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**(1998) 12 DEL CK 0019**  
**In the Delhi High Court**  
**Case No : CWP No. 1321/98**

Anant Madan

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

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**Date of Decision :** 11-12-1998

**Acts Referred:**

**Citation :** (1998) 12 DEL CK 0019

**Hon'ble Judges :** Cyriac Joseph, J

**Bench :** Single Bench

**Advocate :** Mr. Rajiv Nayyar and Ms. Maninder Acharya, for the Appellant; Mr. A. Mariarputham and Mr. Maninder Singh, for the Respondent

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## **Judgement**

Cyriac Joseph, J.—The petitioner is a student of M.S. Rammiya Medical College, Bangalore. Through his application dated 15-1-1998 submitted to Respondent No.1, University of Delhi, the petitioner sought migration from M.S. Rammiya Medical College, Bangalore to Maulana Azad Medical College, Delhi. However, through communications dated 6/8-2-1998 and 9-3-1998 Respondent No.1 rejected the request of the petitioner for migration to Maulana Azad Medical College, Delhi which is affiliated to the University of Delhi . The reason stated in the said communications for rejection of the request is that the University of Delhi has stopped migration to second MBBS course from March 1991 onwards. According to the petitioner the above stand of Respondent No. 1 is based on Clause (3) of Ordinance-IV of the Delhi University Ordinance which stipulates that migration of a student to the University of Delhi in a course of study to the degree examination under the Faculty of Technology and Faculty of Medical Science shall not be permitted. In this writ petition the petitioner challenges the communication dated 6/8-2-1998 and 9-3-1998 of Respondent No. 1 and also Clause (3) of Ordinance-IV of the Ordinance of the University of Delhi. The petitioner has also prayed for a direction to Respondent No. 1 to forward his application dated 15-1-1998 seeking migration to Respondent No. 2, Medical Council of India, in accordance with Regulation 6 of the Regulation on Graduate

Medical Education 1977 framed by Respondent No. 2 u/s 33 of the Medical Council Act.

2. The challenge of the petitioner against Clause (3) of Ordinance-IV is liable to be rejected in view of the judgments dated 30-7-1992 and 30-1-1997 by two Division Benches of this Court. Copies of the above judgments have been produced as Annexure R-1 and R-2 to the counter affidavit of Respondent No. 1. In the judgment Annexure R-1 the Divisions Bench held that as to whether migration should be allowed or not is essentially a matter pertaining to problems arising in imparting education and thus it is more appropriate to leave such a matter to the University authorities to consider and decide. It was also held that unless and until a Court came to the conclusion that a decision of the University authorities in matters like this were clearly arbitrary it was not advisable or desirable for the Court to interfere in such policy matters pertaining to imparting of education. The Division Bench further held that the impugned action of the respondents in that case was not arbitrary. In Annexure R-2 judgment the Division Bench held that Clause (3) of Ordinance-IV is within the jurisdiction and powers of the University and is not arbitrary. In the light of the above judgments of the Division Bench, the challenge against Clause (3) of Ordinance-IV is rejected.

3. Learned counsel for the petitioner contended that in view of the provisions in Regulation 6 of the Regulations framed by Respondent No. 2 u/s 33 of the Medical Council Act. 1956, Respondent No.1 was bound to forward the application of the petitioner to Respondent No. 2 for appropriate decision. As per Regulation 6 relied on by the petitioner migration from one Medical College to another Medical College is not a right of a student. However, migration of students from one Medical College to another Medical College in India may be considered by the Medical Council of India only on exceptional cases, on extreme compassionate grounds, provided, certain criteria mentioned in Regulation 6 are fulfilled. Routine migrations on other grounds shall not be allowed. In the reply filed by Respondents No.2 it is stated that the Council is under an obligation to consider and dispose of application of migrations received by it in accordance with the norms laid down for that purpose. Whenever any application is received by the Council along with no objection certificate from the concerned colleges and from the concerned Universities, the Council processes the application in accordance with the statutory Regulations. The Council cannot compel any University to forward the application for migration received by that University to the Council. The Council can process the application in accordance with the Regulations when it receives the application along with no objection certificate from the concerned colleges and also from the concerned University. Thus, the stand of the Medical Council is that it will consider an application for migration only if it is accompanied by no objection certificate from the colleges concerned and also from the Universities concerned. Admittedly, Respondent No. 1 University, to which Maulana Azad Medical College, Delhi is affiliated, has not forwarded the petitioner's application to Respondent No. 2 along with no

objection certificate. The University has refused to forward the application in view of Clause (3) of Ordinance-IV which prohibits migration of students like the petitioner. Since the validity of Clause (3) of Ordinance-IV has been upheld by the Division Bench of this court, the University cannot be compelled to forward an application for migration prohibited under the Ordinance of the University.

4. In the reply filed by Respondent No.1. It has also been pointed out that even in cases where migration is permitted under the ordinances of the University, migration can be allowed only if the parent or guardian of the student is resident in or has migrated to Delhi. It has also been pointed out that even according to the petitioner, his parents are residents of Panipat and not of Delhi.

5. In view of the what has been stated above there is no merit in the writ petition and it is liable to be dismissed. The writ petition is dismissed. There will be no order as to costs.