

No. V.11025/254/2020-MEP (Pt.) (FTS-8139170)

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 25th November, 2021

PUBLIC NOTICE

It is informed to all concerned that the Guidelines containing Appellate mechanism 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 has been finalised with the approval of Hon'ble Minister for Health and Family Welfare.

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



(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(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.
 - ii. 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.
 - iii. 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.
 - iv. 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:

- (1) Hon'ble HFM will be the authority competent to pass orders in the appeals.

Committee of Officials:

- (2) There shall be a Committee of Officials, to assist Hon'ble HFM, consisting of the following:
 - i. AS & FA
 - ii. Addl. Secretary (ME) / JS (ME)
 - iii. Nominee of DGHS

Technical Expert Group (TEG)

(3) Also, in order to examine the appeal matters, there shall be a Technical Expert Group consisting of the following:

- vii. Four eminent experts from medical background
- viii. One expert from para clinical / non - clinical background
- ix. Director (ME)

3.1 Selection of Members for Technical Expert Panel (TEP)

- vii. A panel of names consisting of 25 eminent experts with diverse specialties shall be prepared with the approval of Hon'ble HFM. The said panel shall include 5 experts from para clinical / non - clinical background.
- viii. The Technical Expert Group shall be constituted randomly for each appeal from the said panel through unbiased electronic mechanism.
- ix. Three Members of the Technical Expert Group shall constitute quorum of the meeting for examining/review.

3.2 Role of Technical Expert Group:

1. The Technical Expert Group shall examine the appeal received under Section 28(6), 35(7) and 36(3) of the NMC Act 2019.
2. After examining the facts, the Technical Expert Group shall convey its opinion to the Ministry in writing, with justification.
3. The Technical Expert Group shall give its opinion within two weeks of receiving appeal by the Ministry.

3.3 Committee of Officials - its role:

- i. The recommendation of TEP shall be examined by the Committee of Officials for taking a view on the same.
- ii. The Committee of Officials shall follow the principle of natural justice and hear the appellant, if required, before finalization of its views.

3.4 Decision on the appeal:

- i. The opinion of the Technical Expert Group and views of the Committee of Officials thereupon shall be placed before the Hon'ble HFM for a decision in the matter.

- ii. Hon'ble HFM shall take a decision in the matter based on the facts of the case and views of the Committee of Officials. He may also take personal hearing of the appellant, if he so desires.
- iii. The decision shall be conveyed to the appellant accordingly.

3.5 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 including the two weeks taken by the Technical Expert Group.

B. OTHER APPEALS

4. 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.

4.2 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.

4.3 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.

4.4 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.
