SP’s Report

   Dt. 5.08.2005

2. Rules : Misconduct

3. Place & Date of Occurrence : New Delhi, during 2002 to 2005

4. Complainant : Sh. Prassana Hota
   Secretary, Ministry of Health & Family Welfare
   Nirman Bhawan, New Delhi

5. Delinquent officials :

   i.
   a. Name in Full : Ms. S. Savitha, W/O S. Suryanarayanan
   b. Alias if any : Nil
   c. Address
      i) Present : A-106 Katyayani Appts., Plot no. 8, Sector – 6
                   Dwarka, New Delhi – 75
      ii) Permanent : DO
   d. Designation status & Pay Scale : Section Officer, Establishment Section, MCI
      Rs. 6500-200-10500
   e. Ministry/Department : Medical Council of India
                              Ministry of Health & Family Welfare
                              Govt. of India

   f. Date of Reference : 30/4/2005

   ii.
   a. Name in Full : Sh. Manoj Kumar, S/O Sh. Gobind Singh
   b. Alias if any : Nil
c. **Address**  
   i) Present : RZ-16-A-/15/9-A, Street No. 2  
      Main Sagarpur, New Delhi – 46  
   ii) Permanent : DO  

d. **Designation status & Pay Scale**  
   : LDC, Establishment Section, MCI  
   Rs. 3050-75-3950-80-4590  

e. **Ministry/Department**  
   : Medical Council of India  
      Ministry of Health and Family Welfare  
      Govt. of India  

f. **Date of Retirement**  
   : 31/12/2034  

iii.  
   a. **Name in Full**  
      : Lt. Col. (Dr.) A.R.N. Setalvad (Retd.)  
   b. **Alias if any**  
      : Nil  

c. **Address**  
   i) Present : Staff Quarters, Medical Council of India  
      Sector -8, Dwarka  
   ii) Permanent : Ratan Jyot, Plot No. 274/2  
      Panjarpole Road Polytechnic,  
      Ahmedabad – 380015  

d. **Designation status & Pay Scale**  
   : Secretary, Medical Council of India  
   Rs. 18400-22400  

e. **Ministry/Department**  
   : Medical Council of India  
      Ministry of Health and Family Welfare  
      Govt. of India  

f. **Date of Retirement**  
   : 31/8/2010  

iv.  
   a. **Name in Full**  
      : Dr. Krishan Kumar Arora, S/O Late Sh. G.D. Arora  
   b. **Alias if any**  
      : Nil
c. Address
   i) Present : I-64, Ground Floor, Lajpat Natar – 1
                New Delhi – 24
   ii) Permanent : DO

d. Designation status & Pay Scale
   : The then Joint Secretary & Now Deputy Secretary under suspension, MCI
     Rs. 12000-375-18000

e. Ministry/Department
   : Medical Council of India
     Ministry of Health & Family Welfare
     Govt. of India

f. Date of Retirement : 31/8/2010

v.
a. Name in Full : Dr. Ved Prakash Mishra

b. Alias if any : Nil

c. Address
   i) Present : Plot No. 3, Neera Apartment
               1st Floor, Opp. NIT Garden
               Nagpur – 440025
   ii) Permanent : DO

d. Designation status & Pay Scale
   : Member, Executive Council, MCI
     NA

f. Date of Retirement : NA

vi.
a. Name in Full : Dr. D.K. Sharma

b. Alias if any : Nil

c. Address
   i) Present : C-9, Shastri Nagar, Merrut – 250041
   ii) Permanent : DO
d. Designation status & Pay Scale : Member, MCI
   NA

e. Ministry/Department : Medical Council of India
   Ministry of Health and Family Welfare
   Govt. of India

f. Date of Retirement : NA

6. Investigating Officer : Sh. Mukesh Kumar, Inspector
   CBI, ACB, New Delhi
   From 5/8/2005 onwards

7. Background of the case:

   A written complaint was received from the Secretary H&FW, Ministry Health and Family Welfare, Govt. of India, Nirman Bhawan, New Delhi vide D.O. No. C-74/secy (H&FW)/2005 dated 29th June, 2005 in which the details of illegal activities taking place in MCI alleged corrupt practices by Secretary, MCI, Dr. ARN Setalvad were mentioned. Simultaneously, written complaints were received from the employee union of MCI vide No. MCI/EU/28/2005 dt. 1/8/2005 in which various malpractices going on in MCI were brought to the notice of CBI for enquiry. On the basis of these written complaints, the above said Preliminary Enquiry was registered and the Enquiry was conducted by CBI.

8. Allegations in brief made in the PE Registration Report:

I. It was alleged that Dr. ARN Setalvad, Secretary, MCI has passed on files through email relating to recognition of medical colleges to Dr. Ketan Desai, the Ex. President of MCI.

II. Various new posts (More than 201 have been created and filled in MCI in gross violation of instructions contained in letter No. 2/8/2001-PIC dated 11/5/2002 of DP&T and letter No. G-29011/8/92-B Dt. 25/5/93 of Ministry of Health & FW. Extension beyond superannuation had been given to some officers of
MCI in violation of MCI Regulations 2000 and without obtaining the approval of Central Govt.

III. Favours were shown to the ward of some CBI officials, Court staff and officials of Ministry of H&FW who are the close associates of Dr. Ketan Desai, in the form of extending seats in medical colleges/jobs in MCI Laxmi Narain, a ward of CBI official has been recruited in MCI as an LDC.

IV. Sh. Ketan Desai has been issuing threats to MCI staff that he would implicate them through the CBI as he knows two senior officers of CBI viz. Sh. Jaidev and Sh. B.N.P. Azad who are indebted to him because he had arranged for admission of their wards in private medical college, Ghaziabad.

V. Post of law officers was kept vacant for years in order to cause and benefits to Sh. Maninder Singh, legal Counsel, a key man of Dr. Ketan Desai. It is alleged that out of Rs. 2 crores spent on legal charges for counsels during the period 1998-2003, Rs. 1.6 crores was paid to Sh. Maninder Singh.

VI. Expenditure of MCI are exceedingly higher than the allocated funds and funds received from colleges and Ministry of H&FW is being spent in wasteful manner and major part of this went to the coffers of Sh. Maninder Singh, Legal counsel.

VII. MCI had not published Indian Medical Register since 1993 which is one of the main functions of MCI. Funds allocated for the purpose of publishing of the IMR is being diverted to other uses without the Govt. approval.

VIII. Funds allocated and donations received from the private medical colleges in the name of construction of MCI Office/building at Dwarka have been spent through private parties without the involvement of Govt. Allegations have been made against the key officials of MCI that they have acquired lots of assets.
IX. For maintaining the standard of medical education provisions of routine inspections have been enshrined in the IMC Act, 1956. It is alleged that MCI had conducted merely 5% of routine inspections of Medical colleges thereby it failed to maintain the standard of Medical Colleges. And in order to twist the arms of the Management of Medical Colleges surprise checks are being conducted for which no provisions have been made in the said Act.

9. Allegations not substantiated:
   Allegations mentioned at SL. I, II, IV, VII, IX could not be substantiated.

10. Allegations on which Enquiry was conducted.
    As mentioned in para 8 above.

i) Result of Enquiry:

**ALLEGATION – III**

The allegation of extending favour to the ward of some CBI officials, court staff and officials of Ministry of H&FW who are close associates of Dr. Ketan Desai, in the form of extending seats in medical colleges/jobs in MCI, the complainants were examined to ascertain the specific allegations as mentioned. Complainant Sh. Vinod Kumar stated the names of following staff serving in MCI with their associations.

1. Mrs. Sarabjeet Chopra, D/O Sh. G.S. Kapoor, LDC, Date of Joining 16/5/02
2. Sh. Manoj Kumar, S/O Sh. Govind Singh, LDC, Date of joining 16/5/2002
4. Ms. Kiran Bala Pathak, D/O Sh. Tara Dutt Pathak, computer Operator, Date of joining 9/7/03
5. Ms. Puja, Sh. Ved Prakash, Jr. Steno, Date of joining 9/7/03
6. Sh. Laxmi Narain, S/O Late Jyoti Ram, LDC, Date of joining 17/5/04
7. Ms. Savita, S/O Sh. Krishan Lal, LDC, Date of joining 17/5/04
8. Sh. Vikash Tanwar, S/O Sh. Ranvir Singh, LDC, Date of joining 17/5/04
All the above said officials were examined and in their statement they have refuted the allegations. However, Sh. Laxmi Narain, LDC, stated that his brother is working in CBI. Further to ascertain any omission or commission in their recruitment their personal files were perused and it was found that the recruitment of all the above mentioned employees have been done after following all the laid down procedures except the employee at SL. No. 6, Sh. Laxmi Narain.

As per para-5 of the amended gazette notification dt. 12/3/03:
“In case of posts except Group A Posts, qualifications are relaxable at the discretion of appointing authority in case of candidates are found otherwise suitable for the job.”

And as per the recruitment rule of MCI, the educational qualification for the post of LDC is Class 12th with a typing speed of 30 wpm in English.

The copies of personal file of Sh. Laxmi Narain have been obtained and on the perusal of the same it can be seen that on the date of his appointment his educational qualification was class-10 and further he is also overage on the date of appointment because as per advertisement for this post, age of the candidate should have been 18 to 27 years for general category candidates which is also in conformity with the Recruitment Rules but as per the application of Sh. Laxmi Narain, his date of birth is 12/11/1973 thereby meaning that he was more than 30 years old at the time of joining MCI.

There is no document on record available in MCI to show that the competent appointing authority, the Secretary of Medical Council of India, Dr. ARN Setalvad has relaxed the requirement of educational qualification in his case.

The noting of the personal file of Laxmi Narain shows that written and type test were held on 2/11/2003 at Mata Sundri College and on the basis of this the interviews were conducted on 11/1/2004. From the note sheet notings of his personal file it could not be ascertained which official(s) was/were assigned the duties of scrutinizing the application forms before issuing the admit cards or scrutinizing the original certificate before allowing the interview of the candidates.
During the enquiry it was ascertained that Mrs. Sabitha, the section officer and Sh. Manoj Kumar, LDC posted with the establishment section were assigned these duties and in their statements, Ms. Savitha and Sh. Manoj Kumar have owned the responsibility of committing the mistake during the scrutiny on both the occasions. Further it has been ascertained that during the interview each of the selection committee members are provided the list of candidates who have been found suitable for interview. This list contains the name & address, Date of birth, Category, Qualification, Experience of the candidates

Selection committee members should also have paid attention to this but they failed to do so as Dr. K.K. Arora and Dr. Prem Kumar, the two members of the selection committee have stated that their duty was to judge the suitability of the candidates mainly on the basis of experience and they have not gone deep into the qualification or age aspect as they had taken it to be in order as presented before them.

Further Dr. K.K. Arora and Dr. Prem Kumar stated that they have not recommended any of the six candidates appearing in the list of selected candidates as available on record and they were asked by the Secretary, MCI Dr. ARN Setalvad to put their signatures on this list long after the interview was completed. They had also objected to the same but succumbed to the pressures of the Secretary and ultimately signed the list of selected candidates.

Further Dr. P. Kumar and Dr. K.K. Arora also stated that the secretary Dr. ARN Setalvad was not present in the interview board, still he signed the list of selected candidates as Chairman. This fact has also been supported by the candidate Sh. Vikash Tanwar. As per the Recruitment Rules of MCI the Secretary MCI is supposed to be the Chairman/member of selection committee for the post of LDC whereas in the O/o No. 154(3)/2003-Eastt. 27670 dt. 30/12/2003 he has not been shown as the chairman of the Selection Committee.

In view of the above mentioned facts it is established that gross misconduct was committed in this recruitment process by Ms. Savitha, the Section Officer, Manoj Kumar, LDC of the establishment section and Dr. ARN Setalvad.
ALLEGATION -VIII

During the enquiry copies of NIT, Tender documents, Comparative Statement showing L-1 position, copies of decision pertaining to the award of building construction, copies of agreement of various works, list of building committee members from the year 2000 till date and the documents connected to the building construction were collected and scrutinized.

On the scrutiny of documents pertaining to the award of contract to M/s L&T for proposed MCI Building at Dwarka it has been observed that the L&T were L-3 at the time tenders were opened, however after the negotiations L&T emerged as L-1 and that too with a marginal difference of Rs. 2.5 lacs.

On record there is a letter of Dr. Ved Praksh Mishra, Dt. 17/1/2000 to the Chairman of the Building Committee, in which he had shown his inability to attend the meeting of building committee on 18/1/2000 due to his preoccupation, further he had recommended the award of contract in favor of M/s L&& citing various grounds.

The building committee comprising of Dr. B.C. Chhaparwal, Dr. B. Ray Chaudhari and Dr. D.K. Sharma met on 18/1/2000 and deliberated on finer points of terms and conditions submitted by the participating firms and negotiated with them separately and not collectively. The Chairman of the committee Dr. B.C. Chaparwal was authorized to decide the award of contract who on 19/1/2000 decided in favor of M/s L&T.

Noticeably the final decision taken on 19/1/2000 is just the reflection of the recommendation of Dr. V.P. Mishra dt. 17/1/2000 which are similar to the points mentioned in the minutes of Building Committee dt. 18/1/2000 deciding the award in favor of M/s L&T.

The post tender negotiations with the quoting firms lead to the reversal of overall position of L-1 and the pre meditated attitude of the building committee members to speak in favors of M/s L&T gives a signal that they had already made-up their mind to tamper with the tendering process in such a way to facilitate the award of contract in favor of M/s L&T.

CVC in it’s Circular No. 8(1)(h)/98(1) dt. 18/11/1998 had already banned the post tender negotiations except with L-1.
Further the enquiry revealed that the contract for project management consultancy was awarded in favor of M/s Suresh Goyal & Associates on 7/10/2002 at the rate of 1.5% of actual cost subject to a maximum of Rs. 12 lakhs. In this context the quotations of M/s Suresh Goel & Associates dt. 31/1/2000 and of School of Planning and Architecture dt. 26/11/9 have been provided by MCI. In these quotations M/s Suresh goel had originally quoted 2.2% of actual cost and School of Planning and architecture had quoted 3.5% of the actual value of the project.

This award was made by the chairman on the recommendation of the Building Committee in its meeting dated: 6/2/2001. Ordinarily in these circumstances rates should have been invited in sealed cover and opened in the presence of the representatives of these tenderness so that rates quoted by one party is not known to the other party, but this has not been done in this case, therefore the fact that the rates as quoted by School of Planning and Architecture were not already known to M/s. Suresh Goel cannot be fully negated, as they were already having the agreement with MCI for providing Architectural Consultancy services on 24/12/1999.

As far as award to M/s Suresh Goel and Associates as architect is concerned no open bidding was resorted to and they were awarded the act on the recommendation of an assessment team which met on 30/7/99 and considered the Architectural plans and designs and models submitted by M/s Ghosh and Associates, M/s Sharat Das & Associate Pvt. Ltd and M/s Suresh Goel Associates.

Submitted by M/s Ghosh and Associates, M/s Sharat Das & Associates Pvt. Ltd and M/s Suresh Goel Associates. The cost of the award of this contract was 4% of actual cost of works for construction of building including honorarium paid for initial drawings and model presented. The omission of procedures of calling tender from the participating parties or deciding the matter in favour of M/s Goel without deciding the merit is grave misconduct. Further as per the guidelines of CVC vide Circular No. 3L-1RC1 dt. 10-1-1983, it has been mentioned that “even though individually such works are less than Rs. 5 crores, it is necessary that the appointment of consultant should not be made arbitrary or ad-hoc” whereas the estimated initial cost of building construction was of a much higher amount.
The award of contract between MCI and L&T, M/s Suresh Goel were entered into during the stint of the then Secretary of MCI, Dr. M. Sachdeva.

Further in the minutes of the deferred meeting of Building Committee dt. 26/2/2003 which was held on 12/3/2003 under the Chairmanship of Sh. D.K. Sharma attended by Sh. Ved Prakash Mishra, Dr. S.B. Siwach, Sh. Suresh Goel and Dr. K.K. Arora as Jt. Secretary at item no 4 deliberated that “The committee after going through the details provided in the guidelines issued by the CVC with respect to award of contracts etc. Observed that there has been no deviation in the past and noted the instructions and guidelines for future compliance as well.”

In view of this it can be stated that the building committee was well aware of the provisions of CVC guidelines and had intentionally omitted to consider these guidelines and wrongly declared to have complied with these guidelines in the past.

Further the present Astt. Secretary of MCI, Sh. Ranvir Singh was looking after the administration and establishment section apart from some other section and who was also supervising the Building Section has stated that MCI is bound to follow all the guidelines of CVC.

Therefore, the Members of the Building Committee Dr. K.K. Arora, Dr. Ved Prakash Mishra & Dr. D.K. Sharma connected with the award of work to M/s L&T for the construction of MCI building at Dwarka, have committed gross irregularity.

iii. Explanation/Defence of the suspect:

ALLEGATION-3

The explanation of Ms. Savitha the section officer and Sh. Manoj Kumar, LDC is that they had committed mistakes inadvertently by considering the candidature of Sh. Laxmi Narain.

The explanation of Dr. ARN Setalvad is that during the interview he presided over as the Chairman of the selection committee for the selection of Laxmi Narain and the decision of the selection committee was prepared and signed on 11/1/2004 itself.

The explanation of Dr. K.K. Arora and Dr. Prem Kumar as the members of the selection committee is that they had not recommended the selection of any of the six selected candidates including Laxmi Narain for the post of LDC after the interview on
11/1/2004 and that the Secretary was not present during the entire period of interview which was further substantiated by Sh. Vikash Tanwar in his statement. Further mentioned that after a long period of gap when the interview was held they were forced to put their signatures on the recommendation of the selection committee, by Dr. ARN Setalvad in which he had put the names of the six candidates other than the names which had been recommended by the selection committee members on the date of interview.

**ALLEGATION - 8**

Dr. K. Arora explained that MCI is supposed to follow the guidelines of the Central Government and CVC & at the time of award of contracts and calling of tenders he had put up the proposal for following the guidelines of CVC which was not accepted by the authorities in MCI.

Explanations of Dr. D.K. Sharma and Dr. Ved Prakash Mishra could not be obtained during the enquiry as they were not available for the same.

**IV. Argument to rebut the defence of suspects:**

**ALLEGATION- 3**

The explanation of Ms. Savitha the section officer and Sh. Majoj Kumar, LDC that they had committed mistakes inadvertently by considering the candidature of Sh. Laxmi Narain is not sustainable since the scrutiny of application is done at the 1st stage before issuing the admit card for the written exams and typing test. Scrutiny of application forms and qualification certificates are again done at the 2nd stage before issuing recommending the name for the interview. Final verification of the original certificate is again done at the time of joining. The defence that it was an inadvertent mistake is not acceptable.

The explanation of Dr. ARN Setalvad that during the interview he presided over as the Chairman of the selection committee for the selection of Laxmi Narain is not acceptable as Dr. K.K. Arora and Dr. Prem Kumar had denied the same in their statement and the candidate Sh. Vikash Tanwar has also denied the same. Further, the
statement of Dr. K.K. Arora and Dr. Prem Kumar that they were pressured by Dr. ARN Setalvad to put their signature over the recommendation of the selection committee which originally had not recommend is sufficient for the rebuttal of the explanation given by Ms. S. Savitha, Sh. Manoj Kumar, Dr. ARN Setalvad.

**ALLEGATION- 8**

The explanation of Dr. K.K. Arora is not acceptable since on the one side he states that MCI is bound to follow the guidelines of CVC in matter of award of contract of Building Construction and on the other hand he had convened the meeting of the building committee which he he had dealt into the negotiations with the 4 tenderers on 18/1/2007 and also had certified that CVC guidelines have been followed in past in the meeting of the Building Committee dated 26/2/03. Hence the statement of Dr. Arora is contradictory vis-à-vis his actions.

Dr. D.K. Sharma and Dr. Ved Prakash Mishra cannot absolve themselves of the responsibility of safeguarding the interest of the Public Fund by not adhering to the laid down rules and procedures for ensuring competitiveness and quality in the award of contract for the construction of MCI Building. The signed letter of Dr. Ved Prakash Mishra, dt. 17/1/2000 is on record and the presence of Dr. D.K. Sharma in the meeting of Building Committee on 18/1/2000 is also on record. This goes on to prove the gross irregularity conducted by them in the award of contract to M/s L&T.

**V. Summing up of evidence available both against and for the accused person.**

In view of the enquiry conducted on the abovesaid allegations, it is apparent that the rules and guidelines in the recruitment and building construction of MCI were violated intentionally and there has been lack of transparency in the functioning of MCI. In view of the discussions as mentioned above there is prima facie evidence of gross irregularity against the present Secretary, Dr. ARN Setalvad, the Section Officer Ms. S. Savitha, the LDC Sh. Manoj Kumar, the Deputy Secretary Dr. K.K. Arora and Members of MCI Dr. Ved Prakash Mishra and Dr. D.K. Sharma.
VI. Conclusion:

The enquiry has revealed that malpractices were resorted to in the recruitment process of LDC Sh. Laxmi Narayan by Dr. ARN Setalvad, Ms. S. Savitha and Sh. Manoj Kumar with ulterior motives, in gross violation of the Recruitment Rules of MCI.

The enquiry has revealed that intentional omissions and commissions were committed by Dr. K.K. Arora, Dr. V.P. Mishra and Dr. D.K. Sharma in the award of contract for building construction.

11. Final recommendations:

On the basis of the above, competent authority in CBI has approved RDA for Major Penalty against the following officials of MCI for the omissions and commissions committed by them as discussed above,

1. Dr. ARN Setalvad, Secretary, MCI
2. Dr. K.K. Arora, Deputy Secretary, MCI
3. Dr. Ved Prakash Mishra, Member, MCI
4. Dr. D.K. Sharma, Member, MCI
5. Ms. S. Savitha, Section Officer, MCI
6. Sh. Manoj Kumar, LDC, MCI

Sd/-
Mr. Sumit Saran
Superintendent of Police
CBI: ACB: New Delhi