



## Former India medical council president is cleared of six of seven corruption charges

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Ketan Desai, the former president of the Medical Council of India who was charged by India's Central Bureau of Investigation with several cases of corruption in 2010, has been exonerated in all but one of the cases.

On 21 September a Lucknow special court dropped charges that Desai, in collusion with other members of the council, had granted permission for Shri Ram Murti Smarak Institute of Medical Sciences in Bareilly, Uttar Pradesh, to admit students, even though the institute lacked the infrastructure and teaching staff required under the council's rules.

In its ruling, the special Central Bureau of Investigation court in Lucknow said that there was no evidence that Desai had abused his office to favour the medical college or had received any benefits in return. The bureau had relied on several pieces of evidence to build its case against Desai. The first was a recorded confession by a Medical Council of India inspector, Suresh C Shah, who had inspected Shri Ram Murti Smarak Institute on three occasions. Shah had said that Desai had asked him to be lenient during his third inspection of the college, so that it could be granted clearance by the council to accept new students. The bureau also alleged that college officials had forged several documents, such as TDS (tax deducted at source) certificates and appointment slips, to meet the council's requirement of full time teaching staff.

However, Desai's legal counsel, Purnendu Chakravarty, said that there was no evidence to show that Desai was aware of the officials' forgery. The court also ruled that Shah's confession was not admissible in court, because it was a confession by a co-accused and was made after Shah's arrest. The fact that the bureau was unable to produce any evidence that Desai had benefited monetarily by favouring Shri Ram Murti Smarak Institute also helped the court exonerate him.

One of the biggest factors that helped Desai's case, though, was Chakravarty's argument that the Central Bureau of Investigation required government sanction to prosecute Desai, because the actions for which Desai was being charged were committed while he was holding public office. Section 197 of India's Code of Criminal Procedure stipulates that any offence committed by a public servant while he or she is discharging an official duty cannot be prosecuted without the permission of the central or state government. Even though the bureau had argued earlier that such government sanction was not necessary, the court struck down this argument, rendering the prosecution of Desai illegal.<sup>1</sup>

The only charge that remains pending against Desai now is that he accepted a bribe of Rs20m (£200 000; €270 000; \$300 000) from the owner of the Gian Sagar Medical College in Patiala, Punjab. This case has been stayed by the Supreme Court, and Desai is on bail for the charge.

The corruption cases against Desai became a subject of controversy recently when he was elected president of the World Medical Association for the year 2016. In February this year *The BMJ* reported that the World Medical Association was standing by its decision to appoint Desai president,<sup>2</sup> even though he had two corruption cases pending against him then. Subsequently, after a Reuters report,<sup>3</sup> the world association issued a statement saying that it would discuss the pending corruption cases against Desai with the Indian Medical Association.

This month the Kolkata based non-governmental organisation People for Better Treatment also filed a public interest litigation in Delhi High Court demanding that action be taken against Desai's election as president of World Medical Association, as it was based on false information from the Indian Medical Association that Desai had been exonerated of all charges.<sup>4</sup>

Kunal Saha, founder of People for Better Treatment, called the Lucknow court's decision to exonerate Desai "unexpected." He told *The BMJ*, "It is important to remember that even if Dr Desai is completely acquitted in this particular case in Lucknow, he still remains criminally indicted in the main 'trap' case for alleged bribery. In fact, at this very moment, Dr Desai is only free on bail waiting for his criminal trial to begin in this case pending at the court in Delhi. Therefore, any notion that Dr Desai has been cleared of all criminal charges or that he has been proved to be an innocent man is without any merit whatsoever."

- 1 High Court of Judicature at Allahabad, Lucknow Bench. Ketan Desai v State through Central Bureau of Investigation. [www.pbtindia.com/wp-content/uploads/2015/02/HC-Judgment-Ketan-Desai-case-in-Lucknow-Feb-16-2015.pdf](http://www.pbtindia.com/wp-content/uploads/2015/02/HC-Judgment-Ketan-Desai-case-in-Lucknow-Feb-16-2015.pdf).
- 2 Pulla P. Row rumbles on over suitability of top Indian doctor for WMA president. *BMJ* 2015;350:h438.
- 3 Stecklow S, MacAskill A, Kalra A. WMA to look into future president Ketan Desai after Reuters story. Reuters 31 Jul 2015. <http://in.reuters.com/article/2015/07/31/india-ketan-desai-corruption-wma-idINKCN0Q426620150731>.
- 4 People for Better Treatment. PBT files new PIL in Delhi High Court against Dr Ketan Desai and MCI corruption. 21 Sep 2015. [www.pbtindia.com/archives/2702](http://www.pbtindia.com/archives/2702).

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