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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Judgment reserved on: 23.07.2026**% **Judgment delivered on:03.09.2026**# **CNR No : DLHC010513632025**+ **W.P.(C) 11266/2025, CM APPL. 46312/2025, CM APPL. 27936/2026 & CM APPL. 46444/2026****BRIJ SHARADBHAI BHATT AND ORS**Petitioners

Through: Dr. Manish Singhvi, Sr. Adv. with
Mr. D. K. Devesh, Adv.
Mr. Satish Pandey and Ms. Jay Jamini
Pandey, Advs.

versus

NATIONAL MEDICAL COMMISSION AND ORSRespondents

Through: Mr. Bishwabandhu, SC with Mr.
Bipul Kumar, Ms. Nisha, Advs. for
R-1
Mr. Waize Ali Noor, Mr. Mrinal Kr.
Sharma, Mr. Z. Rahman, Advs. for R-
2
Mr. Varun Mishra, SPC for UoI with
Mr. Ashar Hussan, Adv for R-3 & 4.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TEJAS KARIA****J U D G M E N T****DEVENDRA KUMAR UPADHYAYA, C.J.****CHALLENGE AND BACKGROUND FACTS**

1. The petitioners, who are Indian citizens, having pursued their studies in allopathic system of medicine abroad, have instituted the instant petition



under Article 226 of the Constitution of India against the denial of their request to take the Screening Test conducted by respondent No.2 – National Board of Examination in Medical Sciences (hereinafter referred to as “**National Board**”) which would have entitled them to be registered as medical practitioners by the respondent No.1 – National Medical Commission (hereinafter referred to as “**NMC**”) enabling them to practice allopathy in India.

2. The first prayer made in the writ petition is that Regulation 4(1) of the Screening Test Regulations, 2002 (hereinafter referred to as “**Screening Regulations**”) which was inserted by a notification dated 26.09.2009, be declared *ultra vires* and unconstitutional.

2.1 By the impugned Regulation, the institutions included in the World Directory of Medical Schools published by the World Health Organisation (‘WHO’) were excluded from the category of institutions whose qualification, awarded to a person, was earlier treated to be a Primary Medical Qualification (hereinafter referred to as “**PMQ**”), making such a person eligible to be allowed to appear in the Screening Test.

2.2 The impugned Regulation 4.1 of the Screening Regulations is quoted hereunder:

“4. Eligibility Criteria: No person shall be allowed to appear in the screening test unless:

(1) No person shall be allowed to appear in the screening test unless: he/she is a Citizen of India or has been granted Overseas Citizenship of India and possess any primary medical qualification, which is confirmed by the Indian Embassy concerned, to be a recognized qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated.”



3. The petitioners have also sought quashing of Clause 2.14 of the Information Bulletin issued by the respondent No.2 for conducting Screening Test known as Foreign Medical Graduate Examination (hereinafter referred to as ‘**FMGE**’) which requires that the foreign medical degree held by a person appearing in the Screening Test should be attested either by the Embassy of India or should be apostilled by the appropriate authority of the foreign country concerned. The impugned clause 2.14 of the Information Bulletin is extracted herein below:

*“The foreign medical degrees should be attested either by the Embassy of India or should be Apostilled by the appropriate authority of the foreign country concerned. Kindly note that the apostilled/attestation is to be in accordance with the requirements of Hague Convention of 5 October 1961 abolishing the requirement of legalisation for Foreign Public Document (**Apostille Convention**). For details regarding Apostilled documents, candidates may refer to the website of Ministry of External Affairs, Govt. of India. Unattested certificates / Certificates attested after the last date prescribed for submission of documents (**i.e. 30th December 2024**) shall not be considered for the purpose of eligibility for FMGE December 2024.”*

4. Challenge has also been made to the communication/letter dated 14.05.2025 issued by the Deputy Director (Medical), Department of Examination Conduct of the respondent No.2, which states that the candidates who have submitted an alternative PMQ in lieu of the degree certificates from New Tokyo Medical College, Federated States of Micronesia (hereinafter referred to as “**Micronesia Medical College**”) shall not be considered eligible to appear in FMGE.

5. The impugned communication dated 14.05.2025 was issued in the background that the petitioners had submitted their applications for appearing in FMGE June, 2023 and FMGE December, 2023 conducted by



respondent No.2. While scrutinizing these applications, it was noticed that the petitioners had applied for FMGE June, 2023 presenting their PMQ from Micronesia Medical College, however, they were not permitted to appear in FMGE June, 2023 as the PMQ certificate was non-apostilled/attested by the concerned Indian Embassy which is a mandatory requirement. Subsequently, the petitioners applied for FMGE December, 2023 presenting a PMQ certificate from Central America Health Sciences University, Belize (hereinafter referred as “**Belize Medical University**”) and it was found that for the same period of study for both the PMQs, the petitioners had presented PMQ certificates from two different institutions. The matter was considered by the Examination Ethics Committee of the respondent No.2 and after issuance of a Show Cause Notice (‘SCN’), to which reply was also submitted by the petitioners, a considered decision was taken by respondent No.2 not to consider the petitioners eligible to appear in FMGE.

6. The petitioners are said to have taken admission in different foreign medical institutions for pursuing their medical course for award of a degree equivalent to MBBS, however, under certain circumstances like outbreak of civil war, COVID-19, Russia-Ukraine war and for certain personal reasons, they got themselves transferred to other medical schools situated in countries other than where they had initially taken admission. In the year 2020, the petitioners are said to have approached Micronesia Medical College, seeking transfer for completion of their studies of the medical course which was accepted by Micronesia Medical College and on completion of the medical studies at Micronesia Medical College they were conferred with the requisite certificate.



7. As per the legal requirement, any citizen having completed a course, equivalent to MBBS Course, abroad has to appear in a Screening Test conducted by respondent No.2 for the purposes of his registration as a medical practitioner of allopathic system of medicine in India. The petitioners, accordingly, applied for appearing in the Screening Test conducted by respondent No.2 in June, 2023, however, they were not held to be eligible. Thereafter, it appears that the petitioners approached a Medical School at Belize Medical University and underwent a certain additional course on the basis of their score card issued when they had pursued their studies at Micronesia Medical College and the Belize Medical University issued a certificate on 13.10.2023 validating the medical degree granted by Micronesia Medical College under a Memorandum Of Understanding ('MOU') entered into between the Micronesia Medical College and Belize Medical University on 19.04.2021. The petitioners applied to appear in the Screening Test conducted in December, 2023, however, where again they were denied participation by respondent No.2, holding them ineligible for the reason that the petitioners had submitted an alternate PMQ Certificate in lieu of the same degree certificate from Micronesia Medical College for the same period of studies which was not treated by respondent No.2 to hold the petitioners eligible to appear in FMGE.

RELEVANT STATUTORY PROVISIONS

8. Having discussed the background facts in which the instant petition has been filed, we may now note certain statutory provisions which are relevant for the purposes of appropriately determining the issues involved in this petition.



9. The Central Legislature enacted National Medical Commission Act, 2019 (hereinafter referred to as the '**NMC Act, 2019**') with a view to provide for a medical education system for improving access to quality and affordable medical education and also for ensuring availability of adequate and high quality medical professionals in the country. As per Section 1(3) of the NMC Act, 2019, the Act shall come into force on a date to be notified by the Central Government by a notification in the Official Gazette. It further provides that different dates may be appointed for different provisions of this Act. Certain provisions of the NMC Act, 2019 were notified on 02.09.2019 by the Central Government and accordingly such provisions came into force on 02.09.2019 itself. Certain other provisions came into force with effect from 25.09.2020 *vide* a notification issued under Section 1(3) of the NMC Act, 2019 on 24.09.2020

10. Section 60 of the NMC Act, 2019 contains repeal and saving clause, according to which, the earlier statute governing the field of medical education in India, namely Indian Medical Council Act, 1956 (hereinafter referred to as the "**IMC Act, 1956**") shall stand repealed and the Medical Council of India, constituted under the said Act, shall stand dissolved with effect from such date as the Central Government may appoint for the said purpose.

11. Under the NMC Act, 2019, 'National Medical Commission' has been constituted which is the successor of Medical Council of India, the earlier body which was constituted under the 1956 Act.

12. NMC, thus, in terms of Section 61 of the NMC Act, 2019, is the successor in interest to the Medical Council of India and as per Sub-Section



2 of Section 61, the educational standards, requirements and other provisions of the IMC Act, 1956 and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under the NMC Act, 2019 or the rules and regulations are made thereunder. It is by virtue of Section 61(2) of the NMC Act, 2019 that the Screening Regulations, 2002 which were framed by Medical Council of India are still in vague.

13. Section 61 of the NMC Act, 2019 is quoted herein below:

*“61. **Transitory provisions.** — (1) The Commission shall be the successor in interest to the Medical Council of India including its subsidiaries or owned trusts and all the assets and liabilities of the Medical Council of India shall be deemed to have been transferred to the Commission.*

(2) Notwithstanding the repeal of the Indian Medical Council Act, 1956, the educational standards, requirements and other provisions of the Indian Medical Council Act, 1956 and the rules and regulations made thereunder shall continue to be in force and operate till new standards or requirements are specified under this Act or the rules and regulations made thereunder:

Provided that anything done or any action taken as regards the educational standards and requirements under the enactment under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act”

14. The Screening Regulations, 2002 were framed by the Medical Council of India with the previous sanction of the Government of India in exercise of its powers conferred by Section 33 of the IMC Act, 1956. Section 33 of the IMC Act, 1956 empowers the Medical Council of India to make regulations, with the previous sanction of the Central Government, to carry out the purposes of the said Act. Section 33(ma) permits the Medical Council of India to frame regulations to provide for the modalities for



conducting the Screening Test under Sub-Section 4A of Section 13 of the IMC Act, 1956. Section 33(ma) is quoted herein under:

“33. Power to make regulations.—The Council may, with the previous sanction of the Central Government, make regulations generally to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for—

(a)...

(b)...

[...]

(m)...

(ma) the modalities for conducting screening tests under sub-section (4A), and under the proviso to sub-section (4B), and for issuing eligibility certificate under sub-section (4B), of section 13.”

15. Section 13(4A) of the IMC Act, 1956 provided that an Indian citizen, obtaining medical qualification awarded by a medical institution situated outside India, shall not be entitled to be enrolled on the Medical Register maintained by a State Medical Council and shall also not be entitled to have his name entered in the Indian Medical Register unless he qualifies the Screening Test in India prescribed for such purposes. Section 13(4A) of the IMC Act, 1956 is extracted herein below:

“13. Recognition of medical qualifications granted by certain medical institutions whose qualifications are not included in the First of Second Schedule.—;

(1)...

(2)...

(3)...

(4)...

(4A) A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognized for enrolment as medical practitioner in that country after such date as may be specified by the Central Government under sub-section (3), shall not be entitled to be enrolled on any Medical Register maintained by a State Medical Council or to have his name entered in the Indian Medical Register unless he qualifies the screening test in India prescribed for such



purpose and such foreign medical qualification after such person qualifies the said screening test shall be deemed to be the recognised medical qualification for the purposes of this Act for that person.”

16. Clause 2(f) of the Screening Regulations, 2002 defines “Primary Medical Qualification” to mean a medical qualification awarded by any medical institution outside India which is a recognised qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated and which is equivalent to MBBS in India.

17. Clause 2(f) of the Screening Regulations, 2002 is extracted herein below:

“2(f) “Primary Medical qualification” means a medical qualification awarded by any medical institution outside India which is a recognized qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated and which is equivalent to MBBS in India;”

18. Clause 3 of the Screening Regulations, 2002 provides that an Indian citizen possessing a PMQ awarded by any medical institution outside India, who is desirous of getting provisional or permanent registration with the Medical Council of India or any State Medical Council, on or after 15.03.2002, shall have to qualify a screening test conducted by the prescribed authority. Clause 3 of the Screening Regulations, 2002 is extracted herein below:

“3. An Indian citizen possessing a primary medical qualification awarded by any medical institution outside India who is desirous of getting provisional or permanent registration with the Medical Council of India or any State Medical Council on or after 15.03.2002 shall have to qualify



a screening test conducted by the prescribed authority for that purpose as per the provisions of section 13 of the Act:

Provided that a person seeking permanent registration shall not have to qualify the screening test if he/ she had already qualified the same before getting his/ her provisional registration.”

19. We have already extracted, in one of the preceding paragraphs of this judgment, the impugned provisions of Clause 4(1) which was substituted vide notification dated 26.09.2009. Clause 4(1) which existed prior to its substitution w.e.f 26.09.2009 was as under:

“4. Eligibility Criteria: No person shall be allowed to appear in the screening test unless:

- (1) *he/ she is a citizen of India and possesses any primary medical qualification, either whose name and the institution awarding it are included in the World Directory of Medical Schools, published by the World Health Organization; or which is confirmed by the Indian Embassy concerned to be a recognized qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated;”*

SUBMISSIONS ON BEHALF OF THE PETITIONERS

(A) Regarding Constitutional validity of Regulation 4(1) of the Screening Regulations, 2002

20. It has been contended on behalf of the petitioners that prior to its substitution w.e.f. 26.09.2009, Clause 4(1) of the Screening Regulations, 2002 provided that an Indian citizen, who possesses any PMQ from an institution included in World Directory of Medical Schools published by WHO, shall be also treated to be possessed with PMQ for the purposes of allowing him to appear in the Screening Test, however, by substituting Clause 4(1) which is under challenge herein, the medical institutions included in the World Directorate of Medical Sciences published by WHO



have been excluded; as a result of which an Indian citizen possessing PMQ awarded by an institution situated outside the country, which was included in the World Directory of Medical Schools published by WHO, will not be eligible to appear in the Screening Test. The said exclusion of such foreign medical schools is arbitrary and illegal and hence is liable to be struck down.

21. It is further stated that the Micronesia Medical College where the petitioners had studied and were awarded the certificate was included in the World Directory of Medical Schools published by WHO, however, because of the impugned substituted Clause 4(1) of the Screening Test Regulations, 2002 they are not being treated to be eligible to take the Screening Test. In this regard, referring to the judgment in ***Rohit Naresh Agarwal v. Union of India and Others***, 2013 SCC Online Del 3904, it has been argued that such regulation excluding the foreign medical schools which are included in World Directory of Medical Sciences published by WHO, is beyond the powers of the Indian Medical Council conferred on it under Section 33(ma) of the IMC Act, 1956 which permitted the Council to frame regulations only in respect of modalities for conducting the Screening Test and not for determining the eligibility of the Indian citizens having the PMQ from foreign medical schools. Thus, the submission is that the provisions of impugned Regulation 4(1) of the Screening Regulations, 2002 are *ultra vires* Section 33 of the IMC Act, 1956.

(B) Regarding Clause 2.14 of the Information Bulletin published by respondent No.2 for FMGE.

22. In respect of the impugned Clause 2.14 of the Information Bulletin published by the respondent No.2, it has been argued that Section 13(4A) of



the IMC Act, 1956 does not prescribe that the foreign medical degree possessed by an Indian citizen, awarded from a foreign medical school, should be attested by the Embassy of India or should be apostilled by the appropriate authority of the foreign country concerned and, therefore, such a prescription contained in Clause 2.14 of the Information Bulletin is beyond the provision of Section 13(4A) of the IMC Act, 1956.

23. It has also been argued that the said Regulation 2.14, so far as it requires the foreign medical degrees to be apostilled by appropriate authority of the foreign country, is against even the Regulation 4(1) of the Screening Regulations, 2002, where the only requirement is that such a foreign degree should be confirmed by the Indian Embassy to be a recognised qualification for enrolment as medical practitioner in the country in which the institution awarding PMQ is situated.

(C) Regarding communication dated 14.05.2025, whereby respondent No.2 holds the petitioners to be ineligible to appear in FMGE.

24. Challenging the impugned communication dated 14.05.2025, it has been contended on behalf of the petitioners that the decision of respondent No.2 declaring the petitioners to be ineligible to appear in FMGE is not sustainable for the reason, *inter alia*, that as per the Memorandum of Understanding dated 19.04.2021 entered into between Micronesia Medical College and Belize Medical University, the students having obtained the degree at Micronesia Medical College on transfer to Belize Medical University would not need to repeat their already completed education and further that all credits from the courses that are completed at Micronesia Medical College are accepted and applied for the purposes of grant of



degree by Belize Medical University. In this view, the submission is that once the Belize Medical University has issued the requisite certificate/degree, denial by the respondent No.2 to the petitioners to appear in the FMGE is not lawful.

**SUBMISSIONS ON BEHALF OF THE RESPONDENT NO.1 –
NATIONAL MEDICAL COMMISSION**

25. On behalf of respondent No.1, it has been argued that the amended Regulation 4(1) of the Screening Regulations, *vide* notification dated 26.09.2009, has been framed in exercise of the powers conferred under Section 33(ma) read with Section 13(4A) of the IMC Act, 1956 and therefore, it has a statutory force. It has further been argued that the requirement in the impugned Clause 4(1) of the Screening Regulations, 2002 of confirmation of the foreign degree by the Indian Embassy has a rational basis.

26. Learned counsel representing the respondent No.1 has referred to the affidavit filed in this petition by the Ministry of External Affairs, Government of India wherein it has been stated that the officials of the Embassy visited the Micronesia Medical College in 2023 and found that the said medical college had grossly inadequate infrastructure, including a namesake laboratory, absence of proper faculty and institutional set-up, and the institution was functioning from a floor in an old building and, therefore, these facts fully justify the necessity of the confirmation of the PMQ by the Indian Embassy.



27. Referring to the public notices/circulars dated 08.08.2023, 22.11.2024 and 21.07.2025, it has been argued that the Indian students were advised against seeking admission at Belize Medical University and, therefore, any qualification obtained by the petitioners from the said medical university will not make them eligible to appear in the FMGE.

28. Further submission is that the petitioners have pursued their education in multiple institutions and, therefore, they cannot seek their eligibility to appear in the FMGE on the basis of PMQ issued by the Belize Medical University to cure the deficiencies arising out of their fragmented education. The submission is that such a qualification cannot be accepted.

29. Reference has also been made by the National Commission to Foreign Medical Graduate Licentiate Regulations, 2021 to submit that any certificate obtained after fragmented education spells cannot be permitted to be the requisite PMQ for permitting participation in the FMGE as the said Regulation provides that only that qualification will be a valid PMQ where a person who pursues the foreign medical degree has undergone a course of theory, practical and clinical training equivalent to MBBS of India and should have completed internship of 12 months in the same foreign institution from where the PMQ has been obtained. Submission is that since, in the instant case, the petitioners have pursued their medical course in different and multiple foreign medical schools and have undergone fragmented studies, the qualification held by them cannot be treated to be a valid PMQ for the purposes of permitting them to appear in the Screening Test.



30. It has also been argued that such fragmented education produces half-baked professionals and, therefore, any Indian citizen having obtained such medical education in a foreign medical school or multiple foreign medical schools cannot be permitted to be treated to be eligible for taking the Screening Test, as no such medical professional can be allowed to play with the health of the people.

31. The Memorandum of Understanding entered into between Micronesia Medical College and Belize Medical University has also been referred to by the learned counsel representing the respondent No.1, who has submitted that such a Memorandum of Understanding cannot be construed as authorising validation of a PMQ or creation of an alternate qualification to satisfy FMGE eligibility requirements.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO.2

32. Learned counsel appearing for the respondent no.2 has also opposed the petition stating therein that the actions, which are under challenge herein, are strictly applied with the extant rules and regulations governing the FMGE. It has further been argued that the petitioners were fully aware of the impugned provisions of the Information Bulletin and having once applied for appearing in the said examination in June, 2023 without challenging the provisions of the Information Bulletin, they cannot be permitted to challenge the same and in fact, the challenge is an afterthought. Further submission on behalf of the respondent no.2 is that the issues involved in this petition are in relation to academic matters, where this Court ought to be reluctant in exercising its jurisdiction under Article 226 of the Constitution of India.



33. It has also been contended that the respondent no.2 is the examination conducting body, which has acted strictly in accordance with the Screening Regulations, 2002 and since the petitioners do not fulfil the statutory eligibility as prescribed under Regulation 4(1) of the Screening Regulations, 2002, they have rightly been denied to appear in the FMGE. Reference has been made to the Advisory on Medical Education in Federated States of Micronesia issued by the Embassy of India in Manila, Philippines, where it has been stated that though relevant information was sought by the Embassy from the Government of Federated States of Micronesia on Micronesia Medical College, however, no response was received from Federated States of Micronesia and, therefore, the Embassy of India in Manila, Philippines will not be in a position to authenticate any degree or any other educational documents issued by the Micronesia Medical College.

34. In view of the aforesaid clarification issued by the Embassy of India in Manila, Philippines, any claim based on any educational certificate or degree issued by the Micronesia Medical College cannot be treated to be an authentic qualification so as to enable the petitioners to participate in FMGE. It has further been stated and argued that Federated States of Micronesia, where Micronesia Medical College is situated, is not a signatory to the Hague Convention of 05.10.1961 and, therefore, any authentication/apostillation done by any authority of the Federated States of Micronesia is not in accordance with requirement of the Hague Convention and, therefore, the medical qualification obtained from Micronesia Medical College by the petitioner and not attested as per the requirement of the



Hague Convention, 1961 cannot be treated to be a qualification making the petitioners eligible to appear in FMGE.

35. It has also been argued on behalf of the respondent no.2 that reliance placed by the petitioners on the subsequent medical qualification said to have been obtained from Belize Medical University is misplaced. It is also stated that it was noticed by the respondent no.2 that several candidates were applying to appear in the FMGE while relying on multiple degrees issued by different medical institutions, which aspect was considered by the Examination Ethics Committee of the respondent no.2 and the said Committee, upon deliberation, took a decision that candidates, who have submitted alternate PMQ in lieu of the degree certificate from Micronesia Medical College, for the same period of studies, shall not be considered eligible to appear in the FMGE and it is based on the said decision that the impugned communication dated 14.05.2025 was issued by the Deputy Director, Department of Examination Conduct of the respondent no.2.

36. It has also been contended that the petitioners have produced the PMQ issued by Belize Medical University in substitution of the qualification originally obtained by them from Micronesia Medical College, for the very same period of study, and accordingly, irrespective of the nature of attestation or authentication accompanying such a subsequent qualification, it cannot be made basis for holding the petitioners eligible to appear in FMGE.

37. Emphasis has, thus, been laid by the respondent no.2 on the fact that the subsequent qualification said to have been undertaken by the petitioners for the same period and, therefore, such a qualification cannot be treated to



be a valid qualification for the purposes of permitting the petitioner to take the FMGE.

ANALYSIS

38. The challenge to Regulation 4(1) of the Screening Regulations, 2002 has been made by the petitioners by submitting that exclusion of the institutions included in the World Directory of Medical Schools published by the WHO for the purposes of grant of qualification leading to PMQ is unreasonable. For considering the said argument, we may refer to Section 13(4A) of the IMC Act, 1956, which provides that if a person, who is a citizen of India, obtains a medical qualification granted by any medical institution in any country outside India recognised for enrolment as medical practitioner in that country, he shall be entitled to be enrolled in the medical register only if he qualifies the Screening Test in India prescribed for such a purpose. Thus, the statutory requirement for a citizen of India having obtained medical qualification from a medical institution situated outside the country for being enrolled on any medical register is that he will have to qualify the Screening Test in India prescribed for the said purpose. Section 33(ma) of IMC Act, 1956 provides that the Indian Medical Council can make regulations with previous sanction of the Central Government, providing for the modalities for conducting Screening Test under sub-Section 4A of Section 13 of the IMC Act, 1956. What all has been done by substituting the impugned Regulation 4(1) *vide* notification dated 26.09.2009 is that the medical institutions, which were included in the World Directory of Medical Schools published by the WHO, have been excluded from the list of institutions, obtaining a degree wherefrom would



earlier have enabled a candidate to appear in the FMGE. Under the scheme of IMC Act, 1956 it is the respondent no.1, which is a body comprising of experts in the field, that was enabled to frame regulations for the purposes of regulating the medical education in India and in case such an expert body was of the opinion that foreign medical institutions included in the World Directory of Medical Schools published by the WHO but not recognised by an Indian Embassy are to be excluded from the list of approved medical institutions, in our opinion, such a view taken by the body of experts has to be given some credence and no interference in exercise of powers of judicial review under Article 226 of the Constitution of India would be permissible unless any such prescription made by the body of experts is found to be absolutely arbitrary. Exclusion of such institutions by substituting the impugned Regulation 4(1) of the Screening Regulations, 2002 *vide* notification dated 26.09.2009, in our opinion, is based on the consideration of relevant factors by the respondent no.1, which appears to be based on experience of the respondent no.1 while regulating the medical education in India and, therefore, we are of the opinion that no interference in the said Regulation, which is based on expert opinion, is warranted.

39. As regards to challenge to clause 2.14 of the Information Bulletin, we firstly agree with the submission made by the learned counsel representing the respondent no.2 that the petitioners, without any challenge to the said clause, earlier made their applications for appearing in the FMGE in June, 2023 and thereafter, they have challenged it by instituting the proceedings of the instant writ petition only after they were declared ineligible *vide*



impugned letter dated 14.05.2025. Such a challenge, in our opinion, would not be maintainable.

40. Even otherwise, clause 2.14 of the Information Bulletin requires that the foreign medical degrees should be attested either by the Embassy of India or should be apostilled by the appropriate authority of the foreign country concerned. We do not find any good ground to interfere with such a provision for the reasons, firstly, that the said provision is in conformity with the requirement of Regulation 4(1) of the Screening Regulations, 2002, which are statutory in nature and secondly, attestation or apostillation of any foreign medical degree is a process of authentication of such a medical qualification and we do not find any prejudice to be caused to any candidate if the foreign medical qualification, on the basis of which he is seeking his eligibility to appear in the FMGE, is required to be authenticated. Authentication of a document submitted by any candidate claiming his eligibility on the basis of said document, in our opinion, is necessary so as to enable the examination conducting body to be in a position to exclude those candidates from appearing in the examination who seek their appearance on the basis of fake or false educational qualifications. Thus, requiring authentication by Embassy of India in a foreign country or apostillation of a foreign medical degree in accordance with the requirement of Hague Convention of 05.10.1961, in our opinion, does not cause any prejudice to any candidate and, therefore, any challenge to such a clause of the Information Bulletin has to necessarily fail.

41. Much emphasis has been laid by the petitioners on the judgment of this Court in the case of **Rohit Naresh Agarwal (supra)**, however, the said



judgment does not have any application to the facts of the present case for the reason that what was under challenge in the said matter was the provision of Regulation 4(3) of Screening Regulations, 2002, which provided another eligibility criteria and was being applied retrospectively. The Division Bench in the said judgment held that what Section 33(ma) of the IMC Act, 1956 permitted was to frame regulations making provisions for the modalities for conducting Screening Test and not for determining the eligibility to appear in the Screening Test. It is also to be noticed that in ***Rohit Naresh Agarwal (supra)***, the candidates seeking to appear in the FMGE were already having eligibility qualification and, therefore, they challenged the Regulation 4(3) of the Screening Regulations, 2002 on the ground that fresh eligibility criteria cannot be made by framing regulations in taking aid of enabling provisions contained in Section 33(ma) of IMC Act, 1956.

Determination or prescription of eligibility and authentication of a foreign medical degree cannot be equated. Regulation 4(1) of Screening Regulations read with clause 2.14 of the Information Bulletin does not lay down any eligibility criteria, rather, these provisions only require authentication of foreign medical degree by way of attestation by the Indian Embassy in the foreign country or by way of apostillation/attestation by the competent authority of the foreign country in accordance with the requirement of Hague Convention of 05.10.1961. Since neither Regulation 4(1) of the Screening Regulations nor clause 2.14 of the Information Bulletin prescribes any eligibility criteria and, therefore, in the facts of the



instant case, the judgment relied upon by the petitioner in **Rohit Naresh Agarwal (supra)** will have no application.

42. So far as the impugned communication/order dated 14.05.2025 is concerned, we are satisfied with the reasons disclosed therein, holding the petitioners ineligible to appear in the FMGE. The impugned communication dated 14.05.2025 has been issued declaring the petitioners to be ineligible to appear in the FMGE by citing the advisory dated 15.09.2023 issued by the Embassy of India in Manila, Philippines. The said advisory was issued by the Indian Embassy at Manila for the reason that despite seeking relevant information from the Government of Federated States of Micronesia regarding Micronesia Medical College, no response was received and, therefore, the Embassy stated in the said advisory that it shall not be in a position to authenticate any degree or other educational documentation issued by the Micronesia Medical College.

43. It is also to be noticed that these petitioners initially made their applications to appear in the FMGE in June, 2023, where the PMQ was claimed by them on the basis of medical qualification certificate issued to them by the Micronesia Medical College, which was not considered to be appropriate for permitting them to appear for FMGE. In the subsequent examination, i.e. FMGE December, 2023, the petitioners submitted a PMQ issued by Belize Medical University. The reason given by the respondent no.2 in its communication dated 14.05.2025, holding the petitioners to be ineligible for appearing in the FMGE, is that these petitioners had furnished the certificate from two different foreign medical institutions for the same period of study. We are in complete agreement to the said reason given by



the respondent no.2 as the petitioners are seeking to appear in FMGE on the basis of fragmented studies undergone by them at various foreign medical institutions. Such a fragmented education, in our opinion, will not make the petitioners eligible for the reason already stated on behalf of the respondent nos.1 and 2 and also because, we find that any medical qualification based on a fragmented study in different medical colleges, which in this case are two to three different foreign medical colleges, if treated as an eligible PMQ, the same will not be in public interest as it will certainly amount to compromising the quality of medical professionals in the country. In this regard, we may refer to the judgment of Hon'ble Supreme Court in **Yash Ahuja and Others v. Medical Council of India & Ors.**, (2009) 10 SCC 313, wherein it has been observed that the screening test has been introduced to check large scale irregularities of commercialisation of medical education leading to certification of ineligible doctors and so as not to let doctors with half-baked knowledge due to inadequate training or eligibility standards, to treat patients in India. Paragraphs 74 & 75 of the said judgment are extracted herein under:-

“74. In the year 1956, when the Indian Medical Council Act was enacted, it must not have been contemplated by anyone that a large number of private agencies would sponsor students for medical studies in institutions outside India for commercial considerations including those students who were not fulfilling the minimum eligibility requirements for admission to medical courses in India, etc. It was, therefore, felt necessary by Parliament to make a provision to enable the Council to conduct a screening test. This is the remedy that sub-section (4-A) has provided. This remedy is prescribed to satisfy MCI with regard to the adequacy of knowledge and skills acquired by citizens of India, who obtain medical qualifications from universities or medical institutions outside India and to ensure that those students have secured the standards of medical education in the foreign countries, which are on a par with standards of medical education in India.

75. The remedies mentioned in Sections 13(4-A) and 13(4-B) are prescribed because citizens of India, who have obtained medical qualifications from universities or medical institutions outside India, would be entitled to practise medicine in India and they cannot be permitted to treat other citizens of India with



their half-baked knowledge and jeopardise their precious lives. Thus by adopting rule of purposive construction or mischief rule, it will have to be held that the provisions of sub-section (4-A) of Section 13 of the Act would also apply to the cases covered by Section 12 of the Act.” **(Emphasis supplied)**

44. For the reasons aforesaid, we are of the considered opinion that no ground exists in this writ petition, which lacks merit.

45. Resultantly, the writ petition along with pending applications is hereby dismissed.

46. No orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

SEPTEMBER 03, 2026
N.Khanna/S.Rawat