

ITEM NO.63

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s).1024/2022

DEEPIINDER SINGH

Petitioner(s)

VERSUS

THE STATE OF UTTARAKHAND & ORS.

Respondent(s)

(FOR ADMISSION and IA No.176807/2022-EXEMPTION FROM FILING O.T.)

Date : 21-11-2022 This petition was called on for hearing today.

**CORAM : HON'BLE THE CHIEF JUSTICE
 HON'BLE MS. JUSTICE HIMA KOHLI**

For Petitioner(s) Ms. Gargi Srivastava, Adv.
 Mr. Arpit Shukla, AOR
 Ms. Mitali Chauhan, Adv.
 Mr. Sumit Arora, Adv.

For Respondent(s) Ms. Aishwarya Bhati, ASG
 Dr. Abhishek Atrey, AOR
 Ms. Namita Chaudhary, Adv.
 Ms. Srishti Choudhary, Adv.

**UPON hearing the counsel the Court made the following
 O R D E R**

- 1 The petitioner appeared for the NEET-PG Examination 2022-23 conducted by the National Board of Examinations for seeking admission to Post Graduate medical courses. In terms of the scheme for counselling which has been prescribed by the National Medical Commission, the counselling authorities at the Central and State level are required to conduct two separate rounds of counselling, namely, rounds 1 and 2 before the mop up rounds for the All India Quota (AIQ) and the State mop up round take place. However, in the State of Uttarakhand, only one consolidated round of counselling has taken place for 2022-23. Both the first and second rounds have been combined by describing them as the main round of counselling.

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 Digitally signed by
 Sanjay Kumar
 Date: 2022-11-21
 17:16:29 IST
 Reason:

2 The deviation by the State of Uttarakhand from the prescribed process has prejudicially affected the rights of the petitioner and other similarly placed students who would have been eligible to exercise the options available at the end of round 1 such as “free exit” and “upgradation”. Since both the rounds 1 and 2 have been combined in the State of Uttarakhand, the students have been deprived of these options.

3 Clause 11.2.7 of the Information Bulletin NEET PG 2022 issued by the State of Uttarakhand provides:

“11.2.7 -If a candidate has withdrawn the admission or left the allotted seat after confirming the admission during the process of round-I counselling. He/she will be eligible for round-II counselling & subsequent rounds of counselling. Instruction for round-II and subsequent round will be uploaded separately.”

4 On 18 October 2022, a notification was issued by the State in the following terms:

“...NEET PG 2022 Candidates participating in Uttarakhand State Centralized Counseling are informed that due to unavoidable reasons of Uttarakhand State Centralized Counseling, the first phase counseling was not conducted, due to which the counseling board decided to do main phase and mop phase. As per the instructions of Government of India /NMC / MCC /, a candidate admitted in the institute after the second stage counseling cannot leave his seat.

In view of the above, the first phase and second phase counseling mentioned in the information brochure issued by the counseling board should be considered as zero and the time table and information for the mop phase counseling will be issued separately.”

5 In the decision of this Court dated 16 December 2021 in **Nihila P P v Medical Counselling Committee (MCC) and Others**¹, it was directed that candidates who have joined the allotted seat in round 2 and further rounds of counselling

¹ SLP(C) No 10487 of 2021

will not be allowed to resign and will also be ineligible to take part in further rounds of any type of counselling. This was reiterated in an order dated 31 March 2022 in Writ Petition (Civil) No 174 of 2022. This Court held that in line with the regulations which have been notified on 5 April 2018, students who have joined in round 2 of the state quota or round 2 of the All India Quota shall not be eligible to participate in the mop up round for All India Quota.

- 6 It is plainly apparent that the failure of the State of Uttarakhand to hold two separate rounds of counselling has caused serious prejudice inasmuch as the options which would have been available at the end of round 1 would be foreclosed and would be unavailable.
- 7 In this view of the matter and in order to obviate prejudice to the students, we order and direct that the petitioner and similarly placed students who were unable to exercise their options at the end of round 1 of the State counselling shall not be held to be ineligible merely because the State of Uttarakhand combined both rounds 1 and 2 of the counselling rounds. These students will be permitted to withdraw from the seats which have been allotted to them as a "free surrender" without suffering any penalty and would be permitted to participate in the State mop up round which is under way. The State of Uttarakhand shall duly publicize the above directions so that other similarly placed students are made aware of the option which has been granted in terms of the present order.
- 8 The State of Uttarakhand is permitted to extend the State mop up round by a further period of three days.
- 9 The petition is disposed of in the above terms.

10 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR