

भारतीय उपचर्या परिषद्

आठवाँ तल, एनबीसीसी सेन्टर, प्लॉट नं. 2, कम्युनिटी
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INDIAN NURSING COUNCIL

8th Floor, NBCC Centre, Plot No. 2, Community Centre
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स्वास्थ्य एवं परिवार कल्याण मंत्रालय के तहत सांविधिक निकाय

Statutory Body under the Ministry of Health & Family Welfare

File No. 28-26/2017-INC

15 FEB 2019

OFFICE MEMORANDUM

Subject: Civil Appeal No. 958 of 2019 arising out of SLP (C) No. 32603 of 2017; Case; Private Nursing Schools and Colleges Management Association Versus The Indian Nursing Council and Ors.

The undersigned is directed to invite attention to the judgement dated 09.10.2017 of the Hon'ble High Court of Judicature of Bombay Bench at Aurangabad passed in Writ Petition No. 11260 of 2017. The said writ petition was filed by Private Nursing Schools and Colleges Management Association, Aurangabad.

2. In its judgement the Hon'ble Bombay High Court, Bench at Aurangabad in the operative part at para 25 of its judgement held as under;

“At the same time, it is imperative for such institutions, imparting training in nursing in Maharashtra State, (which have not been approved by the Indian Nursing Council), the State Council and Health University to publish on its website that the degrees and diploma awarded by such institutions shall have applicability only in the State and the candidates receiving such degree or diploma would be entitled to practice within the State only. The same shall also be mentioned by the institutions and the Universities in this regard and, the students shall be made known regarding this restriction by giving due publicity on the website while processing admissions to such institutions.” The observations of the Hon'ble High Court flow from the provisions of Indian Nursing Council Act 1947 especially from section 13 (Inspections) and section 14 (Withdrawal of recognition) of the Act of 1947.

3. It is these observations of the Hon'ble Bombay High Court Bench at Aurangabad in Writ Petition No. 11260 of 2017, that the petitioners challenged before the Hon'ble Supreme Court in SLP (C) No. 32603 of 2017.

4. The Hon'ble Supreme Court in its order dated 22.01.2019 in the above

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SLP (C) No. 32603 of 2017 after taking note of the provisions of section 10, 11, 12,13 and 14 of Indian Nursing Council Act 1947 ruled in para 6 and 7 as under.

Para 6) *“We may indicate that section 14 deals with withdrawal of recognition which is a stage which has not yet been reached on the facts of this case. We, therefore, declare that consistent with their fundamental right under Article 19(1)(g) of the Constitution of India, to practice their occupation throughout the territory of India, legislation in the form of the Nursing Council Act of 1947 has not restricted nor does it purport to restrict their practice of nursing once a Degree or Diploma is granted by the State Authority to that State only.”*

Para 7) *“We are, therefore, of the view that this portion of the impugned judgment cannot stand and is accordingly set aside.”*

5. In view of the above judgment of the Hon’ble Supreme Court, the observations of the Hon’ble High Court of Bombay at Aurangabad in its judgment dated 09.10.2017 (at Para 2 hereinabove) are no more operative. Further as such there is no impediment for the Council to act in accordance with the provisions of section 13 relating to Inspections and 14 relating to Withdrawal of recognition of the Institutes recognised by the State Council for the training of nurses, midwives, auxiliary nurse –midwives etc.

6. Accordingly in terms of the above Judgement of the Hon’ble Supreme Court, the Indian Nursing Council would hereinafter inspect only those Nursing Institutions which have been recognised as a training institution by the concerned State Nursing Councils. After the conduct of Inspections and following the prescribed procedure as enumerated in section 13 and 14 of the Act of 1947, the Council would be taking a decision in terms of section 14(3) (b) and issue necessary declarations if any.

7. As per Section 13 of INC At, 1947, inspectors appointed under this section can inspect any State Nursing Council Recognised training Institutions and submit its report to the Executive Committee of the Council.

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The Inspections shall be conducted under Section 13 of the Act of 1947 in order to assess the suitability of the Institution with regard to availability of teaching faculty and adequacy of clinical and infrastructural facilities in conformity with regulations framed by the Council under the provisions of the said Act.

8. After following the procedure enumerated in Section 13 and Section 14 of the Act, the Council will make declarations under Section 14(3) (b) to the effect that from a date specified in the declaration any person holding a recognised qualifications whose period of training and study preparatory to the grant to him of the qualification was passed at the institution which does not fulfil the requirement of Indian Nursing Council, shall be entitled to be registered only in the State in which the Institution is situated.

9. It is reiterated that once declaration under Section 14 of the Act regarding not fulfilling the requirements of the Council regarding inspected Institution is passed, the students qualifying from the institution shall not be allowed to register in any state other than State where the aforesaid unsuitable institution is situated.

This OM may be brought to the notice of all concerned for information and necessary action.


Secretary
(Rathish Nair)

Copy to:

- (i) Secretary (Health), All State Governments. (as per list enclosed)
- (ii) DGHS/DME All State Governments (as per list enclosed)
- (iii) Registrars, All Universities (as per list enclosed)
- (iv) Registrars, All State Nursing Councils
- (v) Principals, All Colleges/School's of Nursing
- (vi) INC Website