



**SACHIDANANDA TRIPATHY**

Retired Judge  
Senior Legal Consultant

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**LEGAL NOTICE**

To,

May 05, 2020

**Dr. R K Vats,  
Secretary General,  
BOG – MCI,  
Pocket- 14 , Sector - 8,  
Dwarka Phase -1,  
New Delhi – 110077.**

**Subject: Notice to show cause that why contempt of court and criminal and civil proceedings should not be initiated against you and the others concerned for wilful disobedience of the order of the Hon'ble High Court for acting against law and wilful violation of the Fundamental Right to education guaranteed under Articles 14, 19 & 21 of the Constitution of India.**

**Ref.:**

- 1. Public Notice No.: MCI-34(41)(Gen.)/2019-Med./160279 dated 30.10.2019.**
- 2. Show Cause Notice dated November 19, 2019.**

Sir,

1. A show cause notice dated 19.11.2019 (hereinafter, referred to as "**Show Cause Notice**") was issued by the MBBS students of the Singhanian University to you and all concerned (hereinafter, collectively referred to as "**Addressee**") with respect to the Public Notice dated 30.10.2019 to show cause that why contempt of court and criminal and civil proceedings should not be initiated for wilful disobedience of the order of the Hon'ble High Court, for spreading misinformation, acting against law and wilful violation of the Fundamental Right guaranteed under Articles 14, 19 & 21 of the Constitution of India. A copy of the Show Cause Notice is enclosed herewith for ready reference.
2. By way of the said Show Cause Notice, you the Addressee was called to cancel and withdraw the Public Notice within 7 days of receipt of the Show Cause Notice. The Show Cause Notice was delivered to you the Addressee on 23.11.2019 and despite sufficient time having been

elapsed since the receipt of the Show Cause Notice, neither any response has been received from you the Addressee nor the said Public Notice has been withdrawn from the website.

3. In the premise, I have been approached by various students to initiate criminal and civil legal proceedings against you the Addressee and all concerned for the reasons set out in the Show Cause Notice. The content of the Show Cause Notice is not being repeated for the sake of brevity and the same may be read as part and parcel of this legal notice.
4. It is stated that despite being apprised about the true legal position, MCI-BOG is deliberately for oblique and malafide reasons spreading misinformation to the public that seeking recognition from MCI is required for statutory university to impart education in medical courses and award medical qualifications.
5. It is fundamental law held by 11 judges of the Hon'ble Apex Court that statutory university is constitutionally recognised autonomous statutory self-regulating body established as an apex body of education. As such statutory university is recognised under law to impart education in all courses and award all qualifications including medical qualifications and thus, does not require any permission or recognition from any other body. The medical qualifications awarded by statutory university are *sui generis* valid and recognised under law for all intents and purposes.
6. It is wholly false and illegal to state that statutory university requires MCI recognition rather, the true position of law is that there is no provision under the Indian Medical Council Act, 1956 ("**MCI Act**") which empowers the MCI to recognise a statutory university rather, under the MCI Act, university is recognised as the apex body for imparting and regulating education and empowered under Section 2(a) to recognise hospitals, health centres and other institutions to impart education to students for award of medical qualifications. As per Section 11 of the MCI Act, the qualifications awarded by statutory university are recognised medical qualifications. It is pertinent to state that even under the National Medical Commission Act, 2019, which has been enacted to replace the MCI Act, statutory universities have been defined as a separate and distinct class distinguished from other non-statutory educational institutions including deemed universities, and statutory universities are excluded from the purview of the NMC. The NMC Act recognises the

autonomy of statutory university and stipulates the qualifications awarded by statutory universities to be recognised medical qualifications.

7. It is submitted that the law in this regard is well settled and the Hon'ble Apex Court, in a catena of judgments, has held that qualifications awarded by a statutory university are recognised and valid and do not require any other recognition of any other council or authority. Reference is made to the decision of the Hon'ble Supreme Court in the case of ***Purshotam Kumar Kaundal v. State of Himachal Pradesh & Ors.*** reported in **(2014) 13 SCC 286** wherein the Hon'ble Court held that a degree conferred by a statutory university is recognised and valid degree notwithstanding whether the same is recognised by MCI or not. The Hon'ble Apex Court held that recognition of MCI is not required for conferring medical degrees by statutory universities. The relevant portions of the judgment are reproduced hereinbelow for ready reference:

*“7. The High Court was of the view that the eligibility criteria only required a recognised postgraduation degree. It did not require a postgraduation degree recognised by MCI. The degree obtained by Dr Gupta was a recognised postgraduation degree inasmuch as it was conferred by a recognised statutory university. Therefore, Dr. Gupta was eligible for being considered for promotion to the post of Assistant Professor in Pharmacology...”*

*8. We are of the opinion that no fault can be found with the view taken by the High Court in the letters patent appeal filed by Dr. Gupta...”*

8. Reference is further made to the decision of the Hon'ble Rajasthan High Court in the case of ***Shyam Kumar Vyas & Ors. v. State of Rajasthan & Ors.*** reported in **(2006) 47 AIC 310** wherein while deciding on the question of law that whether a degree or diploma awarded by a statutory university needs any other declaration or recognition or equivalence for considering it to be a valid qualification, the Hon'ble Court held as under:

*“11. Thus, as per the aforesaid decision any degree or diploma or post graduate degree granted by any University set up under a statute in India anywhere has to be accepted as a valid qualification for any purposes where such qualification is required and that cannot be ignored.”*

9. It is highly unfair that despite repeated notices you the addressee do not even give any reply to the Show Cause Notice. All public officers are bound to act fairly, lawfully and justly and by issuing false public notices and spreading misinformation regarding statutory university education, causing panic and fear amongst the students and university, the action of you the addressee tantamount to various offences including but not limited to offences punishable under Sections 166, 167, 323, 409, 425, 463, 499, 505 IPC amongst other provisions
10. In the interest of fair play and natural justice, a last opportunity is hereby provided to cancel and withdraw the Public Notice within 7 days from the receipt of this legal notice, failing which I shall be constrained to initiate legal action against all concerned.

This is without prejudice to the rights of the students under law.

Thank you.

Copy kept.

Yours truly,

S/d

**(S N Tripathy)**

**Encl:** Show Cause Notice dated 19.11.2019

**Copy to:**

1. Chairperson, MCI-BOG
2. Shri Ravi Shankar Prasad, Hon'ble Minister, Ministry of Law & Justice
3. Shri Anoop Kumar Mendiratta, Secretary, Department of Legal Affairs
4. Shri Dr. G. Narayana Raju, Secretary, Legislative Department
5. Shri Dr. Alok Srivastava, Secretary, Department of Justice
6. Grievance Officer, Ministry of Health & Family Welfare