



HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR



S.B. Civil Writ Petition No. 18938/2024

Mohammad Anwar S/o Iliyas Khan, Aged About 28 Years, R/o
Nearby Madrasa, VPO - Ghasoli, Kishangarhbas, Dist. - Alwar,
(Raj)

-----Petitioner

Versus

1. The Chairman, Rajasthan Neet Ayush UG/PG Counselling Board, Ayush Bhawan, Sector-26, Pratap Nagar, Jaipur (Raj.)
2. State Of Rajasthan, Through Its Principle Secretary, Department Of Ayush, Secretariat, Jaipur (Raj.)
3. Rajasthan Unani Medical College, Jaipur Through Its Chairman, Paldi Meena, Dravid Nagar, Agra Road, Jaipur (Raj.)
4. National Commission For Indian System Of Medicine, Through Its Secretory, Plot No. T-19, Ist And 2nd Floor, Block-IV, Dhanwantari Bhawan, Road No. 66, Punjabi Bagh (West), New Delhi.

-----Respondents

For Petitioner(s)	: Mr. Atul Sharma
For Respondent(s)	: Mr. Sandeep Bhandawat, through VC Ms. Sonia Shadilya with Mr. Akshat Sharma

HON'BLE MR. JUSTICE SAMEER JAIN
Judgment

REPORTABLE

Reserved on 30/04/2025

Pronounced on 20/05/2025

1. The crux of the matter in hand is that the petitioner has instituted the present writ petition under Article 226 of the Constitution of India, being aggrieved by the arbitrary and unjust action of the respondents, whereby, despite the allotment of a provisional seat at Rajasthan Unani Medical College, Jaipur, and



the timely deposition of the requisite fee, the candidature of the petitioner is summarily rejected during the counseling process.

2. The petitioner, having duly participated in the centralized counseling process for admission to the Bachelor of Unani Medicine and Surgery course for the academic session 2024-2025, was provisionally allotted a seat at the aforementioned institution. Pursuant to the said allotment, the petitioner complied with all stipulated requirements, including the payment of the prescribed fee (Rs. 25,000/-) within the designated time-frame. However, in a manner devoid of transparency and contrary to the principles of natural justice, the respondents have invalidated the petitioner's candidature without affording any prior notice or opportunity to be heard. Thence, the present petition is filed, with the following prayers:

"(a) The respondents shall be ordered to give admission to the petitioner in the college of respondent No. 3 as per provisional allotment letter (Annexure-4).

(b) Any other appropriate writ, order(s) or direction(s) which the Hon'ble Court deems just and proper in the facts and circumstances of the case may also be passed in favour of the petitioner including the cost of the writ petition."

SUBMISSIONS BY THE LEARNED COUNSEL FOR THE PETITIONER

3. At the outset, learned counsel for the petitioner had contended that the gravamen of the petitioner's grievance stems from the wrongful and unjustifiable cancellation of his candidature for admission to the Bachelor of Unani Medicine and Surgery course at Rajasthan Unani Medical College, Jaipur and in this



regard learned counsel had drawn the attention of the Court upon the sequence of events, as detailed hereunder which demonstrates the manifest illegality in the respondents' actions:

3.1 The Petitioner duly completed his Senior Secondary education in the year 2014.

3.2 To satisfy the eligibility criterion of possessing Biology as a subject, a prerequisite for the NEET UG-2024 examination, the petitioner got himself enrolled with the Rajasthan State Open School to undertake Biology as an additional subject. The petitioner successfully cleared the said examination, with the result being declared on 10.09.2024.

3.3 Simultaneously, the NEET UG-2024 examination was conducted on 05.05.2024, and the first round of counseling was held from 03.09.2024 to 14.09.2024.

3.4 The Petitioner, in pursuit of his academic aspirations, applied online for the NEET-UG Ayush counseling-2024 on 02.10.2024. In furtherance of this application, the petitioner also deposited a sum of Rs. 25,000/- as a prerequisite for choice locking, indicating his preference for a seat in a medical college.

4. In this backdrop, learned counsel representing the petitioner had contended that pursuant to the aforementioned application and deposit, the petitioner was provisionally allotted a seat at Rajasthan Unani Medical College, Jaipur. This provisional allotment was explicitly made subject to the submission of original documents at the office of the Counseling Board on 11.11.2024 and 12.11.2024. However, the Rajasthan State Open School for reasons beyond the control of the petitioner, failed to issue the



original mark sheet within the stipulated time-frame. Hence, the Petitioner was only in possession of a web copy of the result.

5. Despite this constraint, the petitioner, demonstrating his bona fides and commitment to fulfilling the requirements, submitted an undertaking/affidavit during the counseling process. In this undertaking, the petitioner unequivocally affirmed that the original mark sheet would be furnished within fifteen days of its receipt from the Rajasthan State Open School. However, notwithstanding the provisional allotment, the petitioner's compliance with the conditions precedent to admission, and the submission of the aforementioned undertaking, the respondents proceeded to summarily cancel the petitioner's admission. Moreover, this cancellation was effected without affording the petitioner any opportunity to submit the original mark sheet, once it became available.

6. It was further contended that such actions on the part of the respondents are not only violative of the petitioner's fundamental rights enshrined under Article 14 (Right to Equality) and Article 21 (Right to Life and Personal Liberty) of the Constitution of India but also undermine the sanctity of the counseling process and the legitimate expectations of candidates who have adhered to the procedural mandates in good faith.

7. Further, it was argued that the petitioner reiterates that he has fulfilled all substantive criteria for admission to the BUMS course and the delay in issuance of the original mark sheet, a purely technical requirement, which was attributable solely to administrative delays on the part of the Rajasthan State Open



School, which, as reported, had adopted online answer sheet evaluation to expedite the assessment process. The Petitioner asserts that he acted with utmost good faith, keeping the counseling authorities duly informed of the situation and providing a solemn undertaking to furnish the original mark sheet within a reasonable period. Therefore, the respondents' failure to accord due consideration to this undertaking, and their subsequent precipitous action in canceling the petitioner's admission, is wholly unjust, inequitable, and unsustainable in law.

8. It was also apprised to the Court that an interim protection (granted vide order dated 11.12.2024) is already operative in favor of the petitioner, whereby it was directed that one seat shall be kept vacant qua the petitioner.

SUBMISSIONS BY THE LEARNED COUNSEL FOR THE RESPONDENTS

9. *Per contra*, the learned counsel appearing on behalf of the respondents had advanced the following submissions, seeking to justify the impugned action and thereby warrant the dismissal of the present petition:

9.1 That the petitioner is ineligible for admission to the Bachelor of Unani Medicine and Surgery course.

9.2 The respondents assert that the petitioner's result was declared under the open category after the conclusion of the first round of counseling.

10. Unfolding the arguments further the learned counsel submitted that the issue of eligibility concerning candidates with results declared in the open category is currently *sub judice* in



other legal proceedings, which may have a bearing on the matter in hand. Further, learned counsel appearing for the respondents had placed reliance on Clause 23 and Clause 31 of the guidelines issued by the National Council for Indian System of Medicine (NCISM) for the academic session 2024-2025.

11. It was submitted that aforementioned clauses explicitly mandate the submission of original mark sheets as a prerequisite for admission. Therefore, the respondents had maintained that the cancellation of the petitioner's admission was a lawful and justified action, necessitated by the Petitioner's failure to provide the original mark sheet within the stipulated time-frame.

12. Lastly, it was contended that the present petition has become infructuous, as of the date of these submissions, no vacant seat is available in the Bachelor of Unani Medicine and Surgery course at Rajasthan Unani Medical College, Jaipur. Additionally, it was asserted that the academic session has already commenced, and therefore, no relief can be granted to the petitioner at this stage.

13. In light of the aforementioned submissions, the learned counsel for the Respondents submits that the petition lacks merit and ought to be dismissed in its entirety.

DISCUSSION AND FINDINGS

14. Having heard the rival arguments advanced by the learned counsel for all the parties, undertaking a scrupulous examination of the record pertaining to the case, and juxtaposing the contentions noted herein above, this Court is of a view that prior to a substantive adjudication of the matter on its merits, it is



appropriate to delineate and formally note down certain facts that remain undisputed between the parties, thereby providing a clear foundation upon which the subsequent legal analysis shall be constructed:

14.1 The petitioner is a young man, 28 years of age, who completed his Senior Secondary education with a focus on the science in the year 2014.

14.2 It is evident that the petitioner harbors a genuine desire to pursue a course of study in Unani Medicine and Surgery. To further this academic pursuit, the petitioner successfully qualified in the Biology subject through the Rajasthan State Open School in the academic year 2023/2024, the results of which were formally declared on 10.09.2024, as evidenced by Annexure-1 on the record.

14.3 The Petitioner, having established his eligibility, duly appeared for the National Eligibility cum Entrance Test (Undergraduate) 2024 (NEET UG-2024) on 05.05.2024, and it is recorded that he has qualified in the said examination.

15. Proceeding with the interpretation of the Information Bulletin issued and circulated qua the NEET-UG examination, 2024, it is noted from the record that the petitioner submitted an additional affidavit detailing the commencement of the first round of counseling, which transpired between 03.09.2024 and 14.09.2024. In this context, paragraph 5.4 of the Information Bulletin (Annexure-2) assumes significance. This Court finds that the said clause supports the petitioner's eligibility to appear in the test, stipulating only the requirement of having passed/qualified



the examination with the requisite passing percentage before the first round of counseling.

16. A meticulous reading of paragraph 5.4 indicates that codes 01-07 are mutually exclusive, as denoted by the use of the word 'OR.' The counseling bulletin contemplates provisional allotment "subject to submission of originals on the notified dates." It does not categorically stipulate that non submission *ipso facto* neither entails irrevocable cancellation; nor does it preclude the counseling Board from granting a short indulgence on a showing of sufficient cause. Courts while applying the Doctrine of Substantial Compliance have repeatedly held that where a procedural requirement is directory and the candidate has otherwise met the substantive thresholds, strict insistence on a technical formality, particularly one frustrated by the authorities themselves, undermines the very object of the admission scheme. The substantive requirement for a candidate's candidature was possession of documentary evidence of having passed the qualifying examination with the requisite subjects and percentage, with Biology being a principal subject. The Petitioner having fulfilled this condition was, therefore, eligible.

17. Substantive conditions are those which establish the fundamental eligibility of a candidate, while provisional conditions pertain to procedural or ancillary requirements. In the present case, the substantive conditions for the NEET UG-2024 examination were two-fold:

- (i) qualification in the Senior Secondary examination,
- (ii) attainment of merit in the NEET UG-2024 examination.



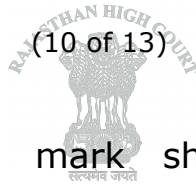
18. The furnishing of original mark sheets, as per Clauses 23 and 31 of the National Council for Indian System of Medicine (NCISM) directives, constitutes a provisional condition. Clauses 23 and 31 of the NCISM directives, which are profoundly relied upon by the respondents, are reproduced hereunder for clarity:

"23. NCISM/NCH shall not approve admissions made without the original documents of the candidates.

31. State/UT Counseling Authorities may direct ASI&H colleges/institutes to ensure the authenticity and correctness of the details of admitted students before completing the admission procedures. Further, the ASU&H colleges/institutes should be instructed not to allow admissions without original documents. No modifications/corrections after the cut-off date and time of admission as specified by NCISM/NCH shall be entertained."

This Court interprets these clauses, bearing in mind the principles of "*Ejusdem generis*" (of the same kind) and "*Noscitur a sociis*" (the meaning of a word can be gathered from its context), to mean that while final approval of an admission cannot be granted without the original documents, it does not mandate the outright cancellation of a provisionally granted admission when the failure to furnish such documents is attributable to circumstances beyond the control of the candidate.

19. In the present factual matrix, it is not the case of either party that the non-furnishing of the original mark sheet was due to any willful or deliberate omission on the part of the petitioner-candidate, rather, it is an undisputed fact that the delay in the



issuance of the original mark sheet was on account of administrative reasons attributable to the Rajasthan State Open School, which had not provided the said documents to the Petitioner and other similarly situated candidates.

20. This Court, recognizing the principles of equity and fairness, notes that on 11.12.2024, an interim order was passed, in the presence of the learned Additional Advocate General appearing for the Respondent-State, granting interim protection by directing that one seat be kept vacant. It is pertinent to observe that the said order has continued to hold good until the disposal of the present petition and is not vacated, despite liberty being granted to the Respondents to seek such vacation. Furthermore, it is observed that the respondents themselves extended the cutoff date for applications until 31.12.2024, as evidenced by various notifications on record. The Court also notes with concern that the website of the Rajasthan Unani College reflected the availability of vacant seats until January 2025.

21. In addressing the respondents' contention regarding the non-granting of admissions in the middle of an academic session, this Court notes that the petitioner, in response to a specific affidavit sought, has submitted that, for the academic session 2021-2022, admissions were indeed granted as late as mid-May 2022, and those admissions were subsequently regularized. This assertion is not specifically denied by the respondents, giving rise to an adverse inference against them, under the principle of "*Qui tacet consentire videtur*" (He who is silent is taken to agree).



21.1 The Respondents have admitted to conducting multiple rounds of counseling, including a stray round, which extended much beyond the passing of the interim order dated 11.12.2024.

22. Additionally, reliance can be placed upon the dictum enunciated in **Divya vs. Union of India and ors.** reported in **2023 (13) Scale 730** and it can be deduced that after a candidate had successfully participated in the selection process and has qualified all the stages successfully, his/her candidature can only be cancelled after a cautious scrutiny of the gravity of the omission of error and not merely qua certain trifles.

23. In the ratio encapsulated in **Dolly Chhanda vs. Chairman, JEE and Ors.** reported in **(2005) 9 SCC 779**, wherein it was opined that:

*"7. The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. **Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not***



be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature."

(Emphasis supplied)

CONCLUSION AND DIRECTIONS

24. In light of the foregoing, this Court finds that the respondents' actions in canceling the petitioner's admission are unsustainable in law; that the interpretation of Clauses 23 and 31 of the NCISM directives, as canvassed by the respondents, is unduly restrictive and does not mandate the harsh consequence of automatic cancellation of admission in the present circumstances; that the Petitioner had furnished an undertaking/affidavit, demonstrating his bona fides and commitment to providing the original mark sheet upon its receipt; that the petitioner has also approached this Court at an appropriate stage, i.e., before the cutoff date for the conclusion of admissions, while the III and stray rounds of counseling were still ongoing; that an adverse view is taken qua the discrepancies between the Rajasthan Unani College website's portrayal of the cutoff date and the actual conduct of counseling, as well as the ambiguous affidavits filed by the respondents regarding mid-session admissions in previous years; that an interim order (dated 11.12.2024) of keep one seat vacant qua the petitioner is operative; that vide order dated 10.03.2025 it was cautiously made clear that the delay that is being caused due to the adjournments sought by the respondents-counsel shall not cause any prejudice to the rights of the



petitioner if the present petition is allowed, this Court is inclined to allow the present petition with the following directions:

24.1 Adjust the fees already paid by the petitioner, in accordance with their directives, amounting to Rs. 25,000/-, towards the petitioner's admission for the academic year pursuant to NEET UG-2024, and restore the petitioner to the provisionally allotted seat in Rajasthan Unani Medical College forthwith.

24.2 Accept the original mark-sheet if produced on or before a date not later than fifteen days from receipt of this order; and if the mark-sheet is still withheld by Rajasthan State Open School, provisionally validate the admission subject to final verification within the current academic session.

24.3 Take all necessary steps to enable the petitioner to complete his course of study, including, if necessary, the arrangement of extra classes to compensate for any classes missed by the petitioner.

25. In view of the above, the present petition stands allowed. No orders are passed as to costs. Pending/stay applications, if any, shall stand disposed.

(SAMEER JAIN),J

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