

\$~6&7

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 9115/2020, CM No.29496/2020 (for stay), CM No.33137/2020 (of Association of Medical Biochemists of India for intervention), CM No.3255/2021 (of Devendra Pal Singh for impleadment) & CM No.3256/2021 (of Devendra Pal Singh for stay)
NATIONAL M.SC. MEDICAL TEACHERS' ASSOCIATION (REGD.) Petitioner

Through: Mr. J. Sai Deepak & Mr. Avinash K. Sharma Advs.

Versus

NATIONAL MEDICAL COMMISSION & ORS. Respondents

Through: Mr. T. Singhdev, Adv. for R-1.
Ms. Monika Arora, Adv. for R-2.
Mr. Shivendra Singh & Ms. Mrinmoi Chatterjee, Advs. for R-3.
Mr. Ashok Nijhawan & Mr. Arun Batla, Advs. for Association of Medical Biochemist of India.

AND

+ W.P.(C) 10633/2020, CM No.33470/2020 (for stay), CM No.4841/2021 (of Association of Medical Biochemists of India for intervention) & CM No.34234/2020 (of All India Pre & Para Clinical Medicos Association for impleadment)
ASSOCIATION OF PHDS IN MEDICAL SCIENCES (REGD.) Petitioner

Through: Mr. Kumar Rajesh Singh & Ms. Punam Singh, Advs.

Versus

NATIONAL MEDICAL COMMISSION & ANR. Respondents

Through: Mr. T. Singhdev Adv. for R-1.
Mr. Vikram Jaitley, Adv. for R-2.
Mr. Shivendra Singh & Ms. Mrinmoi Chatterjee, Advs. for applicant in CM No.34234/2020.
Mr. Ashok Nijhawan & Mr. Arun Batla, Advs. for Association of Medical Biochemist of India.

**CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
HON'BLE MR. JUSTICE SANJEEV NARULA**

**ORDER
17.02.2021**

%

1. The challenge in both these petitions is, to the reduction of the percentage of faculty in the medical colleges, of Master of Science (M.Sc.) and Doctor of Philosophy (Ph.D.) qualified faculty members.
2. Notices of the petitions were issued and the counter affidavits have been filed.
3. The counsels for the petitioners state that there was no time to file rejoinder; time therefor be given. However they press for interim stay of the operation of the Minimum Requirements for Annual M.B.B.S. Admissions Regulations, 2020, challenge whereto is made in the petitions.
4. We have however asked the counsels to argue the writ petitions also inasmuch as it is felt that the arguments on the applications for interim stay would be the same as the arguments in the main writ petitions.
5. However after hearing the counsels for some time, it transpires that the petitioners in the present petitions are the existing faculty members having the M.Sc. / Ph.D. qualifications. We have thus enquired from the counsels for the petitioners, what is the cause of action for the petitioners to make the challenge inasmuch as only those aspiring for the faculty positions which have been curtailed, would be affected by the Regulations aforesaid. The petitioners / members of the petitioners, already holding faculty positions in medical colleges, should not be affected therefrom.

6. The counsel for the respondent National Medical Commission also states that the rights of the existing faculty are not sought to be affected and the percentage of such faculty members has been changed only for future appointments.

7. We have thus enquired from the counsels for the petitioners, whether not the present petitions are in the nature of Public Interest Litigations (PILs) and have to be dealt with as such and what is the cause of action for the petitioners to seek interim stay.

8. The counsels for the petitioners then state that some of the existing faculty members have also been asked to leave by the medical colleges in which they are employed, citing the impugned Regulations / notification.

9. However the medical colleges are not a party to these petitions and without the said colleges being parties, no grievance with respect to their action can be raised.

10. It is then stated that some of the faculty members who have been so asked to leave, have moved applications for impleadment in these petitions.

11. However their grievance cannot be heard without the presence of the medical colleges who are not parties hereto.

12. The affected faculty members are at liberty to file a fresh petition to challenge the notices asking them to leave, by making the medical colleges a party thereto. They are also at liberty to place copies of this order recording the statement aforesaid of the counsel for National Medical Commission, before the respective medical colleges, to contend that in pursuance to the Regulations aforesaid, the existing faculty members are not to be removed.

13. On request of the counsels for the petitioners, we defer the decision as to the treating of the present petitions as a PIL, to the next date.
14. Rejoinder to the counter affidavits filed, be filed within four weeks as sought.
15. The counsel for the respondent no.2 in W.P.(C) No.10633/2020 states that the counter affidavit of respondent no.1 is adopted.
16. The counsels for the petitioners, in view of above, withdraw the applications for interim relief.
17. CM Nos. 29496/2020 and 3256/2021 in W.P.(C) No.9115/2020 and CM No. 33470/2020 in W.P.(C) No.10633/2020 are disposed of as withdrawn.
18. In view of the aforesaid, all intervention applications i.e. CM Nos. 33137/2020 and 3255/2021 in W.P.(C) 9115/2020 and CM Nos. 4841/2021 and 34234/2020 in W.P.(C) 10633/2020 are allowed and amended memo of parties be filed by the counsels for the petitioners within one week and the intervenors so impleaded as respondents may file their counter affidavits within four weeks as sought.
19. Rejoinder, if any, thereto be also filed before the next date of hearing.
20. List these petitions for hearing on 15th July, 2021.

RAJIV SAHAI ENDLAW, J.

SANJEEV NARULA, J.

FEBRUARY 17, 2021

‘gsr’..