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**MEDICAL COUNCIL OF INDIA**  
**CIRCULAR**

**No. MCI-37 (1)(Gen.)/2015-Med./127873-128429**

**Date: 19.08.2015**

1. **The Secretary,**  
Government of India,  
Ministry of Health and Family Welfare,  
Nirman Bhawan, New Delhi.
2. **The Secretary Health,**  
All the State Governments.
3. **The Director Medical Education,**  
All the State Governments.
4. **The Vice Chancellor/Registrar,**  
All the Universities/Deemed Universities.
5. **The Dean/Principal,**  
All the Medical Colleges.

**Sub:- Judgment dated 06.08.2015 passed by the Hon'ble Supreme Court in W.P (C) No.306/2015- Sree Balaji Medical College & Hospital & Anr. Vs. Union of India & Ors.**

Sir/Madam,

This is to invite the attention of all concerned to the judgment dated 06.08.2015 passed by the Hon'ble Supreme Court in W.P. (Civil) No. 306 of 2015 titled Sree Balaji Medical College & Hospital & Anr vs. Union of India & Anr. The issue involved in the above matter was as to whether a Medical College which is recognized for a particular intake capacity and had been granted Letter of Permission under Section 10A of the IMC Act, 1956 for increase in admission capacity, could apply for further increase in admission capacity without the recognition of the present increased intake capacity.

For the sake of understanding - A Medical College which is recognized for intake capacity of 100 MBBS students, thereafter applied for and was granted permission under Section 10A of the IMC Act, 1956 for increase in intake capacity from 100 to 150 MBBS students; can such a Medical College further apply for increase of seats from 150 to 200 or 250 MBBS admissions without their present increased intake i.e. 150 MBBS students, having been granted recognition under Section 11(2) of the IMC Act, 1956.

The Hon'ble Supreme Court vide its judgment dated 06.08.2015 was pleased to hold that under the scheme of the IMC Act, 1956 and the Regulations made thereunder, the permission under Section 10A of the IMC Act, 1956 is granted for a particular admission capacity and recognition is granted for the course and institution. Once a medical course and an institution is notified in the First Schedule as per Section 11 of the IMC Act, 1956 even thereafter the permission of the Central Govt. for increase of admission capacity as per the scheme of Section 10A of the IMC Act, 1956 is mandatory. Even in the present case, the Hon'ble Supreme Court had directed the MCI to consider afresh the application of the petitioner medical college for increase of seats as per Section 10A of the IMC Act, 1956. The relevant portion of the judgement dated 06.08.2015 is reproduced as under:-

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“.....7. Section 10A of the Act deals with permission for establishment of a new medical college and a new course of study. No person shall establish a medical college and no medical college shall open a new or higher course of study or training for the award of any recognized medical qualification and no person shall increase the admission capacity in any course of study or training, except with the prior permission of the Central Government obtained in accordance with the scheme provided in the Section. Admission capacity, as per *Explanation 2* to Section 10A, in relation to any course of study or training in a medical college means the maximum number of students that may be fixed by the Medical Council from time to time for being admitted to such course or training.

8. In short, permission of the Central Government is required - (1) to establish a medical college, (2) to open a new course of study or training other than the recognized course and (3) to increase the admission capacity in any course of study or training. However, recognition of the Central Government is also required for the medical college and the course of study for the purpose of the medical qualification. Once a medical college is recognized under Section 11 of the Act along with medical qualification, thereafter, for increase in the admission capacity in any course of study or training that is recognized under Section 11 of the Act, only permission from Central Government as per the scheme under Section 10A of the Act is required.....

9. As a matter of fact, Exceptions (i) and (ii) under Section 10B of the Act, in any way, are redundant since any course or training conducted in any medical college, if not included in the First Schedule as per Section 11 of the Act, will not be a recognized medical qualification. However, the third Exception is in respect of a student (s) admitted in excess of the admission capacity provided under Section 10A of the Act by the Central Government.

.....  
11. Under the scheme of the Act, permission is for the admission capacity and recognition is for the course and the institution. Once a course and an institution is notified in the First Schedule as per Section 11 of the Act as a recognized course and a recognized institution, the admission capacity or its increase in any recognized course needs only the permission of the Central Government as per the scheme under Section 10A of the Act.

.....  
21. In the above circumstances, the Writ Petition is allowed. The impugned orders are quashed. The respondents are directed to process and consider afresh the application for the increase of seats from 150 to 250 for the M.B.B.S. course for the Academic Session 2015-2016 and pass orders thereon positively within a period of two weeks from today...”

In view of the above, it is clarified that all the Medical Colleges seeking increase in admission capacity for a medicine course are required to submit an application under Section 10A of the IMC Act, 1956 once their medicine course / institution is recognized. The application for increase in admission capacity are processed in accordance with Section 10A of the IMC Act, 1956 and “The Opening of a New or Higher Course of Study or Training (including Post-graduate Course of Study or Training) and Increase of Admission Capacity in any Course or Study or Training (including a Post-graduate Course of Study or Training) Regulations, 2000”. Section 10A contemplates recommendation of Council to enable the Central Government to grant or not to grant permission for increase in admission capacity.

Thus, by way of this Circular it is made known to all concerned that the applications for increase in admission capacity are required to be processed in accordance with the provisions of Section 10A of the Indian Medical Council Act, 1956 and the Statutory Regulations made there under.

(Dr. Reena Nayyar)  
Secretary (I/C)