

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4039 OF 2020
(@ SLP (CIVIL) NO. 12809/2020)

DR. AKSHEE BATRA

APPELLANT (S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

Leave granted.

The Appellant appeared in the National Eligibility cum Entrance Test ('NEET') conducted by National Board of Examinations for admission in Post Graduate medical courses. She participated in counselling and was allotted MD (Psychiatry) at Kasturba Medical College, Manipal University, Manipal. Complaining of certain irregularities in the counselling process, the Appellant filed Writ Petition (Civil) No.5527 of 2020 in the Delhi High Court. She was interested in admission to MD (Psychiatry) at the Institute of Human Behavior and Allied Sciences (IHBAS).

By a judgment dated 28.08.2020, the learned Single Judge of the High Court directed Respondent No.4-University of Delhi to conduct a fresh round of counselling for the seat of MD (Psychiatry)

in IHBAS on 31.08.2020 after advertising the same on its website. The High Court also directed the 4th Respondent to permit the 6th Respondent to choose any one of the seats which were available and vacant after conclusion of the Stray Round Counselling. On 28.08.2020, a notice for admission by way of Special Counselling was issued by the University of Delhi, Faculty of Medical Sciences for seats in MD/MS (One seat in Psychiatry in IHBAS and other seat in Pathology in MAMC). The Appellant was unsuccessful in securing admission to MD (Psychiatry) in IHBAS. Pursuant to the direction issued by the learned Single Judge of the Delhi High Court on 28.08.2020, the 6th Respondent was offered a seat in MD (Gynaecology) at University College of Medical Sciences, Delhi.

The Appellant filed a Civil Miscellaneous Application for modification of the judgment dated 28.08.2020 on the ground that the 6th Respondent is lower in rank and the seat in MD (Gynaecology) should have been offered to her. On 11.09.2020, the learned Single Judge of the Delhi High Court declined the relief sought by the Appellant. The Appeal filed by the Appellant was dismissed by the impugned judgment of the High Court. Having been aggrieved, the Appellant has filed this Appeal.

The contention on behalf of the Appellant is that any admission made to Post Graduate medical courses should be strictly on merits and that the Appellant should have been offered admission to the seat in MD (Gynaecology) which was given to 6th Respondent who is admittedly lower in merit.

Learned counsel appearing on behalf of the Respondent submitted that the Appellant was insisting only on being admitted to MD (Psychiatry) at IHBAS and was not interested in getting admission to other courses. Moreover, the admission process was completed and unfilled seats lapsed. Admission was given to the 6th Respondent only to implement the direction issued by the learned Single Judge.

We are unable to accept the submission of the Respondent that the Appellant was not entitled to be considered for admission to courses other than MD (Psychiatry).

Admission to medical courses is strictly on the basis of merit. There cannot be a direction for admission to a candidate by ignoring the other more meritorious candidates. The learned Single Judge ought not to have directed admission in an available seat to the 6th Respondent. As and when a direction is given for considering a person for admission to a medical course, the court has to be careful

in ensuring that other persons more meritorious should also be considered. The National Medical Commission and the Delhi University should have filed an Appeal against the direction of the learned Single Judge to grant admission to the 6th Respondent ignoring the claims of other candidates.

In the facts and circumstances of this case, we are not inclined to disturb the admission which was granted to the 6th respondent in MD (Gynaecology) on the basis of the direction given by the learned Single Judge of the High Court at this stage. The only direction that could have been given to the Delhi University is to conduct fresh counseling for the lapsed seats which we cannot as the last date of admissions expired on 31.08.2020.

For the aforementioned reasons, the Appeal is dismissed. Pending application(s), if any, shall stand disposed of.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

.....J.
(AJAY RASTOGI)

NEW DELHI,
DATED: DECEMBER 14, 2020.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is dismissed in terms of the Signed Order.

Pending application(s), if any, shall stand disposed of.

(Geeta Ahuja)
Court Master

(Beena Jolly)
Court Master

(Signed Order is placed on the file)