

Manipur High Court

Shri Laiphrakpam Manihar Singh vs The State Of Manipur Through The ... on 30 December, 2020

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

PIL No. 46 of 2020

Shri Laiphrakpam Manihar Singh, aged about 70 years, S/o
(Late) L. Manaobi Singh, resident of Langthabal Phura Makhong,
P.O. M.U., P.S. Singjamei and District Imphal West, Manipur.

... Petitioner

-Versus-

1. The State of Manipur through the Chief Secretary, Govt. of Manipur, Old Secretariat, Imphal-795001.
2. The Principal Secretary/ Commissioner/Secretary (Health & Family Welfare), Govt. of Manipur, Manipur Secretariat, Imphal-795001.
3. The Director, Health & Family Welfare, Govt. of Manipur, Lamphelpat, Imphal-795004.
4. The Ministry of Health & Family Welfare, Govt. of India through the Secretary, Nirman Bhawan C-Wing, New Delhi-110001.
5. The National Medical Commission, through the Chairperson (NMC) Dada Dev Mandir Road, Block P, Sector-8, Dwarka, New Delhi-110077.

... Respondents

B E F O R E

HON'BLE MR. JUSTICE KH. NOBIN SINGH

HON'BLE MR JUSTICE MV. MURALIDARAN

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| For the petitioner | Shri Kh. Tomba, Advocate asstd. by Smt. M. Swarnalata Devi, Advocate |
| For the respondents | Shri N. Kumarjit, Advocate General; Shri S. Suresh, ASG & Shri B.R. Sharma, Advocate. |
| Date of Hearing | 23-12-2020 |
| Date of Judgment & Order | 30-12-2020 |

JUDGMENT AND ORDER

Kh. Nobin Singh, J

[1] Heard Shri Kh. Tomba along with Smt. M. Swarnalata Devi,

PIL No. 46 of 2020

Contd.../-

[2]

learned Advocates appearing for the petitioner; Shri B.R. Sharma, learned
counsel Advocate appearing for the respondent No. 5; Shri S. Suresh,
learned ASG appearing for the respondent Nos.4 and Shri N. Kumarjit,

learned Advocate General appearing for the respondent Nos. 1, 2 and 3.

[2] This PIL has been filed by the petitioner praying for issuing a writ of mandamus or any other appropriate writ to direct the respondents and in particular, the respondent Nos. 1 to 3 to increase the seats for admission to MBBS Course in the State of Manipur as agreed / accepted by the Ministry of Health & Family Welfare, Government of India and funds being released by it for development of infrastructure from the present session, 2020-2021.

[3.1] Facts

and circumstances as narrated in this PIL, in short, are that the petitioner is a law abiding citizen of India and has been doing various social works in the interest of the general public. This PIL is being filed by him in the interest of general public and if the relief prayed for by him is granted by this Court, it will be beneficial for the people in the State of Manipur.

[3.2] There has been a scarcity of medical professionals in the State of Manipur wherein the ratio between the medical practitioners and the population of the State is very low as compared to that of other States in the country. There are, at present, 100 seats at Jawaharlal Nehru Institute of Medical Sciences, Imphal (hereinafter referred to as "the JNIMS"), out of which 15 seats are kept aside/ earmarked for all India. In addition PIL No. 46 of 2020 Contd.../-

[3] thereto, there are 30 seats at RIMS as quota for the State of Manipur, out of which 11 seats are for meant for the EWS candidates, because of which the increase in the number of seats for admission to MBBS course in the State of Manipur has been the demand of the people which remains unfulfilled till date.

[3.3] The Director, JNIMS issued a circular on 25-06-2020 informing that there is a proposal for increasing the student's intake to 150 for which the infrastructure as per the norms of the MCI (now, NMC), is required to be expanded and therefore, all heads of the Departments were directed to submit the required infrastructure with adequate dimension as per MCI (now, NMC) guidelines on or before 25-07-2020. The people in the State were very happy to learnt about it but no action was taken by the concerned authority before the commencement of the NEET-2020 with the result that the students could not get the benefits of the said circular. [3.4] The Under Secretary to the Government of India, Ministry of Health & Family Welfare, Government of India addressed a letter dated 26-10- 2020 to the Principal Secretary, Department of Health & Family Welfare, Government of Manipur informing that the JNIMS was approved under CSS for its up-gradation by increasing 50 seats more for admission to MBBS course. The excess amount of Rs.2.37 crore, released to the

JNIMS, should be adjusted towards the grant-in-aid to be released to the newly approved Medical College at Churachandpur, for which he was requested to send an action taken report. The Chief Minister, Manipur uploaded a message in his facebook account expressing his happiness PIL No. 46 of 2020 Contd.../-

[4] about the approval being granted by the Government of India. [3.5] Although the number of seats for admission to MBBS course have been increased in respect of many States and Union Territories in the country as mentioned in this PIL, the State of Manipur has not taken appropriate steps for increasing the number of seats for the reason best known to it. The inaction on the part of the State respondents has deprived the people and in particular, the students who are aspiring for admission to MBBS course, of their rights to be considered for admission. [3.6] An article came to be published in a local daily called 'Imphal Free Press' by South East Asian Cultural Organisation appealing the State Government to increase the seats for admission to MBBS course. A clear picture about the approval being granted by the Government of India and the inaction on the part of the State Government was stated therein. Thereafter, the students who are successful/ qualified in the NEET-2020 made an appeal to the authorities in this regard through the said local daily on 11-11-2020, followed by a demand made by their parents in a local daily called 'Sangai Express' on 13-11-2020.

[3.7] It is learnt by the petitioner from the reliable sources that the Ministry of Health & Family Welfare, Government of India has so far released a total sum of Rs.56.37 crore during the period from 2017 to 2019 in favour of the JNIMS for its up-gradation, out of which a sum of Rs.2.37 crore being the excess amount will have to be adjusted against the newly approved Medical College as stated hereinabove. The aforesaid facts have PIL No. 46 of 2020 Contd.../-

[5] clearly shown that adequate amount was received from the Government of India but since the State Government has failed to take appropriate action, the MCI did not convey its approval. The inaction on the part of the State respondents is highly unfair, unreasonable being violative of the Directive Principles of State Policy which compelled the petitioner to file this PIL in the interest of the students who are successful/ qualified in the NEET- 2020.

[4] The stand of the State Government as indicated in the affidavit filed on behalf of the respondent No.2 & 3 is that this PIL is not maintainable for the reason that the same has not been filed in terms of the provisions of Rule 10 of the High Court of Manipur (PIL) Rules, 2019 and therefore, it is liable to be dismissed and in addition thereto, it has been stated that the petitioner is not the aggrieved person and the aggrieved persons are the students who qualified in the NEET-2020. So far as the merit of the PIL is concerned, it has been stated that the Secretariat, Health Department wrote a letter dated 26-11-2020 to the Secretary, Ministry of Health & Family Welfare, Government of India thereby submitting the essential certificate for increasing the seats from 100 to 150 from the academic session, 2021-2022. Thereafter, the Secretariat, Health Department vide its letter dated 07-12-2020 requested the Director, JNIMS as well as the Director, RIMS to furnish necessary comments. The JNIMS vide its letter dated 14-12-2020 submitted a report as regards the increase of MBBS seats from 100 to 150 from the academic session, 2021-2022. Similarly, the Directorate of Medical and Health PIL No. 46 of 2020 Contd.../-

[6] Services, Manipur vide its letter dated 07-12-2020 furnished the information that the increase in the intake capacity of medical students in a Medical College is possible only after the permission is granted by the National Medical Commission and that an inspection is expected in the near future. It has further been stated that the necessary steps have been taken by the State Government but since the minimum requirements as prescribed by the MCI (now, NMC) are yet to be fulfilled, the increase of seats from the academic session, 2020-2021 could not be made. [5.1] It is not in dispute that there are at present two Medical Colleges in the State of Manipur-one, the JNIMS and two, the RIMS and the total number of seats for admission to MBBS course available for the State of Manipur from these two Medical Colleges are 115. The Ministry of Health & Family Welfare, Government of India vide its letter dated 26-10-2020 informed the State of Manipur that the JNIMS was approved under CSS for its up-gradation by increasing 50 seats more for admission to MBBS course. In response thereto, the Secretariat, Health Department wrote a letter dated 26-11-2020 to the Secretary, Ministry of Health & Family Welfare, Government of India thereby submitting the essential certificate for increasing the seats from 100 to 150 from the academic session, 2021- 2022. Thereafter, the Secretariat, Health Department vide its letter dated 07-12-2020 requested the Director, JNIMS as well as the Director, RIMS to furnish necessary comments. The JNIMS vide its letter dated 14-12-2020 submitted a report as regards the increase of MBBS seats from 100 to 150 from the academic session, 2021-2022. The Directorate of Medical and PIL No. 46 of 2020 Contd.../-

[7] Health Services, Manipur vide its letter dated 07-12-2020 furnished the information that the increase in the intake capacity of medical students in a Medical College is possible only after the permission is granted by the National Medical Commission and that an inspection is expected in the near future. The grievance of the petitioner is that even though the Ministry of Health & Family Welfare, Government of India had released a sum of Rs.56.37 crore during the period from 2017 to 2019 in favour of the JNIMS for its up-gradation, out of which a sum of Rs.2.37 crore being the excess amount ought to be adjusted against the newly approved Medical College as stated hereinabove, the State Government had failed to take appropriate action thereby depriving the students of their rights to be considered for admission to MBBS course for the academic session, 2020- 2021 for no fault of theirs.

[5.2] It may be noted that to increase or not to increase the number of seats for admission to MBBS course of a Medical College in a State is a matter of policy decision and in other words, it is the domain of the State Government to take a policy decision, the implementation of which will depend upon the approval of the MCI (now, NMC). In addition thereto, keeping in mind the circumstances prevailing at the relevant time, the State Government will definitely need the financial assistance from the Government of India for its implementation. In fact, the increase of the student's intake in a Medical College is not an easy task and it depends upon the fulfillment of various conditions like adequate infrastructure, sufficient manpower of both teaching and non-teaching, financial capacity PIL No. 46 of 2020 Contd.../-

[8] etc. as prescribed in the guidelines of the MCI (now, NMC). The submission of the counsel appearing for the petitioner is that despite adequate amount being received from the Government of India during the period from 2017-2019 towards up-gradation of the JNIMS, the State Government

had failed to take appropriate actions in time and that the inaction on the part of the State respondents is highly unfair, unreasonable being violative of the Directive Principles of State Policy. His submission may have had some merit but the fact remains that the JNIMS as of today, does not have adequate infrastructure and a mere passing of an order will not suffice in the matter. In other words, there is no point of passing any order by this Court which cannot be actually implemented by the State Government on the ground itself. It may further be noted that after the approval being conveyed by the Government of India, the State Government had submitted its certificate for increasing the seats from the academic session, 2021-2022. This cannot be said to be a case where the State Government did nothing but the contention of the counsel appearing for the petitioner appears to be correct to some extent that the State Government ought to have taken proactive action right from the day when the Director, JNIMS issued a circular on 25-06-2020 as regards the proposal for up-gradation of the JNIMS but it utterly failed to do so. The failure on the part of the State Government for having not done so in time, cannot, however, be said to have conferred rights upon the students who are successful/ qualified in NEET-2020, for admission to MBBS course in the academic session, 2020-2021. As has been observed hereinabove, it being a matter of policy, the people in the State of Manipur ought to have PIL No. 46 of 2020 Contd.../-

[9] pursuit the matter with the State Government vigorously, continuously and relentlessly which they too appear to have not done so. In any case, in the peculiar facts and circumstances of this PIL, this Court is of the view that it is not a matter where this Court can issue a writ of mandamus directing the State Government to increase the seats for admission to MBBS course from the academic session, 2020-2021 itself, when there is, admittedly, no adequate infrastructure at the JNIMS and that too, without the prior approval of the MCI (now, NMC).

[6] In view of the above and for the reasons stated hereinabove, the instant PIL stands disposed of with the direction that the State Government shall take appropriate and immediate steps as required by the MCI (now, NMC) guidelines in order to ensure that the number of seats for admission to MBBS course at JNIMS, Imphal increases to 150 from the academic session, 2021-2022. It is open to the public to get in touch with the State Government in this regard so that the needful is done by the State Government without fail.

JUDGE

JUDGE

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Devananda

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PIL No. 46 of 2020