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To

The Secretary

Medical Council of India

Pocket- 14, Sector-8,

Dwarka Phase -1,

New Delhi - 110077,

**Re:- Legal Notice for demand of Justice in the matter of imparting
Medical education and the requirement of approval.**

Dear sir,

Under instructions and on behalf of my clients Singhania University Pachari
Bari Distt (Jhunjhunu) Rajasthan; I hereby call upon you to demand Justice
in the matter of imparting Medical education and awarding degrees of
MBBS, MS, MD. etc by it as under:-

1. That My clients are incorporated by an act of State Legislature of
Rajasthan and recognized U/S 2 (f) of the UGC Act of 1956. The State
Act read with the relevant provisions of UGC Act makes my client

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autonomous self regulated statutory body. Powers and functions of a University are recognized U/S 2 (f) and section 22 of the UGC Act Comprehensively contained in the UGC Act which empower the University to award all the degrees notified by UGC Under the said section, which includes all degrees in the field of Medical education also, such as MBBS & M.D etc. It is also submitted that in the said sections there is no requirement on the part of University to obtain any prior approval from any other authority to impart legal education and award degrees to the successful students.

2. That the Autonomy of a University is also upheld by the Hon'ble Supreme Court of India in the famous Dr T.M.A Pai Foundation Case. The Hon'ble S.C. has based its conclusion on the basis of the report of Radha Krishanan. The Hon'ble S.C. in para No. 51,52,53 and 54 of the reported has stressed the autonomy of a university. Relevant portion is extracted herein below:-

51. "University autonomy Freedom of individual development is the basis of democracy. Exclusive control of education by the State has been an important factor in facilitating the maintenance of totalitarian tyrannies. In such States institutions of higher learning controlled and

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managed by Governmental agencies act like mercenaries, promote the political purposes of the State, make them acceptable to an increasing number of their population and supply them with the weapons they need. We must resist, in the interests of our own democracy, the trend towards the government domination of the educational process.

Higher education is, undoubtedly, an obligation of the State but State aid is not to be confused with State control over academic policies and practices. Intellectual progress demands the maintenance of the spirit of free inquiry. The pursuit and practice of truth regardless of consequences has been the ambition of universalities. Their prayer is that of the dying Goethe: More light, or that of Ajax in the mist "Light, though I perish in the light.

The respect in which the universities of Great Britain are held is due to the freedom from governmental interference which they enjoy constitutionally and actually. Our universities should be released from the control of politics.

Liberal education- All education is expected to be liberal. It should free us from the shackles of ignorance, prejudice and unfounded belief.

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If we are incapable of achieving the good life, it is due to faults in our inward being, to the darkness in us. The process of education is the slow conquering of this darkness. To lead us from darkness to light, to free us from every kind of domination except that of reason, is the aim of education.

52. *There cannot be a better exposition than what has been observed by these renowned educationists with regard to autonomy in education. The aforesaid passage clearly shows that the governmental domination of the educational process must be resisted. Another pithy observation of the Commission was that State aid was not to be confused with State control over academic policies and practices. The observations referred to hereinabove clearly contemplate educational institutions soaring to great heights in pursuit of intellectual excellence and being free from unnecessary governmental controls.*

68. *It would be unfair to apply the same rules and regulations regulating admission to both aided and unaided professional institutions. It must be borne in mind that unaided professional institutions are entitled to autonomy in their administration while, at the same time, they do not forego or discard the principle of merit. It would*

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therefore, be permissible for the university or the Government, at the time of granting recognition, to require a private unaided institution to provide for merit based selection while, at the same time, giving the management sufficient discretion in admitting students. This can be done through various methods. For instance, a certain percentage of the seats can be reserved for admission by the management out of those students who have passed the common entrance test held by itself or by the State/university and have applied to the college concerned for admission, while the rest of the seats may be filled up on the basis of counseling by the state agency. This will incidentally take care of poorer and backward sections of the society. The prescription of percentage for this purpose has to be done by the Government according to the local needs and different percentages can be fixed for minority unaided and non-minority unaided and professional colleges. The same principles may be applied to other non-professional but unaided educational institutions viz. graduation and post graduation non-professional colleges or institutes.

3. That from a bare reading of the above noted Judgment it becomes clear that a University being an autonomous self regulated statutory

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body Governed by UGC Act, which is a special law defining a University and providing for its powers and functions, a University cannot be subjected to any other regulations which infringe upon its autonomy, powers and functions granted to it by a special law i.e. UGC Act. This Judgments further holds that a College or institution Can be regulated by appropriate Government Authority but not a University, Statutory regulations enacted by UGC under its power of delegated legislation also provide that a University shall have the autonomy to decide about its infrastructure and other educational facilities. Entry 44 in the seventh schedule to the Constitution of India expressly provides that Parliament shall not have legislative power to make any law to regulate University. Entry 44 in the seventh schedule reads as Under:-

“Incorporation, **regulation** and winding up of corporations, whether trading or not, with objects not confined to one state **but not including Universities**”

4. Notwithstanding the above stated position of law, there are lot of misconceptions/ misinformation amongst students, their parents and also others that a University requires prior approval of Medical

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Council of India to enable it to impart education in Medical Sciences and award degrees for the same.

5. That Section 22 of the UGC vests unfettered rights into a University to award all degrees notified degrees under that section, which include Medical degrees also.

6. That Medical Councils of other different countries neither have any regulation regulating Universities nor have the power to require a University to obtain Medical Council's approval to impart education in Medical Sciences and/ or to award degrees for the same No doubt, Medical Councils of other Countries do Conduct entrance exams and admit / enroll only those persons as Medical Practitioners/ Doctors who qualify in the said entrance exam. Medical Council of India has also a system of Conducting such entrance exams and as such there remains no necessity of any approval of MCI to impart Medical education particularly by a University recognized Under Section 2 (f) of the UGC Act. MCI Conducts a test for those persons who have obtained MBBS equivalent degrees from many other foreign Universities, which are neither Under the regulatory control of M.C.I nor have infrastructural and other facilities as prescribed by M.C.I.

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and which are made Mandatory for Indian Medical Colleges. Regulations made by M.C.I prescribing mandatory requirements of Infrastructural and other facilities to impart Medical Education in the Country are arbitrary and unreasonable. As a result there of a lot of malpractices taking place in the field of Medical Education, resulting into wide spread Corruption and acute shortage of doctors in the Country.

7. That the UGC Act and the regulations made there under by UGC grant autonomy to a University to decide about its requirement of Infrastructural and other facilities to impart education in any discipline and this being a specific and special law governing the Universities shall prevail over any inconsistent regulation made by M.C.I in this regard University are not required to obtain any approval from AICTE or NCTE to impart technical education including Pharmacy / Nursing and Teacher Education and this is so because they are also established Under an Act of Parliament and MCI is also established Under an Act of Parliament. Before 1990's, Universities were not under any regulatory Control of MCI.

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8. That the MCI should treat Indian Universities at par with foreign Universities in the matter of imparting Medical education and the students who obtain their Medical degree from an Indian University should also be required to appear in qualifying exam held by MCI for grant of Registration certificate to practice as Medical Practitioner/ Doctor.

In the premises, I therefore, in the interest of Justice equity and fair play request you to kindly Confirm that my University client does not require any approval of MCI to impart Medical education and award degrees for the same and candidates having degree in medical Sciences awarded by My Client University shall be entitled to appear in entrance qualifying exam held by MCI as presently is being done for foreign University Medical degree holders. M.C.I should not/ cannot discriminate against Indian University, Medical Degree holders. This is violative of Article 14 of the Constitution and also inconsistent with Entry 44 of the Seventh Schedule (Central list) to the Constitution of India. In request for an early response in the matter kindly note that in Case no response is received within next 15 days. I have already

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got the instructions to take appropriate legal stapes to get Justice done to my University Client its students and parents.

Kindly acknowledge receipt, Copy Kept.

Yours Faithfully

Rajat Ranjan

Advocate