

HIGH COURT OF MADHYA PRADESH, BENCH AT INDORE

Writ Petition No.11840/2020

(Dr. (Smt.) Jaya Patel Vs. State of M. P. and Another)

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Indore, dated 25/08/2020

Shri A. M. Mathur, learned Senior Counsel with Shri Abhinav Dhanodkar, learned counsel for the petitioner.

Shri Purushaindra Kaurav, learned Advocate General with Shri Pushyamitra Bhargava, learned Additional Advocate General for the respondents / State.

The petitioner before this Court, who is a Doctor, has filed this present petition stating that she has participated in the NEET PG 2020 examination and has secured 247 marks under the OBC category. The petitioner has stated that a notice was issued on 15/07/2020 lowering the cut-off marks and opening of registration from 15/07/2020 (05:00 PM) to 17/07/2020 (12:00 Midnight) and the cut-off was lowered down in respect of OBC category to 230 marks. The petitioner who was having 247 marks became eligible on account of lowering of cut-off marks.

02- The petitioner's contention is that the petitioner wanted to participate in the registration process, however, the petitioner failed to get herself registered on account of Covid-19 Pandemic at large scale and consequential lockdown. The petitioner has further stated that large number of seats are lying vacant in medical Colleges and therefore, the State should be directed to hold a counselling again for the vacant seats.

03- Learned Senior Counsel Shri Mathur has argued before this Court that in a similar case i.e. **Ashish Ranjan & Ors. Vs. Union of India &**

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Ors. (M. A. No.1282 of 2020 in Writ Petition (C) No.76 of 2015), the Hon'ble Supreme Court by an order dated 30/07/2020 has extended the time for counselling of NEET PG Medical and Dental courses up to 31/08/2020 for Rajasthan State and therefore, in light of the order passed by the Hon'ble Supreme Court, the respondents / State be directed to permit the petitioner to get herself registered along with other eligible candidates and to hold counselling. The following reliefs have been prayed by the petitioner:-

“7. RELIEFS SOUGHT:- It is, therefore, most humbly prayed by the petitioner that by a suitable writ, order or direction this Hon'ble Court may be pleased to:-

- i) To direct the Respondents to declare the dates for State Counselling as well as registration process for new eligible candidates including petitioner;
- ii) To direct the Respondents to permit the petitioner to appear in Counselling process and registration process;
- iii) Allow this petition with costs;
- iv) Any other relief, this Hon'ble Court thinks fit in the facts and circumstances of the case be also granted to the petitioner.”

04- The State Government has filed a reply and the State Government and learned Advocate General has argued before this Court that in the State of Madhya Pradesh counselling is carried out keeping in view the *Madhya Pradesh Chikitsa Shiksha Praves Niyam, 2018* as amended on 19/06/2019. He has stated that keeping in view the regulations framed by Medical Council of India that there are two rounds of regular counselling followed by MOP-UP round and College Level Counselling. The State Government has enclosed relevant Rules on the subject.

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05- It has been further stated by the State Government that the petitioner Smt. Jaya Patel secured 247 marks in the NEET PG 2020 examination and became qualified only on account of lowering of cut-off marks up to 230 marks for OBC candidates by notification dated 14/07/2020 issued by Government of India, Ministry of Health & Family Welfare Department. Directorate of Medical Education published a notice on DME Website and Portal on 15/07/2020 intimating all the eligible candidates to get themselves registered keeping in view the lowering of cut-off marks and to facilitate registration the last date was extended from 16/07/2020 to 17/07/2020.

06- The respondents have further stated that 557 candidates got themselves registered for the remaining counselling in the second window for registration and the petitioner for the reasons best known to her did not register herself. The respondents have also stated that in the State of Madhya Pradesh all the counselling is over and *Madhya Pradesh Chikitsa Shiksha Praves Niyam, 2018* as amended on 19/06/2019 does not provide for fresh registration as prayed by the petitioner.

07- The respondents have further stated that as per public notice issued by Medical Council of India dated 11/06/2020, all the States were informed that the last date for admission in PG Courses for the academic sessions 2020-21 has been extended from 31/05/2020 to 31/07/2020 following the Hon'ble Supreme Court directions. In the State

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of Madhya Pradesh last round of counselling has been concluded on 31/07/2020. The respondents have stated on affidavit that the Hon'ble Supreme Court in its order dated 30/07/2020 passed in M. A. No.1282 of 2020 extended the counselling for the States which were not able to complete their counselling till 31/07/2020. The respondents have admitted that seats are lying vacant.

08- Heard learned counsel for the parties at length and perused the record.

09- The undisputed facts of the case reveal that the petitioner before this Court did obtained 247 marks in the NEET PG 2020 examination (under OBC Category) and *vide* notice dated 15/07/2020 the cut-off marks in respect of OBC candidates were lowered to 230 marks. The process of registration keeping in view the cut-off marks was open from 15/07/2020 (05:00 PM) to 17/07/2020 (12:00 Midnight). The petitioner's contention is that she was not able to get herself registered and was not able to participate in the counselling on account of Covid-19 Pandemic.

10- The reply of the respondents reveal that that as many as 557 candidates got themselves registered for remaining counselling after the cut-off marks were lowered. The respondents have not disputed the order of Hon'ble Supreme Court. The order passed by the Hon'ble Supreme Court in M. A. No.1282 of 2020 in Writ Petition (C) No.76 of 2015 dated 30/06/2020 reads as under:-

“M. A. NO. 1282 OF 2020 IN WRIT PETITION (C) NO. 76 OF 2015:

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Heard the learned counsel appearing on behalf of the applicant.

We implead the State of Rajasthan. As prayed for by the learned counsel, given the current situation, time for counselling for Rajasthan State NEET PG Medical and Dental courses is extended from 31.07.2020 to 31.08.2020. This will enure to the benefit of the entire country.

Miscellaneous Application is allowed.”

11- Learned Advocate General Shri Purushaindra Kaurav and Shri Pushyamitra Bhargava, learned Additional Advocate General were directed to seek instructions in the matter while the matter was going on in the first round. They have categorically stated that the State is ready to do counselling in respect of the remaining vacant seats as as many as 159 seats are lying vacant, however, he has stated before this Court that the State shall be permitting only those candidates who were registered earlier for the purposes of counselling and who were registered after the cut-off marks were lowered. He has stated that the State shall not permit any fresh candidate.

12- In the considered opinion of this Court, once the State Government is holding fresh counselling for the remaining 159 seats, the candidates who were not able to get themselves registered after the cut-off date on account of lowering of the cut-off marks shall also be entitled to get themselves registered for the purposes of counselling. If a concession is made by the State Government, an opportunity should be given to the meritorious candidates who were certainly higher in merit list and cannot get themselves registered on account of Covid-19 Pandemic.

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13- Resultantly, the writ petition stands disposed of with the following directions:-

- i) The State Government keeping in view the categoric undertaking given before this Court shall hold one last round of counselling in respect of total remaining vacancies and the entire process shall be concluded prior to 31/08/2020 keeping in view the deadline fixed by the Hon'ble Supreme Court.
- ii) The State Government shall permit all the students, who were not able to get themselves registered on account of Covid-19 Pandemic, to get themselves registered and shall grant minimum 24 hours for the purposes of fresh registration.
- iii) The earlier admissions done will not be disturbed on account of fresh counselling.
- iv) Shri Bhargava, has stated before this Court that the Rules do not permit grant of admission to a candidate in a subsequent round of counselling, in case he has refused admission granted to him earlier and therefore, those candidates who have refused admission earlier will not be entitled to participate again in the counselling conducted now.

With the aforesaid, writ petition stands disposed of.

Certified copy as per rules.

(S. C. SHARMA)
J U D G E

(SHAILENDRA SHUKLA)
J U D G E