

04.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8168/2009

PRATEEK SINGH PATEL

..... Petitioner

Through : Mr. Vivek Madhok and Mr. J.P. Gupta,
Advs.

versus

MCI, NEW DELHI

..... Respondent

Through : Mr. T. Singhdev, Mr. Abrar Mh. Abdullah
and Mr. J.P. Karunakaran, Advs.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

27.11.2009

%

1. Petitioner is a student of S. Nijalingappa Medical College and Hangal Shri Kumareshwar Hospital & Research Centre, Navanagar – Bagalkot. The first year MBBS result of the petitioner was declared on 29.08.2008. It is the case of the petitioner that within one month of the date of declaration of the result, he applied to his college on compassionate grounds for migration. The application was considered by the Medical College and after a gap of four months and twelve days a No Objection Certificate was issued. After obtaining the No Objection Certificate, the petitioner moved an application before the BRD Medical College, Gorakhpur, Uttar Pradesh on 27.01.2009 where one seat was lying vacant. The BRD Medical College, Gorakhpur, Uttar Pradesh is also stated to have given its No Objection

Signature Not Verified

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

Certificate to the petitioner, subject to the MCI accepting the same. The petitioner also moved an application before the Rajiv Gandhi University of Health Sciences on 29.01.2009 with regard to issue of a No Objection Certificate for migration. This application of the petitioner was rejected by the Rajiv Gandhi University of Health Sciences, Karnataka, on the ground that as per the MCI notification No.MCI 34/(41)-2008-med/295727 dated 20.10.2008 the student is to submit his application for migration within a period of one month of passing/declaration of the result. Aggrieved by the action of respondents in not granting the No Objection Certificate, the petitioner made an application to the MCI on 02.03.2009, which was rejected on 09.04.2009 on the ground that the application is incomplete and cannot be processed without No Objection Certificate issued by the relieving University that is Rajiv Gandhi University of Health Sciences in view of Clause 6(4) of the Graduation Medical Regulations, 1997.

2. After some hearing in the matter, learned counsel for the petitioner submits that the petitioner cannot be made to suffer on account of the lapse of the college where he was studying as he had made the necessary application to the college within one month of the declaration of the result and the college granted the No Objection Certificate after a gap of four months and twelve days.

Counsel further submits that the petitioner had also made an application dated 02.03.2009 to the MCI, however, the MCI has not passed any final order on this application and the application was simply returned back. Counsel also submits that at this stage a direction be issued to the MCI to consider the application of the petitioner and pass an order expeditiously.

3. Learned counsel for the respondent – MCI submits that in view of the fact that the application form was incomplete there was no occasion for the MCI to entertain the same.
4. Be that as it may, without prejudice to the rights and contentions and pleas raised by the respondent – MCI in their counter affidavit, the MCI will consider the application of the petitioner within a period of two weeks from today and pass a reasoned order in accordance with law. Needless to say, if aggrieved by the orders which may be passed by the MCI, the petitioner shall be entitled to seek appropriate remedy as may be available to him, in accordance with law.
5. Petition stands disposed of in view of above.
6. Dasti to counsel for the parties.

November 27, 2009

'msr'

W.P.(C) 8168/2009


G.S. SISTANI, J.