

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

% Judgment reserved on : 06.08.2013  
Judgment pronounced on : 14.08.2013

+ W.P.(C) 4673/2013

SANDEEP KUMAR SOOD ..... Petitioner

Through: Mr Ujjwal Jha, Adv.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Mr Amrit Pal Singh, Adv for  
Respondents 1 to 3  
Mr Amit Bansal and Ms Ritika Nagpal, Advs  
for R-4

**CORAM:**  
**HON'BLE MR. JUSTICE V.K. JAIN**

**V.K. JAIN, J.**

1. In exercise of the powers conferred by sub-section (1) of Section 7B of the Citizenship Act, 1955 (57 of 1955) and in continuation of the notifications of the Government of India in the Ministry of Home Affairs number S.O.542(E) dated, the 11<sup>th</sup> April, 2005 and in the Ministry of Overseas Affairs S.O. 12(E), dated the 6<sup>th</sup> January, 2007, the Central Government specified certain rights to which the persons registered as the overseas citizen of India under Section 7A of the said Act, shall be entitled, such rights include the right to appear for the All India Pre-

Medical test or such other tests to make them eligible for admission in pursuance of the provisions contained in the relevant Acts.

2. A National Eligibility cum Entrance Test (NEET-UG, 2013) was held by respondent No. 4-Central Board of Secondary Education for admission to MBBS/BDS courses. The Information Bulletin, to the extent it is relevant, reads as under:

**“1. INTRODUCTION**

a. There shall be a single eligibility cum entrance examination namely ‘National Eligibility-cum-Entrance Test for admission to MBBS/BDS courses’ in each academic year.

c. The reservation of seats in medical/dental colleges for respective categories shall be as per applicable laws prevailing in States/Union Territories. An all India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of the marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to MBBS/BDS courses from the said lists only.

e. All admissions to MBBS/BDS courses within the respective categories shall be based solely on marks obtained in the National Eligibility-cum-Entrance Test.

#### 4. GENERAL INSTRUCTIONS

(a) National Eligibility Cum Entrance Test (UG) will be governed by the rules and regulations specified by the Medical Council of India, Dental Council of India and the Government of India.

(b) Appearance in NEET does not confer any right to the candidate for admission in MBBS/BDS Courses. The selection and admission to MBBS/BDS seats in any Medical Institution recognized for running MBBS/BDS Courses as per Indian Medical Council Act 1956 and BDS Course Regulations 2007 is subject to fulfilling the admission criteria, eligibility, medical fitness and such other criteria as may be prescribed by the respective universities and medical institutions.

#### 9. ELIGIBILITY AND QUALIFICATIONS

9.1 Indian Nationals and Overseas Citizen of India (OCI) are Eligible for appearing in the National Eligibility Cum Entrance Test (NEET-UG)

9.2 Eligibility for All India Quota Seats

(i) He/She has completed age of 17 years at the time of admission or will complete the age on or before 31st

December of the year of his/her admission to the 1st year MBBS/BDS

Course and is an INDIAN NATIONAL.

### 9.3 Eligibility for State Quota Seats

(i) He/She has completed age of 17 years at the time of admission or will complete the age on or before 31st December of the year of his/her admission to the 1st year MBBS/BDS Course and is an INDIAN NATIONAL.

(ii) Overseas Citizens of India (OCI) are eligible for admission in Medical/Dental Colleges subject to rules and regulations framed by the respective State Governments and the Government of India.”

3. The petitioner before this Court, who is not an Indian Citizen, but is an Overseas Citizen of India (OCI), appeared in NEET-UG, 2013 and secured All India Rank 7404. However, neither the rank of the petitioner in All India Quotas nor his rank in State Quota was declared by CBSE. The grievance of the petitioner is that on account of his All India Quota rank not being declared, he could not appear in the counseling for admission under the State quota. The petitioner is accordingly seeking a direction to the respondents to declare his All India Quota rank and consider him for admission in the Medical/Dental colleges in India.

4. In their counter-affidavit, respondents 1 to 3 have stated that the

Information Bulletin clearly stipulated that mere appearance in NEET does not confer any right for admission in MBBS/BDS courses which are notified by IMC Act and BDS Courses Regulation, subject to fulfilling the admission criteria, eligibility medical fitness and such other criteria as may be prescribed by the respective Universities and Medical Institutions. According to these respondents, the privilege granted to OCIs is subject to the provisions of Indian Medical Council Act, 1956 and Dentists Act, 1948 and no amendment to the said Acts has been made so as to permit such persons to appear in the All India Pre-Medical test or such other test as would make them eligible for admission in the undergraduate medical courses. The reason given is that admission of OCIs to the undergraduate medical courses will put an ordinary Indian student at a distinct disadvantage since he does not have an option to study medicine abroad, whereas OCI student, if given an option may prefer to study in medicine in India just because it is cheaper. It is further submitted by the respondents that as against total 51,175 medical seats (excluding AIIMS and JIPMER), the number of students, who appeared for NEET-UG 2013, was 6,48,040, which would show that the number of aspirants for such seats is very high and allowing OCI students to obtain admission

under the All India Quota would further diminish their chances. It is also stated that the medical colleges also offer seats under NRI quota at a higher cost and admission against those seats can be availed by OCIs candidates who generally have a strong economic background.

5. In its counter-affidavit, respondent No. 4, referring to the various clauses of the Information Bulletin for NEET UG, 2013, has stated that the petitioner is not entitled for admission under the All India Quota.

6. This is respondents' own case that all admissions to MBBS/BDS courses during the Academic Year 2013-14 is to be made solely on the marks obtained in the NEET test. This is not their case that admission to NRI quota in the medical colleges can be made without the candidate having appeared in NEET and having obtained the minimum prescribed marks in the said test. Clause 1(b) of the Information Bulletin clearly stipulates that a person would be eligible for admission to MBBS/BDS course only if he attains minimum marks in NEET held for the relevant academic year, besides obtaining minimum prescribed marks at the qualifying examination.

7. As far as admissions under All India Quota are concerned, it is evident from a perusal of clause 9.2 (i) that only Indian nationals are

eligible for admission under the said quota. Therefore, being an Overseas Citizen of India (OCI), the petitioner is not eligible for admission under the All India Quota. However, as far as admission under the State Quota is concerned, a perusal of clause 9.3 (ii) clearly shows that even Overseas Citizens of India are eligible for admission in Medical/Dental Colleges under the said quota, subject, of course, to the rules and regulations framed by the respective State Government and the Central Government. Therefore, it cannot be said that the Overseas Indian Citizens of India are not eligible for admission even against the seats falling under the State Quota. In fact clause 1(c) clearly stipulates that the candidates shall be admitted to MBBS/BDS courses only from the All India Merit List and the State-Wise Merit List. Going by the Information Bulletin for NEET-UG, 2013, unless the name of a person appears either in the All India Merit List or in the State-Wise Merit List, he cannot be considered for admission even in NRI Quota. No specific rule/regulation permitting admission against NRI seats, without the candidate appearing in NEET UG, 2013 and without his name appearing either in the All India Merit List or in the State-Wise Merit list has been brought to my notice nor has any such provision been pointed out in the counter-affidavit of the

respondents. Even otherwise, I fail to appreciate how admission against NRI seat can be made, without the name of the candidate, appearing either in the all India merit list or in the State merit list when the regulations clearly stipulate that in order to be eligible for admission to MBBS/BDS courses for a particular academic year, the candidates must have obtained minimum marks in the said test for the relevant academic year. Even the Information Bulletin does not say that the name of OCIs students will not be included either in the All India Merit List or in the State-Wise Merit List. However, considering that State Wise Merit List is to contain the names of only those candidates who passed their qualifying examination only from the concerned State, the petitioner can claim declaration of his rank in the concerned State merit list only if he has passed his qualifying examination from a school Board in India. It is stated in the writ petition that the petitioner shifted to India in 1993 and passed the qualifying examination in the year 2012, it does not disclose as to from where the petitioner passed the qualifying examination which entitles him to seek admission in an MBBS/BDDS course.

7. For the reasons stated hereinabove, I am of the considered view that though the respondents are not required to declare the rank of the

petitioner in the All India Merit List, they have to declare his rank in the concerned State Merit List, if he has passed his qualifying examination from a State/Territory in India. The respondents are directed accordingly. In case the rank of the petitioner in the State Merit List is required to be declared in terms of this order, that shall be done within one week from today under intimation to the petitioner.

The writ petition stands disposed of.

**V.K.JAIN, J**

**AUGUST 14, 2013**

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