

(2020) 07 SHI CK 0384
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 2112 Of 2020

Dr. Lucky Kumar

APPELLANT

Vs

Additional Chief Secretary (Health) And Others

RESPONDENT

Date of Decision : 03-07-2020

Acts Referred:

Citation : (2020) 07 SHI CK 0384

Hon'ble Judges : L. Narayana Swamy, CJ;Anoop Chitkara, J

Bench : Division Bench

Advocate : B.C. Negi, Nitin Thakur, Sudhanshu Jamwal, Ajay Vaidya

Final Decision : Disposed Of

Judgement

Anoop Chitkara, J

1. The petitioner, who is working as Senior Resident in IGMC, Shimla, after completing his MBBS and MD in medicine, has come up before this Court, seeking grant of NOC for pursuing Super Specialty Course (DM) Cardiology, conducted by the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh, for which last date is fixed for 3.7.2020 i.e. today, because his application for issuance of NOC and Sponsorship was not considered by the competent authority for the reason that he has not completed his four years including one year field service as per Clause 11.1.2 (a) of the Policy.

2. In response, Mr. Ajay Vaidya, learned Senior Additional Advocate General, submits that he does not want to file any written response/reply and states that he has received verbal instructions, which reveal that the respondents have rejected the petitioner's application for issuance of NOC and Sponsorship.

3. The Department of Health and Family Welfare of the Government of Himachal Pradesh had issued a notification dated 27.2.2019, which superseded all the previous announcements, and had laid down PG/Super Specialty Policy, after now called as 'Policy', for regulating the admissions to various Post Graduation and

Super Specialty courses in Medical Education applicable in the State of Himachal Pradesh.

4. Clause 11.1.2 of the Policy empowers the State to offer sponsorships to the candidates, who wish to pursue super specialty courses, as per the terms and conditions of policy.

5. Clause 6.1 of this Policy clarifies that every GDO, whom the Government may sponsor under Clause 11.1.2 to pursue Post Graduation, must have served the State of Himachal Pradesh for at least four years, including the mandatory first year of field posting.

6. It remains undisputed before us that the petitioner would be completing the required service tenure as per Clause 6.1 of the Policy on the date of commencement of such course, keeping in view the fact that he had served in the tribal area and would be entitled to exemption thereof.

7. In case this Court does not grant the interim relief to the petitioner, then the very purpose of filing the writ petition would be defeated, and the petitioner would suffer irreparable loss.

8. Without venturing into the factual matrix and without interpreting the Policy, we propose to dispose of this writ petition, by directing the respondents to issue a provisional NOC and Sponsorship Certificate for pursuing Super Specialty Course (DM) Cardiology at PGIMER (Chandigarh) to the petitioner today itself i.e. 3.7.2020.

9. Given above, without treating this case as a precedent in law in any future case we dispose of the present petition, by directing the concerned respondent to issue provisional NOC and Sponsorship Certificate for pursuing Super Specialty Course (DM) Cardiology at PGIMER (Chandigarh) in favour of the petitioner today itself i.e. 3.7.2020. We clarify that this NOC is only provisional and shall not confer any legal rights upon the petitioner.

10. The petitioner shall also have the liberty to take legal recourse for redressal of his grievances, if any. The pending miscellaneous application(s), if any, also stand disposed of.

The Court Master to supply authenticated copy of the order to the parties, if they ask for the same.