

ITEM NO.53

COURT NO.2

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.99/2017

RAI SABYASACHI

Petitioner(s)

VERSUS

UNION OF INDIA MINISTRY OF HEALTH AND
FAMILY WELFARE THROUGH SECRETARY

Respondent(s)

WITH W.P. (C) No.194/2017 (X)

W.P. (C) No.199/2017 (X)

Date : 10-07-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE MR. JUSTICE MOHAN M. SHANTANAGOUDAR

For Petitioner(s) Mr. Amarendra Sharan, Sr. Adv.
Mr. Vaibhav Srivastava, Adv.
Mr. Aditya Bakshi, Adv.
Mr. Harsh Parashar, AOR

Mr. Harshad V. Hameed, AOR
Mr. Dileep Poolakkot, Adv.
Mrs. Ashly Harshad, Adv.

For Respondent(s) Mr. Ranjit Kumar, SG
Mr. Kiran Bhardwaj, Adv.
Mr. R. Bala, Adv.
Mr. Amit Sharma, Adv.
Mr. Akshay Amritanshu, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Tara Chandra Sharma, AOR
Mr. Neelam Sharma, Adv.
Mr. Rajeev Sharma, Adv.
Ms. Pankhuri Shrivastava, Adv.

Mr. Gaurav Sharma, AOR
Ms. Amandeep Kaur, Adv.

Mr. Prateek Bhatia, Adv.
Mr. Dhawal Mohan, Adv.
Ms. Vara Gaur, Adv.
Ms. Vriti Jindal, Adv.

Mr. Ashok Kumar Panigrahi, Adv.
Mr. Rajvardhan Singh, Adv.
Mr. Sanjeev Kumar, Adv.

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

This Court on 31st March, 2017, had passed the following order:-

"Heard learned counsel appearing for the petitioners/intervenors, Mr. Vikas Singh, learned senior counsel along with Mr. Gaurav Sharma, learned counsel appearing for the Medical Council of India and Mr. Tara Chandra Sharma, learned counsel appearing for the Central Board of Secondary Education (CBSE).

In the present writ petitions, the basic prayer is for quashing of admission notice dated 31.1.2017 that stipulates the maximum age of 25 years as eligible candidates to undergo the NEET examination. The said notice has been issued by the CBSE on the instructions issued by the Medical Council of India and approved by the Central Government.

This Court on 27.2.2017 has directed as follows :-

"Let the matter be listed on 20.3.2017 to enable Mr. Vikas Singh, learned senior counsel appearing for the Medical Council of India to satisfy the Court that in the absence of a Regulation, the age can be fixed.

"In case the petitioners succeed, the time for filling up the forms shall be extended. We have passed this order keeping in view that the petitioners had approached this Court well before the expiry of the time. Needless to say, a person who has not approached either the High Court or

this Court prior to expiry of the date cannot get the benefit of the order of this Court.

"Mr. Ranjit Kumar, learned Solicitor General, being assisted by Mr. R. Balasubramanian, learned counsel is permitted to file the reply to the writ petition within three days.

Call on the date fixed."

When the matter was listed on 20.3.2017, this Court passed the following order :-

"Let the matter be listed for final hearing on 31.03.2017.

In the meantime, the writ petitioners and the intervenors in this Court shall be permitted to fill up the forms. The Central Board of Secondary Education, Respondent No.4, shall accept the forms of the writ petitioners and the intervenors in this Court. Needless to say, filling up forms would not confer any equity in favour of the writ petitioners and the intervenors. In case, we strike down the Administrative instructions, this Court may think of passing a mandatory order in respect of the candidates who would be eligible and desirous of undertaking the examination

Learned counsel for the respondent No.4 is permitted to file the reply within a week hence.

Call on the date fixed."

It is submitted by Mr. Amarendra Sharan and Ms. Indu Malhotra, learned senior counsel appearing for the petitioners/intervenors that in the absence of Regulations framed by the Medical Council of India with regard to the age limit, by issuance of a notice, the age limit could not have been determined. It is urged by them that there are students who, after graduation, are also desirous of taking NEET

examination to become doctors.

Mr. Vikas Singh, learned senior counsel appearing for the Medical Council of India would submit that it is a matter for debate and this Court has already permitted the writ petitioners and intervenors and, if further candidates are allowed, there may be difficulty.

Mr. Tara Chandra Sharma, learned counsel appearing for the CBSE urged that the last date for acceptance of forms was 1.3.2017 and the examination is going to be held on 7.5.2017.

As we, prima facie, find, such an age limit could not have been determined by way of a notice on the basis of the instructions issued by the Medical Council of India, it is appropriate to direct that all the desirous candidates will be allowed to fill up the forms on the online portal of the CBSE on or before 5.4.2017. Any form submitted beyond 5.4.2017 shall not be accepted. The CBSE would be facing some difficulty. In view of the said submission, it is directed that if the competent authority of the CBSE seeks any logistic support from the agencies for having additional centres in the District, the Collector of the concerned District or the Commissioner of the City whoever is the authority will extend all the support so that the forms are accepted and the examinations are held on the date fixed by making different centres available.

Be it noted, if any High Court has passed any order contrary to the present order, the CBSE shall be bound by the order passed by this Court as far as the cut-off date is concerned.

No High Court in the country shall interfere with regard to any litigation pertaining to choosing/allocation of centres.

We have heard Mr. Sanyam Bhardwaj, the Joint Secretary of the CBSE. Whatever help/assistance is required by the concerned Joint Secretary, all the concerned persons shall extend the same without any demur. The online portal shall be opened from today evening. We appreciate the suggestion given by Mr. Sanyam Bhardwaj in this regard.

Let the matter be listed in the second week of July, 2017 for final hearing."

In view of the aforesaid, the students have taken the examination and the results have been published. It is submitted by Mr. Ranjit Kumar, learned Solicitor General that the results that have been published shall not be questioned by the respondent on the ground of age. He would further submit that the respondents are contemplating to frame a set of regulations. In that regard, we do not intend to express any opinion. Needless to say, as far as the present year is concerned, nothing survives to be adjudicated in these writ petitions and they are, accordingly, disposed of. There shall be no order as to costs.

The interlocutory applications, if any, stand disposed of.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Court Master