
(2012) 10 KL CK 0017

In the High Court Of Kerala

Case No : Writ Petition (C) No. 23676 of 2011

Praveen Kumar, M. and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 01-10-2012

Acts Referred:

Indian Medical Council Act, 1956 — Section 10A, 13, 13(4A), 15, 25(1)

Citation : (2012) 4 ILR (Ker) 678

Hon'ble Judges : P.N. Ravindran, J

Bench : Single Bench

Advocate : G. Shrikumar, Sri Shaji P. Chaly, Sri S. Gopakumar and Smt. Lijitta G. Mathew, for the Appellant; P. Parameswaran Nair (A.S.G. of India) for 1st Respondent, Sri Alexander Thomas (S.C. for M.C.I.) for 2nd Respondent and Sri James Abraham (Vilayakattu) for 3rd Respondent, for the Respondent

Judgement

P.N. Ravindran, J.—The petitioners, 20 in number, were awarded the degree of Bachelor of Medicine and Bachelor of Surgery, by the International University of the Health Sciences, St. Christopher & Nevis, an accredited university in the Federation of St. Christopher & Nevis, West Indies. Exts. P-1 to P-20 are copies of the degree certificates issued to the petitioners certifying that they have been awarded the degree of Bachelor of Medicine and Bachelor of Surgery by the International University of the Health Sciences. Before the petitioners underwent the course of study which lead to the award of the said degree, they had applied for and obtained separate eligibility certificates evidenced by Exts. P-21 to P-40 from the Medical Council of India as required under sub-section (4B) of Section 13 of the Indian Medical Council Act, 1956 (hereinafter referred to as "the Act" for short) and Regulation 3 of the Eligibility Requirement for Taking Admission in an Undergraduate Medical Course in a Foreign Medical Institution Regulations, 2002 (hereinafter referred to as "the Eligibility Regulations" for short). After completion of the course, the petitioners applied to the Medical Council of India for permission to appear for the screening test to be held, as required under sub-section (4A) of section 13 of the Act and the Screening Test Regulations, 2002

issued by the Medical Council of India u/s 33 thereof. Under Regulation 7 of the Screening Test Regulations, 2002, the screening test has to be conducted twice a year as per the schedule of examination announced by the prescribed authority, namely, the National Board of Examinations, authorised by the Central Government/Medical Council of India to conduct the test. All the petitioners passed the screening test held on different dates and thereupon, Exts. P-41 to P-60 certificates were issued to them. The petitioners thereafter submitted applications for grant of provisional registration as required under Regulation 11 of the Screening Test Regulations, 2002. By Exts. P-61 to P-69A letters, petitioners 1 to 9 and 20 were informed that since they underwent the course in the study centres of the International University of the Health Sciences at Cochin/Pune/Mumbai and Dubai, they are not eligible to be considered for grant of provisional registration u/s 25(1) of the Act. The applications submitted by the other petitioners were not rejected, but were kept pending. The instant writ petition was thereupon filed on 31-8-2011, challenging Exts. P-61 to P-69A letters and seeking the following reliefs:

(i) To call for the records leading to the issue of Exhibits P-61 to P-69A order examine its legality, propriety and quash the same by issuing a writ of certiorari.

(ii) To issue a writ of mandamus and command the 2nd respondent to grant provisional registration u/s 25(3) of the Indian Medical Council Act, 1956 to all the petitioners who have completed the screening test in accordance with the provisions of Section 13(4A) of the Act read with Screening Test Regulations, 2002.

(iii) To issue a writ of mandamus and command the 2nd respondent to grant permanent registration under Sections 25(4) and 15 of the Indian Medical Council Act, 1956 on completion of compulsory internship for one year.

2. The principal contention raised by the petitioners is that in view of the judgment of the Apex Court in Medical Council of India Vs. J. Saai Prasanna and Others etc. etc., , the stand taken in the impugned letters cannot be sustained. Relying on the aforesaid decision of the Apex Court it is contended that for examining the validity of the medical qualification granted by a medical institution in a country outside India, the norms and tests of the country where the medical institution is situated, alone need be fulfilled and the norms prescribed under Act in regard to Indian medical institutions will have no relevance and, so long as the medical qualification awarded by the medical institution situated in a country outside India is recognised for enrollment as a medical practitioner in that country, all that is required for enrollment in the medical register in India is to qualify in the screening test, that the petitioners have qualified in the screening test and therefore, the place where they underwent the course of study is irrelevant. Relying on Ext. P-70 certificate dated 13-11-2007 produced along with the writ petition, it is contended that the International University of the Health Sciences is accredited in the Federation of St. Christopher & Nevis and the MBBS degree offered by the said university is a

primary medical undergraduate qualification and is recognised by the Government of St. Christopher & Nevis, West Indies, as a prerequisite for registration as a medical practitioner in the Federation, subject to local laws relating to immigration, work permits and admission to practice. It is contended that as the Federation of St. Christopher & Nevis has recognised the MBBS degree awarded by the International University of the Health Sciences and the said degree is recognised as a qualification for enrollment as a medical practitioner in that country, the stand taken by the Medical Council of India in the impugned notices that the petitioners are ineligible for registration, cannot be sustained, having regard to the fact that the petitioners underwent the course after obtaining an eligibility certificate in terms of the Act and the Eligibility Regulations and have passed the screening test as required under the Act and the Screening Test Regulations, 2002. The petitioners also contend that after having permitted them to appear for the screening test, the Medical Council of India cannot be heard to contend that they are ineligible to be considered for registration. Relying on sub-section (4A) of Section 13 of the Act, the petitioners contend that once they pass the screening test, the foreign medical qualification which they possess should be deemed to be a recognised qualification for the purpose of the Act, that they have passed the screening test and therefore, they are entitled to provisional registration in terms of regulation 11 of the Screening Test Regulations, 2002 and permanent registration after successful completion of their internship.

3. A counter-affidavit dated 27-9-2011 has been filed on behalf of the Medical Council of India. The main contention raised in the counter-affidavit is that the petitioners do not possess a primary medical qualification as defined in the Eligibility Regulations and the Screening Test Regulations, 2002 which is a sine qua non for registration as a medical practitioner and therefore, they are not entitled for provisional registration. It is contended that as the petitioners underwent the entire duration of the course in the various study centres of the International University of the Health Sciences in India and the degree alone was awarded by the foreign university, the principles laid down by the Apex Court in Saai Prasanna's case (*supra*) can have no application. It is also contended that the petitioners have not produced any proof to show that the qualification which they possess is recognised as a qualification for enrollment as a medical practitioner in the Federation of St. Christopher & Nevis and in the absence of such proof, the petitioners are not entitled to apply for registration. Reliance is placed on sub-section (4A) of Section 13 of the Act and regulation 4(1) of the Screening Test Regulations, 2002 to contend that unless the Indian Embassy concerned confirms that the primary medical qualification which the petitioners possess is a recognised qualification for enrollment as a medical practitioner in the Federation of St. Christopher & Nevis, the petitioners are not entitled to appeal for the screening test and to apply for registration.

4. I heard Sri G. Shrikumar, learned Senior Advocate appearing for the petitioners and Sri Alexander Thomas, learned standing counsel appearing for

the Medical Council of India. Sri G. Shrikumar, learned Senior Advocate appearing for the petitioners contended relying on the decision of the Apex Court in *Medical Council of India v. J. Saai Prasanna & others* (supra) that the only requirement the petitioners have to satisfy to appear for the screening test is that they should have undergone the course of study in a foreign institution after obtaining an eligibility certificate from the Medical Council of India in terms of sub-section (4B) of Section 13 of the Act and Regulation 3 of the Eligibility Regulations and the degree awarded by the foreign medical institution is recognised for enrollment as medical practitioner in that country and therefore, the Medical Council of India cannot decline to give provisional registration to the petitioners on the ground that they had undergone the course in the study centres of the foreign university in India. The learned senior counsel contended with reference to the endorsements made on the obverse of the degree certificates issued to the petitioners that the seal and signature of the Ministry of Foreign Affairs of St. Christopher & Nevis was duly attested by an Officer of the Indian High Commission in Georgetown, Guyana, that Ext. P-70 certificate dated 13-11-2007 issued by the Government of St. Christopher & Nevis would show that the International University of the Health Sciences, St Christopher & Nevis, West Indies is accredited in the Federation of St. Christopher & Nevis and the MBBS degree awarded by the said university is recognised by the Government of St. Christopher & Nevis as a prerequisite for registration as a medical practitioner in the Federation and therefore, as the petitioners have undergone the course in an accredited university and the degree awarded by that university is valid for registration as a medical practitioner in the country where the university is situated, they were lawfully permitted to appear for the screening test held by the National Board of Examinations and therefore, denial of registration on the ground stated in the impugned notices cannot be sustained. The learned Senior Advocate also contended that as the Medical Council of India does not have a case that the MBBS degree awarded by the International University of the Health Sciences is not a recognised qualification for registration as a medical practitioner in the Federation of St. Christopher & Nevis, it cannot be heard to contend, after the petitioners appeared for and cleared the screening test that they are ineligible for registration with the Medical Council of India/State Medical Councils. Reliance is placed on clause (1) of regulation 4 and regulation 11 of the Screening Test Regulations, 2002 as also the provisions contained in Sub-section (4A) of Section 13 of the Act in support of the said contention. The learned Senior Advocate also contended that clause (3) of regulation 4 of the Screening Test Regulations, 2002 which came into force only on 16-4-2010 cannot govern the case of the petitioners who had completed their course of study before the said provision was introduced.

5. Per contra, Sri Alexander Thomas, learned Standing Counsel appearing for the Medical Council of India contended that under regulation 9 of the Eligibility Regulations, the grant of eligibility certificate is for the purpose of joining a medical institution outside India to obtain a primary medical qualification and

only a candidate who has undergone the course of study at least partly in a foreign university can legitimately contend that he has undergone the course in a medical institution outside India and therefore he is eligible to undergo screening test, that even going by the principles laid down by the Apex Court in Saai Prasanna's case (supra) the petitioners who had undergone the course only in the centres of the Foreign Medical Institution in India cannot be heard to contend that they have a primary medical qualification awarded by a medical institution outside India and are eligible to appear for screening test. The learned standing counsel also contended that in the case before the Apex Court, the High Commission of India in Tanzania had confirmed that the Tanzania Medical Council has recognized the curriculum and the MBBS degree of the International Medical & Technological University, Dar es Salaam, Tanzania as equivalent to MD degree in Tanzania and that the medical degrees offered by the said International Medical & Technological University, Tanzania are recognized by Medical Council of Tanzania and the MBBS graduates of the said university are eligible for registration as medical practitioners by the Medical Council of Tanzania and therefore, the petitioners who have not produced any material to show that the MBBS degree awarded by the International University of the Health Sciences is a qualification recognised by the Medical Council of St. Christopher & Nevis, entitling the holders thereof for registration as medical practitioners in the said country, are not entitled to contend that they possess a primary medical qualification awarded by a foreign university entitling them to appear for the screening test and after successfully completing it, to apply for registration. The learned standing counsel lastly contended relying on the unreported decision of the Apex Court in Civil Appeal No. 2454 of 2012 that as the petitioners have not shown that the degree awarded by the International University of the Health Sciences is a qualification recognised by the Medical Council of St. Christopher & Nevis, the reliefs prayed for by them cannot be granted.

6. I have considered the submissions made at the Bar by the learned counsel appearing on either side. I have also gone through the pleadings and the materials on record. The short question that arises for consideration in this writ petition is whether the Medical Council of India is justified in declining to grant provisional registration to the petitioners who have admittedly cleared the screening test held under the Screening Test Regulations, 2002, on the ground that they underwent the course of study in off-campus centres of the Foreign Medical Institution in India. The stand taken by the Medical Council of India in the impugned letters is that the petitioners underwent part of the medical course in India, namely in various centers of the International University of the Health Sciences in India. However, the stand taken in the counter-affidavit is that the petitioners underwent the entire course in various centers of the International University of the Health Sciences in India and therefore they are not eligible for grant of registration. The question whether persons like the petitioners who have undergone part of their medical education in centers of the Foreign Medical Institution in India are eligible for registration as a medical practitioner in India

was considered by the Apex Court in *Medical Council of India Vs. J. Saai Prasanna and Others etc. etc.*, . After a survey of the relevant provisions of the Indian Medical Council Act, 1956, the Eligibility Regulations and the Screening Test Regulations, 2002, the Apex Court held that in the case of persons who have obtained a medical qualification from a medical institution outside India, the question as to where they underwent the course will not be relevant. It was held that in the case of persons who have obtained a medical qualification from a medical institution outside India, the question as to where the course of study was undergone is not relevant, that the course of study could be in that country or if the norms of the Medical Council of that country so permitted, the course of study could be partly in that country and partly in another country including India and once that country recognizes the medical qualification granted by the institution in that country for the purpose of enrolment as a medical practitioner in that country, and such medical degree holder passes the screening test in India, the Medical Council of India cannot refuse to recognize such a degree on the ground that the student did a part of his study in an institution in India as a part of his medical study programme in the foreign institution. The Apex Court held that as per the provisions of the Act in force at the relevant point of time, all that was required for an Indian citizen holding a medical qualification from a foreign country for being enrolled in the medical register was that he should qualify in the screening test in India. The relevant portion of the judgment of the Apex Court is extracted below for easy reference:

(8) MCI contends that where student of a foreign University undergo a part of his training in an Institution in India which has not obtained the permission from the Central Government/MCI, as required u/s 10A of the Act, such students are not eligible for registration as medical practitioners in India. The requirements for recognition of a medical qualification granted by a medical institution outside India are different from requirements for recognition of medical qualification granted by universities or medical institutions in India. It is no doubt true that if a student in India, does a course of study in medicine in a Medical College in India which does not have the permission of the Central Government u/s 10A of the Act, the medical qualification granted to any student of that college will not be a recognized medical qualification for the purpose of the Act and consequently such student will not be entitled to be enrolled in the India Medical Register or State Medical Register. But medical qualifications granted by medical institutions outside India are dealt within a special provision, that is Section 13(4A) of the Act. Necessarily, for examining the validity of the medical qualification granted by a medical institution in any country outside India, the norms and tests of the country where the medical institution is situated, will have to be fulfilled for recognition of the degree in that country and the norms that are prescribed by the Indian Medical Council Act, 1956 in regard to Indian medical institutions will have no relevance. So long as the medical institutions in a country outside India has granted a medical qualification and that medical qualification is recognised for enrollment as medical practitioner in that country, all that is required for the

purpose of enrolment in the medical register in India is qualifying in the screening test in India. In the case of persons who obtained a medical qualification in a medical institution outside India, the question as to where the course of study was undergone is not relevant. The course of study could be in that country or if the norms of the Medical Council of that country so permitted, the course of study could be partly in that country and partly in another country including India. Once that country recognizes a medical qualification granted by the institution in that country for the purpose of enrollment as a medical practitioner in that country, and such medical degree holder passes the screening test in India, the Medical Council of India cannot refuse to recognise such degree on the ground that the student did a part of his study in an Institution in India as part of his medical study programme for the foreign institution. As stated above, as far as the provisions of the Act at the relevant point of time, all that was required for an Indian citizen holding a medical qualification from a foreign country for being enrolled in the medical register was that he should qualify in the screening test in India. Therefore, the fact that such a medical graduate underwent a part of the medical course of a foreign university in an Indian college which was not recognised in India, will not be relevant.

7. The Apex Court thereafter proceeded to consider whether the MBBS degree awarded by the International Medical & Technological University, Tanzania is a recognized qualification for enrollment as a medical practitioner in that country. Having regard to the fact that the High Commissioner of India in Tanzania had confirmed that the Tanzania Medical Council has recognised the medical degree of International Medical & Technological University, Dar es Salaam, Tanzania and the medical degrees offered by the said university are recognised by the Medical Council of Tanzania and the MBBS graduates of the said university are eligible for registration as medical practitioners by the Medical Council of Tanzania under the provisions of the Medical Practitioners & Dentists Act, Cap 152 of the Laws of Tanzania, the Apex Court held that the question of such primary degrees not being recognised in India for the purpose of appearing in the screening test does not arise.

8. In the instant case, the petitioners have in paragraph 4 of the writ petition positively averred with reference to Ext. P-70 certificate issued by the Federation of St. Christopher & Nevis, Ministry of Education, Youth Social and Community Development and Gender Affairs, that the MBBS degree awarded by the International University of the Health Sciences is recognised by the Government of St. Christopher & Nevis as a prerequisite for registration as medical practitioner in the Federation of St. Christopher & Nevis. The petitioners have also positively averred that they hold a degree recognised by the Government of St. Christopher & Nevis for registration as a medical practitioner in that country. The Medical Council of India has not in its counter-affidavit questioned the authenticity and genuineness of Ext. P-70 certificate or denied the positive assertion made by the petitioners that the MBBS degree awarded by the International University of the Health Sciences, St. Christopher & Nevis, entitles

them to seek registration as a medical practitioner in the Federation of St. Christopher & Nevis. On the other hand, the solitary averment regarding the eligibility of the petitioners to seek registration as medical practitioners in the Federation of St. Christopher & Nevis is that they have not placed any material to show that on the basis of the degree obtained by them, they are entitled to practise. It is evident from a reading of paragraphs 13 and 14 of the counter-affidavit that such an averment has been made without questioning the authenticity and genuineness of Ext. P-70 certificate and without adverting to the contents therein. In any case, the Medical Council of India has not placed any material before this Court to enable this Court to come to the conclusion that the MBBS degree awarded by the International University of the Health Sciences, St. Christopher & Nevis is not a recognised qualification for registration as a medical practitioner in that country. The contention raised by the Medical Council of India that the petitioners have not placed any material to show that they are entitled to practice medicine in the Federation of St. Christopher & Nevis does not therefore merit acceptance.

9. It is not in dispute that the petitioners have successfully undergone the screening test as required u/s 13(4A) of the Act which stipulates that an Indian citizen who has obtained a medical qualification granted by a medical institution in a country outside India, recognised for enrollment as medical practitioner in that country, cannot, after the date specified by the Central Government under sub-section (3) of Section 13 of the Act, have his name entered in the Indian Medical Register unless he qualifies the screening test in India prescribed for such purposes. The Medical Council of India has no case that the petitioners were allowed to participate in the screening test due to any mistake or inadvertent omission or that they were permitted to participate on the basis of wrong information furnished by them that they are eligible to practice medicine in the Federation of St. Christopher & Nevis. Sub-section 4(A) of Section 13 of the Act stipulates that once an Indian citizen who has obtained a medical qualification granted by a medical institution in a country outside India qualifies in the screening test, the foreign medical qualification shall be deemed to be the recognised medical qualification for the purpose of the Act, for that person. The same is the effect of Regulation 11 of the Screening Test Regulations, 2002. Section 13(4A) of the Act is extracted below for easy reference.

S.13(4A). A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognised 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.

(emphasis supplied)

Regulation 11 of the Screening Test Regulations, 2002 is extracted below for easy reference:

11. The Prescribed Authority shall intimate the result of the Screening Test to the candidates as well as to the Secretary, Medical Council of India and the State Medical Councils. The unsuccessful candidates shall also be appropriately informed. The candidates who qualify the Screening Test may apply to the Secretary, Medical Council of India, New Delhi or to any State Medical Council for provisional registration/permanent registration along with the requisite registration fee in favour of Secretary, Medical Council of India or the State Medical Council. The Medical Council of India or the State Medical Councils shall issue provisional registration to such successful candidates, who are yet to undergo one year internship in an approved institution and issue permanent registration to such eligible candidates who have already undergone one year internship, as the case may be.

(emphasis supplied)

10. In regulation 4(1) of the Screening Test Regulations, 2002 as it stood in force prior to 25-9-2009 (in the instant case, many among the petitioners appeared the screening test before that date) it was stipulated that no person shall be eligible to appear in the screening test unless "he or 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 Organisation; or which is confirmed by the Indian Embassy concerned to be a recognised qualification for enrolment as a Medical Practitioner in the country in which the institution awarding the said qualification is situated". The petitioners have in paragraph 4 of the writ petition stated with reference to Ext. P-70(A) that the International University of the Health Sciences is listed in the World Directory of Medical Schools published by the World Health Organisation. The World Directory of Medical Schools published by the World Health Organisation lists the International University of the Health Sciences, St. Kitts which started imparting instructions in the year 1998. The Medical Council of India has not in the counter-affidavit denied and disputed the said fact. Under regulation 4(1) of the Screening Test Regulations, 2002 as it stood in force prior to 25-9-2009, an Indian citizen who has undergone medical education in a medical institution outside India was entitled to appear in the screening test if he is able to show that either the name of the institution and the degree awarded by it are included in the World Directory of Medical Schools published by the World Health Organisation or if the Indian Embassy concerned confirms that the degree awarded by that foreign institution is a recognised qualification for enrolment as medical practitioner in the country in which the institution awarding the said qualification is situated.

11. Under regulation 4 (1) as it stood in force prior to 25-9-2009, on either of

the two conditions being satisfied, persons like the petitioners were eligible to appear in the screening test, if they had obtained an eligibility certificate from the Medical Council of India prior to their undergoing the course in the foreign medical institution. Though regulation 4(1) of the Screening Test Regulations, 2002 was amended with effect from 25-9-2009 and it was stipulated that 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 possesses 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, and some of the petitioners appeared for the screening test thereafter, in view of the fact that the medical qualification they possess had already been recognized by virtue of it being included in the World Directory of Medical Schools published by the World Health Organization and Ext. P-70 certificate discloses that the MBBS degree awarded by the International University of the Health Sciences is recognized by the Government of St. Christopher & Nevis for registration as a medical practitioner in the Federation of St. Christopher & Nevis, I am of the opinion that want of confirmation by the: Indian Embassy concerned that the MBBS degree awarded by the International University of the Health Sciences is a recognized qualification for registration as a medical practitioner in the Federation of St. Christopher & Nevis cannot be held out against the petitioners to contend that they are ineligible for registration. The Medical Council of India has no case that the petitioners were permitted to appear for the screening test mistakenly or on account of wrong information furnished by them. It may be because of Ext. P-70 certificate and the fact that the name of the International University of the Health Sciences appears in the World Directory of Medical Schools published by the World Health Organization that the petitioners were permitted to appear for the screening test. The Medical Council of India cannot therefore now turn round and contend that the petitioners were ineligible to appear for the screening test.

12. In the instant case it is not in dispute that all the petitioners had obtained Eligibility Certificates from the Medical Council of India before they pursued their studies in the International University of the Health Sciences. In such circumstances, as the petitioners have produced materials to show that the MBBS degree awarded by the International University of the Health Sciences, is a recognized qualification for enrolment as a medical practitioner in Federation of St. Christopher & Nevis and the name of the institution and the degree awarded by it are included in the World Directory of Medical Schools published by the World Health Organisation, I am of the opinion that their participation in the screening test was lawful. They are therefore entitled to provisional registration on successfully passing the screening test. That apart, the Medical Council of India does not dispute the authenticity and genuineness of the degree certificates produced by the petitioners. It has no case that the petitioners have not undergone studies in the International University of the Health Sciences. The

only contention now raised is that the petitioners underwent the entire course in India. Though such a case is not put forward in the impugned letters, such a case is put forward in paragraph 16 of the counter-affidavit wherein it is contended that the petitioners have undergone their entire studies in India but have been awarded the degree by International University of the Health Sciences, St. Kitts & Nevis, West Indies. In the light of the principles laid down by the Apex Court in paragraph 8 of the decision in Medical Council of India Vs. J. Saai Prasanna and Others etc. etc., it has to be held that the question as to where the course of study was undergone is not relevant. As held by the Apex Court, once the Federation of St. Christopher & Nevis has recognized the medical qualification awarded by the International University of the Health Sciences for the purpose of enrolment as a medical practitioner in that country and the person who possesses the said degree has passed the screening test in India, the Medical Council of India cannot refuse to recognize such a degree on the ground that the student underwent the course in the centres of the foreign institution in India, which institution is not recognized by the Medical Council of India. At the relevant point of time, namely before 16-4-2010, all that was required for an Indian citizen holding a medical qualification of a foreign medical institution for being enrolled as a medical practitioner in India was that he should qualify in the screening test. The petitioners satisfy the said requirement. In such circumstances, I find no merit in the contention of the Medical Council of India that as the petitioners underwent the entire course in India itself, the degree awarded by the International University of the Health Sciences, St. Kitts cannot be recognized. Besides, no material has been produced before this Court to enable this Court to hold that under the regulations in force in the Federation of St. Christopher & Nevis, an accredited institution of that Nation cannot award degrees to students who have undergone studies in off campus centres of the accredited institution in another country. In any case, as regulation 4(3) of the Screening Test Regulations, 2002 which stipulates that a candidate who has studied for the medical course in an institution located abroad should undergo the entire duration of the course in that institution, was introduced only with effect from 16-4-2010, the Medical Council of India cannot be heard to contend that, the said stipulation will have retrospective effect and govern the rights of students like the petitioners who completed their studies admittedly, before the calendar year 2010 commenced. In such circumstances, I am of the opinion that the Medical Council of India cannot rely on Clause (3) of Regulation 4 of the Screening Test Regulations, 2002 to deny registration to the petitioners. I accordingly hold that the stand taken by the Medical Council of India in the impugned letters/notices cannot be sustained.

For the reasons stated above, I allow the writ petition, set aside the impugned letters/notices marked as Exts. P-61 to 69-A and direct the Medical Council of India to take up the applications submitted by the petitioners for provisional registration and grant them provisional registration so as to enable them to undergo one year internship in an approved institution. Needful in the matter

shall be done and the provisional registration granted within two months from the date on which the petitioners produce a certified copy of this judgment before the Medical Council of India. The entitlement of the petitioners to seek permanent registration will be subject to their undergoing the one year internship in an approved institution. The parties shall bear their respective costs.