



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**PUBLIC INTEREST LITIGATION NO.33 OF 2024**  
(Indian Chest Society and another .vs. Union of India and others)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Shri T.D. Mandlekar, Advocate for the petitioners.

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**CORAM : NITIN W. SAMBRE AND ABHAY J. MANTRI, JJ.**  
**DATE : 07.08.2024.**

Heard learned Counsel for the petitioners.

2. At the outset, Shri Mandlekar, learned Counsel for the petitioners, submits that the petitioners do not press the prayer clause (1) of the PIL and seeks liberty to question the same through independent proceedings. Liberty is granted.

3. The petitioners are registered Societies of the medical practitioners, who have brought to our notice the acts of the respondent nos.2 and 3, which were constituted in accordance with the provisions of Section 16 of the National Medical Commission Act, 2019 (for short, 'Act of 2019')

4. According to Shri Mandlekar, learned Counsel for the petitioners, the respondent no.3-Board has an autonomous status and is required to function under the Act of 2019, subject to Regulations made by the respondent no.2-National Medical Commission, as per Section 16 (2) of the Act of 2019.

5. Shri Mandlekar, learned Counsel for the petitioners, would invite our attention to Section 57 of the Act of 2019, which confers power to the Commission to frame Regulations. In compliance thereto, it is claimed that vide Notification dated 28<sup>th</sup> October, 2020, Regulations were framed by the respondent no.2 and as per Clause (5) of the Notification dated 28<sup>th</sup> October, 2020 issued by National Medical Commission, 24 Departments were identified to be established by every Medical College and Medical Institution approved for M.B.B.S. admissions annually. All these Departments, including Departments at Sr. No. (xiii)-Respiratory Medicine, at Sr.No.(xxii)-Physical Medicine and Rehabilitation and at Sr.No. (xxiii)-Emergency Medicine, are mentioned in the Notification No.NMC/MCI-35 (1)98-med (ii) 123627 dated 28<sup>th</sup> October, 2020,

6. It is submitted by learned Counsel Shri Mandlekar that the respondent no.3, which is an autonomous Board appointed under sub-section (2) of Section 16 of the Act of 2019 is subordinate to National Medical Commission. The respondent no.3 has issued a draft Notification, through a Public Notice dated 23<sup>rd</sup> June, 2023 which also included all the 24 subjects, however, in the final Notification dated 16<sup>th</sup> August, 2023 issued by respondent no.3, three Departments referred above, out of 24 Departments, are eliminated.

7. According to Shri Mandlekar, learned counsel for the petitioners, once the mandate provided under sub-section (2) of

Section 16 of the Act of 2019 confers autonomy on respondent no.3-Board, which is required to act in accordance with the Regulations framed by the respondent no.2-National Medical Commission, it is not open for the respondent no.3-Autonomous Board to jump the mandate provided under the Regulations referred above. In such an eventuality, he would claim that it is necessary to direct the respondent no.3-Board to act strictly in accordance with the Regulations-2020.

8. *Prima facie*, there appears to be substance in the contentions raised by the learned Counsel for the petitioners.

9. Issue notice for final disposal to the respondents, returnable on **4<sup>th</sup> September, 2024**.

10. Shri N.S. Deshpande, learned Deputy Solicitor General of India waives notice for respondent no.1.

11. The petitioner is permitted to serve notice to respondent nos.2 and 3 by all other permissible modes in addition to usual mode.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)