

ITEM NO.32

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.983/2023

JOINT FORUM OF MEDICAL TECHNOLOGISTS OF  
INDIA JFMTI & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With IA No. 150094/2024 - INTERVENTION/IMPLEADMENT)

Date : 12-08-2024 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE J.B. PARDIWALA  
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Sasmit Patra, Adv.  
Mr. Joby P. Varghese, AOR  
Mr. Aby P Varghese, Adv.

For Respondent(s) Mr. Vikramjit Banerjee, A.S.G.  
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Mrs. Sweksha, Adv.  
Mrs. Sarika Singh, Adv.

Dr. Hemant Gupta, AAG  
Mr. Akshay Amritanshu, AOR  
Mr. Samyak Jain, Adv.  
Mr. Shivang Jain, Adv.  
Ms. Monica Anand Kumar, Adv.

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Ms. Pragma Patel, Adv.

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Ms. Bipasa Tripathy, Adv.

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Mr. Farhad Tehmu Marolia, Adv.  
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Mr. Nitin Lonkar, Adv.  
Mr. Siddharth Dharmadhikari, Adv.  
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Mr. Aditya Krishna, Adv.  
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Mr. Abhimanyu Tewari, AOR  
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Mr. Varun Chugh, Adv.  
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Mr. Shashwat Parihar, Adv.  
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**Mr. Anil Soni, Adv.**  
**Mr. Harish Pandey, AOR**  
**Mr. Krishna Dubey, Adv.**

**Ms. Garima Prasad, Sr. AAG**  
**Mr. Nischal Kumar Neeraj, Adv.**  
**Mr. Vishnu Shankar Jain, Adv.**

**UPON hearing the counsel the Court made the following  
O R D E R**

- 1 The application for impleadment of the Chairperson of the National Commission for Allied and Healthcare Professions as a respondent is allowed.
- 2 The National Commission for Allied and Healthcare Professions Act 2021 was enacted by Parliament on 24 March 2021. Upon notification on 28 March 2021 in the Gazette of India, it came into force on 25 May 2021.
- 3 The grievance in these proceedings is that inspite of the passage of over three years from the enforcement of the Act, most of its provisions have not been implemented. Moreover, it has been submitted that the maximum permissible extensions were availed of by the Centre and the States under Section 69. Though the Union Government has set up a National Commission, it appears that there is no further progress.
- 4 Notice was issued by this Court on 22 September 2023. Out of twenty-eight States and eight Union Territories, only fourteen States have constituted State Councils. These States are:
  - (i) Himachal Pradesh;
  - (ii) Odisha;

- (iii) West Bengal;
- (iv) Assam;
- (v) Uttarakhand;
- (vi) Uttar Pradesh;
- (vii) Kerala;
- (viii) Andhra Pradesh;
- (ix) Mizoram;
- (x) Nagaland;
- (xi) Sikkim;
- (xii) Telangana;
- (xiii) Tripura; and
- (xiv) Arunachal Pradesh.

Even the State Councils which have been set up, it has been urged, are not functional.

- 5 The directions which have been sought at the present stage are:
- (i) Constitution of State Councils by all States and Union Territories after framing rules under Section 68(2)(a-e);
  - (ii) Framing of regulations by the Central Government under Section 66 for discharge of functions as provided in Section 11;
  - (iii) Constitution of Professional Councils as required by Section 10;
  - (iv) Constitution of Advisory Councils as required by Section 12; and

(v) Constitution of Autonomous Boards by State Governments under Section 29.

6 Though this Court entertained the petition in September 2023, the fact remains that the provisions of the Act have still not been implemented. The proliferation of illegal allied healthcare educational institutions and affiliating bodies is a matter of serious concern. The Parliamentary legislation was enacted to provide a legislative framework to protect the public interest against the proliferation of illegal institutions and bodies.

7 Despite the passage of three years since the enactment of the law, both the Union Government and the State Governments have yet to discharge their statutory responsibilities. No counter affidavit has been filed by the Union Government.

8 Mr Vikramjit Banerjee, Additional Solicitor General states that a counter would be filed within a period of two weeks. We see no justification for the Union Government not to have taken action to respond to the proceedings after service of notice. Similarly, there is no justification available on the record for not implementing the provisions of the Parliamentary legislation.

9 We accordingly direct as follows:

(i) The Union Government and the State Governments shall on or before 12 October 2024, take necessary steps to implement the provisions of the Act;

(ii) The Secretary in the Union Ministry of Health and Family Welfare shall within a period of two weeks from the date of this order, convene an online meeting of all the Secretaries in the State Ministries of Health and Family Welfare and a definite road map for compliance with the above directions shall be laid down for the purpose of ensuring that the requisite steps to implement the provisions of the Act are taken,

infrastructure is set up by all the States and the institutions contemplated by the Act are made functional not only in letter but in spirit as well by taking necessary action in that regard;

(iii) All the States/Union Territories shall file compliance reports to the Secretary in the Union Ministry of Health and Family Welfare by the next date of hearing; and

(iv) The compliance reports shall be compiled in a tabulated statement and be presented before this Court on behalf of the Union Ministry of Health and Family Welfare by the next date of listing.

10 Failing compliance, all the States/Union Territories and the Union Government are put on notice that this Court may have to take recourse to steps for failure to abide by the directions and to implement the Parliamentary legislation.

11 List the Petition on 18 October 2024.

**(CHETAN KUMAR)**  
**A.R. - cum - P.S.**

**(SAROJ KUMARI GAUR)**  
**Assistant Registrar**