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## **KERALA STATE MEDICAL COUNCILS**

COMBINED COUNCIL BUILDING, RED CROSS ROAD, THIRUVANANTHAPURAM- 695 035, KERALA, INDIA.

### **PROCEEDINGS OF THE REGISTRAR KERALA STATE MEDICAL COUNCILS** **(Present :K.R Balasubramanian)**

**Sub:- KSMC-Compliance of Judgement dated 10-03-2023 in W.P (C)  
No. 39608/2022 of the Honourable High Court of Kerala - reg.**

**Ref:- 1. Judgement dated 10-03-2023 in W.P (C) No. 39608/2022**  
**2. Decision of Modern Medicine Council held on 23-03-2023**  
**3. Decision of Modern Medicine Council held on 12-04-2023.**

**Proceedings No. A2-22733/2022/MC/WP(C) DATED: 13/04/2023**

- 1) W.P (C) No. 39608/2022 is filed by Foreign Medical Graduates of 2015-2020 batch belonging to Ningbo University, China. As per the study plan of the University, the course duration of the above medical graduates is from September, 2015 to September, 2020. However, due to the outbreak of Covid-19 Pandemic, the petitioners were forced to return back to India during the month of January,2020 and thereafter the students attended online classes and obtained completion certificate from the University. They also have passed the Foreign Medical Graduates Examination conducted by the National Board of Examinations and got Provisional registration certificates from the Kerala Medical Council for the purpose of doing internship in India.
- 2) While so, in pursuance to the directions contained in SLP Nos.2536-37 of 2022 of the Hon'ble Supreme Court, the National Medical Commission issued its Public Notice dated 28.7.2022, which prescribed that those medical graduates who returned to India in view

of Covid-19 Pandemic without completion of their course and thereafter attended online classes and obtained completion certificates from the respective universities are to undergo two years of internship in India, in order to make up the clinical training which could not be physically attended by them due to their return to India.

- 3) The case of the petitioners in the above Writ Petition is to quash the Public Notice dated 28.7.2022, which prescribed for an additional year of internship for all the Foreign Medical Graduates to the extent it applies to the petitioners as they have undergone their full clinical training in their Foreign Medical University in China in physical mode itself and only theoretical classes were done online. Ningbo University in China to which the petitioners belong also have issued documents in support of the petitioners in which it is stated that during Covid-19 pandemic, the students have done one month online classes from March 2020 to April 2020, in which they studied Integrated Medicine which are theoretical subjects without any practical classes. The University further state that the petitioners have successfully completed their practical classes and clinical training in offline physical mode in the University itself during the period 2015-2020.
- 4) The Hon'ble High Court of Kerala after having considered the matter found that a factual dispute has been raised with respect to the course period undergone by the petitioners and accordingly directed the Kerala State Medical Council to verify the above aspect including the lock down restrictions and the documents produced by the petitioners. It was further ordered that if it is found that petitioners have undergone the course in accordance with the course period and have completed the same in all respects, then applications can be received from the petitioners to consider them for permanent registration.



- 5) As per the Judgment of the Hon'ble High Court, the matter was considered in detail by the Modern Medicine Council on 12-04-2023.
- 6) The Public Notice dated 28.07.2022, was issued by the National Medical Commission, in pursuance to the judgment of the Hon'ble Supreme Court in SLP No. 2536-37 of 2022, clearly in contemplation of the fact that the MBBS curriculum involves clinical training in their last year of their course and it is in order to make up the clinical training which could not be physically attended by them due to their return to India and also to familiarize them with the practice of medicine under Indian conditions that the Commission insisted for two years of Compulsory Rotating Medical Internship for Foreign Medical Graduates.
- 7) The Hon'ble Supreme Court while delivering the judgment in the above Special Leave Petitions, had made clear observations regarding clinical training being carried out through online mode and deprecated such practice. Taking reference to its own decision rendered in Orissa Lift Irrigation Corporation Limited Vs Rabi Sankar Patro & Ors., the Apex Court reiterated the essential fact that practicals form the backbone of medical education which is hands on approach involving actual application of principles taught in theory. Therefore without practical training, there cannot be any Doctor who is expected to take care of the citizens of the country.
- 8) On the validity of online classes, the National Medical Commission had issued a clarification vide Legal/01/2020, dated 30.9.2020, stating that in view of Covid-19 pandemic, the medical colleges / institutions in India are conducting online theory classes for MBBS students. Online classes are valid and were approved for teaching during pandemic only. Such online theory classes are required to be supplemented by practical and clinical training as per the current

curriculum in all MBBS subjects, in the colleges/ institutions and affiliated hospitals as and when colleges reopen. In respect of Foreign Medical Graduates also, the Commission reiterated that FMG's are allowed to undergo online classes of theory subjects only which should mandatorily be supplemented by offline practical and clinical training done in the Medical University during their MBBS course.

- 9) The above clarifications issued by the NMC would clearly pinpoint to the fact that online classes were permitted during the special circumstances of Covid-19 pandemic, which are mandatorily to be supplemented with practical classes thereafter, when medical colleges/ institutes reopen. Therefore, the contention of the petitioners that they underwent online classes only in respect of theory classes and therefore not within the purview of the Public Notice dated 28-07-2022 is not sustainable. This has been vividly clarified by the National Medical Commission in their letter dated 19.10.2022, that online study of medical qualification has never been recognized / approved by the Commission. However, in view of the Covid-19 Pandemic, online classes conducted by the Medical Colleges / institutes were made valid, to be supplemented by practical and clinical training as per current curriculum in all MBBS subjects as and when colleges reopen. Thus it is clear that the Commission has not approved/ validated the medical qualifications (both theoretical & practical) through online mode. The above letter further intimated that the foreign medical students who have completed their studies online and already been granted provisional registration (prior 28.07.2022) by the concerned State Medical Councils and / or currently pursuing OR completed their internship, must complete their CRMI with NMC's Public Notice dated 28.07.2022



- 10) In view of the above clarification, it is abundantly clear that those Foreign Medical Graduates, who have returned to India during the last year of their course and attended online classes, are clearly within the purview of the Public Notice dated 28.07.2022. The document now produced from Ningbo university dated 21.03.2023, certifying that the students had done 1 month online classes from March 2020 to April 2020, in which they studied Integrated Medicine which are theoretical subjects without any practical classes will not help the petitioners to seek exclusion from two years of CRMI insisted as per the Public Notice dated 28.07.2022.
- 11) Accordingly, the Modern Medicine Council that held on 12-04-2023 decided to reject the representation submitted by the petitioners, and are accordingly rejected. The petitioners are directed to undergo two years of internship as per the public notice issued by NMC dated 28-07-2022.

The Judgment of the Honourable High Court is accordingly complied with.



Registrar