IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2009
(Arising out of S.L.P. (CIVIL) No. 26777 OF 2008)

Yash Ahuja and others ... Appellants

Versus

Medical Council of India & Ors. ...Respondents

With

CIVIL APPEAL Nos. OF 2009
(Arising out of SLP (C) Nos. 28228 & 28487 of 2008)

With

Writ Petititon (C) No. 154 of 2009

SUPREME COURT OF INDIA
JUDGMENT

J U D G M E N T

J.M. PANCHAL, J.

Leave granted in all the Special Leave Petitions.

2. The appellants in appeal arising out Special Leave Petition (C) No. 26777 of 2008 have challenged validity of common Judgment dated September 26, 2008 rendered by the High Court of Delhi in W.P.(C) No. 8056 of 2007 and other cognate petitions by which the prayer made by them to direct the Medical Council of India to grant forthwith the provisional as well as permanent registration to them, as they have acquired medical qualifications granted by the Manipal College of Medical Science, Pokhara, Nepal which are recognized by Medical Council of India, without insisting that they should qualify the screening test, is rejected.

3. In order to appreciate the controversy raised before this Court, it would be advantageous to notice certain facts, which are as under:-

Earlier the medical education in India was governed by the provisions of Indian Medical Council Act, 1933. Thereunder also the Medical Council of India ('MCI' for short) was constituted on which certain

powers were conferred and duties were imposed. However, with the passage of time, it was noticed that there was no representation to licentiate members of the medical profession nor there was provision:-

a) to provide for registration of the names of citizens of India who had obtained foreign medical qualifications which were not recognized by the Indian Medical Council Act, 1933;

b) to provide for temporary recognition of medical qualifications granted by medical institutions in countries outside India with which scheme of reciprocity exists;

c) to provide for the formation of a committee of post-graduate medical education for the purpose of assisting the MCI to prescribe standards of post-graduate medical education for the guidance of Universities and;

d) to provide for the maintenance of an All-India register by the MCI.

Thus it became necessary to bring a legislation to provide for the reconstitution of MCI and the maintenance of a medical register for India and for matters connected therewith. That is how, the Indian Medical Council Act, 1956 ('the Act' for short) came to be enacted by Parliament repealing the Act of 1933.

4. Section 12 of the Act deals with recognition of medical qualifications granted by medical institutions in countries with which there is a scheme of reciprocity. The MCI is empowered to enter into negotiations with the authority in any country outside India which by law of such country is entrusted with the maintenance of a register of medical practitioners, for settling a scheme of reciprocity for the recognition of medical qualifications. Once such a scheme is settled, the Central Government is authorized to amend the second schedule so as to include therein the medical qualification which the council has decided should be recognised. The medical qualifications granted by medical institutions outside India which are included in the second schedule are recognized medical qualifications.

5. The Nepal authority had forwarded a scheme for grant of recognition of MBBS qualifications conferred by Kathmandu University, in respect of students of Manipal College of Medical Sciences, Pokhara, Nepal. The MCI entered into negotiation with the Nepal Authority for settling a scheme of reciprocity for recognition of medical qualifications. One of the conditions of recognition was that the college would not admit more than 100 students annually. On the request of Ministry of health, Government of India, the MCI inspected the said college in the year 2000. The college was assessed and evaluated in the light of minimum standards prescribed by the MCI relating to infrastructure, teaching facilities, etc. After inspection, a report was submitted to Government of India. On the basis of the said report, scheme of reciprocity was settled after which the Government of India, Ministry of Health and Family Welfare (Department of health) issued notification dated September 26, 2001, amending Second Schedule to the Act by inserting an entry to the effect that the qualification of MBBS granted by

Kathmandu University shall be recognized as medical qualification when granted in or after July, 1999, in respect of students of Manipal College of Medical Sciences, Pokhara.

6. Over a period of time, it was noticed that a large number of private agencies sponsored Indian students for medical studies in institutions outside India for commercial considerations. Such students also included the students who failed to fulfill the minimum eligibility requirements for admission to medical courses in India. Serious aberrations were noticed in the standards of medical education available in some of the foreign countries which were not at par with the standards of medical education available in India. Due to lack of uniformity in the standards of medical education in various foreign countries, it was decided to make a provision in the Act to enable the MCI to conduct a screening test in order to satisfy itself with regard to the adequacy of knowledge and skills acquired by citizens of India who obtain medical qualifications

from universities or medical institutions outside India before they are granted registration to practice medicine in India. Accordingly the Act was amended by the Indian Medical Council (Amendment) Act, 2001 and new Section 13(4A) was inserted, which requires that a person who is citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognized 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 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 recognized medical qualification for the purpose of this Act for that person.

7. The Ministry of Health, Government of India, by letter dated January 11-16, 2007, asked the MCI to

conduct an inspection of Universal College of Medical Sciences, Bhairahwa, Nepal and other institutions in Nepal recognised for granting MBBS degree under the Act to re-assess the facilities available there as doctors coming out of those colleges were eligible to practice medicine in India. Accordingly the inspection team of MCI went to Pokhara to inspect the college on January 19-20, 2007 to re-assess the infrastructural, teaching and other facilities available at the said college for grant of qualifications recognized and included in the Second Schedule to the Act.

The Dean of the college did not permit the inspection of the college despite repeated requests. However, he permitted the members of the Inspection Team to visit the college and the hospital on January 19, 2007, asserting that the colleges recognized by the MCI and included in the Second Schedule to the Act were not subject to re-assessment by the MCI. Though the inspection team was not permitted to re-inspect the college, the said team visited the college on January 19, 2007 and prepared a report indicating the deficiencies

noticed during the visit. The report prepared was considered by the Executive Committee of the MCI in its meeting held on February 5, 2007, wherein the members of the ad-hoc committee appointed by the Supreme Court were also present. Having regard to the deficiencies pointed out in the report, it was resolved by the Executive Committee, to carry out an inspection to re-assess the under graduate teaching and training facilities available at the said college. Accordingly a fax message dated February 19, 2007 was dispatched to the Principal of the college that an inspection would be carried out by the Council Inspectors on 21st and 22nd February, 2007. The Principal was also instructed to fill a set of standard inspection forms A and B and declaration contained in Forms C and D and handover the same to the Council Inspectors. The acting Dean of the college faxed a letter dated February 19, 2007 to the Secretary, MCI protesting attempt by the MCI to re-inspect the college and stated that the Dean was abroad on a study visit and, therefore, the visit by the team should be deferred till his return. In continuation of

faxed letter dated February 19, 2007, the acting Principal of the College addressed another letter dated February 21, 2007 mentioning that the inspection was not feasible in view of the earlier stand that the College was not subject to re-assessment. Thereupon, the Executive Committee of the MCI wrote a letter dated February 23, 2007 to the Secretary to the Government of India, Ministry of Health and forwarded the report dated January 19, 2007, wherein certain deficiencies noticed were mentioned. By the said letter the Executive Committee informed the Government of India that a decision was taken to re-inspect the College and not to grant provisional/final registration under Section 12(2) of the Act, till the matter was finally decided. However, the record shows that in spite of protest lodged by the acting Principal of the said College, the Inspectors of Council went to Pokhara and carried out inspection on February 21 & 22, 2007. The Inspectors submitted their inspection report which was considered by the Executive Committee of the MCI in its meeting held on March 3, 2007. The Committee took into

consideration the stand of the College that it was not subject to another inspection as well as reports indicating several deficiencies which were noticed by the Inspecting Team of MCI during the visit of the College. The Executive Committee of the MCI took a decision to recommend to the general body of the MCI to withdraw the recognition granted to Manipal College of Medical Sciences, Pokhara, Nepal, for the award of MBBS degree granted by Kathmandu University under Section 12(3) of the Act and not to grant provisional/final registration under Section 12(2) of the Act, to any student passing from the said Institute who has not passed the screening test. The meeting of the General Body of MCI was convened on March 10, 2007, to consider the recommendation made by the Executive Committee. The General Body approved the recommendation made by the Executive Committee. The decision taken by the General Body of MCI was communicated to the Government of India vide letter dated May 29, 2007. The case of Manipal College of Medical Sciences, Pokhara, is that the recognition granted to the College

under Section 12(2) of the Act is on reciprocal basis between the concerned authorities in India and Nepal and, therefore, it is its understanding that the College/University is not subject to re-assessment and in any event without informing or obtaining approval of Nepal Government/Nepal Medical Council/Kathmandu University, such re-assessment of College by MCI is not proper.

8. The appellants who were the students of the Manipal College of Medical Sciences, Pokhara and had obtained MBBS qualification from Kathmandu University were issued provisional registration certificates by MCI and had started their internship from the Medical Colleges recognized by the MCI. However, on completion of internship, they were denied permanent registration on the ground that they had not cleared the prescribed screening test.

9. In Civil Appeal arising out of Special Leave Petition (C) No. 28228 of 2008 the appellants were students, who had graduated from the Manipal College of

Medical Sciences, Pokhara, Nepal. They applied to the Medical Council of India to grant provisional registration to enable them to start internship. Sometime in April, 2007 some of the appellants, who were already granted temporary registration by the Medical Council of India, approached the Medical Council of India for permanent registration. The appellants from both the categories were denied registration by the Medical Council of India. The denial was communicated through a letter in which the students were informed that Council Inspectors, who had visited the Manipal College of Medical Sciences on 19th and 20th January, 2007, had found certain infrastructural deficiencies in the College and, therefore, it was decided to deny registration on the ground that the recommendation was made to the Central Government that Manipal College of Medical Sciences be derecognized. Therefore, the students invoked extra ordinary jurisdiction of Delhi High Court under Article 226 of the Constitution of India by filing Writ Petition (C) No. 8056 of 2007 and

prayed to direct the Medical Council of India to grant registration of the MBBS degrees awarded to them without insistence to clear the screening test prescribed. The Division Bench of the High Court heard the said petition along with batch of other petitions and dismissed the same by judgment dated September 26, 2008 giving rise to the Special Leave Petition (C) No. 28228 of 2008.

10. In appeal arising out of Special Leave Petition (C) No. 28487 of 2008 the appellants were the students of Manipal College of Medical Sciences, Pokhara, Nepal. Some of the students had applied for provisional registration as well as permanent registration. However, the registration claimed by the students was denied to them. Therefore, they had filed writ petitions before the Delhi High Court praying the Court to direct the Medical Council of India to grant provisional registration and/or permanent registration without insisting for clearance of screening test. In those petitions interim orders were passed and Medical Council of India was directed to

grant provisional registration to those petitioners. The interim orders passed by the learned single Judge of Delhi High Court were challenged in Letters Patent Appeal No. 327 of 2008 on the ground that the interim orders passed virtually granted the main relief claimed in the petitions. The Letters Patent Appeal was disposed of by order dated July 7, 2008 by giving direction to dispose of the writ petitions expeditiously. The Division Bench of the High Court dismissed the petitions by judgment dated September 26, 2008 by directing that the students should undergo a screening test as prescribed by law. The appellants herein were not parties to the writ petitions, but they were aggrieved by judgment dated September 26, 2008 and, therefore, they filed the Special Leave Petition No. 28487 of 2008 seeking permission to file the special leave petition.

11. In Writ Petition (C) No. 154 of 2009 the petitioners were students of Institute of Medicine Tribhuvan University. They completed the MBBS degree course successfully. Therefore, the Tribhuvan University

had given some of the petitioners provisional certificates dated April 15, 2008. The Medical Council of India released a press note dated October 8, 2008 withdrawing the recognition granted to Manipal College of Medical Sciences, Pokhara and Universal College of Medical Sciences, Bhaiarahwa, Nepal, as there were certain complaints against both the institutions. While dealing with the complaints against the aforesaid two institutions the Medical Council of India also mentioned in the last paragraph of the press note that earlier a press note on the website of MCI stating that the provisions of Eligibility Certificate Regulations, 2002 and the Screening Test Regulations, 2002 would not be applicable to the foreign medical institutions recognised under Section 12 of the Indian Medical Council Act, 1956, was withdrawn with immediate effect. The effect of withdrawal of earlier press note is that the provisions of Eligibility Certificate Regulations 2002 and the Screening Test Regulation 2002 would be applicable to the students of foreign

medical institutions recognised under Section 12 of the Act and all students, who have obtained medical qualifications from foreign medical institutions, will have to qualify the screening test. Thus the grievance of the petitioners was that they have been informed that the MBBS degrees would not be recognized without screening test nor permanent registration certificates would be given to such students, who have already taken provisional registration certificates. Therefore, the petitioners have invoked jurisdiction of this Court under Article 32 of the Constitution by filing above numbered writ petition and prayed to quash the last paragraph of press note dated October 8, 2008, which, according to them, affects them/students, who have been trained at the Institute of Medicine, Tribhuvan University, Kathmandu, Nepal. It may be mentioned that the writ petition was placed for admission hearing on April 20, 2009 and after hearing the learned counsel for the petitioners notice was ordered to be issued to the respondents and the petition was directed to be

listed with Special Leave Petition (C) No. 26777 of 2008 entitled *Yash Ahuja and others* vs. *Medical Council of India and others*.

12. This Court has heard the learned counsel for the parties at length and in great detail. This Court has also considered the documents brought on record of the appeals and the petition.

13. What is argued by the learned counsel for the appellants is that the Second Schedule and Part II of the Third Schedule exhaust the medical qualifications granted by medical institutions outside India, which are recognized as medical qualifications for the purpose of the Act, whereas sub-Sections (4A), (4B) and (4C) of Section 13 deal with the residual subject of individual recognition of medical qualifications obtained by Indian citizens from the institutions outside India, which are not specified in any of the three Schedules and, therefore, the appellants cannot be subjected to a screening test postulated by sub-Section (4A) of Section 13 of the Act as the appellants

possess the medical qualification mentioned in the Second Schedule. According to the learned counsel, the provisions of sub-Section (4A) requiring a person who obtains medical qualification granted by any medical institution in any country outside India, to qualify the screening test and the provisions of sub-Section (4B) requiring a citizen of India to obtain an eligibility certificate to be eligible to get admission in any medical institution in any foreign country and debarring him from appearing in the screening test if he obtains such medical qualification without obtaining eligibility certificate, are residual provisions as well as exceptions to Section 14 of the Act providing a special provision in certain cases for recognition of medical qualifications granted by medical institutions in countries with which there is no scheme of reciprocity and, therefore, the appellants would not be liable to qualify the screening test when they have obtained medical qualifications included in the Second Schedule of the Act, which are medical qualifications for the purposes of the Act. It

was asserted that Sections 13(4A) and (4B) cannot be read together with Section 12 of the Act because Section 12 is a self contained code whereas Part II of the Third Schedule includes those institutions which are not subject to reciprocity scheme on which Second Schedule is based and, therefore, the MCI cannot insist that the appellants must qualify screening test mentioned in Section 13(4A) of the Act. What was asserted was that the intention of the Parliament in providing screening test under Section 13(4A) and requiring to obtain eligibility certificate for admission and, thereafter passing screening test contemplated under Section 13(4B) is that they should be regarded as additional requirements restricted to the institutions mentioned in Part II of the Third Schedule and, therefore, the impugned judgment should be reversed. According to the learned counsel for the appellants, the words in Section 13(4A), to the effect "obtains medical qualification granted by any medical institution in any country outside India" cannot be given an

expanded meaning because Section 13 itself excludes Scheduled One and Schedule Two and as Section 13 is ambiguous, the language of the heading should be referred to for adopting interpretation that Section 13(4A) would not apply to those Indian citizens who have obtained medical qualifications included in Second Schedule. The learned counsel for the appellants emphasized that if the provisions of the Screening Test Regulations 2002 are made applicable to the Indian citizens who have obtained medical qualifications included in the Second Schedule to the Act, a serious anomaly would arise in as much as all those students who are similarly placed as the appellants but who are not Indian citizens would be entitled to be enrolled on any Medical Register maintained by a State Medical Council or to have their names entered in the Indian Medical Register without undergoing the screening test whereas the appellants and other students who are Indian citizens would not be entitled to such a privilege without qualifying screening test which would be

discriminatory and as such classification cannot be sustained in view of Article 14 of the Constitution. The stand of the MCI that the appellants and other similarly placed students, who have obtained medical qualifications included in the Second Schedule, must qualify the screening test, should not be upheld by the Court. According to the learned counsel for the appellants the MCI itself had held out and clarified for the information of the general public that the eligibility requirements for taking admission in an undergraduate medical course in Foreign Medical Institution, the Regulations of 2002 and the Screening Test Regulations, 2002, would not apply to the students who join an undergraduate medical course in foreign countries recognized and included in the Second Schedule under Section 12 of the Act and, therefore, also it should be held that the MCI is not justified in asking the appellants to qualify the screening test. In the alternative, it was argued that the provisions of sub-Sections 13 (4A) and (4B) are prospective in nature and, therefore, the appellants

cannot be asked to clear the screening test before getting their names enrolled on the Medical Register maintained by a State Medical Council or to have their names entered in the Indian Medical Register. It was contended that the screening test stipulation is not being applied to the students who obtain medical qualifications granted by medical institutions mentioned in the Second Schedule to the Act and, therefore, reliefs prayed for should be granted by the Court. It may be mentioned that the Union of India has supported the claim of the appellants.

14. The learned counsel for the MCI contended that even de hors the provisions of Amendment Act of 2001, the Council is empowered and obliged under the statutory scheme of the Act in going behind the degree for scrutinizing and evaluating the foreign medical qualification secured by a candidate seeking registration from the Council under the Act and, therefore, the appellants are not entitled to seek direction from this Court that the MCI should grant provisional/ permanent registration to them.

According to the learned counsel, screening test is required to be undergone in several countries like U.K., U.S.A., etc. where doctors from abroad with a foreign degree intend to start medical practice and, therefore, adoption of a similar system in India cannot be regarded as unreasonable. It was pointed out that closer and careful reading of the provisions of the Amending Act of 2001 read with the Eligibility Requirement Regulations and Screening Test Regulations of 2002 makes it sufficiently clear that the Council is under a statutory obligation to prescribe the screening test for all those candidates who obtained/obtain medical qualifications from institutions outside India falling within the purview of Sections 12 and 13 of the Act and, therefore, the appellants are rightly non-suited by Delhi High Court. Placing reliance on the decisions in **Ms. Anuradha Saini vs. Union of India** decided on 11-07-2002 by the Delhi High Court and **Sanjeev Gupta Vs. Union of India (2005) 1 SCC 45** it was pleaded that it is permissible to the MCI to adopt any

reasonable methodology for scrutiny and evaluation of the teaching and training imparted to the candidates holding qualifications mentioned in the Second Schedule to the Act and since the procedure and methodology of the conduct of screening test is approved by this Court, the MCI is justified in asking the appellants and other similarly placed candidates to qualify the screening test. According to the learned counsel for the MCI, all colleges seeking recognition or continuation of recognition under Section 12 of the Act have to fulfill the minimum requirements laid down by the MCI for medical institution in India because under the provisions of Section 12 the citizens of foreign countries are also entitled to practice medicine in India and therefore the provisions of Section 10 B(3) laying down that if any medical college increases its admission capacity without obtaining the prior permission of the Government of India, the medical qualification obtained from such college becomes unrecognized, have been enacted. What is stressed is that the true

intent and scope of Section 13(4A) is quite clear and as the said sub-section covers all medical qualifications mentioned in Sections 12 and 13 of the Act, the plea that Section 13(4A) should be treated as a proviso should not be accepted. It was argued that by a resolution, the General Body of MCI has corrected its understanding of the matter by declaring that the screening test would be necessary for candidates holding medical qualifications falling within the purview of Sections 12 and 13 of the Act and the registration of the candidates for research, training, charity etc. mentioned in Section 14 of the Act is not subject to qualifying the screening test by virtue of Section 13(4C) but not because Section 14 is an exception to Sections 13(4A) and 13(4B), as has been contended by the appellants. It was pointed out that the so called clarification made by MCI was with reference to the provisions of Section 13(4B) and even otherwise, the MCI on a reconsideration of the proposition of law can comprehend a different construction and as the construction and/or

interpretation of statutory provisions cannot rest entirely on the stand adopted by any party in the lis, the attempt to bind down the MCI to the clarification made is of little assistance to the appellants. Answering the contention raised on behalf of the appellants that the screening test is not being applied to all the foreign medical institutions mentioned in Section 12 of the Act, it was pointed out that the General Body of the Council in its Meeting held on March 1, 2009 resolved that each of the Indian citizens who secures a medical qualification from a foreign medical institution falling within the purview of Section 12 or Section 13, shall be obliged to qualify the screening test and therefore it is not correct to say that only students of Manipal College of Medical Sciences, Pokhara are subjected to the screening test. It was pleaded that specification of the cut off date of March 15, 2002 by the Ministry of Health, Government of India for the applicability of the regulations relating to the screening test, does not affect any vested right of the appellants as it is always

open to the authority to create and impose stipulations which are applicable from a particular cut off date and as such there is no question of vested rights being taken away with retrospective operation. What was emphasized was that over a period of time it had come to the notice of the legislature that a large number of private agencies had sponsored students for medical studies in the institutions outside India for commercial consideration who had even not fulfilled the minimum eligibility requirements and therefore the Act was amended pursuant to which regulations have been framed and the appellants who have acquired M.B.B.S. qualification from Kathmandu University mentioned in second schedule to the Act are asked to qualify the prescribed screening test in larger interest of public but are not debarred from starting any medical practice in India in accordance with law and, therefore, the appeals and the petitions filed under Article 32 should be dismissed.

15. As far as the issue of inspection of Manipal College of Medical Sciences, Pokhara by team of the MCI is concerned, this Court finds that by a communication dated January 11, 2007 the Central Government had requested the MCI to inspect Universal College of Medical Sciences, Bhairahwa, Nepal to reassess the facilities etc. made available to the students as the said college was last inspected by the MCI in April, 2000. It was also mentioned in the said letter that medical institutions in Nepal, recognized for granting MBBS degree under the Act also be inspected by MCI to assess the present quality of medical education being imparted there, as the doctors coming out of these colleges are eligible to practice medicine in India. By the said letter, the MCI was asked to intimate Government of India, Ministry of Health and Family Welfare about the action taken by it. The Manipal College of Medical Sciences, Pokhara is situated in Nepal. The medical qualification of MBBS granted by Kathmandu University in respect of the students of the said college is recognized under the

Act. Therefore, there is no manner of doubt that the MCI was authorized by the Central Government to inspect the said college to assess the facilities offered by the said college. The MCI has asserted that the said college was inspected by its inspectors on January 19-20, 2007 and it was found that the college is/was admitting 150 students annually though its intake capacity recognized by Government of India as well as by the MCI is only 100 students per year. According to the MCI it had addressed a communication dated February 23, 2007 to the Government of India and recommended re-inspection of the college to ascertain whether deficiencies found were removed by the College. It had also recommended Central Government not to grant provisional/permanent registration under Section 12(2) of the Act. The record does not indicate that the Government of India had opposed the recommendation made by the MCI and probably could not have opposed the recommendation of MCI to re-inspect the college in view of its letter dated

January 11, 2007. The case of MCI is that the re-inspection of the college was attempted to be carried out on February 22, 2007 but the acting Principal of the college had not allowed the inspection to be carried out and appropriate report was submitted. According to the MCI, its General Body vide communication dated May 29, 2007 had recommended to the Government of India to withdraw the recognition granted to the college. The appellants have asserted that since the college is recognized under Section 12 of the Act no reassessment can be done by the MCI without the consent of the Nepal Government and the Nepal Medical Council. It may be mentioned that in the present proceedings, the question to be decided is whether the MCI is justified in asking the appellants and others who have obtained MBBS qualification from Kathmandu University to qualify the screening test prescribed by the Regulations. Though the MCI has recommended the Central Government to withdraw the recognition granted to the college, the

Central Government has not initiated any action against the college. The Central Government has made it clear in its affidavit that Manipal College of Medical Sciences continues to be recognized under the Act. The determination of question posed for consideration of the Court as to whether those candidates who have obtained MBBS qualification from Kathmandu University can be subjected to the screening test or not does not depend upon the fact as to whether the said college was properly inspected by the MCI nor the said question can be decided with reference to the effect of recommendation made by the General Body of MCI to the Central Government to de-recognise the college but solely depends on the interpretation of different provisions of the Act. Therefore, this Court refrains from expressing any view on the question whether the college was properly inspected by the MCI or what is the effect of the recommendation made by the MCI to the Central Government to de-recognise the college.

16. The submission that the Second Schedule and Part II of the Third Schedule, exhaust the qualifications granted by the medical institutions outside India which are recognized as medical qualifications for the purposes of the Act whereas Sub-Section (4A), (4B) and 4(C) of Section 13 deal with the residual subject of individual recognition of medical qualifications obtained by Indian citizens from the institutions outside India which are not specified in any of the three Schedules and therefore the appellants cannot be subjected to a screening test contemplated by Section 13(4A) cannot be accepted.

17. In order to resolve the controversy raised before this Court, it would be necessary to examine the Scheme envisaged by the Act.

18. The Preamble to the Act suggests that the Act is enacted to provide for the reconstitution of the Medical Council of India and the maintenance of a medical register for India and for matters connected therewith. Section 2 defines certain terms and states

that “Council” means the Medical Council of India constituted under the Act. Medical institution is defined to mean any institution, within or without India, which grants degrees, diplomas or licences of medicine, whereas the term “recognized medical qualification” means any of the medical qualifications included in the Schedules. Section 3 provides for constitution and composition of the Council whereas Section 7 deals with term of office of President, Vice-President and members of the Council and Section 9 provides for officers, Committees and servants of the Council.

19. Section 10A, brought on the Statute Book by Act 31 of 1993 with effect from August 27, 1992, deals with permission for establishment of new medical college, new course of study. Sub-Section (1) of Section 10A begins with non-obstante clause and provides that notwithstanding anything contained in this Act or any other law for the time being in force, no person shall establish a medical college nor any medical college shall open a new or higher course of study or

training or increase its admission capacity in any course of study or training, except with the previous permission of the Central Government obtained in accordance with the provisions of the said Section. Explanation 1 to Section 10A(1) explains as to what is meant by the word 'person' whereas Explanation 2 mentions as to what is meant by the words 'admission capacity'. Sub-Section 2 inter alia stipulates that in order to obtain permission of the Central Government, the person desirous of establishing a medical college or a medical college desirous of opening a new or higher course of study or training or increasing its admission capacity has to submit a scheme to the Central Government and the Central Government has to forward the scheme to the Council for its recommendations. Sub-Section (3), amongst other things, provides for manner in which the scheme forwarded to it has to be evaluated by the Council and Clause (b) mandates that the Council has to consider the scheme having regard to the factors referred to in sub-Section (7) of Section 10A.

A glance at sub-Section (7) of Section 10A makes it clear that the intention of the legislature in providing the factors is to see that a medical student acquires proficiency in the science of treatment of human beings and is not found wanting in any way. Section 10B of the Act provides the consequences that would follow in case a medical college is established without previous permission of the Central Government or when any medical college opens a new or higher course of study or training and inter alia provides that when any medical college increases its admission capacity in any course or training without previous permission of the Central Government, no medical qualification granted to any student of such medical college on the basis of the increase in its admission capacity shall be a recognized medical qualification for the purposes of the Act.

20. Recognition of medical qualification by Universities or medical institutions in India is provided by Section 11. It is mentioned in sub-section 1 of the said Section that the medical qualifications granted by any

university or medical institution in India which are included in the First Schedule shall be recognized medical qualifications for the purposes of the Act. Sub-Section (2) empowers the Central Government to amend the First Schedule, when an application is made either by the University or medical institution in India so as to include the medical qualification not included in the First Schedule but is granted either by the University or the medical institution. Thus the First Schedule is not exhaustive and can be amended by the Central Government subject to the conditions mentioned in sub-section (2) of Section 11 of the Act. Even if the amendment is made in the First Schedule, Section 11 does not exhaust the scheme of recognition of medical qualifications granted by the Universities or medical institutions in India. It was noticed that no provision was made in Section 11 of the Act regarding recognition of medical qualifications granted by several medical institutions which are not included in the First Schedule. Further it was also necessary to recognize the medical qualifications

granted to a citizen of India before August 15, 1947 by medical institutions in the territories now forming part of Pakistan and before April 1, 1937, by medical institutions in the territories now forming part of Burma. Therefore, the Legislature has enacted Section 13(1) and provided in the said sub-Section that the medical qualifications granted by medical institutions in India which are not included in the First Schedule and which are included in Part I of the Third Schedule shall also be recognized qualifications for the purposes of the Act. Sub-Section (2) of Section 13 lays down that the medical qualifications granted to a citizen of India (a) before August 15, 1947 by the medical institutions in the territories now forming part of Pakistan and (b) before April 1, 1937 by medical institutions in the territories now forming part of Burma which are included in Part I of the Third Schedule shall also be recognized medical qualifications for the purposes of the Act. The scheme envisaged for recognition of medical qualifications granted by Universities or medical

institutions in India is such that Section 11 of the Act cannot be read in isolation, because the said Section does not offer a complete scheme relating to recognition of medical qualifications granted in India. In order to make the scheme complete, one has got to read the provisions of Section 11 with the provisions of sub-Sections (1), (2) and (5) of Section 13 of the Act. Section 11, First Schedule, sub-Sections (1), (2) and (5) of Section 13 and Part I of the Third Schedule constitute a complete code relating to the scheme of recognition of medical qualifications granted by Universities or medical institutions in India.

21. Similarly, recognition of medical qualifications granted by medical institutions in countries with which there is a scheme of reciprocity is dealt with by Section 12 of the Act. Sub-Section (1) of Section 12 of the Act provides that the medical qualifications granted by medical institutions outside India which are not included in the Second Schedule will be recognized medical qualifications for the purposes of the Act. Sub-Section (2) of the said Section inter alia lays down that

the Council may enter into negotiation with the Competent Authority in any country outside India to settle a scheme of reciprocity and on the basis of such a scheme, the Central Government may amend the Second Schedule so as to include therein the medical qualifications which the Council has decided, should be recognized and it may also direct that an entry shall be made in the last column of the Second Schedule against such medical qualification, declaring that it shall be a recognized medical qualification only when granted after a specified date. Sub-Section (3) of Section 12 deals with the powers of the Central Government to amend the Second Schedule and give direction that an entry be made therein in respect of any medical qualification declaring that it shall be a recognized medical qualification only when granted before a specified date. Sub-Section (4) deals with a situation where the Council has refused to recommend any medical qualification which has been proposed for recognition by any Authority referred to in sub-Section (2) of Section 12 of the Act and provides that in such a situation the

Authority would be entitled to apply to the Central Government and the Central Government may, after considering the application of the Authority and obtaining a report, if any, from the Council as to the reasons for any such refusal, by notification, amend the Second Schedule so as to include such qualification therein and the provisions of sub-Section (2), shall apply to such notification. As noticed earlier, Section 13 also makes provisions for recognition of medical qualifications granted by certain medical institutions outside India whose qualifications are not included in the Second Schedule. While examining the scope of Section 11 of the Act, the Court has already taken into account the sweep and ambit of sub-Sections (1) and (2) of Section 13 of the Act. Therefore, it would be relevant to examine the scope of sub-Section (3) of Section 13 of the Act. The said sub-Section lays down that the medical qualifications granted by medical institutions outside India (before such date as the Central Government may, by notification in the Official Gazette specify) which are included in Part II of the Third

Schedule shall also be recognized medical qualifications for the purposes of the Act. However, the said sub-Section itself carves out an exception that no person possessing any such qualification shall be entitled to enrolment on any State Medical Register unless he is a citizen of India and has undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification or if he has not undergone any practical training in that country, he has undergone such practical training as may be prescribed. It is an admitted position that the date specified by the Central Government under Section 13(3) in the Official Gazette is March 15, 2002. It means that the medical qualifications granted by medical institutions outside India before March 15, 2002, which are included in Part II of the Third Schedule, shall be recognized medical qualifications but no person possessing any such qualification shall be entitled to enrolment on any State Medical Register if he is not a citizen of India and has not undergone practical training after obtaining that

qualification as may be required by the rules or regulations in force in that country or if has not undergone practical training prescribed under the Act or rules or regulations. Sub-Section (4) inter alia states that the Central Government may amend Part II of the Third Schedule so as to include therein any qualification granted by a medical institution outside India which is not included in the Second Schedule subject to the limitations and exceptions made in the two provisos to the said sub-section. The first proviso which is brought into force with effect from September 3, 2001, stipulates that after September 3, 2001 no such amendment shall be made in Part II of the Third Schedule to include any primary medical qualification granted by any medical institution outside India. The second proviso further lays down that nothing contained in the first proviso shall apply to inclusion in Part II of the Third Schedule any "primary medical qualification" which expression is explained to be any minimum qualification sufficient for enrolment on any State Medical Register or for entering the name in the Indian Medical Register, granted by any

medical institution outside India, to any person whose name is entered in the Indian medical Register.

22. A fair reading of the provisions of Section 12 with those of Section 13, makes it evident that the scheme of recognition of medical qualifications granted by medical institutions outside India as envisaged by Section 12 is not complete. In order to make the scheme complete, exhaustive and workable, one has to take into account the provisions of sub-Sections (3) and (4) of Section 13 of the Act. The scheme relating to recognition of medical qualifications granted by medical institutions outside India becomes workable only if the provisions of Section 12 of the Act and the contents of Second Schedule are considered with the provisions of sub-Sections (3) and (4) of Section 13 and Part II of the Third Schedule.

23. Then comes the provisions of sub-Sections (4A), (4B) and (4C) of Section 13 which fall for consideration of this Court. It may be mentioned that sub-Sections

(4A), (4B) and (4C) have been brought on the statute book by Act 34 of 2001 which has come into force with effect from September 3, 2001. Those provisions read as under: -

> "(4A) A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognized 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 recognized medical qualification for the purposes of this Act for that person.
>
> (4B) A person who is a citizen of India shall not, after such date as may be specified by the Central Government under sub-section (3), be eligible to get admission to obtain medical qualification granted by any medical institution in any foreign country without obtaining an eligibility certificate issued to him by the Council and in case any such person obtains such qualification without obtaining such eligibility certificate, he shall not be eligible to appear in the screening test referred to in sub-section (4A):

> Provided that an Indian citizen who has acquired the medical qualification from foreign medical institution or has obtained admission in foreign medical institution before the commencement of the Indian Medical Council (Amendment) Act, 2001 shall not be required to obtain eligibility certificate under this sub-section but, if he is qualified for admission to any medical course for recognized medical qualification in any medical institution in India, he shall be required to qualify only the screening test prescribed for enrolment on any State Medical Register or for entering his name in the Indian Medical Register.
>
> (4C) Nothing contained in sub-sections (4A) and (4B) shall apply to the medical qualifications referred to in section 14 for the purposes of that section."

Sub-Section (4A) provides that a person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognized for enrolment as medical practitioner in that country after the date to be specified by the Central Government, 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 Council, unless he qualifies the screening test in India, prescribed for the purpose and such foreign medical

qualification shall be deemed to be recognized medical qualification for the purposes of the Act for that person only after such person qualifies the said screening test. Sub-Section (4B) mentions that a person, who is citizen of India, shall not, after the date to be specified by the Central Government, be eligible to get admission to obtain medical qualification granted by any medical institution in any foreign country unless he obtains an eligibility certificate to be issued by the Council. It further provides that in case such person obtains such qualification without obtaining such eligibility certificate, he will not be eligible to appear in the screening test referred to in sub-Section (4A). The proviso to sub-Section (4B) enacts a rule that an Indian citizen, who has acquired the medical qualification from foreign medical institution or has obtained admission in a foreign medical institution before the commencement of the Indian Medical Council (Amendment) Act, 2001, will not be required to obtain eligibility certificate but if he is qualified to any medical course for recognized medical qualification in any medical institution in India,

he will have to qualify the screening test for enrolment on any State Medical Register or for entering his name in the Indian Medical Register. Sub-Section (4C) provides that nothing contained in sub-Sections (4A) and (4B) shall apply to the medical qualifications referred to in Section 14 for the purposes of that Section. Sub-Section (5) of Section 13 mentions that any medical institution in India, which is desirous of getting a medical qualification granted by it, included in Part I of the Third Schedule, may apply to the Central Government to have such qualification recognized. It further provides that the Central Government, after consulting the Council, may, by notification, amend Part I of the Third Schedule so as to include such qualification therein. It also provides that the notification may direct that an entry shall be made in the last column of Part I of the Third Schedule against such medical qualification declaring that it shall be recognized medical qualification only when granted after a specified date.

24. Section 14 of the Act lays down special provisions in certain cases for recognition of medical qualification granted by medical institutions in countries with which there is no scheme of reciprocity. Sub-Section (1) of Section 14 inter alia provides that after consultation with the Council, the Central Government may, by notification, direct that medical qualification granted by medical institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of medical qualifications is not in force, shall be recognized medical qualifications for the purposes of the Act or shall be so only when granted after a specified date. However, the proviso makes it very clear that medical practice by the persons who possess such qualifications shall be permitted only if such persons are enrolled as medical practitioners for the time being in force in that country and would be limited to the institution which they are attached for the time being in force for the purposes of teaching, research or charitable work and would also be limited to the period specified to in this behalf by the Central Government, by

general or special order. Sub-Section (2) of Section 14 stipulates that in respect of any such medical qualification, the Central Government, after consulting the Council, may, by notification, direct that it shall be recognized medical qualification only when granted before a specified date.

25. A conjoint and purposeful reading of the different provisions of the Act makes it sufficiently clear that Section 14 is an exception to Section 12, which deals with recognition of medical qualifications granted by medical institutions in countries with which there is a scheme of reciprocity.

26. Section 15 of the Act refers to the right of a person possessing qualifications in the Schedules to be enrolled. Sub-Section (1) mentions that subject to the other provisions contained in the Act, the medical qualifications included in the Schedules shall be sufficient qualification for enrolment on any State Medical Register. Sub-Section (2) further provides that, save as provided in Section 25, no person other than a

medical practitioner enrolled on a State Medical Register, shall practice medicine in any State or hold office as physician or surgeon etc., whereas sub-Section (3) provides for punishment for contravention of any of the provisions of sub-Section (2) of Section 15 of the Act.

27. The contention that sub-Sections (4A) and (4B) of Section 13 are residual provisions to which Section 14 of the Act, making a special provision in Certain cases for recognition of medical qualifications granted by medical institutions in countries with which there is no scheme of reciprocity, is an exception or the plea that Sections 13(4A) and 13(4B) cannot be applied to Section 12 of the Act, which is a self contained code but may apply to Part II of the Third Schedule, which includes those institutions with which there is no scheme of reciprocity, cannot be accepted.

28. It is relevant to notice that sub-Sections (4A), (4B) and (4C) of Section 13 of the Act were brought on the

Statute book by Act 34 of 2001, with effect from September 3, 2001. On analysis of sub-Section (4A) it becomes sufficiently clear that it would apply when three conditions are satisfied, namely, (i) when a citizen of India obtains medical qualification granted by any medical institution in any country outside India, (ii) the medical qualification obtained must have been recognized for enrolment as medical practitioner in that country and (iii) the medical qualification must have been obtained after the date to be specified by the Central Government. The phrase "medical qualification granted by any medical institution in any country outside India" employed in sub-Section (4A) of Section 13 of the Act is not restrictive in its application at all and takes within its sweep the medical qualifications granted by any medical institution in any country outside India with which a scheme of reciprocity for the purpose of recognition of medical qualification is in force as well as the cases covered by sub-Sections (3) and (4) of Section 13 of the Act. What is relevant to notice is

that Section 11 of the Act refers to the First Schedule whereas Section 12 refers to the Second Schedule and Sections 13(1) and 13(2) refer to Part I of the Third Schedule and Sections 13(3) and 13(4) refer to Part II of the Third Schedule. However, sub-Sections (4A) and (4B) of Section 13 do not refer to any Schedule at all because by those sub-Sections general provisions are enacted which apply to all the cases where a citizen of India has obtained or is desirous of obtaining medical qualification granted by any medical institution in any country outside India. The provisions of sub-Sections (4A) and (4B) would have applied to the cases covered by Section 14 of the Act also but for sub-Section (4C) of Section 13. Sub-Section (4C) of Section 13 specifically provides that nothing contained in sub-Sections (4A) and (4B) shall apply to the medical qualifications referred to in Section 14 for the purposes of that Section. If the Legislature was so minded, nothing prevented it from laying down in Section 13(4C) that the provisions of sub-Sections (4A) and (4B) would

also not apply to the cases covered by Section 12 of the Act. If the arguments of the learned counsel for the appellants are accepted, the Court will have to re-write sub-Section (4C) by laying down that the provisions of sub-Sections (4A) and (4B) would also not apply to the cases covered by Section 12 of the Act. Such a course is neither permissible nor warranted by the facts of the case.

29. Even if the material words of Section 13(4A) are capable of bearing two constructions, the most firmly established rule for construction of such words is the rule of "purposive construction or mischief rule". This rule enables consideration of four matters in construing an Act – (1) what was the law before the making of the Act, (2) what was the mischief or defect for which the law did not provide, (3) what is remedy that the Act has provided and (4) what is the reason of the remedy. The rule then directs that the courts must adopt that construction which suppresses the mischief and advances the remedy. Applying this principle of construction to sub-Section

(4A) of Section 13 of the Act, this Court finds that the law before the enactment of the said sub-Section was that medical qualifications granted by medical institutions in countries with which there was a scheme of reciprocity included in the Second Schedule, were recognized qualifications for the purposes of the Act. This law continues to be in force even after the enactment of sub-Section (4A). However, over a period of time, it had come to the notice of the Legislature that a large number of private agencies sponsored students for medical studies in institutions outside India for commercial consideration. It was noticed that such students also included those students, who did not fulfill the minimum eligibility requirements for admission to medical courses in India. Serious aberrations were noticed in the standard of medical education in some of the foreign countries, which were not on par with the standards of medical education available in India. These were the defects and/or mischiefs noticed for which no provision was made either in

Section 12 or sub-Sections (3) and (4) of Section 13 of the Act. In the year 1956, when the Indian Medical Council Act was enacted, it must not have been contemplated by any one that a large number of private agencies would sponsor students for medical studies in institutions outside India for commercial considerations including those students who were not fulfilling the minimum eligibility requirements for admission to medical courses in India, etc. It was, therefore, felt necessary by Parliament to make a provision to enable the Council to conduct a screening test. This is the remedy that sub-Section (4A) has provided. This remedy is prescribed to satisfy the MCI with regard to the adequacy of knowledge and skills acquired by citizens of India, who obtain medical qualifications from Universities or medical institutions outside India and to ensure that those students have secured the standards of medical education in the foreign countries, which are at par with standards of medical education in India. The remedies mentioned

in Sections 13(4A) and 13(4B) are prescribed because citizens of India, who have obtained medical qualifications from Universities or medical institutions outside India, would be entitled to practice medicine in India and they cannot be permitted to treat other citizens of India with their half-baked knowledge and jeopardize their precious lives. Thus by adopting rule of purposive construction or mischief rule, it will have to be held that the provisions of sub-Section (4A) of Section 13 of the Act would also apply to the cases covered by Section 12 of the Act.

30. The argument that MCI has admittedly understood and applied the provisions of the Act by releasing press note to mean that the screening test would not be necessary for students who have obtained degree from foreign medical institutions recognised under Section 12 of the Act and, therefore, MCI is precluded in insisting that the students, who have obtained degrees from foreign medical institutions, is devoid of merit. It is true that at one stage the MCI

had released a press note clarifying for the information of general public that eligibility requirements for taking admission in an undergraduate medical course mentioned in Foreign Medical Institutions Regulations, 2002 and the Screening Test Regulation, 2002 would not be applicable to the students joining an undergraduate medical course in foreign countries, recognised and included in the Second Schedule under Section 12 of the Act. However, this was the understanding of MCI, which is one of the parties before the Court. The scope of Section 13(4A) is quite clear and covers all foreign medical institutions falling within the ambit of Sections 12 and 13 of the Act. On a close and careful reading, provisions of the Amending Act of 2001 with the Eligibility Requirement Regulations and Screening Test Regulation, both of 2002, it becomes at once clear that the MCI is obliged to stipulate the screening test in the case of all those candidates, who obtained medical qualification from medical institutions outside India filling within the

purview of Sections 12 and 13 of the Act in view of the statutory provisions of Section 13(4A) of the Act. The press release cannot be interpreted as precluding MCI from canvassing correct import of the provisions of the Act. In any view of the matter, the Court is of the firm opinion that press release by MCI cannot preclude the court from placing correct interpretation of the Act. Therefore, the said plea has no substance and is hereby rejected.

31. The contention that if the provisions of the Screening Test Regulations, 2002 are made applicable to the citizens of India, who have obtained medical qualifications granted by Universities or medical institutions outside India, a serious anomaly would arise as all those students who are similarly placed as the appellants, but who are not Indian citizens, would be entitled to be enrolled on Medical Register maintained by the State Medical Council or to have their names entered in the Indian Medical Register without undergoing the screening test whereas the appellants and other students, who are citizens of

India, would not be so entitled without qualifying the screening test, which would be discriminatory, is merely stated to be rejected. It must be remembered that the appellants are students, who have obtained MBBS degree granted by Kathmandu University in respect of Manipal College of Medical Sciences, Pokhara, Nepal. They have not laid any factual data to indicate that in Nepal education system of 10+2 is prevalent and that a student becomes entitled to get admission to medical course only after he clears Central Admission Test in order of merits. The Indian Parliament never found that either large number of students of Nepal or other students belonging to other countries but studying in Manipal College of Medical Sciences, Pokhara, who are desirous of practicing medicine in India, were sponsored by private agencies of those countries for medical studies in the said institute for commercial consideration. It is not the case of the appellants that students of Nepal or students of other countries prosecuting medical studies in Manipal College of

Medical Sciences were/are not fulfilling the minimum eligibility requirements for admission to medical courses prescribed in their respective countries. The appellants failed to bring on record the facts, which would prima facie show that the standards of medical education prescribed either by the Government of Nepal or by Nepal Medical Council are at par with the standards of medical education available in India. Under such circumstances, there was no scope for Parliament of India to prescribe that students of Nepal or students of other countries prosecuting medical studies in Manipal College of Medical Sciences should also qualify the screening test prescribed before they are enrolled on Medical Register maintained by the State Medical Council or get their names entered in Indian Medical Register. The plea based on so called discrimination has no substance and is, therefore, rejected.

32. The alternative plea that the provisions of sub-Sections (4A) and (4B) of Section 13 of the Act are

prospective in nature and as the appellants have not incurred any disqualification after obtaining medical qualification of MBBS degree from Kathmandu University, which is included in the Second Schedule and, therefore, they cannot be asked to qualify the screening test, is devoid of merits. It is an admitted fact that the date specified by the Central Government under sub-Section (3) of Section 13 is March 15, 2002. Therefore, in view of the stipulations contained in sub-Section (4A) of Section 13 of the Act, the provisions of said sub-Sections would be applicable with effect from March 15, 2002. The effect of specification of the date of March 15, 2002 is that a person who is citizen of India and obtains medical qualification granted by any medical institution in any country outside India, recognized for enrolment as medical practitioner in that country, shall not be entitled to be enrolled on Medical Register maintained by a State Medical Council or to have his name entered in the Indian Medical Register after March 15, 2002, unless he

qualifies the screening test prescribed. As made clear by the MCI, the provisions of sub-Section (4A) of Section 13 of the Act are applicable to all the medical qualifications included in the Second Schedule. It is an admitted position that the appellants and others have applied for provisional registration/ permanent registration after March 15, 2002. Therefore, the appellants have to appear in the screening test conducted by the National Board of Examination in terms of the Screening Test Regulations made by the MCI. In **Sanjeev Gupta and others** vs. **Union of India** [(2005) 1 SCC 45], challenge was made to the stipulations for conduct of the screening test, by the students who had been admitted in undergraduate medical courses in the institutions outside India between 1994 and 2000. Most of the students had qualified in the undergraduate course but some of them, who had joined such courses during 1999-2000, were still pursuing the course. After considering the provisions of the Act a Three Judge Bench of this

Court uniformly applied the screening test provisions to all the candidates from the cut-off date of March 15, 2002. Therefore, there is no doubt that the provisions of sub-Section (4A) of Section 13 of the Act are not being applied retrospectively but from the date specified by the Central Government. Under the circumstances the plea based on retrospective application of sub-Section (4A) of Section 13 of the Act cannot be accepted and is hereby rejected.

33. For the reasons stated in the judgment, this Court does not find any substance in the appeals and the petition. Therefore, they are dismissed. There shall be no order as to costs.

34. In view of the dismissal of the appeals, pending applications also stand dismissed.

.....CJI
(K.G. Balakrishnan)

.....J.
(P. Sathasivam)

.....J.
(J.M. Panchal)

New Delhi;
September 17, 2009