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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Decision: 12th July, 2022

+ W.P.(C) 7805/2022 & CM APPL. 23882/2022

CHITHRA N & ORS.

..... Petitioners

Through: Mr. Santhosh Krishnan, Advocate.

versus

ALL INDIA INSTITUTE OF MEDICAL SCIENCES

..... Respondent

Through: Mr. Kaushal Gautam, Ms. Snehpreet Kaur, Mr. Abhinav, Mr. Ankush Maggu, Mr. Mayank Gautam and Mr. Akshay Tiwari, Advocates.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. Petitioners – in-service nursing officers, are aggrieved by the condition introduced by Respondent – All India Institute of Medical Sciences, New Delhi [“*AIIMS*”] vide Revised Admission Notice No. 74/2022¹ dated 29th April, 2022 [*hereinafter*, “*impugned notice*”] which has rendered them ineligible from seeking admission in M. Sc (Nursing) course [*hereinafter*, “*Course*”] for August, 2022 session. This newly introduced condition precludes the Petitioners from pursuing Master’s Degree solely on the ground that their qualifying degree *i.e.* B.Sc. (Post Basic) was acquired

¹ Bearing No. F.7-7/E.Sec/MSc/Mbiotech/BSc/2022.

through distant learning mode, as opposed to regular mode and is therefore, impugned *inter alia* as being violative of Article 14 of the Constitution of India, 1950 on the ground of being highly irrational, unreasonable and arbitrary.

BRIEF FACTS

2. After acquiring the requisite qualification prescribed under the Indian Nursing Council Act, 1947 [*hereinafter*, “**INC Act**”], Petitioners registered themselves in the Nurses and Midwives Register of the State Nursing Council. All of them are currently serving at AIIMS in the nursing cadre. In order to improve and upgrade their formal education, Petitioners obtained B.Sc. (Post Basic) degree from Indira Gandhi National Open University [“**IGNOU**”] through distant learning medium.

3. Now, to further enhance their professional knowledge, Petitioners are desirous of pursuing the Course. *Vide* the impugned notice, AIIMS has called for applications for admission from desirous candidates stipulating the following eligibility criteria:

(i) B.Sc. (Hons.) Nursing/B.Sc. Nursing (Post-Certificate)/ Post-Basic /B.Sc. Nursing (4 years) course from any recognized University, from an educational institution Recognised by the Indian Nursing Council, with 60% marks for Gen/EWS/OBC candidates (55% marks in case of SC/ST candidates).

(ii) Registration as Nurse, RN, RM (Registered Nurse, Registered Midwife) with any State Nursing Council.

However, there is also a condition to the effect that “*Candidates possessing*

Bachelors Degree through Distant Learning Course shall not be eligible for all M.Sc. Courses i.e. M. Biotechnology / M.Sc. Nursing/ M. Sc Medical Anatomy, Medical Biochemistry, Biophysics, Medical Physiology, Medical Pharmacology, Reproductive Biology and Clinical Embryology, Nuclear Medicine Technology, Cardiovascular Imaging and Endovascular Technologies”

4. The above eligibility criteria also finds mention in the AIIMS Prospectus [hereinafter “*prospectus*”].

CONTENTIONS ADVANCED

ON BEHALF OF PETITIONERS

5. Mr. Santosh Krishnan, counsel for Petitioners, makes the following submissions:

5.1 The Indian Nursing Council [“**INC**”] was established under the INC Act to regulate and determine a uniform standard for training of nurses and is the top-most statutory body prescribing standards for the nursing profession. The INC is a statutory body providing professional recognition to degrees/ diplomas in nursing courses awarded by institutes across the country, and has granted recognition to B.Sc. (Nursing) course run by IGNOU. The disqualification condition, laid down in the impugned notice has the effect of derecognizing degrees awarded by IGNOU, which is impermissible. Reliance is placed upon *State of Tamil Nadu and Anr. v. Adhiyaman Educational and*

Research Institute and Ors.² wherein it was held that the power to lay down higher standards for shortlisting candidates through cut offs, from a large pool, is not the same as de-recognising or disqualifying eligible candidates from consideration. Individual institutions such as AIIMS cannot be permitted to configure criteria of their choice in violation of legislations meant to determine uniform standards of education. Furthermore, as per entry 66 of List-I of the Seventh Schedule of the Constitution of India, power to make laws for “*coordination and determination of standards in institutions for higher education or research and scientific and technical institutions*” lies with the Central Government and as such, power to determine standard of training for nursing lies with the INC under the INC Act.

5.2 The impugned notice, insofar as it derecognises IGNOU degrees for pursuit of the Course, is contrary to the directives of the University Grants Commission [“**UGC**”]. The UGC has granted equivalence and recognition to degrees conferred by IGNOU. Reliance is placed on a letter issued in February, 1992 by UGC bearing No. F.1-8/92 (CPP) whereby UGC declared that the certificates, diplomas, and degrees awarded by IGNOU are to be treated equivalent to the corresponding awards of universities in the country. IGNOU is constituted under an independent statute and its degrees are recognised for the purposes of higher education/ migration into traditional courses. In fact, its programme guide for B.Sc. (Post Basic) mentions that “*the degrees and diplomas of this University are recognised and have the same*

² (1995) 4 SCC 104.

status as those of any other central and state university in the country.” Therefore, AIIMS has no factual or legal basis to exclude Petitioners’ degrees and prevent them from seeking admission into the Course.

5.3 The degrees awarded by IGNOU have been found to be deficient or have been de-recognised. Even if such was the case, de-recognition could only be done at the behest of INC, and not AIIMS. Furthermore, B.Sc. (Post Basic) is not an entry level course required for professional certification as a nurse; it is obtained after a three-year diploma – which the Petitioners secured by attending regular course classes in order to get professional certification.

5.4 The IGNOU B.Sc. (Post Basic) course is a three-year course, requiring a prior diploma of three years being in nature of an improvement course, in addition to the basic qualification required for employment as a nurse. To seek admission into the said programme, students are required to be an in-service nurse. Even the curriculum devised by IGNOU for the same requires practical training as a nurse in concerned fields. Thus, a person cannot enrol in IGNOU for B.Sc. (Post Basic) course without concurrent training/ work. The reason why most candidates across the country opt for distant learning courses is to improve their skillset, while simultaneously working at their respective organisations. Refusal to accept degrees obtained through distant learning programmes by AIIMS will prejudicially affect several in-serving nursing officers employed therein.

5.5 Disqualification created by AIIMS is contrary to the admission criteria prescribed by INC. The power to confer degrees bestowed on AIIMS under the All India Institute of Medical Sciences Act, 1956 [*hereinafter*, “**AIIMS Act**”], does not entail the power to prescribe a discriminatory admission criteria. AIIMS cannot depart from uniform admission criteria prescribed by the INC and proceed to de-recognise degrees provided by IGNOU. Reliance is placed on ***Vishwajit Panchakshari Mathpati v. State of Maharashtra***³ to state that it is not open for AIIMS to depart from the rules framed by INC and, prescribe a more stringent admission criterion for the Course.

ON BEHALF OF RESPONDENT

6. On the other hand, Mr. K.P. Gautam, counsel for AIIMS avers the following:

6.1 The present writ petition is misconceived as Petitioners have not exhausted the alternative remedy available to them. The appropriate authority for determination of the issue urged herein is the Examination and Academic Section of AIIMS, which was not done. Nonetheless, AIIMS has not disputed the recognition of degrees provided by IGNOU for higher education, but has merely laid down the criteria to ensure higher standard of education in conformity with the object of establishment of AIIMS. Reliance is placed on Sections 13 and 14 of the AIIMS Act, 1956 to state that AIIMS is obliged to

maintain high standards of medical education in India and is thus, empowered to prescribe courses and curricula for both under - graduate and post-graduate studies. In *Rajat Duhan and Ors. v. All India Institute of Medical Sciences*,⁴ Division Bench of this Court held that AIIMS is justified in laying down stringent conditions for admission, and the same cannot be regarded as a discriminatory practice. It was further held that admission criteria, once declared, becomes unamendable. Moreover, Section 23 of the said Act gives it an overriding effect over the provisions of Indian Medical Council Act, 1933 and INC Act and declares that the medical degrees and diplomas granted by AIIMS shall be recognized medical qualifications.

- 6.2 Degrees obtained through distant learning mode cannot be equated with those obtained through the formal system of education. The Course requires rigours of hands-on physical training, and the same cannot be substituted by a degree obtained through online mode regardless of the fact that such degrees are recognised for the purpose of employment by AIIMS. Although UGC and INC have prescribed the minimum essential qualification for admission into the Course, AIIMS is governed by the provisions of the AIIMS Act, and as such, is empowered to decide its own eligibility criteria – which may be at variance with those set up by other statutory bodies – to ensure excellence in the medical field. The disqualification so

³ (2013) 2 Mh LJ 222.

⁴ (2019) SC OnLine Del 11437.

created by the impugned notice, cannot be struck down merely because some candidates may be put to disadvantage by reason of not fulfilling the criteria. To this effect, reliance is placed on *Ashutosh Bharti and Ors. v. The Ritanand Balved Education Foundation and Ors.*⁵

6.3 Petitioners' reliance on the judgement passed by this Court in *Ramgopal Sharma and Anr. v. All India Institute of Medical Sciences*⁶ allowing admission to the Petitioner therein is erroneous. In that case, the Court granted relief to Petitioner only because the condition of disqualification of B.Sc. (Nursing) course obtained through distant learning mode was not specifically stated in the admission notice and prospectus. The present case is factually different as the impugned notice and prospectus for August 2022 session evidently contains a stipulation disqualifying candidates possessing Bachelor's Degree through distant learning mode from participating in the admission process. Petitioners do not qualify for admission and are abusing the process of law by filing the instant petition.

6.4 Furthermore, the decision to exclude distant learning degrees from the eligibility conditions for the Course was taken by an expert body after due deliberation and consideration of all relevant factors. It is settled law that if the decision to revise criteria for admission is

⁵ MANU/DE/0024/2005.

⁶ W.P. (C) 9413/2021.

based on the opinion of experts, the Courts must refrain from interfering with the state of academic affairs unless there has been a clear violation of statutory provisions or rules framed thereunder. Reliance is placed on decisions rendered in *State of Uttarakhand v. Sudhir Budakoti*,⁷ *Mahesh Kumar v. Staff Service Commission*,⁸ *University Grants Commission and Anr. v. Neha Anil Bobde Gadekar*.⁹

ANALYSIS

7. The Court has heard the counsel for the parties. Petitioners are aggrieved by the disqualification created by the impugned notice preventing them from pursuing the Course and further their professional knowledge. Therefore, the following questions arise for consideration in the present petition: (a) Whether AIIMS is empowered to prescribe its own eligibility criteria which has the effect of nullifying/curtailing recognition granted to IGNOU B.Sc (Post Basic), a Degree duly recognised by INC; and (b) Assuming such power exists, whether there is any rational basis for classification created among candidates merely on the basis of the mode of learning, when they are otherwise similarly placed, having the requisite eligibility qualification for seeking admission to the Course.

8. The answer to both the above-stated questions has to be in the negative, for reasons discussed hereinafter.

⁷ 2022 SCC OnLine SC 420.

⁸ 2021 SCC OnLine Del 4630.

9. First and foremost, it must be noted that the issue pertaining to exclusion of candidates possessing Bachelor's Degree through distant learning mode engaged this Court in ***Ramgopal Sharma*** (*Supra*) wherein a nursing officer employed at AIIMS had applied for admission to the M.Sc (Paediatric Nursing) course and was even granted a no-objection certificate by AIIMS for this purpose on the basis of which, the Petitioners therein had appeared and successfully cleared the entrance examination however, their candidature was cancelled on the ground that admission to candidates possessing B.Sc (Post Basic) Degree obtained through distant learning was not allowed. Aggrieved thereby, a writ petition was filed as AIIMS prospectus did not contain such a disqualification. In those facts, the disqualification created by AIIMS for the 2021 academic session was held to be unfair and unreasonable, and eligible Petitioners were allowed admission into M.Sc. (Nursing) course. However, in that case, the Court was persuaded to allow the petition primarily because there was an apparent ambiguity in the prospectus issued by AIIMS. The questions of equivalence of degrees obtained through distant learning and regular classes modes or whether AIIMS is competent to stipulate any disqualification *qua* distant learning course for admission into various courses was not delved into by the Court. For the August 2022 session, AIIMS has now amended the prospectus and issued the impugned notice prescribing the qualifications required by an aspiring candidate for admission into the said Course. It includes B.Sc. (Post Basic), a qualification that the Petitioners possess from a university recognized under law. However, a note has been added thereafter declaring all aspirants holding Bachelor's Degree from distant learning, such as the

⁹ (2013) SCC 10 519.

Petitioners, to be disqualified from seeking admission. The relevant portion of the impugned notice/ prospectus has been reproduced below:

“AIIMS-M.Sc. Nursing / M.Sc. Courses / M. Biotechnology -Aug., 2022 session

All India Institute of Medical Sciences, New Delhi invites Online applications (Basic Registration followed by Generation of Code and Final Registration) for Entrance Examinations leading to admission in M.Sc. Nursing/ M.Sc. Courses/ M. Biotechnology-2022 of AIIMS, New Delhi and Other AIIMS...

<i>Who can apply for Basic Registration and are eligible for <u>M.Sc. Nursing</u> - Aug., 2022 session</i>	<i>Candidate who posses the following qualifications. (i)_ B.Sc. (Hons.) Nursing/B.Sc. Nursing (Post-Certificate)/ Post-Basic /B.Sc. Nursing (4 years) course from any recognized University, from an educational institution Recognised by the Indian Nursing Council, with 60% marks for Gen/EWS/OBC candidates (55% marks in case of SC/ST candidates). (ii) Registration as Nurse, RN, RM (Registered Nurse, Registered Midwife) with any State Nursing Council.</i>
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- Candidates possessing Bachelors Degree through Distant Learning Course shall not be eligible for all M.Sc. Courses i.e. M. Biotechnology / M.Sc. Nursing/ M. Sc Medical Anatomy, Medical Biochemistry, Biophysics, Medical Physiology, Medical Pharmacology, Reproductive Biology and Clinical Embryology, Nuclear Medicine Technology, Cardiovascular Imaging and Endovascular Technologies***
- Candidates obtained Training/Degree from Non-hospital based Institutes are not eligible for M.Sc. courses (in (a) Reproductive Biology and Clinical Embryology, (b) Nuclear Medicine Technology and (c) Cardiovascular Imaging and Endovascular Technologies.)”***

The above-extracted eligibility criterion has been reiterated verbatim in the prospectus for August 2022 session.

10. Undoubtedly, AIIMS is a premier-educational institute in the field of medical sciences and has been empowered under the AIIMS Act to regulate and prescribe courses and curriculum, and this aspect has been highlighted by the Respondent to sustain the impugned condition. It is open for AIIMS to prescribe eligibility criteria and setting the bar for admission in courses so long as the restriction is not discriminatory and has a rational nexus with the aim to be achieved however, AIIMS cannot dislodge the uniformity in standards set by the INC – which is acting under a central legislation; and nullify/curtail recognition of IGNOU B.Sc (Post Basic) degree in the process of determining admission criteria. It cannot be overlooked that INC is the apex body regulating the imparting of technical education to nurses across the country. Concededly, Petitioners' qualifications are recognised by the INC *vide* gazette notification¹⁰ dated 14th August, 2019 as well as the UGC, and they are also entitled to seek employment and pursue higher education on basis of the same. Yet, with the impugned condition introduced in the impugned notice and prospectus, Petitioners have been deprived of an option to pursue higher qualification in AIIMS, where they are presently working. The introduction of the impugned disqualification condition does not flow from the statutory provision that enables AIIMS to prescribe the curricula or courses for under-graduate or post-graduate studies. The Court is also unable to appreciate the basis on which AIIMS decided to exclude a certain class of eligible candidates based solely on the of mode of learning when the INC, being the regulatory body for the profession, itself has granted recognition thereto. Thus, AIIMS has unreasonably and arbitrarily excluded certain

candidates only on the basis of mode of learning, particularly when there is lack of evidence to show that education through distant learning is inferior, or any less credible, to what is provided through regular classes mode.

11. The judgement of Division Bench of this Court in ***Rajat Duhan*** (*Supra*) relied upon by the Respondent espouses the correct position of law that AIIMS is fully entitled to lay down a more stringent condition for admission into various courses than those established by the INC, however, the reliance placed thereon is misplaced and erroneous as the instant case is not of prescription of a stringent condition by AIIMS; but introduction of a disqualification, in complete disregard of the eligibility criteria prescribed by, and the recognition extended to distant learning programmes by the INC.

12. The INC was established under a central Act with the object of enhancing the level of technical education provided to nurses. Various norms and standards are set by INC for admission into several nursing courses keeping in mind the need for qualitative growth of the profession. Admittedly, B.SC. (Post Basic) degree awarded through distant learning by institutions such as IGNOU, is considered at par with a degree in the same field obtained through regular mode and no contention has been raised *qua* equivalence of the degrees. To obtain a degree in three-year B.Sc. (Post Basic) course at IGNOU, candidates are required to possess a diploma, and meet the needs of practical work experience prescribed in the curriculum. The syllabus and curriculum are structured in such a way that candidates are given exposure to hands-on practical training at hospitals or nursing centres.

¹⁰ *Bearing* F.No. 11-1/2019-INC.

Therefore, candidates of distant learning programmes are equally competent and adept to handle patients and there is no reason to exclude them from admission into the Course. In fact, in the compliance affidavit *vide* order dated 05th July, 2022 by the Respondent, this fact is duly acknowledged. Moreover, the entrance exam is designed to be of the same level of difficulty for all aspiring candidates, irrespective of whether they had obtained a Bachelor's Degree through regular or distant learning mode and the Petitioners have to take the same in order to be eligible for admission. Thus, there appears to be no convincing reason to debar the Petitioners from admission into the Course in case they successfully pass the entrance exam and meet the cut off ranks for admission.

13. The Court also finds no merit in the argument raised by AIIMS that it is entitled to prescribe the condition in terms of Section 23 of the AIIMS Act which opens with the words “*notwithstanding anything contained in the Indian Medical Council Act, 1956 (102 of 1956), the Dentists Act, 1948 (16 of 1948) and the Indian Nursing Council Act, 1947 (48 of 1947), the medical, dental or nursing degrees or diplomas, as the case may be, granted by every Institute under this Act shall be recognized...*”. This provision gives recognition to degrees granted by the Institutes under the Act, notwithstanding the provisions of the other statutes. However, the statute cannot be expanded to include the power to override or disregard the qualification recognized by INC.

14. Further, AIIMS has failed to place any material on record disclosing a rational or scientific basis for such disqualification and no justification exists

for considering one as inferior to the other. In fact, after hearing submissions at length, *vide* order dated 05th July, 2022, this Court gave an opportunity to AIIMS to place on record the decision/ deliberations of its Academic Council leading to such exclusion. In terms of the above-stated order, an affidavit was filed to that effect. Relevant portions of the same read as under:

“3. That the exclusion of distant learning courses from the eligibility condition for higher academic courses which concerns rigors of intense practical and hands-on training of the candidate has been deliberated, discussed and debated by various expert committees of the respondent for a long time. It has been consistently held by the experts that there cannot be any substitute for practical experience and exposure where the candidate/student learn and interact with tutors and face-to-face and thereby solve real life practical situations to understand and apply the theoretical aspect learned in the classroom. In pursuance of the same, the respondent's expert body has made a series of recommendations regarding conscious exclusion of all such courses where the candidate has acquired a degree from a distant learning method. It may be pointed out here that there is no restriction so far as seeking employment based upon the degree obtained through such distant learning courses is concerned and such restriction has only been imposed keeping in mind the aim and objective of the Institute to strive for excellence in academic and research pursuits for which all India Institute of medical sciences, the respondent, has been constituted by the Parliament.

4. That the respondent institution had set up a committee to suggest reforms in admission to PhD courses in 2016. The committee, besides other suggestions, had recommended the non-inclusion of candidates possessing a master's degree through distance learning courses. The recommendations of the committee constituted by the director on the issue of PhD reforms in AIIMS is annexed herein and are marked as ANNEXURE-A/1

5. That the issue of excluding those candidates possessing bachelor's degrees through distance learning courses was discussed by the respondent and it was decided that a decision, on similar reasoning as that for the PhD program, considering the fact that it has long-term implications, may be taken regarding postgraduate courses in various discipline in AIIMS. A copy of deliberations of experts regarding the exclusion of distant learning courses from the eligibility condition for admission in postgraduate courses dated 29/06/2020 and 02/07/2020 is annexed herein and is marked as ANNEXURE-A/2 ...

7. That after the judgement in Ram Gopal Sharma (supra) and to eliminate the ambiguity in the eligibility condition, it was decided by the respondent to change it for admission in postgraduate courses. The Respondent's expert

committee went into various rounds of discussions and ultimately a proposal to amend the eligibility condition was approved by a team of experts consisting of Associate Dean (Academics), Dean (Academics) and the Director of the All-India Institute of Medical Sciences on 25 April 2022. A copy of the proposal and subsequent approval is annexed herein and is marked as ANNEXURE-A/3.

15. In the afore-noted affidavit, AIIMS has also annexed recommendations of the Academic Committee “on the issue of PhD reforms at AIIMS”, and in the name of placing deliberations of the Academic Committee *qua* the disqualification created for admission in the Course, the following has been placed on record:

*“As per directions, on the basis of already approved revived Rules & Regulations for Ph.D programme (at slip ‘B’) i.e. “**Candidate possessing Master Degree through Distant Learning Course shall not be eligible**”, the intimation Memo, for Ms. Yamini Trahen is prepared and placed below for approval and sign.*

Further, the above rule position is meant for Ph.D Programme, as it has a long-term implication, if approved, we may also in-corporate the following same clause in M.Sc prospectus from the next 2021 session onwards i.e.

*“**Candidates possessing Bachelors Degree through Distant Learning Course shall not be eligible**’*

Submitted please.”

16. It must be noted that the deliberations of the Academic Committee brought on record, pertain to admission into PhD course and not the Course in question. AIIMS decided to extend this disqualification to the Course on a query raised by a candidate aspiring to seek admission in M.Sc. Biotechnology degree considering the controversy revolving around the judgement of this Court in **Ramgopal Sharma** (*Supra*). The said query was in regards to M.Sc. Biotechnology, and not the Course in question.

17. Furthermore, the decision to exclude Bachelor’s Degrees obtained

through distant learning mode was taken by the Academic Council, which is an internal administrative body constituted by AIIMS, in direct conflict with the notification dated 18th October, 2019 bearing F. No. 14-3/69(98)/Coordination Cell/Estt. (Part-II) issued by the Ministry of Health and Family Welfare, Union of India in exercise of its powers conferred under Section 29(1) of the AIIMS Act. According to Regulation 20 of the said notification, decisions pertaining to award of degrees in medical and paramedical subjects shall be taken with the approval of “Standing Academic Committee” of the Institute and ratification by the governing body. The two bodies viz. Academic Committee and Academic Council, are different as the latter is only an internal body not competent to take decisions on eligibility or exclusion of candidates for admission into various courses. Even if the Bachelor’s Degrees procured through distant mode were to be excluded, a decision to that effect could only be taken by the Academic Committee, which has not been done. That apart, even the Academic Council was not properly constituted in as much as only two out of three of the presiding officers have signed the said decision as is evident from copy of the declaration dated 25th April, 2022 of the Academic Council. The said declaration contains a handwritten note expressing dissent by one of the officers indicating that there was no unanimous decision by the Academic Council. There is no explanation for the departure from the criteria set by the INC and this cannot be called a rational or reasoned decision. The decision to extend the disqualification to the concerned Course by an Academic Council of AIIMS without any proper deliberation and application of mind. Merely because the disqualification was introduced *qua* PhD degrees, one cannot mechanically apply the decision to other M.Sc.

courses. A Master's Degree is different from a PhD, and the same cannot be put on an equal footing. However, since AIIMS does not possess such a power, any decision to that effect cannot be implemented whatsoever.

18. There is also glaring disparity in the statements made by AIIMS before this Court on two different occasions. During the course of hearing of the present petition, AIIMS submitted that the issue of exclusion of B.SC. (Post-Basic) qualification through distant learning was deliberated by the Academic Committee of AIIMS and an informed decision was then taken to that effect. However, in a separate matter before this Court, AIIMS admitted that its Academic Committee has not convened since 18th June, 2021 till May, 2022. The same was recorded by the Court in the order dated 26th May, 2022 passed in W.P (C) 7718/2022. As the impugned notice and prospectus were issued between April- May 2022, it is evident that the decision was not deliberated by the Academic Committee as has been alleged by AIIMS.

19. In light thereof, there appears to be no convincing reason for AIIMS to discriminate against candidates, such as the Petitioners, and deny them admission in the concerned Course. Indeed, Courts have limited power to interfere with decisions of academic bodies of any educational institution, as held in *Ashutosh Bharti* (*Supra*), however, they are not precluded from exercising their power when such decisions are found to be unreasonable or arbitrary. AIIMS has failed to satisfy this Court of the reasonability for excluding certain candidates only because of their mode of learning. AIIMS has acceded to the fact that Bachelor's Degrees procured through distant

learning medium are recognised for employment, yet it is claimed that such a disqualification has been created keeping the objects of the ‘*institute*’ in mind. One fails to understand how a qualification that is recognised for employment by AIIMS itself in the nursing cadre, has been rejected for pursuing an academic course citing lack of practical training. AIIMS seeks to create a distinction between academic pursuit of technical education and employment opportunities, when the same are interrelated. Granting recognition to one but not the other violates the principle of equality in as much as the same institute deems the same qualification to be sufficient for employment, but not for further specialisation courses which are mostly undertaken by candidates out of own choice, to further their professional skills. The action of disqualifying candidates possessing Bachelor’s Degrees through distant learning from seeking admission in the Course fails to meet the test of reasonableness and as such, is liable to be quashed.

DIRECTIONS

20. AIIMS has failed to successfully demonstrate the basis for distinguishing Bachelor’s Degree obtained through distant learning. The impugned condition in the impugned notice and prospectus is arbitrary insofar as it prevents eligible candidates from pursuing higher studies by making an unreasonable classification between persons obtaining the same degree through traditional teaching mode and distant learning, and are thus, quashed. *Vide* order dated 23rd May, 2022, an interim relief was granted to Petitioners No. 1 to 3 allowing them to appear for the entrance exam for admission in the Course. In a subsequent order dated 05th July, 2022, AIIMS undertook to withhold the results of Petitioners No. 1 to 3 and reserve three

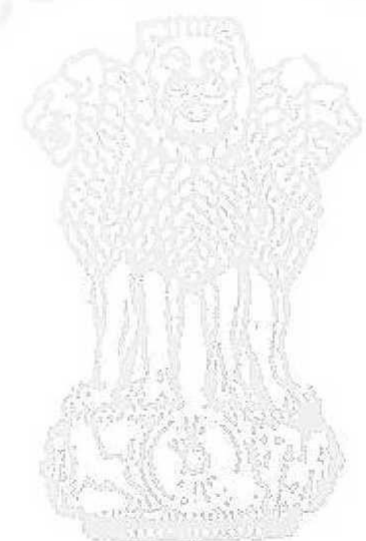
seats, in case the Petitioners clear the said entrance exam. Accordingly, AIIMS is now directed to declare the results of Petitioners No. 1 to 3 in accordance with its rules framed in this regard. In case the Petitioners are found to be successful, they shall be considered for admission as per merit in the said Course.

21. In light thereof, the instant petition is allowed in the above terms.

SANJEEV NARULA, J

JULY 12, 2022

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