

(2025) 02 DEL CK 1064

In the Delhi High Court

Case No : Writ Petition (C) No. 1367 Of 2025, Civil Miscellaneous Petition No. 6669, 6670 Of 2025

Dr Pradeep Mishra

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 03-02-2025

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2025) 02 DEL CK 1064

Hon'ble Judges : Amit Mahajan, J

Bench : Single Bench

Advocate : Setu Niket, Esha Mazumdar, Piyush Gupta, Saumya Kapoor, Atishay Jain, Prateek Gupta

Final Decision : Dismissed

Judgement

Amit Mahajan, J

1. The petitioner seeks direction in the nature of mandamus to Respondent No.2/ Border Security Force, Delhi to issue Sponsorship Certificate for admission to DNB- Dermatology, Venerology and Leprosy ('DNB') at Base Hospital, Delhi Cantt./ Respondent No. 4 and to grant study leave for pursuing the said course.

2. The petitioner was working as a Medical Officer with Border Security Force/ Respondent No.2 in a General Duty Medical Officer ('GDMO') cadre. Pursuant to an advertisement issued in the year 2024, to participate in the National Eligibility cum Entrance Test-PG, 2024 ('NEET-PG 2024') examination, to be held by the National Board of Examination in Medical Sciences, the petitioner applied as per the prescribed rules and preferred an application to Respondent No.2/ Border Security Force for issuance of Sponsorship Certificate.

3. By letter dated 14.06.2024, Respondent No.2/ Border Security Force granted permission to fifteen officers including the petitioner herein, to appear in the NEET-PG 2024.

Consequent to qualifying in the NEET-PG 2024 examination, the officer was required to obtain permission to undergo PG course in one of the seven streams that were mentioned in the said letter, the said streams being reproduced as under:-

S.No.

Name of streams/specialty

1

Medicine

2

Surgery

3

Obs & Gynae

4

Radiology

5

Anaesthesiology

6

Ophthalmology

7

Psychiatry

4. The petitioner, thereafter, participated in NEET-PG, 2024 examination and became eligible to participate in the Armed Forces Medical Services ('AFMS') PG counselling. The petitioner opted for the seven courses as stated in the letter dated 14.06.2024 and in addition, also applied for other PG courses including MD- Dermatology, Venerology and Leprosy and Diplomate in Dermatology (DNB).

5. Petitioner's case fell in Priority III of the AFMS PG Counselling, that is, Medical Officers sponsored by Para Military Organization and other Government of India organizations, and therefore participated in Round 3 of counselling by Respondent No. 5/ Medical Counselling Committee ('MCC').

6. The notice dated 17.12.2024 issued by Respondent No.5/ MCC, in regard to PG admissions 2024, stated that for consideration as Priority-III candidate, 'Sponsorship Certificate' was required to be sent to the office of Respondent No.5/ MCC, through the parent organisation.

7. The petitioner was allotted DNB at Base Hospital, Delhi Cantt./ Respondent

No. 4 and he was directed to join by 03.02.2025, vide allotment letter dated 25.01.2025. The course being allotted to the petitioner was not approved as one of the seven streams mentioned in the letter dated 14.06.2024.

8. This led the petitioner to give a representation dated 26.01.2025 to the Competent Authority/ Respondent No. 2, seeking issuance of Sponsorship Certificate in order to enable him to pursue DNB.

9. When no response was received, the petitioner filed the present petition.

10. The petitioner is claiming a Sponsorship Certificate and being sponsored by Respondent No. 2/ Border Security Force.

11. The case of the petitioner is essentially based on the policy guideline dated 29.02.2012 issued pursuant to request received from CAPFs in connection with PG studies and grant of study leave to the doctors serving in CAPFs, NSG and ARs.

12. It is the case of the petitioner that the said policy guideline provides that the disciplines mentioned in Annexure-I of the said guideline shall be generally considered for according permission for PG/Super Speciality studies.

13. It is the case of the petitioner that the said Annexure-I clearly mentions MD-Dermatology, Venerology and Leprosy and Diplomate in Dermatology as a discipline for which permission shall be granted and, therefore, the letter dated 14.06.2024, granting permission to the Medical Officers including petitioner to undergo PG course only in one of the seven streams as mentioned in the said letter is contrary to the policy guideline dated 29.02.2012.

14. The argument raised by the petitioner is without any merits for more than one reason. Firstly, the said letter which categorically mentioned that the Medical Officers are permitted to undergo PG course in one of the seven streams as mentioned in the said letter so as to make them eligible for grant of study leave was issued way back on 14.06.2024 and the petitioner, pursuant to the said NOC/permission, participated in the NEET-PG 2024 examination which was conducted on 11.08.2024. The petitioner at that stage was not aggrieved with the limited courses offered and that the stream of Dermatology, Venerology and Leprosy was not included. The petitioner admittedly opted for the seven courses as per Annexure-I, but in addition, applied for other PG courses as well, which are DNB- Dermatology, Venerology and Leprosy.

15. The petitioner, thus, was always aware that the Union of India (BSF) has not granted any NOC/permission to appear in any other PG course except those mentioned in the said letter dated 14.06.2024, so as to make the officer eligible for sponsorship and grant of study leave as per the MHA policy.

16. Secondly, the policy guidelines dated 29.01.2012 categorically states that the authorities shall recommend the officers for pursuing higher studies and the disciplines mentioned in Annexure-I shall be 'generally' considered, meaning

thereby that the concerned authorities depending upon the need can either issue NOC/ permission for pursuing all of the streams mentioned in the said letter which runs into fifteen or can restrict the same to some other numbers as is done in the present case to seven streams. The same is a policy decision and cannot be interfered by the Court exercising jurisdiction under Articles 226 of the Constitution of India.

17. The Hon'ble Apex Court in *Jacob Puliyel v. Union of India*: 2022 SCC OnLine SC 533 made certain observations regarding interference by Courts in policy matters. The relevant portion of the judgement is reproduced as under:

"22. This Court in a series of decisions has reiterated that courts should not rush in where even scientists and medical experts are careful to tread. The rule of prudence is that courts will be reluctant to interfere with policy decisions taken by the Government, in matters of public health, after collecting and analysing inputs from surveys and research. Nor will courts attempt to substitute their own views as to what is wise, safe, prudent or proper, in relation to technical issues relating to public health in preference to those formulated by persons said to possess technical expertise and rich experience. Where expertise of a complex nature is expected of the State in framing rules, the exercise of that power not demonstrated as arbitrary must be presumed to be valid as a reasonable restriction on the fundamental right of the citizen and judicial review must halt at the frontiers. The Court cannot re-weigh and substitute its notion of expedient solution. Within the wide judge-proof areas of policy and judgment open to the government, if they make mistakes, correction is not in court but elsewhere. That is the comity of constitutional jurisdictions in our jurisprudence. We cannot evolve a judicial policy on medical issues. All judicial thought, Indian and Anglo-American, on the judicial review power where rules under challenge relate to a specialised field and involve sensitive facets of public welfare, has warned courts of easy assumption of unreasonableness of subordinate legislation on the strength of half-baked studies of judicial generalists aided by the adhoc learning of counsel. However, the Court certainly is the constitutional invigilator and must act to defend the citizen in the assertion of his fundamental rights against executive tyranny draped in disciplinary power.²⁰

23. There is no doubt that this Court has held in more than one judgment that where the decision of the authority is in regard to a policy matter, this Court will not ordinarily interfere since decisions on policy matters are taken based on expert knowledge of the persons concerned and courts are normally not equipped to question the correctness of a policy decision. However, this does not mean that courts have to abdicate their right to scrutinise whether the policy in question is formulated keeping in mind all the relevant facts and the said policy can be held to be beyond the pale of discrimination or unreasonableness, bearing in mind the material on record. In *Delhi Development Authority (supra)*, this Court held that an executive order termed as a policy decision is not beyond the pale of judicial review. Whereas the superior courts may not interfere with the

nitty-gritty of the policy, or substitute one by the other but it will not be correct to contend that the court shall lay its judicial hands off, when a plea is raised that the impugned decision is a policy decision. Interference therewith on the part of the superior court would not be without jurisdiction as it is subject to judicial review....”

(emphasis supplied)

18. The learned counsel for the petitioner submits that the higher qualification in the stream of DMB- Dermatology, Venerology and Leprosy has erroneously not been considered.

19. He submits that the forces are deployed on the border areas where they require constant medical help in regard to the skin diseases for which the higher studies in Dermatology would be of great help.

20. In the opinion of this Court, the argument does not hold any merit.

21. Government of India issues sponsorship certificates for permitting participation in the qualifying examination for pursuing higher studies in regard to the doctors considering the future plans for development of the hospitals and the desired growth of medical cadre. All the medical streams were being mentioned in the policy guidelines. For the said purpose, study leaves are also granted to the officers. However, that does not necessarily imply that all the medical disciplines have to be compulsorily considered every year. It is a policy decision of the Government reckoning upon the circumstances that may exist in a particular year to either allow all the streams or some of them for the Medical Officer being considered for study leaves and sponsorship. The same cannot be forced upon the authorities by issuing a writ of mandamus.

22. As noted above, the petitioner, since the issuance of the letter dated 14.06.2024 was aware of the decision of the Government that only the seven streams mentioned therein are eligible for the officer being considered for study leave and

sponsorship. He also applied in the said streams and now cannot

be allowed to challenge the same. It is also relevant to note that the said policy to permit only seven streams being considered for eligibility to grant study leave and sponsorship applies not only to the petitioner but to all the similarly placed medical officers. Allowing the prayer of the petitioner at this stage would be discriminatory to other officers.

23. Considering the above, this Court does not find any merit in the present petition.

24. The petition is, therefore, dismissed.

25. Pending application(s) also stand disposed of.