

(2020) 08 DEL CK 0118

In the Delhi High Court

Case No : Civil Writ Petition No. 4755 Of 2020

Dr. Machat Balakrishnan Menon

APPELLANT

Vs

Medical Council Committee & Ors

RESPONDENT

Date of Decision : 25-08-2020

Acts Referred:

Citation : (2020) 08 DEL CK 0118

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : John Mathew, Karthik SD, Kirtiman Singh, Rohan Anand, Waize Ali Noor, Srinivas, Sanjay Dewan, Nishima Arora, T. Singhdev, Ahijit Chakravarty, G. Prakash

Final Decision : Disposed Of

Judgement

,

Prathiba M. Singh, J",

CM APPL.17161/2020 (exemption from filing court fee and attested affidavits),

1. This is an application seeking exemption from filing court fee and duly attested affidavits. Binding the deponent of the affidavit to the contents of the, application, the exemption is granted. Insofar as the court fee is concerned, the same be deposited within one week. Application is disposed of.",

Registry to submit a report in case the court fees is not filed after a month.,

W.P.(C) 4755/2020 & CM APPLs.17160/2020 (for stay),

2. This hearing has been held through video conferencing.,

3. The Petitioner is a qualified doctor who finished his M.B.B.S. from Travancore Medical College, Kollam, which is affiliated to the Kerala",

University of Health Sciences. He has filed the present writ petition with a prayer

to preserve his admission at the Maulana Azad Medical College,
(hereinafter "MAMC") for MD (Pathology).,

4. The Petitioner belongs to the Economically Weaker Section (hereinafter, "EWS") and holds an EWS certificate from the State of Kerala. He",
appeared in the National Eligibility Entrance Test (NEET) examination, conducted
by the National Board of Examination (NBE), on 5th January, 2020.",

The results of the examination were published on 29th January, 2020 and the
Petitioner obtained rank No.35948.",

5. As per procedure, the Petitioner had to register himself for counselling for
various quotas. The counselling is conducted by the Medical Counseling",
Committee (hereinafter, "MCC"). For the said purpose, he registered himself
with the MCC. In the registration form, he applied for the All India",
Quota, Central Inst. Quota and the Delhi University Quota.",

6. The Petitioner was initially allotted a seat in MD (Community Health) at the
National Institute of Community Health, New Delhi in the first round of",
counselling. He, however, did not take up the same and awaited the second
round of counselling. In the second round of counselling, it is the",

Petitioner's case that he was not allotted any seat, however in the mop-up
round, he was allotted a seat for MD (Pathology) in MAMC. He",

received an e-mail on 25th July, 2020 asking him to report to MAMC along with
all the necessary documents. He thereafter, travelled and reported at",

MAMC on 26th July, 2020 and took admission. However, sometime in the
evening, after the admission process was completed, he was informed by",

the college staff that he had been wrongfully allotted a seat under the Delhi
University Quota and thus, his admission could not be confirmed. He",

thereafter, visited the office of the Registrar, MAMC but did not get any clarity
from him. The Petitioner even met Dr. B. Srinivas, ADGME",

Directorate General of Health Services, Ministry of Health and Family Welfare in
New Delhi and wrote an e-mail on 27th July, 2020 to MCC",

however, there was no clarity. Accordingly, he preferred the present petition.",

7. On 30th July, 2020 Id. counsels for Respondent Nos.1 and 4 were present on
advance notice. On the said date, after taking a prima facie view, this",

Court had directed that the seat allotted to the Petitioner would not be filled in
further counselling sessions till the next date of hearing. Thereafter, the",

matter has been heard on 19th August, 2020 and today. Replies have been filed

by Respondent No.1 and the Petitioner has filed additional documents.",

Respondent No.3 i.e. the University of Delhi (hereinafter, 'DU') has also filed its counter-affidavit. These documents are taken on record.",

8. Mr. John Mathew, Id. counsel appearing for the Petitioner submits that the Petitioner never intended to apply under the Delhi University Quota",

without being eligible. He submits that in the initial registration itself, when he registered with DU, he fairly disclosed the college from where he",

completed his M.B.B.S. It is his submission that the MCC and the MAMC are aware of the college from where he passed his M.B.B.S. Thus, there",

is no intention to mislead. He submits that the Petitioner was also allotted a seat in State Quota in the mop-up round. However, because he had been",

allotted a seat in MAMC, he opted not to take admission in the MD Psychiatry (PS) programme at Dr. Somervell Memorial CSI Medical College,",

Karakonam, Thiruvananthapuram (hereinafter, 'SMC') under the private self-financing category. The last date for him to accept admission in the",

said college was 28th July, 2020. Since he had already been allotted MAMC by then, he had travelled to Delhi and the seat at SMC was forgone by",

him.,

9. Id. counsel submits that the authorities owe a duty to the candidates to verify the information so that confusion is not created in the minds of,

candidates who are applying for counselling. He submits that MCC also knew that the Petitioner had studied from Travancore Medical College,",

Kollam, Kerala. Thus, even if the candidate makes a mistake, the authorities ought to have some re-verification procedure, failing which, the",

candidates would be deprived of such valuable seats. Id. counsel submits that the Petitioner has obtained a seat in MAMC in a bona fide manner and,",

in any event, a student from DU with a lesser rank would be able to take his seat. Accordingly, he submits that in view of the fact that counselling is",

completed, the Petitioner may not be deprived of his seat in MAMC.",

10. Id. counsel for the Petitioner has also relied upon the judgment in Duddugunta Vishnu Priya v. Directorate General of Health Services & Anr, [W.P. (C) 3636/2020, decided on 3rd July, 2020] to argue that the Petitioner should not be made to suffer due to a bona fide human error.",

11. On behalf of Respondent No.1 - Mr. Kirtiman Singh, Id. CGSC, duly instructed by Prof. Mr. Srinivas from the MCC, has placed on record the",

various forms which were filled by the candidates. Ld. counsel has also taken the Court through the various stages for filling of the counselling form.,

He submits that the candidates are well aware that only those candidates who complete their M.B.B.S. from DU are eligible for the Delhi University,

Quota. Thus, he submits that the Petitioner was conscious of the fact that his allotment itself was a mistake in view of the mistaken quota in which he",

had applied. It is further submitted that upon seeing the documents of the Petitioner, when MAMC realised that the Petitioner had completed his",

M.B.B.S. from Kerala, he was immediately informed that his admission cannot be confirmed.",

12. On the last date, considering this predicament of the Petitioner, notice was issued to the State of Kerala. Mr. G. Prakash, Id. standing counsel has",

appeared for the State of Kerala and submits that the Petitioner did not make it in the first few rounds of counseling in Kerala and was only allotted a,

seat in the mop-up round. However, since the Petitioner has given up his seat, the said seat may have reverted to the Medical College itself. Ld.",

counsel however submits that if there are any seats available, the State of Kerala would endeavour to allot a seat to the Petitioner under the private",

self-financing category.,

13. Heard Id. Counsel for the parties. A perusal of the various documents filed on record shows that the Petitioner had registered in the counselling,

form for the All India Quota/Delhi University Quota/Central Inst. Quota. This was a clear mistake. There was no doubt about the fact that the,

Petitioner ought to have been conscious of the fact that he would not have been eligible under the Delhi University Quota.,

AMU,"An Institutional (Internal) candidate is one who has passed the qualifying examination

conducted by THIS University as a regular student not earlier than THREE (03) academi

years from the date of admission to the Course he/she is seeking admission to. And all other

candidates shall be treated as External.

BHU,"For Admission to M.D/M.S./M.D.S/ PG Diploma course 2020 in the faculty of medicine,

candidates who complete their internship between April 01, 2017 and March 31,

2020 (both

dates inclusive) shall be considered ,Internal Candidates. Further, it is pointed out that for

Stray Vacancy Round, only Institutional (Internal) candidates are eligible to participate.

Only those Candidates who have passed MBBS from Institute of Medical Sciences, BHU in

December-2018 (Supplementary Batch by 31.3.2019) and have completed compulsory

rotatory internship before 31.3.2020 will be considered for admission to M.D./ M.S. Course

2020 in IMS, BHU under internal(Institutional) quota pool, provided the candidate has

appeared and qualified in NEET -PG 2020 examination.

Candidates who are already pursuing M.D./M.S. course in IMS, BHU through intern

(Institutional) quota OR passed MBBS from institute of Medical Sciences, BHU in earlier

academic years (i.e. before December 2018) are not eligible for admission to PG Course-20

20 under BHU internal (Institutional) quota.

DU,"a) For Delhi University Quota : The candidate must have passed final M.B.B.Se xamination

(for MD/MS/ Diploma Course) and BDS examination (for MDS Course) from the University of Delhi and must have completed satisfactorily one-year compulsory rotating

internship as on 31.03.2020 and must have submit their internship completion certificate at

the time of admission.

Central Institutes

Affiliated to IP

University

(ABVIMS,

VMMC, ES IC)", "The eligibility for Central Institutes will be as per admission

brochure 2020 -21 of Guru

Gobind Singh Indraprastha University. For more information please refer to their website

www.ipu.ac.in .

(i) At the time of registration for counselling there shall be a specific field which candidates would be required to fill up with details of the college and,

the University from where they have completed their M.B.B.S. course.,

(ii) Upon the said field being incorporated, the system should be designed in such a manner that only those quotas for which the candidates are eligible",

would be made available to the candidates. For example, if the candidate has completed the M.B.B.S. course from Kerala and the name of the",

college is filed up along with the name of the University, the Delhi University quota should not be made available to such a candidate. This would",

ensure that the complexity created due to the presence of various quotas in counselling is eliminated. This would also ensure that candidates are not,

put through gruelling circumstances in the course of the counselling, which takes place over a period of three to four months every year.",

(iii) After registration, prior to allotment of seats, the data submitted by candidates shall be cross-verified with the data available with MCC so that",

wrong allotments are not made.,

21. Mr. G. Prakash, Id. counsel shall communicate this order today itself so that the Petitioner can be allotted any vacant seat within the State of",

Kerala under the State Quota.,

22. With these observations, the present petition and all pending applications are disposed of. This order is passed in the peculiar facts of this case and",

shall not be treated as a precedent.,