

26. We have been informed that the second round of State Counselling is to start from 10.09.2025 which will continue till 19.09.2025. Thereafter, third round of counselling is also scheduled to commence on 30.09.2025 which will end on 10.10.2025. The stray vacancies are to be filled in between 16.10.2025 to 18.10.2025.

27. Having regard to the over all facts and circumstances of the case as also the order passed by the Hon'ble Supreme Court in *Madhuri Sewa Nyas (supra)*, we dispose of the instant Letters Patent Appeal as also the W.P.(C) No. 10890/2025 with the following directions:

I. The National Medical Commission shall satisfy itself by securing another inspection report from the Expert Committee by 09.09.2025 and thereafter shall take appropriate decision as to whether the petitioner – institution is to be permitted to take the intake of MBBS students for the academic session 2025-26.

II. If the National Medical Commission is satisfied about the compliance of the statutory norms, it shall ensure that adequate number of students strictly as per merit are provided for admission against the sanctioned seats by the body/ authority conducting the counselling.



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III. We also clarify that the direction contained in this order shall have no bearing on the FIR registered by the CBI and the proceedings on the basis of the said FIR shall independently be carried out in accordance with law.

28. At this juncture, learned senior counsel for the appellant Commission has stated that at least 10 days' time be granted for ensuring compliance of this order for the reason that 5th, 6th and 7th September, 2025 are holidays.

29. Ordinarily, we would have acceded to such a prayer being made by the learned counsel representing the appellant–Commission, however, considering the fact that the second round of counselling is to commence on 10.09.2025, we have passed the directions as above. We also direct that all the authorities, including the panel of experts shall cooperate with each other to ensure timely compliance of this order.

30. There shall be no order as to costs.

DEVENDRA KUMAR UPADHYAYA, CJ

SHALINDER KAUR, J

SEPTEMBER 04, 2025

N.Khanna