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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On: 2/11/2026

Pronounced on: 4/11/2026

CORAM

THE HON'BLE Mr.JUSTICE K. SURENDER

WP No. 43906 of 2026

CNR:{HCMA012573422026}

AND

WMP NO. 49267 OF 2026

Case QR

Nandivarman Medical College And Hospital
Rep by its Dean Dr.Ganesh Murugaperumal
Having office at
Walajabad-sunguvar chattiram Road
Uttukadu
Walajabad Taluk
Kancheepuram District

..Petitioner(s)

Vs

1. Union Of India
   Rep by its Director (ME)
   Ministry of Health and Family Welfare,
   Kartavya bhavan
   New Delhi-110001

2. National Medical commission
   Rep by its Secretary
   Pocket-14,sector-8,Dwarka
   Phase-I
   New Delhi-110 077

3. Medical Assessment and Rating Board
   Rep by its secretary
   Pocket-14, Sector-8, Dwarka
   Phase-I,
   New Delhi-110 077

..Respondent(s)

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Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the 1st respondent in its proceedings No.V.11013/85/2026-ME-I dated 13.10.2026 rejecting the second Appeal preferred by the petitioner under Section 28(6) of the National Medical commission Act, 2019 thereby, confirming the decision of the 2nd respondent on the First Appeal dated 1.9.2026 which confirms the Letter of Disapproval of the 3rd respondent dated 27.7.2026 and quash the same and consequently direct the respondents to grant Letter of Permission to the petitioner College for the establishment of a new medical college with an annual intake of 150 MBBS seats for the Academic Year 2026-27, or in the alternative to conduct a fresh physical assessment and reconsider the application on merits and in accordance with law within a time frame fixed by this HOnble court

For Petitioner(s): Mr.N.L.Raja
Senior Advocate
for Mr.K.Suresh

For Respondent(s): M/r.B.Rabu Manohar
Senior Central Government Standing Council

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This writ petition has been filed to quash the impugned order dated 13/10/2026 passed by the first respondent in its proceedings No.V.11013/85/2026-ME-I and consequently, direct the respondents to grant a Letter of Permission to the petitioner College for the establishment of a new Medical College with an annual intake of 150 MBBS seats for the Academic Year 2026-27, or in the alternative to conduct a fresh physical assessment and reconsider the application on merits and in accordance with law. Initially, a disapproval letter dated 27/7/2026 was given by the third respondent and such disapproval was confirmed in the First and Second Appeals filed by the petitioner before the second and first respondents, respectively, vide orders dated 1/9/2026 and 13/10/2026.

2. Brief facts of the case are as follows:-

The petitioner is a Medical College and Hospital, represented by its Dean. An online application was filed by the petitioner on 30/1/2026 for the purpose of recognition and

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approval for the establishment of a new Medical College with an intake of 150 MBBS seats for the academic year 2026 – 2027. The said online application was made pursuant to the Public Notice dated 22/12/2025, inviting such applications. According to the petitioner, the College appointed adequate faculty as required under the Undergraduate Medical Education Standards Regulations (UGMSR), 2023 for an annual intake of 150 MBBS seats, and registered them on the Aadhaar Enabled Biometric Attendance System (AEBAS) of the National Medical Commission (hereinafter referred to as NMC).

3. A show cause notice was issued by the authorities pointing out certain deficiencies in the application filed by the petitioner. Thereafter, on 22/6/2026, there was a physical inspection at the premises of the College. The physical inspection was done by the assessors/ 3rd Respondent appointed by NMC.

4. Thereafter, on 7/7/2026, with respect to the deficiencies pointed out in the show cause notice dated 17/6/2026, the petitioner filed a compliance report. However, on 27/7/2026, a letter of disapproval was issued by the third respondent. Aggrieved by the disapproval, a First Appeal was filed before the

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second respondent/National Medical Commission, on 9/8/2026. The First Appeal came to be dismissed on 1/9/2026.

5. Aggrieved by the dismissal of the First Appeal, the petitioner filed a Second Appeal before the Central Government/first respondent. The Second Appeal was also dismissed by the order dated 13/10/2026, impugned in this writ petition.

6. Permission was refused by the third respondent/Medical Assessment and Rating Board (hereinafter referred to as MARB) and that decision was subsequently upheld in both the First and Second Appeals mainly on the ground of non-availability of adequate staff necessary for running an institution with an annual intake of 150 MBBS seats. According to the requirement, 114 faculty members are required for the 150-seat category.

7. MARB refused permission on the following grounds:-

(i). As per the Public Notice dated 22/12/2025 for applications with respect to the establishment of a new MBBS College, all faculty as per MSR shall be registered in the AEBAS

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of NMC and shall be physically present in the institution within 15 days from the last date of submission of applications.

(ii). The petitioner College had delayed the submission of coordinates for mapping the server and had provided the coordinates only on 11/6/2026 and AEBAS was finally mapped on 1st and 7th July, 2026.

(iii). On verifying AEBAS, the authority found that between 7/7/2026 and 13/7/2026, the College had not started marking attendance in AEBAS. Since the deficiency could not be treated as minor or curable particularly in view of the Public Notice dated 22/12/2025, the petitioner's request for granting approval was denied.

8. The petitioner then preferred a First Appeal before the NMC and the same was dismissed on the following grounds:-

1. *No AEBAS data from 01.04.2026 to 30.06.2026*

2. *Subsequently, on verification of AEBAS data from 01.07.2026 to 09.08.2026, only 14 faculty has recorded AEBAS attendance of 75% or more.*

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3. *College has not demonstrated readiness and compliance with the mandatory faculty requirements.*

4. *Department wise deficiency in Forensic medicine and Toxicology Department found.*

9. Aggrieved by the said dismissal of the First Appeal, the petitioner approached the first respondent/Central Government and filed a Second Appeal. The Second Appeal was dismissed on the following grounds:-

(i). AEBAS data from 01.07.2026 to 09.08.2026, only 14 faculty has recorded AEBAS attendance of 75% or more.

(ii). No faculty reflected in the Department of Forensic Medicine and Toxicology, which is a basic science/ pre-clinical teaching department.

(iii). Retrospective rectification of deficiency cannot suffice for absence of faculty in basic science teaching department.

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10. Aggrieved by the above events, the petitioner has come forward with the instant writ petition, praying for the relief as stated supra.

11. Heard Mr. N.L. Raja, learned Senior Advocate for the petitioner and Mr. B. Rabu Manohar, Senior Central Government Standing Counsel for the respondents.

12. The learned Senior Advocate appearing for the petitioner would submit that the disapproval is liable to be set aside, since the deficiency that was noted regarding the non-availability of sufficient faculty is incorrect. In fact, during the physical verification conducted by the third respondent Board on 22/6/2026, it was clearly indicated in the report of assessment regarding faculty as “adequate and no deficient” in the last but one page of the report. Once it was found during physical verification that there was adequate staff and no deficiency, the authority/third respondent committed an error in refusing to grant approval for running the College.

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13. The learned Senior Counsel further argued that the ground of inadequate staff was not mentioned in the show cause notice dated 17/6/2026. Without the College being informed about the inadequate faculty in the show cause notice, the respondents cannot subsequently refuse permission without giving the petitioner an opportunity to respond, more so in the background of the physical verification, during which it was found that there was no deficiency in the faculty.

14. It was further argued that the dates which are mentioned in the disapproval letter and the orders passed in the First and Second Appeals are not the same and would show that the authorities themselves are not sure about the reasons given for disapproval. Once the show cause notice does not reflect the faculty deficiency, an illegality was committed by the respondents in disapproving the petitioner's application on the ground of inadequate staff/ faculty.

15. The learned counsel further argued that there was considerable technical difficulty in mapping the coordinates of the College, for which the College cannot be penalised. The technical difficulty in AEBAS was rectified and the system is now in place.

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In fact, all the other documents relied upon by the petitioner during the proceedings before the three Respondents did not show any kind of deficiency in the faculty. Accordingly, this Court's intervention is sought to direct the grant of approval to the College and to direct the authorities to permit the petitioner to participate in the Under Graduate State Counseling, which is now extended till 16th November, 2026. Otherwise, the petitioner will have to spend a year on upkeep and staff salaries, without any student intake.

16. The main thrust of the argument of the learned Senior Advocate appearing for the petitioner is that this Court has to look into the factual aspects of rejection of approval by the respondent authorities which are contradictory, as such the disapproval by the respondents has to be set aside and permission granted.

17. As seen from the physical verification report dated 22/6/2026, when a physical inspection was conducted by the assessors of the third respondent Board, it is mentioned at Point 2.22 (A) as follows:-

"Aadhar Enabled Biometric Attendance System (AEBAS):

Available: yes

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and for supportive staff, it was "*No*" and for students (preferably with face recognition), it was noted as *Yes*".

It was further noted as. Follows-

> *"Biometric attendance to be collected by the Assessors on the day of assessment and adequacy to be checked as per guidelines"*

18. The show cause notice dated 17/6/2026 concerned deficiencies noticed during scrutiny of the application and its supporting documents. The subsequent scrutiny of faculty attendance was undertaken in the course of the assessment of the proposal. The absence of a faculty-related objection in the earlier notice does not, by itself, establish that the institution had satisfied the faculty requirements. Equally, discovery of a further deficiency does not dispense with the procedural protection under the proviso to Section 28(3) of the National Medical Commission Act, 2019, whereby an opportunity has to be given to rectify the shortcomings or defects if any.

19. Paragraph 5 of the First Appellate Authority's order records that the College was afforded a virtual hearing on 19/8/2026. Paragraph 8 expressly considers its explanation that

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the AEBAS deficiency was technical and that the position had subsequently improved. The second appellate order also records the College's reliance on mapping difficulties and the favourable physical assessment. Thus, the technical explanation was considered in the statutory appeals.

20. The Letter of Disapproval itself records that the coordinates were received on 11/6/2026, that mapping was completed on 1st and 7th July, 2026, and that the office location was thereafter created successfully. It would therefore be unsafe to infer merely from the availability of biometric equipment during the inspection on 22/6/2026 that the institution's AEBAS portal was then fully mapped and operational. The inspection report's reservation of biometric verification also means that physical availability on the inspection date and compliance with the prescribed attendance requirement are distinct matters.

21. In the letter of disapproval by the third respondent Board, it is mentioned as under:-

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Sl. No.	*Category*	*Deficiencies (based on the comments of the expert committee)*
1	*Faculty*	*Public notice dated 22/12/2025 for inviting applications for AY:2025-26, point no.5 under Import Instruction clearly states that "For applications with respect to establishment of new MBBS College, all Faculty as per MSR shall be registered in the AEBAS of NMC and shall be physically present in the institution within 15 days from the last date of submission of applications……"* *1. Whereas the college coordinates were received by the IT Team NMC, on 11/06/2026 after several reminders. However, the office location could not be created by the AEBAS Nodal Officer, as the required coordinates had not been mapped (on par with the college). IT TEAM, NMC has contacted the AEBAS Nodal Officer several times regarding this issue and assurance received by them that it would be resolved. The required coordinates were finally mapped on 1st July and 7th July, after which the office location was created successfully.* *2. Further on downloading the AEBAS data from the NMC AEBAS portal during 07/07/2026 to 13/07/2026, it appears that the college is not marking attendance in AEBAS.*

22. Accordingly, having considered the application, its enclosures, and also on the basis of physical verification done in accordance with the National Medical Commission Act, 2019 and the Establishment of Medical Institutions, Assessment and Rating

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Regulations, 2023, the Undergraduate Medical Education Standards Regulations (UGMSR), 2023 and the Public Notice dated 22/12/2025, the said deficiency of faculty was identified. Since the deficiency found was substantive in nature and cannot be treated as minor or curable, the application was disapproved.

23. The petitioner then approached the second respondent/First Appellate Authority. Paragraph 8 of its order proceeds on a requirement of 114 faculty members for the proposed annual intake of 150 MBBS seats. It records that none had attained the prescribed AEBAS attendance of 75% or more during 1/4/2026 to 30/6/2026, and that only 14 had attained that attendance during 1/7/2026 to 9/8/2026. It also records that no faculty member was found in the Department of Forensic Medicine and Toxicology.

24. In view of the substantial deficiency in the overall faculty strength/eligible faculty attendance, failure to comply with the prescribed AEBAS registration requirement within the stipulated period, and the department-wise deficiency of faculty in Forensic Medicine & Toxicology, the Committee was of the considered view that the College has not demonstrated readiness

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and compliance with the mandatory faculty requirements for the establishment of the proposed medical College with an annual intake of 150 MBBS seats.

25. Aggrieved by the dismissal of the First Appeal, the petitioner then approached the first respondent/Government of India and filed the Second Appeal. In the Second Appeal also, the competent authority, after examining the records and hearing the petitioner, upheld the observations that there was substantial deficiency in the overall faculty attendance as per AEBAS data and eligible faculty attendance as reflected in AEBAS data for the relevant periods and observed that "it had not been complied with, within the stipulated period." It was also observed that no faculty member was found in the Department of Forensic Medicine and Toxicology, which is a basic science/pre-clinical teaching department, and dismissed the Second Appeal.

26. The main argument of the learned Senior Advocate appearing for the petitioner is that though the AEBAS system was in place, due to a technical glitch in geotagging of the College in the AEBAS system, the attendance of the faculty could not be recorded. The learned Senior Advocate also submitted that the

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faculty was found to be adequate at the time of physical verification and in support, pointed out that there is no mention of inadequacy of faculty in the assessors' report.

27. The above contention of the learned Senior Advocate cannot be accepted for the simple reason that, in the assessors' report, under Clause 2.22 (A), extracted *supra*, while affirming the presence of the AEBAS system, the assessors subsequently stated that *"Biometric attendance to be collected by the Assessors on the day of assessment and adequacy to be checked as per guidelines"*. When such is the case, it cannot be said that as on the date of physical verification, there was a finding that there was adequate staff and no deficiency was found.

28. The other argument of the learned Senior Advocate appearing for the petitioner is that different dates were mentioned in the disapproval letter and also in the orders passed in the First and Second Appeals.

29. The different periods mentioned in the three orders do not, by themselves, disclose contradictory grounds. MARB referred to the data downloaded for 7/7/2026 to 13/7/2026,

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whereas the appellate authorities considered the longer periods identified in their orders. The material question is whether the attendance assessment for the operational period, and the consideration of the College's technical explanation and physical records, furnish a sustainable basis for the decision of disapproval.

30. As already stated, the AEBAS system was in place and having examined the records, the authorities found that the faculty members' attendance was not reflected in the AEBAS system, and hence, the requirements were not met. Further, it is the categorical finding that during the period from 1/7/2026 to 9/8/2026, which includes the period following completion of mapping, only 14 faculty members had recorded AEBAS attendance of 75% or more, indicating inadequate compliance with the prescribed attendance requirement. The Committee also noted from the AEBAS data that no faculty member was found in the Department of Forensic Medicine & Toxicology, which is a material deficiency. The First and Second Appellate Authorities also found that retrospective rectification of these deficiencies only at the time of hearing could not cure the fundamental deficiencies relating to faculty in the basic science/pre-clinical teaching Department.

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31. The First Appellate Authority did not reject the technical explanation merely by referring to the absence of data for April to June. It also examined the subsequent attendance period and the department-specific deficiency, and considered the contention of subsequent improvement. These findings were considered again in the second appeal.

32. This Court cannot substitute its own assessment of faculty adequacy for that of the statutory expert authorities merely because another view of the material is possible. Judicial review nevertheless extends to procedural fairness, relevant evidence and the rationality of the decision. Section 28 does not itself prescribe a requirement of 75% attendance for fifteen days before the application. The Public Notice, as reproduced in the impugned orders, requires AEBAS registration and physical presence within fifteen days from the last date for submission of applications. The attendance percentage and its assessment must be traced to the applicable regulatory requirements, while preserving the opportunity required by Section 28(3). A later assertion of readiness does not, by itself, establish compliance at the prescribed stage. The petitioner's reliance on manual attendance

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must also be considered in the context of the mandatory biometric requirement, as manual attendance cannot be considered.

33. The Delhi High Court in the case of ***Shrinivas G Educational and Research Institute v. National Medical Commission and Ors. (2025 SCC OnLine Del 10618),*** and the relevant portion of the judgment is extracted hereunder:-

> *67. Further, the argument of the petitioners that the manual attendance register is complete does not find favour with this Court. The physical attendance register cannot be a substitute of AEBAS, as same would not depict the real picture and is susceptible to manipulation. Pertinently, when the MSRs mandate the implementation of AEBAS, there has to be strict compliance of the same. Notably, the fundamental rationale for maintaining AEBAS and minimum 75% attendance at all working days, as it appears, is that the medical colleges and institutes must have requisite regular permanent faculty, to ensure that standard of education is maintained. Regularity and permanency nurture consistency and stability. Such biometric authenticated attendance system*

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i.e., AEBAS, cannot thus, be seen as a mere formality, but an integral regulatory mechanism to enforce the mandate under Section 28(7) read with Section 29 of the Act.

68. The petitioner has further asserted that the AEBAS system was technically non-functional due to the respondents' own inaction and was activated only on 19.07.2025, after physical inspection had been carried on 10.07.2025. It is on this basis that the petitioner contends 'nil/zero' data reflects an 'absence of data', not 'absence of faculty'. In this regard, this Court finds substance in the respondents' submission that the system was indeed operational, as the AEBAS data from March-May, 2025, handed over across the bar during the course of arguments with copy to the petitioners', shows two faculty members were successfully marking attendance on the same system on multiple occasions. This also leads to an inference that the petitioner institute did not have the requisite adequate faculty on a permanent basis, either at the time of application, or at the time of inspection. The justification thus, put forth by Mr. Bhatia that the isolated entries in AEBAS data reflects, at most, a technical trial run and does not

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establish the system was operational, does not find favour with this Court."

34. Further, nothing is placed on record to show that the authorities have acted deliberately in a prejudicial manner to refuse permission to the College. The impugned order and also the order of disapproval and the order in the First Appeal were passed on the basis of the deficiencies found at the time of application and also during the subsequent physical verification of the College.

35. It is apposite to refer to the following decision of the Hon'ble Apex Court.

(i). In the case of ***Medical Council of India v. Kalinga Institute of Medical Sciences (KIMS) {(2020) 11 SCC 530}***, the Supreme Court held that the High Courts, even while having jurisdiction, must be circumspect in dealing with approvals. A different view should not be taken except in extraordinary circumstances, as extracted hereunder:

"24. Medical education must be taken very seriously and when an expert body certifies that the facilities in a medical college

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> *are inadequate, the courts are not equipped to take a different view in the matter except for very cogent jurisdictional reasons such as mala fides of the Inspection Team, ex facie perversity in the inspection report, jurisdictional error on the part of MCI, etc. Under no circumstance should the High Court examine the report as an appellate body — this is simply not the function of the High Court. In the present case there was no ground made out at law for setting aside the report of the Inspection Team.*

36. In the present scenario, considering the facts, circumstances and the precedents cited supra, this Court finds no reason to interfere with the order refusing permission to the College. Accordingly, this **writ petition is dismissed.** No costs. Consequently, the connected Miscellaneous Petition is closed.

(K.SURENDER,J)
4/11/2026

Neutral Citation: Yes/No

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K.SURENDER,J

mvs.

Pre-delivery order made in
WP No. 43906 of 2026

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