

Bihar State Council of Ayurvedic and Unani Medicine Vs. State of Bihar and Ors.

[AIR2008SC595, 2007(12)SCALE 644]

EXTRACTS ONLY

27. The amendment brought about in the Indian Medicine Central Council Act, 1970, in 2003 by introduction of Sections 13A, 13B and 13C are the provisions for continuance of the institution which has not obtained prior permission of the Central Government and, therefore, time limit of three years has been provided under Section 13C to regularize the institution's affairs as required under the Act by seeking permission of the Central Government. Insertion of Section 13A in the 1970 Central Act in the year 2003 has regulated the opening of an indigenous medical college. The non-obstante clause clearly indicates that a medical institution cannot be established except with the prior permission of the Central Government. Under Section 13B, any medical qualification granted by the colleges established without the prior permission of the Central Government is not a recognized medical qualification. The reasonable reading of Section 13C(1) puts the existing colleges at par with the new colleges as both of them are required to seek permission within three years from the commencement of the Amending Act. The phrase 'on or before' has made it clear that the existing colleges are also required to seek permission and there is no exemption. Section 13C(2) further provides that the medical qualification granted by existing colleges whose establishment has not been recognized by the Central Government, the medical qualification would not be a recognized qualification. Similar requirement is to be fulfilled by the new medical colleges opened, i.e., to seek permission of the Central Government for the medical qualification to be recognized qualification. Thus, new colleges or existing colleges cannot any more grant a recognized qualification without the sanction of the Central Government. Section 13C(2) does not say that the effect of non-permission by the Central Government to the existing colleges after the Amending Act came into force would render the medical qualifications already granted by the existing colleges before the insertion of Sections 13A, 13B and 13C in 2003, un-recognised. The whole spectrum of the amendment brought about by introducing Sections 13A, 13B and 13C indicates that it has an application from the date they have been introduced by an amendment in the 1970 Central Act. The effect of the amendment brought about is clear to us that all the medical colleges which are in existence or the medical colleges which have to be established should compulsorily seek permission of the Central Government within the period provided and on failure to get the permission of the Central Government the medical qualification granted to any student of such medical college shall not be a recognized medical qualification for the purposes of the 1970 Act. The established colleges are also required to seek permission of the Central Government for the medical qualification to be recognized medical qualification but it would not mean that the already conferred medical qualification of the students studied in such previously established medical colleges would not be a recognized medical qualification under the 1970 Act.