

No. V.11025/254/2020-MEP (FTS-8089196)

भारत सरकार / Government of India

स्वास्थ्य एवं परिवार कल्याण मंत्रालय / Ministry of Health & Family Welfare
स्वास्थ्य एवं परिवार कल्याण विभाग / Department of Health & Family Welfare

Nirman Bhawan, New Delhi

Dated the 6th May, 2022

PUBLIC NOTICE

In supersession of public notice even number dated 25th November, 2021, it is informed to all concerned that the Guidelines containing Appellate mechanism has been revised with the approval of Hon'ble Minister for Health and Family Welfare, for dealing with the appeals preferred to the Central Government under the provisions of section 28 (6), 35 (7), 36(3) and 9(6) of the National Medical Commission Act, 2019.

2. A copy of approved revised Guidelines containing Appellate mechanism is enclosed at Annexure.



(V. Hekali Zhimomi)
Joint Secretary (ME)

Guidelines for dealing with Appeals Preferred to the Central Government under the National Medical Commission Act 2019

1. The NMC Act, 2019 provides for the following specific provisions for appeal:-

- i. Section 28(5) - Where a scheme is disapproved under sub-section (3), or where no decision is taken within six months of submitting a scheme under sub-section (1), the person concerned may prefer an appeal to the Commission for approval of the scheme within fifteen days of such disapproval or, as the case may be, lapse of six months, in such manner as may be specified by the regulations.
- ii. Section 28(6) – Appeal against the decisions of the Commission with regard to grant of permission for (1) establishment of new medical college; (2) increase in intake capacity; and (3) starting of new PG medical course. The person concerned is required to prefer the appeal before the Central Government within 30 days of communication of disapproval by the NMC.
- iii. Section 35(7) - Appeal against the decisions of the Commission with regard to grant of recognition to the medical qualifications awarded by the Universities in the country. The University or the medical institution concerned may prefer a second appeal to the Central Government within 30 days of the communication of decision by the NMC.
- iv. Section 36(3) - Appeal against the decisions of the Commission with regard to grant of recognition to the medical qualifications awarded by the Universities outside the country. The foreign University or the medical institution concerned may prefer a second appeal to the Central Government within 30 days of the communication of decision by the NMC.
- v. Section 9(6) - A person who is aggrieved by any decision of the Commission (except the decision rendered under section 30(4)*) may prefer an appeal to the Central Government against such decision within 30 days of the communication of such decision.

(* Section 30(4) provides for appeals in ethics cases. Here, since the original order is passed by the concerned State Medical Council, the first appeal lies with the Ethics & Registration Board and second appeal lies with the Commission.)

A. APPEALS UNDER SECTION 28 (6), 35 (7) AND 36(3) of the NMC ACT, 2019

2. The Appellate mechanism for the appeals received under section 28 (6), 35 (7) and 36(3) of the NMC Act, 2019 will be as follows:

3. Hon'ble HFM will be the authority competent to decide on the appeals preferred under the above sections. He will be duly assisted by a Committee of Officials and a group of experts, to examine the appeal and for taking the reasoned decision in the appeal. The Committee of Official shall follow the principle of natural justice and hear the appellant, if required, before finalization of its views.

4. Decision on the appeal:

- i. Hon'ble HFM shall take a decision in the matter based on the facts of the case and views of the Committee of Officials and group of experts appointed for the same. Personal hearing of the appellant may be given if so desired following the principle of natural justice .
- ii. The decision shall be conveyed to the appellant accordingly.
- iii. In the interest of maintaining meritocracy in admission, NMC will issue a specific schedule in consultation with Ministry & DGHS for approval of courses/ seats etc along with timelines for appeal and second appeal to ensure that the whole process is completed well before the start of counseling process as per directions of Supreme Court [Order dated 18.01.2016 in I.A No. 7 & 8 in W.P. (C) No. 76 of 2015 titled as Ashish Ranjan & Ors. Vs UOI & Ors. before the Hon'ble Supreme Court of India]
- iv. The 2nd appeal, to Central Government, may be filed under the above provision of the NMC Act, 2019 with justification and along with requisite documents as per checklist.
- v. The appeal filed to Central Government will be tenable only from the date of receipt of complete documents as per check list.

5 Timeline for appeals:

- The appeals preferred under Section 28(6), 35(7) and 36(3) of the NMC Act, 2019 shall be decided within 45 days of receipt of such appeal .
- The date of receipt of appeal with complete documents as per checklist will be the deciding date for counting 45 days.

B. OTHER APPEALS

6. Appellate Mechanism for the appeals received under section 9(6) of the NMC Act, 2019. Under Section 9(6) of the NMC Act, 2019, the following types of appeals may be preferred:

- i. Aggrieved against any of the provisions of the Regulations framed by the Commission
- ii. Any policy decision of the Commission
- iii. Service matters of the employees of the Commission

iv. Miscellaneous appeals such as – denial of issuance of any certificate, registration etc.

6.1 The appeals in the matter of grievance against the Regulations and other policy decisions of the Commission shall be processed on file and submitted to Hon'ble HFM for a decision in the matter.

6.2 The appeals regarding service matters of the employees of the Commission shall be disposed off at the level of Secretary (HFW). Hearing to the appellant may be granted, if required.

6.3 All other miscellaneous appeals shall also be processed on file and disposed off at the level of Secretary (HFW) after following the due process. Hearing to the appellant may be granted, if required.

Procedure for Appeal to Central Government

The National Medical Commission Act, 2019 provides for provision of filing 1st and 2nd Appeal.

1st Appeal under the provision of the Act are required to be filed to the National Medical Commission (NMC) within the specified period against the decision of its Autonomous Boards (Medical Assessment and Rating Board), in such manner as may be specified by the regulations.

- Whereas 2nd appeal lies with Central Government under the provisions of sections 9 (6), 28 (6), 35 (7), and 36 (3) of the Act within specified period, i.e. 30 days against the decision of NMC or the NMC fails to give its decision within the specified period, as the case may be.
 - The provisions of 2nd appeal of these section of the said Act are:-
7. Section 9(6) (Meeting, etc. of Commission) - A person who is aggrieved by any decision of the Commission except the decision rendered under sub-section (4) of section 30 may **prefer an appeal to the Central Government against such decision within thirty days of the communication of such decision.**
 8. Section 28(6) (Permission for establishment of new medical college). - The Commission shall decide the appeal received under sub-section (5) of this section **within a period of forty-five days** from the date of receipt of the appeal and in case the Commission approves the scheme, such approval shall be the permission under sub-section (1) of this section to establish a new medical college and in case the Commission disapproves the scheme, or fails to give its decision within the specified period, the person concerned may **prefer a second appeal to the Central Government within thirty days** of communication of such disapproval or, as the case may be, lapse of specified period.
 9. Section 35(7) (Recognition of medical qualifications granted by Universities or medical institutions in India). - Where the Commission decides not to grant recognition to the medical qualification, or fails to take a decision within the specified period (two months), the University or the medical institution concerned may prefer **a second appeal to the Central Government within thirty days of the communication of such decision or lapse of specified period, as the case may be.**
 10. Section 36(3) (Recognition of medical qualifications granted by Universities or medical institutions outside India). - Where the Commission refuses to grant recognition to the medical qualification under sub-section (1), the authority concerned may prefer **an appeal to**

the Central Government against such decision within thirty days of communication thereof.

- The appeal to Central Government may be filed under the above provision of the National Medical Commission with justification and along-with requisite documents as per **checklist**.
- The date of receipt of appeal with complete documents will be the deciding date for counting 45 days.

Check List for preferring Appeal to the Central Government under Section 28 (6), 35 (7) and 36 (3) of the National Medical Commission Act, 2019

S.No.	Particulars	Date	Copy of Documents attached
1	Application submitted to NMC for permission		(Yes/No)
2	Proof of fee paid to NMC with application		(Yes/No)
2	Inspection Report		(Yes/No)
3	Letter of Board for deficiencies found		(Yes/No)
4	Compliance report		(Yes/No)
5	Decision letter of Board		(Yes/No)
6	Appeal made before Board, if any		(Yes/No)
7	Decision letter of Board		(Yes/No)
8	1 st Appeal filed before NMC against the decision of the Board		(Yes/No)
9	Decision of NMC on 1 st appeal		(Yes/No)
10	Justification for 2 nd Appeal	N.A.	(Yes/No)

Check List for preferring Appeal to the Central Government under Section 9(6) of the National Medical Commission Act, 2019

S.No.	Particulars	Date	Copy of Documents attached
1	Issue/Grievance with decision of Board / NMC		(Yes/No)
2	Request made to Board / NMC		(Yes/No)
3	Decision of the Board/NMC on the request		(Yes/No)
4	First Appeal filed to the NMC, if required.		(Yes/No)
5	Decision of NMC on 1 st Appeal		(Yes/No)
6	Justification for 2 nd Appeal	NA	(Yes/No)