

\$~

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CONT.CAS(C) 137/2012 & CM APPL. 3501/2013

MEENAKSHI GAUTHAM ..... Petitioner  
Through Mr. Prashant Bhushan with  
Mr. Pranav Sachdeva and Ms. Neha  
Rathi, Advocates  
versus

PK PRADHAN & ANR ..... Respondents  
Through Mr. Sanjay Jain, ASG with Mr. Dev  
P. Bhardwaj, CGSC for UOI.  
Mr. Vikas Singh, Sr. Advocate with  
Mr. T. Singhdev, Ms. Biakthansangi  
and Ms. Puja Sarkar, Advocates for  
MCI.

% Date of Decision : 02<sup>nd</sup> September, 2015

**CORAM:**  
**HON'BLE MR. JUSTICE MANMOHAN**

### **J U D G M E N T**

**MANMOHAN, J: (Oral)**

1. The present contempt petition has been filed alleging wilful disobedience of this Court's Division Bench order dated 10<sup>th</sup> November, 2010 passed in WP(C) 13208/2009.
2. It is the case of the petitioners that by way of W.P.(C) 13208/2009 they had moved this Court to enforce the recommendations of the Government-appointed Task Force on Medical Education under the National Rural Health Mission. According to the petitioners, the Task Force had provided a blue-print for a new course which would radically restructure the

health system and was likely to remedy the chronic shortage of health care professionals in rural areas.

3. Mr. Prashant Bhushan, learned counsel for the petitioner states that the Division Bench had disposed of the said writ petition vide order dated 10<sup>th</sup> November, 2010 based upon the undertakings given by the Central Government and Medical Council of India. According to him, this Court had given the Medical Council of India two months' time to finalize the curriculum and syllabi of the three and a half year Primary Healthcare Practitioner Course. Mr. Bhushan states a further period of two months was given to the Ministry of Health and Family Welfare for the enforcement of the same. Thus, he states, that the course ought to have been introduced by March, 2011 as per the timeline stipulated by the Court. He however, states that the course has not yet been notified.

4. Mr. Bhushan submits that Section 11(2) of the Indian Medical Council Act, 1956 (for short "IMC Act") gives power to the Central Government to recognise a qualification and notify the same in the official gazette. He submits that unless the same is done, the graduates of the said course would not be entitled to practice modern medicine for primary health care services. He submits that giving this case sound legal basis is an absolute must before the Central Universities, Central Institutions, State Governments and Universities can start the course.

5. Mr. Bhushan contends that the need for notifying the course under IMC Act is imperative, especially in view of the recent order passed by the Guwahati High Court in W.P. (C) 5785/2005 striking down a similar course introduced by the State of Assam on the ground that the said course had not been approved and notified by the Central Government under the IMC Act.

6. Mr. Sanjay Jain, learned Additional Solicitor General states that Ministry of Health and Family Welfare in consultation with the Medical Council of India has introduced a short term course namely B.Sc. (Community Health) in the rural areas creating a cadre of mid-level health professionals exclusively to cater to the needs of rural health care.

7. Mr. Jain states that though the Parliamentary Standing Committee on Health and Family Welfare had recommended not to introduce B.Sc. (Community Health) course, the Ministry of Health and Family Welfare did not accept the recommendation and sought the approval of the Cabinet and the Cabinet approved the proposal in its meeting held on 13<sup>th</sup> November, 2013.

8. Mr. Jain states that these graduates would be an integral part of the health care system and would support the health workforce at appropriate levels. He, however, admits that there is no Central Act which provides for the rights, duties and privileges of such proposed graduates.

9. Mr. Jain states that accordingly, the Ministry has informed the State/Union Territory Governments that the Central Government would provide financial support under National Rural Health Mission in the Programme Implementation Plan (PIP) of States concerned who are willing to introduce the course. He points out that though Governments of Assam, Jharkhand and Chhattisgarh have agreed to introduce, yet Governments of Goa and Pudducherry are not willing to adopt the course.

10. Mr. Vikas Singh, learned senior counsel for Medical Council of India submits that present contempt petition is not maintainable as the Division Bench did not decide any *lis* but only recorded the statements/undertakings

of the counsel for Medical Council of India and Union of India. He also submits that it is only such undertaking which is given during the course of hearing of the matter wherein the Court is about to decide the matter that the undertaking would be construed as one on the basis of which the contempt jurisdiction can be invoked.

11. Mr. Singh submits that a mere statement made during the course of the hearing which is objected to by a party in the proceedings as being contrary to law and the Court granting liberty to the said party to challenge the decision once formalized cannot be said to be an undertaking on the basis of which the contempt jurisdiction can be invoked against the party making the statement.

12. Mr. Singh states that it is neither practical nor feasible that a person who has acquired only a science qualification can practice modern medicine independently. According to him, due to his limited knowledge and expertise in the field, the graduate cannot substitute a qualified MBBS doctor or a specialist holding a postgraduate medical qualification in a particular subject of medicine, i.e., registered medical practitioners. He also states that the science course of B.Sc. (Community Health) can only produce health workers for rural areas who will have mainly preventive functions and can work under the supervision of qualified MBBS doctors, i.e., registered medical practitioners. He contends that to allow B.Sc. (Community Health) Graduates to practice modern medicine would only promote quackery. He draws this Court's attention to the judgment of the Supreme Court in *Medical Council of India and another v. State of Rajasthan and another, (1996) 7 SCC 731*, wherein it has been held as under:-

*“ 3. Section 2(f) of the Indian Medical Council Act, 1956 (for short ‘the Act’) defines ‘Medicine’ to mean modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery. Section 2(h) defines “Recognised Medical Qualification” to mean any of the medical qualifications included in the Schedule and Section 2(d) defines “Indian Medical Register” to mean medical register maintained by the Council. Though M.Sc. (Bio-Chemistry) is included in the Schedule, but unless the second respondent has qualified himself in Medicine, he is not eligible to be registered as medical practitioner. Section 15(1) of the Act says that subject to the other provisions contained in this Act, the medical qualifications included in the Schedule shall be sufficient qualification for enrolment on any State Medical Register.....*

*4. It would thus be clear that the basic qualification of MBBS as primary qualification is a precondition for a candidate for being registered in the State Medical Register maintained by the State Board. The second respondent does not have the basic qualification, his M.Sc. (Bio-Chemistry) cannot be considered to be a basic qualification for practising as a medical practitioner. The High Court has thus committed obvious error in allowing the writ petition and directing the appellant to register him as a medical practitioner.”*

13. In the alternative, Mr. Singh submits that the alleged undertakings relied upon by the petitioner are contrary to law. He states that science qualification of B.Sc. (Community Health) cannot be termed as a qualification of modern scientific medicine in terms of Section 2(f) of the IMC Act and thus cannot be included in the schedule of the IMC Act in terms of Section 2(h). Mr. Singh points out that B.Sc. (Community Health) course, teaching and training of which will commence in specially developed Rural Healthcare Schools to be set up by the State Governments and where district hospitals of the concerned State will act as a teaching hospital, will not fall within the ambit of Section 10A and the Regulations

framed thereunder. He submits that IMC Act deals with qualification in modern scientific medicine and does not, in any manner, deal with any science qualification of any nomenclature. He points out that Section 15(2)(b) of IMC Act prohibits any person other than a medical practitioner enrolled on a State Medical Register from practicing medicine in any State.

14. Mr. Singh submits that the respondent-Medical Council of India had only to take a decision with regard to syllabi and curriculum which it has already taken. He clarifies that there was no undertaking given by Medical Council of India to include the qualification of B.Sc. (Community Health) in the Schedule under Section 11(2) of the IMC Act. Consequently, according to him, the issue of amendments of any of the schedule of IMC Act to include the qualification of B.Sc. (Community Health) does not arise.

15. Mr. Vikas Singh, lastly submits that the issue raised by the petitioner relates to public health which is a State subject being Entry 6 of List II. Thus, according to him, any decision with regard to B.Sc. (Community health) can only be possible after prior consultation with all the State Governments of the country.

16. In rejoinder, Mr. Bhushan submits that the Supreme Court in *Dr. Mukhtiar Chand vs. State of Punjab, (1998) 7 SCC 579* has upheld the validity of allowing some Vaid/Hakims for practicing modern medicine thereby impliedly overruling the decision in *Medical Council of India vs. State of Rajasthan* (supra).

17. Mr. Bhushan further submits that in *Subhasis Bakshi & Ors. Vs. West Bengal Medical Council, (2003) 9 SCC 269*, Supreme Court relying on the judgment in *Dr. Mukhtiar Chand* (supra) and overruling the decision in *Medical Council of India vs. State of Rajasthan* (supra), has held that

persons completing the diploma course of Community Medical Service in recognized institutions of West Bengal are entitled to treat and prescribe medicine.

18. Having heard learned counsel for parties, this Court is of the view that the undertakings were given by the Union of India and Medical Council of India during the course of hearing of the matter when the Court was about to decide the case.

19. The definition of civil contempt under Section 2(b) of the Contempt of Courts Act, 1971 includes “*breach of an undertaking given to a Court*”. In this case, based on undertakings given by the respondents, the said writ petition was disposed of by the Division Bench.

20. The Supreme Court in ***Rama Narang vs. Ramesh Narang & Anr.***, ***AIR 2006 SC 1883*** has held as under:-

*“18. The Act has been duly widened. It provides inter alia for definitions of the terms and lays down firmer bases for exercise of the court's jurisdiction in contempt. Section 2(b) of the Contempt of Courts Act, 1971 defines civil contempt as meaning “wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court”. (emphasis supplied) Analysed, the definition provides for two categories of cases, namely, (1) wilful disobedience to a process of court, and (2) wilful breach of an undertaking given to a court. As far as the first category is concerned, the word “any” further indicates the wide nature of the power. No distinction is statutorily drawn between an order passed after an adjudication and an order passed by consent. This first category is separate from the second and cannot be treated as forming part of or taking colour from the second category. The legislative intention clearly was to distinguish between the two and create distinct classes of contumacious behaviour. Interestingly, the courts in England have held that the breach of a consent decree of specific performance by*

refusal to execute the agreement is punishable by way of proceedings in contempt (see C.H. Giles and Company Ltd. v. Morris & others [(1972) 1 All ER 960].

xxx

xxx

xxx

36. *In the present case, the consent terms arrived at between the parties were incorporated in the orders passed by the Court on 12<sup>th</sup> December, 2001 and 8<sup>th</sup> January, 2002. The decree as drawn up shows that order dated 8<sup>th</sup> January, 2002 was to be “punctually observed and carried into execution by all concerned”. A violation of the terms of the consent order would amount to a violation of the Court's orders dated 12<sup>th</sup> December, 2001 and 8<sup>th</sup> January, 2002 and, therefore, be punishable under the first limb of Section 2(b) of the Contempt of Courts Act, 1971.....”*

(emphasis supplied)

21. Subsequently, the Supreme Court in ***Rama Narang vs. Ramesh Narang & Anr., AIR 2007 SC 2029*** has held as under:-

14. A three-Judge Bench of this Court in *Rama Narang v. Ramesh Narang & Anr.* reported in 2006 (4) Scale 280 came to a definite finding that violation of the terms of the consent order would amount to violation of the Court's orders dated 12.12.2001 and 8.1.2002.....

15. *The preliminary objection raised by the respondents regarding maintainability of the contempt petition was rejected.....*

xxx

xxx

xxx

34. ....*Before we examine the issue further, it is imperative to clearly comprehend the expression “undertaking” with the help of settled law which has been crystallised in a large number of cases of this Court.*

xxx

xxx

xxx

38. *In re Hudson; [1966] Ch. 209 the English court observed as under:*

“An undertaking to the court confers no personal right or remedy on any other party. The only sanctions for breach are imprisonment for contempt, sequestration or a fine.”

xxx

xxx

xxx

51. .....The respondents blatantly and deliberately violated the orders of this Court based on the undertaking given to the Court. Consequently, the respondents are guilty of deliberately flouting and disregarding the undertaking given to this Court.

xxx

xxx

xxx

53. .....According to our considered view the respondents are clearly guilty of committing contempt of court by deliberate and wilful disobedience of the undertaking given by them to this Court. In this view of the matter, in order to maintain sanctity of the orders of this Court, the respondents must receive appropriate punishment for deliberately flouting the orders of this Court.

54. Consequently, we convict the respondents under Section 2(b) of the Contempt of Courts Act and sentence them to a simple imprisonment for a period of two months. We further impose a fine of Rs 2000 to be deposited by each of them within one week failing which they shall further undergo imprisonment for one month.

55. We are also not oblivious of the fact that immediately sending the respondents to jail would create total chaos in the Company which would also vitally affect the interests of large number of people including the employees of the Company. Therefore, while keeping in view the peculiar facts and circumstances of this case, the sentence of imprisonment imposed on the respondents is kept in abeyance. We further direct the parties to meticulously comply with the undertakings given by them to this Court. In case similar violation of the undertakings given to this Court is brought to the notice of the Court, in that event, the respondents shall be sent to jail forthwith to serve out the sentence imposed in this case.”

(emphasis supplied)

22. Consequently, breach of undertaking amounts to contempt of Court as per Section 2(b) of the Contempt of Courts Act, 1971.

23. Moreover, giving liberty to a third party to challenge the decision once formalised cannot detract from or whittle down the undertaking. In fact, liberty was given to the third party to challenge the final decision as at that stage neither the contour of the course nor the basis of the recognition was known.

24. Medical Council of India's arguments that the order dated 10<sup>th</sup> November, 2010 as well as the undertakings contained therein are contrary to law or its implementation is neither practical nor feasible, cannot be urged in contempt proceedings. It is settled law that while dealing with an application for contempt, the Court can neither traverse beyond the order nor decide its correctness as that would amount to exercising review jurisdiction, which is not permissible. The Supreme Court in ***Prithvi Nath Ram vs. State of Jharkhand & Ors.***, AIR 2004 SC 4277 has held as under:-

*“8. If any party concerned is aggrieved by the order which in its opinion is wrong or against law or its implementation is neither practicable nor feasible, it should always either approach to the Court that passed the order or invoke jurisdiction of the Appellate Court. Rightness or wrongness of the order cannot be urged in contempt proceedings. Right or wrong the order has to be obeyed. Flouting an order of the Court would render the party liable for contempt. While dealing with an application for contempt the Court cannot traverse beyond the order, non-compliance of which is alleged. In other words, it cannot say what should not have been done or what should have been done. It cannot traverse beyond the order. It cannot test correctness or otherwise of the order or give additional direction or delete any direction. That would be exercising review jurisdiction while dealing with an application for initiation of contempt proceedings. The same would be impermissible and indefensible.”*

(emphasis supplied)

25. Medical Council of India's submission with regard to Entry 6 List II is a red herring as would be apparent from the fact that a similar course introduced by the State of Assam was struck down by the Guwahati High Court in W.P.(C) 5785/2005 on the ground that the said course had not been approved and notified by the Central Government under the IMC Act.

26. It is now essential to understand the intent, scope and ambit of the order dated 10<sup>th</sup> November, 2010 passed by the Division Bench. The said order is reproduced hereinbelow:-

*“The petitioners, as pro bono publico, have preferred this writ petition under Article 226 of the Constitution of India for the relief which is basically contained in para 2 of the relief clause, which we reproduce hereinbelow:*

*“Direct the Government to introduce a short-term course for training health workers for primary health care in rural areas and then license and regulate graduates of the said course.”*

*Be it noted, this Court on 7<sup>th</sup> April, 2010 had passed the following order:*

*“Learned Additional Solicitor General has handed over in Court today an additional affidavit filed on behalf of Respondent No. 1 in compliance with the order dated 10th March, 2010.*

*It has been pointed out by learned counsel for the Petitioner, with reference to paragraph 6 of the affidavit filed by the Union of India that the recommendations of the Task Force given at points 4.2 and 4.3 under Chapter IV have not been accepted by the Central Government. He says that the affidavit does not indicate who has rejected the recommendation of the Task*

*Force and when the rejection was made. He further says that no reasons have been indicated why this recommendation a high powered body was rejected.*

*It is also submitted by learned counsel for the Petitioner that the agenda of the 9<sup>th</sup> annual conference of the Central Council of Health held on 13<sup>th</sup> November, 2007 would be necessary to proceed further in the matter. Learned Additional Solicitor General should place the agenda and minutes of the deliberations on record.*

*With regard to paragraph 11 of the affidavit, learned Additional Solicitor General says that the consultation process will be over in about 8 to 10 weeks and apart from the Medical Council of India several other authorities such as Medical Associations and members of Parliament etc. have been consulted. He says that within 8 to 10 weeks the report of the consultation process will be made available and an affidavit stating all these facts along with the report will be filed before the next date of hearing.*

*List this matter on 14th July, 2010.”*

*Thereafter, on 25<sup>th</sup> August, 2010, there was a further debate and the following order came to be passed:*

*“Heard Mr. Prashant Bhushan, learned counsel for the petitioner, and Mr. A.S. Chandhiok, learned Additional Solicitor General for Union of India.*

*Mr. Chandhiok submitted that a conference of Central Council of Health and Family Welfare is going to be held on 30th August, 2010. One of the items in the agenda pertains to department of Health and Family Welfare and*

*in the said agenda on item No. 3(iii)(b), Bachelor of Rural Health Care finds mention. It is his further submission that the Central Council is concerned about the health measures to be taken at the rural level as well as at the primary level in sub-urban areas where MBBS doctors are not available and there is a possibility that the grievance that has been agitated in this petition may be resolved. At this juncture, we are only inclined to note that health is the primary concern of any homo-sapiens and he has been fighting, struggling and combating since the inception of accrual of knowledge or fear with regard to the health. It may sound trite that "health is wealth" but sometimes, as has been said, a trite expression or a hackneyed expression has its glorious phenomenon and the proverbial accent which the human race can never ignore. The submission of Mr. Prashant Bhushan, learned counsel for the petitioner, is that India is a country of villages and deserves primary treatment at the hands of trained persons and when there is a thinking that there can be a condensed course, the same should be encouraged. Learned counsel has given the example of the State of Chhattisgarh which, after complying with the formalities, introduced a condensed course of three years after which a person can practice at primary level.*

*We hope and trust that the Central Council of Health and Family Welfare shall look into all the facets and take a broadest view in a holistic manner so that the health, which is the requisite concern of every living being, can be adequately addressed to.*

*Let the matter be listed for further hearing on 29th September, 2010.*

*Order dasti.”*

*Vide order dated 29th September, 2010, this Court had directed the minutes to be placed before this Court. Today, the minutes have been placed by Mr. Khalid Arshad, learned counsel appearing for Mr. Neeraj Chaudhary, learned standing counsel for the Union of India. On a perusal of the minutes, it is perceptible that the Union of India has already approved the implementation of introduction of Bachelor of Rural Health Care course. A communication has been sent to the Medical Council of India for inviting the comments on the draft curriculum. Mr. A. Sharan, learned senior counsel appearing for the Medical Council of India stated that the Council has no objection for introduction of the said course. It is submitted by him that the Medical Council of India shall take a decision within two months with regard to the said curriculum and syllabi. It is also put forth by him that the persons who would undertake the said course and qualify will be known as Bachelors of Rural Health Care after completing three years of education and six months of internship. They shall be under obligation to serve in the rural areas for a period of five years and thereafter if they undertake a bridge course for two years and qualify, then they shall be treated equivalent to MBBS.*

*It is also urged by him that the purpose is sacrosanct as the people in rural areas are not in a position to avail the primary treatment and, therefore, the Medical Council of India, after due deliberation, has thought it appropriate to accept the suggestion given by the Union of India. There can be no dispute that making of a curriculum and syllabi are within the domain of the Medical Council of India which is the expert body. As undertaken by Mr. Sharan, the same shall be finalized within two months and, thereafter, as agreed to by Mr. Khalid Arshad, learned counsel appearing for Mr. Neeraj Chaudhary, learned standing counsel for the Union of India, the same shall be given effect to within two months therefrom.*

*We will be failing in our duty if we do not note that Mr. T.V. George and Mr.Ramesh Babu MR, learned counsel appearing for the interveners, namely, People for Better Treatment and Kerala branch of Indian Medical Association have submitted that if this course is introduced, there will be treatment by quacks in the villages. When the Medical Council of India has accepted the suggestions given by the Union of India and decided in principal to frame the syllabi and further when the order is passed on consent, we are not inclined to address the grievances of the interveners in praesenti. It is open to the interveners to challenge the decision, if so advised, by filing appropriate petition, as permissible in law. We have said so as we have only recorded the concession given by the counsel for the parties before us. It is worth noting Mr.T.K. Joseph, learned counsel representing Central Council of Indian Medicines, submitted that the suggestion given by the said association has already been dealt with by the Central Government and he has no grievance. The writ petition is accordingly disposed of. There shall be no order as to costs.”*

(emphasis supplied)

27. It is pertinent to mention that W.P.(C) 13208/2009 had been filed for upholding the fundamental right to health guaranteed under Article 21 of the Constitution of India on the ground that a vast majority of poor people in India especially those living in rural areas had been consistently denied medical care. The primary relief in the writ petition was, *“to declare Section 15(2)(b) of the Indian Medical Council Act, 1956 and to direct the Government to introduce a short term course for training health workers for primary health care in accordance with the recommendations of the Task Force and regulate the Graduates of said course”*.

28. The petitioner had pointed out that there was chronic shortage of doctors due to the fact that academic courses like MBBS had been made a minimum requirement for a person to practice modern medicine and prescribe scheduled drugs. According to the petitioner, such a system was ill-suited to the needs of the country as most of the common diseases and ailments could be treated at the primary level and did not require the attention of specialized Doctors.

29. The then ASG had admitted before the Division Bench on 25<sup>th</sup> August, 2010 that the Central Council of Health and Family Welfare was concerned about the health measures to be taken at the rural level as well as at the primary level in sub-urban areas where MBBS Doctors were not available and that it would consider the possibility of introducing a Bachelor of Rural Health Care Course.

30. On 10<sup>th</sup> November, 2010, the Minutes of the Central Council were placed before the Division Bench and it was stated that the Union of India had approved the introduction and implementation of Bachelor of Rural Health Care Course.

31. The then senior counsel appearing for the Medical Council of India before the Division Bench had accepted the ground level reality that people in rural areas were not in a position to even avail the primary treatment due to shortage of MBBS Doctors and had agreed to the suggestion given by the Union of India. He had further stated that as the '*purpose was sacrosanct*', the Council had no objection to introduction of the course known as Bachelors of Rural Health Care and the Medical Council of India would take a decision within two months with regard to its curriculum and syllabi.

32. The senior counsel appearing for Medical Council of India had stated that the students who applied for the said course would be under an obligation to serve in the rural areas for a period of five years and thereafter if they undertook a bridge course for two years and qualify, then they would be treated as equivalent to MBBS.

33. The counsel for Union of India had stated that the aforesaid course 'shall be given effect to' within two months of Medical Council of India approving the course and the syllabi.

34. This Court is of further of the view that Mr. Vikas Singh's submission is correct that the Supreme Court in *MCI & Anr. Vs. State of Rajasthan & Anr., (1996) 7 SCC 731*, has held that MBBS is the pre-condition for a candidate for being registered in the State Medical Register. In fact that was precisely the reason why the petitioner had preferred a writ petition before the High Court.

35. The intent and purpose of the writ petition as well as the aforesaid undertakings recorded in the order dated 10<sup>th</sup> November, 2010 was to fill the vacuum created by non-availability of registered medical practitioners in rural areas by permitting Bachelors of Rural Health Sciences to practice modern medicine to treat common diseases that are easily treatable at the primary level.

36. If after introducing the course of B.Sc. (Community Health) and determining its curriculum and syllabi, the graduates are not allowed to practice modern medicine in a limited way, then the intent and purpose of the writ petition and the undertakings given would be rendered nugatory. After all, the course of B.Sc. (Community Health) was not to be introduced for statistical reasons!

37. This Court is in agreement with Mr. Bhushan's argument that if the graduates have to first seek employment under a doctor appointed with the Government, then that would not address the problem of shortage of medical health professionals for common diseases.

38. The students who graduate in B.Sc. (Community Health) have to be given a right to independently practice modern medicine to treat common diseases as identified in the curriculum to achieve the intent, purpose and objective behind the undertakings.

39. The entire basis of undertakings given to the Division Bench in the writ petition was to ensure that enough Graduates are available to practice modern medicine and provide primary health care services especially in rural areas where there are no Doctors.

40. Government of India by not facilitating the B.Sc. (Community Health) students to practice modern medicine, has defeated the whole object of the exercise undertaken by this Court and hence, violated the order of the Division Bench. Without giving the course a firm legal basis, no university or State Government would be in a position to start the course and no student would be willing to undertake the said course.

41. In the opinion of this Court, once the Central Government has undertaken to introduce the B.Sc. (Community Health) course, it must take the lead and give the course a firm legal footing and introduce it in institutions and universities run by the Central Government and also provide help to the State Governments to introduce the same. Also, once the syllabi, curriculum and course have been finalised and the graduate has been identified to treat a range of common diseases that are easily treatable at the primary level, there is no reason why he/she should not be allowed to

practice independently. Moreover, the Division Bench while passing the order dated 10<sup>th</sup> November, 2010 did not indulge in an exercise in futility!

42. Though logically speaking the Court should now proceed to hold the contemnors guilty, yet this Court is of the view that as confusion has been created by the Medical Council of India due to change in its stand, the respondents should be given another opportunity to implement the order dated 10<sup>th</sup> November, 2010 in letter and spirit.

43. The suggestion that the Schedule under Section 11(2) of the IMC Act should be amended and/or the suggestion that a new Act with regard to B.Sc. (Community Health) should be passed on the lines of the Indian Nursing Council Act, 1947, should be considered by the Union of India along with any other option that it may deem appropriate. The Medical Council of India should also prepare the syllabi and curriculum for the bridge course as undertaken before the Division Bench.

44. Whatever steps the Medical Council of India and the Union of India intend to take to give a right to B.Sc. (Community Health) graduates to practice modern medicine to treat common diseases as identified in the curriculum, should be undertaken within a period of six months, failing which, appropriate officers of the respondents will be held responsible.

List on 09<sup>th</sup> March, 2016.

**MANMOHAN, J**

**SEPTEMBER 02, 2015**

m/js/NG