

IMPLICATIONS OF COURT ORDER IN CA/WRIT/187/2016

This statement, issued by the Deans of the eight medical faculties under the UGC, seeks to outline the implications of the above Court Order for standards of medical education in Sri Lanka, as well as its implications for provision of safe healthcare services in the country.

As per the Court Order in the above case, the Sri Lanka Medical Council is required to grant provisional registration to the applicant under Section 29 (2) of the Medical Ordinance, because she meets the stipulated conditions of (1) a good character, and (2) a degree of Bachelor of Medicine from a degree awarding institute (SAITM).

Although the SLMC had informed the Minister of Health in August 2015 that it did not recommend granting of provisional registration to graduates of SAITM because the programme of study leading to award of the MBBS degree by SAITM was not up to the required standard (as found by an Inspection Team appointed by the SLMC), the Court Order found that:

1. Even though Section 19 of the Medical Ordinance empowers the SLMC to inspect medical schools, de-recognition of schools that do not meet the required standard is dependent on the Minister of Health publishing an order to that effect, and cannot be enforced by the SLMC without such an order, which was not issued in the case of SAITM.
2. The report submitted by the SLMC Inspection Team was without legal basis, exceeding the powers conferred on the SLMC, because there are no prescribed minimum standards for medical education by any university or degree awarding institute in the country, which have been gazetted and approved by Parliament, as required by the Medical Ordinance.
3. Although regulations published in 2013 under Section 137 of the Universities Act requires non-state degree awarding institutes which offer study programmes leading to professional qualifications to obtain compliance certification from the relevant professional body, and SAITM has not obtained a compliance certificate from the SLMC (which is the relevant professional body in the case of medical degree programmes), the consequences of not obtaining such certification can only be addressed by the Minister of Higher Education, who is empowered to revoke degree awarding status, and this was not done either.

In effect, this means that any medical graduate from a private Higher Education Institute (HEI) in Sri Lanka, which has been recognized by the Ministry of Higher Education as a degree awarding institute, and empowered to award medical degrees by the same Ministry, must be automatically granted provisional registration by the SLMC, regardless of the quality of training.

1. Implications for the Sri Lanka Medical Council

Because at present, the SLMC has no legal regulations to prescribe minimum standards for medical education; and there is no provision under the Medical Ordinance for the SLMC to issue compliance certification to degree awarding institutes established under Section 70 of the Universities Act, and the relevant clauses of the Medical Ordinance also include the state universities, the Court Order basically implies that *under current legislation, the SLMC has no effective role in maintaining standards of medical education in Sri Lanka, either in the state or the private sector*. This is despite the fact that Section 19 of the Medical Ordinance clearly mandates the SLMC with this function, and it is widely accepted in practice that the SLMC should fulfill this function.

2. Implications for the higher education system in Sri Lanka

Graduates from medical schools will eventually become part of the healthcare system in any country. As such, a significant component of any programme of study leading to a medical degree must include clinical practice in the hospital and other settings which are part of the health system, and outside the usual academic environment. Because of this, most countries consider it necessary that HEIs which offer medical degrees must not only comply with standards established for HEIs in general, but also meet the standards required by the body mandated to regulate the medical profession in that country. In the absence of such dual regulation, there is a high probability that HEIs may offer substandard programmes, especially in relation to clinical training, as this is much more demanding and expensive to provide. In an environment of minimal regulation, there is a strong possibility that private HEIs will see 'good business opportunities' (since the medical profession is much sought after in Sri Lanka, as in most Asian countries), with mushrooming of medical schools that have little concern for standards of clinical training.

A rapid increase in the number of private medical schools in Sri Lanka (with its limited resources – both human and infrastructural) can also impact negatively on the existing state medical schools. For various reasons, the state medical faculties in Jaffna, Rajarata and Eastern Universities have great difficulty in attracting suitably qualified lecturers, especially in the basic and applied sciences which require specialists in fields outside mainstream clinical practice. Establishment of private medical schools in the major cities is very likely to add to these difficulties, through "internal brain drain".

In other words, Sri Lanka runs the risk of producing large numbers of medical degree holders (from both private HEIs and state universities) who are unfit to work as medical practitioners. This will have long term repercussions on the quality of health care in Sri Lanka, which, measured by standard indices is currently among the best in Asia, and could well endanger patient safety.

The gap in implementation of the Compliance Certification process, which has been highlighted by the Court Order, is also a matter of concern in maintaining standards of education in HEIs that award other health-related professional degrees, e.g. the Sri Lanka Nursing Council and the Ceylon Medical College Council (which registers all other allied health professionals) have no provision for awarding compliance certificates to relevant programmes offered by degree awarding institutes.

3. Implications for the health system in Sri Lanka

3.1 Internship appointments

All medical graduates who wish to work as medical practitioners in Sri Lanka must be registered as such with the SLMC. New graduates are given provisional registration in order to fulfill a 12-month period of internship in designated hospitals run by the Ministry of Health. This period, which may be considered the final stage of basic medical education, is an important aspect of ensuring patient safety in medical practice, and must be carried out under the close supervision of designated specialist medical officers. The specialist must certify satisfactory performance of duties by the intern house officer to the SLMC at the end of the internship period.

Hospitals to which interns are appointed are identified by the Ministry of Health in consultation with the SLMC. Internship appointments are given twice a year by the Ministry of Health, based on a common merit list prepared by the University Grants Commission for graduates from state medical

faculties, and by the SLMC for graduates from foreign medical schools who have passed the licensing examination (Examination for Registration to Practice Medicine, ERPM).

The steadily increasing output from state medical faculties, and in the numbers of foreign medical graduates passing the ERPM, together with the entry of graduates from private medical schools in Sri Lanka will all require a substantial increase in the posts in which internships may be completed. This is an aspect that must be addressed by the Ministry of Health in conjunction with the SLMC, as all intern house officers must be provided with suitable housing and accommodation, within or in close proximity to the hospital to which they are attached.

Furthermore, at present, graduates on the UGC list are given first preference in the selection of internship appointments, followed by the foreign medical graduates. Careful consideration needs to be given to the manner in which graduates from SAIMT (and any other private medical schools) are included in the merit list for internship appointments, as the formulation of this list has been known to give rise to much conflict in the past.

3.2 Employment sector

All medical graduates who are given internship appointments are also currently offered entry into the Sri Lankan Health Service, as Grade Medical Officers in the Ministry of Health, under provisions of the Medical Service Minute. Although some graduates choose to leave the Ministry of Health (to enter the private sector, or teach in medical schools, or to go overseas), the large majority choose to remain as employees of the government of Sri Lanka.

The Medical Service Minute which is currently in effect has no provision for employment of graduates from private medical schools in Sri Lanka, but SAIMT graduates have sought relief from Courts in this regard in 2016. Although this is not of direct relevance to the maintenance of standards of medical education, careful consideration will have to be given to this issue by the Ministry of Health and the Treasury, as appropriate cadre provision will have to be made in the event that the Medical Service Minute is changed to include graduates from private medical schools in Sri Lanka.

4. Suggestions to mitigate possible negative impact

The following measures are suggested as a means of minimizing the likelihood of substandard graduates entering the health workforce:

- (a) Graduates from all private medical schools in Sri Lanka should be required to pass a licensing examination (similar to the examination that foreign medical graduates must pass), before they are awarded provisional registration by the SLMC. This will require amendment of the Medical Ordinance.
- (b) Regulations prescribing minimum standards for medical education in all HEIs that are empowered to award medical degrees in Sri Lanka must be gazetted by the Minister of Health, and approved by Parliament as soon as possible.

- (c) The legislation governing professional bodies such as the SLMC, the Sri Lanka Nursing Council and the Ceylon Medical College Council should be amended in order to empower such professional bodies to grant compliance certification to degree awarding institutes.
- (d) Degree Awarding Institutes should not be empowered to award medical and other health professional degrees by the Ministry of Higher Education, unless such an institute has obtained compliance certification from the relevant professional body. Compliance certification should be subject to renewal at regular periods, e.g. every 5 – 10 years.
- (e) SAIMT should be compelled by the Ministry of Higher Education to suspend admission of medical students until it obtains the necessary compliance certification from the SLMC.
- (f) Other measures recommended by us in our Joint Statement issued in July 2016 could form the basis for resolving the broader concerns within the medical profession with regard to functioning of SAIMT as a HEI, and with regard to current students and graduates.
- (g) Finally, medical graduates from state universities, who have been provided with free education, should be compelled to serve the Sri Lankan state health system for some minimum period of time, whereas graduates from the private medical schools need not be compelled to do the same.

Signed:

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