

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 10th DAY OF JUNE, 2021

PRESENT

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MR. JUSTICE HANCHATE SANJEEVKUMAR

WRIT PETITION No.8821/2021 (EDN-EX-PIL)

BETWEEN:

Late G.B.Kulkarni Memorial Legal Trust (Regd.)
By its President Dr.Vinod G.Kulkarni,
Age 68 years, occupation: Consulting
Neuropsychiatrist and Lawyer and Social Activist
R/O 'Manas', Prabhat Colony,
Vidyanagar, Hubballi - 530 021.

...Petitioner

(By Dr.Vinod G.Kulkarni (party-in-person))

AND:

1. The Principal Secretary to Prime Minister of India, Government of India, South Block, New Delhi - 110 011.
2. The Principal Secretary to Health and Family Welfare Department, Government of India, Nirman Bhavan, Near Udyog Bhavan Metro Station, Maulana Azad Road, New Delhi- 110 011.
3. The Authorized Signatory, The National Board of Examination Medical Enclave, Ansari Nagar, Ring Road, New Delhi - 110 029.
4. The State of Karnataka by its Chief Secretary, Government of Karnataka, Vidhana Soudha, Bengaluru - 560 001.

5. The Principal Secretary to
Department of Medical Education,
Government of Karnataka,
Vidhana Soudha,
Bengaluru-560 001.

... Respondents

(By Sri.M.B.Naragund, ASG a/w
Sri.Madhukar Desphande, CGSC for R1 and R2)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to: appropriate writ or order or direction in the nature of mandamus or any other appropriate writ, order or direction be issued to the respondents to ensure that NEET Exams should not be postponed for a further period of four months from the earlier stipulated date i.e. 18.4.2021 and etc.

This petition coming on for '*Preliminary Hearing*' this day, **NAGARATHNA J.**, made the following:

ORDER

This writ petition is said to be filed in public interest by a Legal Trust (Regd.). The prayer in the writ petition is to issue a direction to the respondents not to postpone National Eligibility-cum-Entrance Test (NEET) for a further period of four months from the earlier stipulated date i.e. 08.04.2021. At this stage itself, it may be mentioned that this writ petition was filed on 08.05.2021 and today we are already in the second week of June, 2021. Even according to the petitioner, as per Annexure-A, decision has been taken to postpone NEET for (Post-graduation courses) for at least four months and the said test will not be held before 31st August, 2021. Students will also be given at least one month's time after the announcement of the date

of the Test before for their preparation. This decision was taken in mid-April, 2021. The same is assailed in this writ petition.

2. It is the case of the petitioner that the post-graduate aspirants were desirous to appear for NEET on completion of their MBBS Course as they are aspirants for post-graduate education on being successful in the NEET, which is an All India Test, and on the ranking assigned to the aspirants, on the basis of their merit, the seats are allotted in the respective colleges by the State Government as well as the Central Government in accordance with the respective quota of seats reserved to them.

3. According to the petitioner, on account of postponement of NEET, one day prior to the date it was to be held (it was to be held on 18.4.2021) i.e., on 17.4.2021, the doctors, aspirants for post-graduate studies, are suffering from stress, anxiety and depression as their plans to study post-graduation has been unsettled on account of procrastination. It is averred that when all other examinations are being conducted during the current COVID-19 pandemic, there was no reason to postpone NEET. Therefore, the postponement of the NEET for a

period of four months from 18.4.2021 is assailed in this writ petition.

4. We have heard Dr.Vinod G.Kulkarni, who is appearing as party-in-person for the petitioner - Legal Trust and learned Assistant Solicitor General, Sri.M.B.Naragund, appearing for respondents 1 and 2 along with Sri. Madhukar Deshpande, learned Central Government Standing Counsel. We have perused the material on record.

5. The grievance of the petitioner is that, the postponement of NEET beyond 31.8.2021 has caused immense hardship and psychological problems to the aspirants who wish to prosecute their post-graduation course in respective branches of Medicine, inasmuch as about two lakh such aspirants are affected by the decision of the Central Government. It was contended by the petitioner that the said decision to postpone holding of NEET, a day prior to the date of Test, was not in accordance with law and the said decision is an arbitrary one and hence, the same has been assailed. It was further brought to our notice that, last year, when permission was sought before the Hon'ble Supreme Court

for seeking postponement of holding of NEET, it was declined and therefore, for this year the Central Government could not have unilaterally postponed the Test. That, originally, the Test was to be held in the month of January, 2021, but on account of COVID-19 pandemic, it was postponed to April, 2021 and it has now been further postponed to beyond 31st August, 2021. It was contended that it is not known as to when exactly NEET would be held and therefore, the petition has been filed in Public Interest to hold the said test as early as possible and without any further procrastination.

6. *Per contra*, learned Assistant Solicitor General appearing for respondents 1 and 2 supported the decision of the Central Government and submitted that owing to severe nature of COVID-19 Pandemic, which affected the Country this year from March 2021 till to the end of May 2021, in mid April-2021 a decision was taken at the highest level of the Central Government to postpone NEET. The said decision is a policy decision which is very sound and it may not be interfered with by this Court, as it is not an arbitrary decision but having regard to the serious nature of the resurgence of COVID-19 pandemic, which is commonly known as its 'second wave'. It was also

submitted that Courts do not intervene in academic schedules and matters, which are purely academic in nature, and when there is no arbitrariness in the instant case, this Court may not interfere in the writ petition.

7. Learned Assistant Solicitor General further submitted that even the NEET aspirants, those doing their Internships as well as final year students of MBBS and final year Nursing students have been recruited to assist the doctors in the hospitals attending to COVID-19 patients owing to the severe nature of the pandemic during the months from March 2021 till the beginning of June 2021 (100 days of COVID-19 duty). It is only on account of the circumstances that emerged that it was decided to postpone the NEET so as to enlist the services of the doctors including NEET aspirants for COVID-19 management and duties. In that regard, it was also stated that once the pandemic subsides, a date will be notified for holding the NEET for post-graduate medical students aspirants and they would be given sufficient time to prepare.

8. We have narrated in detail the facts and contentions of the respective parties. Judicial notice of the

fact that, COVID-19 pandemic in the first half of 2021 has been more severe than what it was in the corresponding period last year, must be taken note of. What is known as the "second wave" of the pandemic has affected the people from all walks of life and the number of Covid-19 cases increased tremendously during the months of March, April and May-2021. It is in the middle of such a "second wave" of the pandemic, when it was approaching its peak, resulting not only in high fatalities, but also post-recovery complications has endeared respondents No.2 i.e., Union of India, to take a decision to postpone the NEET to a period after 31st August, 2021. This is not a case where the said postponement has been made at the last moment in order to adversely affect the aspirants, rather, the decision would have been taken after a serious deliberation and owing to the situation as it emerged in April-2021.

9. We find that the postponement of NEET was on account of the circumstances as they emerged and based on the views of the experts. This is not a case where there is cancellation of NEET this year. It is only a case of postponement of the Test from April-2021 to a period subsequent to 31st August, 2021. It is needless to observe that the said postponement is in the background of the

“second wave” of the COVID-19 pandemic and the need to enlist the services of doctors for duties so as to manage the medical facilities and attend to the patients suffering from the disease. The decision of Union of India to hold the Test after 31st August, 2021 in our view, cannot be faulted, inasmuch as the decision would have been on the basis of the opinion of experts and on sound discretion being exercised by the second respondent-Department.

10. The Hon’ble Supreme Court declined to approve postponement of the exam last year as the pandemic was not as severe last year, the doctors including NEET aspirants were not requested to perform duties during this “second wave” of the pandemic. But, if such doctors have offered their services during the period April-July, then they would require time to prepare for the Test. Hence, the postponement of NEET to beyond 31st August 2021.

11. In the circumstances, we do not find any reason to interfere in the matter. We also agree with the learned Assistant Solicitor General, who submitted that this is a policy decision which has been taken by the Union of India and in the absence of there being any arbitrariness, this Court may not interfere in Academic issues, particularly

when the said decision is in the background of COVID-19 Pandemic, which was raging in April-2021.

12. Learned Assistant Solicitor General submitted that the dates would be notified for holding NEET after 31st August, 2021 after giving time for preparation by the aspirants. Once the Union of India has appraised of the fact that the pandemic would subside, medical graduates would be having at least one month to prepare before the Test.

13. Recording the aforesaid submissions of the learned Assistant Solicitor General, we find no merit in the writ petition. Hence, it is **dismissed**.

The parties to bear their respective costs.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

AP*