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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 11th January, 2019

+ W.P.(C) 10929/2017

SOCIETY OF TROPICAL MEDICINE AND

INFECTIOUS DISEASES IN INDIA. Petitioner

Through: Mr. Pinaki Addy, Adv.

versus

**THE DIRECTOR, NATIONAL BOARD OF
EXAMINATIONS AND ORS. Respondents**

Through: Mr. Kirtiman Singh, CGSC for
R-1 with Waize Ali Noor, Ms. Shruti Dutt,
and Mr. Prateek Dhandha, Adv.

Mrs. Suparna Srivastava, CGSC for R-2 & 3
with Mr. Tushar Mathur, Adv.

**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR**

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J U D G M E N T (O R A L)

1. The petition has been filed by a society, stated, by learned counsel appearing for the petitioner, to comprise a group of persons possessing degrees of MD in Tropical Medicine. The locus of such a society to maintain such a writ petition may be questionable. However, inasmuch as the case has been argued on merits and the issue in controversy is limited, I am proceeding to decide this writ petition without entering into the said technical issue.

2. The claim in the writ petition is limited. All that is sought is that the holders of the degree of Doctorate of Medicine (MD) in the discipline of Tropical Medicine should be treated as eligible to sit in the examination, conducted by the National Board of Examination for conferment of the DNB degree in the disciplines of Clinical Haematology, Gastroenterology, Rheumatology and Endocrinology, and for being conferred the qualification of FNB (Critical Care) pursuant thereto.

3. The prayer for the recognition of the qualification of MD (Tropical Medicine) as an eligible qualification for obtaining the qualification of DM (Doctor of Medicine) is founded on the Schedule to the Postgraduate Medical Education Regulations, 2000 (hereinafter referred to as “the 2000 Regulations”). However, in my opinion, a reading of the said Schedule actually defeats the case of the petitioner.

4. The Schedule to the 2000 Regulations is titled “specialities/Subjects in which Postgraduate Degree and Diploma can be awarded by the Indian Universities and the eligibility requirements of candidates for registration for the same.”

5. The eight sub-Schedules to the said Schedule deal with the prescribed qualifications for the degrees of M.D. (Doctor of Medicine), M.S. (Master of Surgery), D.M. (Doctor of Medicine), M.Ch. (Master of Chirurgie), Ph.D. (Doctor of Philosophy), Diplomas for which MBBS is required, Diplomas for which post-graduate is

required, and Post-Doctoral Certificate Courses are required respectively.

6. This writ petition would concern itself only with sub-schedule A and sub-schedule C thereto.

7. Sub-Schedule C in Schedule A to the 2000 Regulations sets out the specialities in which a candidate is required to possess the degree of MD, in order, for her/him to be eligible for further advancement to the degree of DM. This is set out super-speciality wise, in a tabular form.

8. The said sub-Schedule sets out as many as 31 super-specializations, with the specialities in qualifying MD degree is required to be possessed, shown against each. Inasmuch as this writ petition concerns itself with the super-specializations of Clinical Haematology, Gastroenterology, Rheumatology and Endocrinology, which figure at S. Nos. 2, 4, 6 and 31 of the said sub-Schedule, the entries in that regard may be reproduced, for ready reference, as under:

S. No.	Area of specialization	Prior Requisite
2.	Clinical Haematology	MD (Medicine) MD (Pathology) MD (Paediatrics) MD (Biochemistry)
4.	Endocrinology	MD (Medicine) MD (Paediatrics) MD (Biochemistry)

6.	Medical Gastroenterology	MD (Medicine) MD (Paediatrics)
31.	DM (Clinical Immunology and Rheumatology)	MD (General Medicine) MD (Paediatrics)

9. It is seen from the above entries that, while MD (Medicine) is shown as one of the qualifications, the possessor of which could aspire to the degree of DM in the above specialities of Clinical Haematology, Gastroenterology, Rheumatology and Endocrinology, there is no reference to MD (Tropical Medicine). In fact, significantly, MD (Tropical Medicine) is shown as one of the qualifications, for obtaining the qualification of DM (Infectious Disease), figuring at S. No. 19 of the said sub-schedule C, which reads thus:

S. No.	Area of specialization	Prior Requirement
19.	D. M. (Infectious Disease)	MD (Medicine) MD (Paediatrics) MD (Tropical Medicine) MD (T.B. & Chest)

10. In that view of the matter, *prima facie*, there is no way in which the holder of MD in Tropical Medicine could be treated as eligible for further advancement to the qualification of DM in any of the aforementioned four super-specialities of Clinical Haematology, Gastroenterology, Rheumatology and Endocrinology, though she,he

could unquestionably aspire for the degree of DM (Infectious Diseases).

11. Mr. Pinaki Addy, learned counsel appearing for the petitioner, has sought to rely on sub-schedule A in the schedule to the 2000 Regulations, which sets out the various specialities, in which a degree of the MD could be obtained, by the holder of an MBBS degree. One of the said specialties is “Tropical Medicine”, at serial no. 28 of sub-schedule A.

12. The contention of learned counsel appearing for the petitioner is that, as Tropical Medicine is one of the qualifications relatable to “Medicine”, in respect of which MD degree could be obtained, the holder of the MD qualification in Tropical Medicine should be treated, *ipso facto*, as eligible for aspiring for the qualification of DM in the aforementioned four super-specialities, inasmuch as MD (Medicine) has been shown eligible therefor.

13. It is impossible to agree with such a contention. This Court is ill-equipped to equate the qualifications of MD (Medicine) and MD (Tropical Medicine). Indeed, if the aforementioned contention of learned counsel is accepted, it may embolden the holders of MD in other specialties that find mention in sub-schedule A to the Schedule to the 2000 Regulations, such as Community Medicine, Family Medicine, Forensic Medicine, Nuclear Medicine, Sports Medicine, etc., to seek similar relief.

14. It can hardly be gainsaid that it is not for any court to prescribe qualifications, in matters involving medical issues, which would enable the holders thereof to aspire to, and attain higher qualifications.

15. In fact, in response to the representations addressed by the petitioner in that regard, the petitioner was informed *vide* email communication dated 26th October, 2017, that candidates with MD (Tropical Medicine) would be eligible for applying to the FNB Course (Infectious Diseases).

16. This clearly indicates that the other request of the petitioner, i.e. for the holder of MD (Tropical Medicine) to be treated at par for applying for the degree of DM in super-speciality, was rejected. No doubt, there is no detailed and speaking order, rejecting the said request; however, the matter having been examined by the National Board of Examinations, which is a high-powered body and is best equipped to take a decision in that regard, it is not possible for this Court to fault the said decision solely on the ground that it was not accompanied by detailed and supportive reasons.

17. Reliance has also been placed, in the writ petition, on a judgment of this Court, in ***W.P. (C) 10095/2015 (Dr. Nayan Suresh Brahme v. The Director, AIIMS)***, which dealt with the issue of whether the qualification of MD (Tropical Medicine) would enable the holder thereof to aspire to the degree of DM (Infectious Diseases). In that case, there was a positive recommendation by the Medical Council of India (MCI), recommending the claim of the petitioner.

Further, the Dean, AIIMS, appeared in person before the Court and conceded that the holder of the qualification of MD (Tropical Medicine) could aspire to the degree of DM (Infectious Diseases). It was in that background that this Court allowed the case, the order having been passed on a concession made by the Dean, AIIMS.

18. Quite obviously, the said decision cannot operate as a precedent in this case.

19. For the above reason, I am of the opinion that it is not possible to accede to the request of the petitioner, for issuance of a mandamus to the respondents to treat the degree of MD (Tropical Medicine) as a qualifying degree for obtaining the higher qualification of DM in the aforementioned four super-specialities, i.e. Haematology, Gastroenterology, Rheumatology and Endocrinology.

20. The writ petition also prays that the holders of MD (Tropical Medicine) should be permitted to appear in the entrance examination, conducted by National Board of Examinations (NBE) for Fellowship of the National Board (FNB) in the Critical Care super-speciality.

21. A reading of the writ petition reveals that no substantial averment, far less any cogent material, exists, in support of the said claim. In any case, as he already been observed by me hereinabove, it is not for this Court to trespass into the area of prescription of eligibility qualifications for medical specialities and super-specialities.

22. For the abovementioned reasons, this writ petition is totally devoid of merits and is dismissed.

23. There shall be no orders as to costs.

24. It is clarified that this order would not stand in the way of the respondents, if they so choose, to include the qualification of MD (Tropical Medicine) as a qualifying degree for the super-speciality of DM in any of the aforementioned four super-specialities of Clinical Haematology, Gastroenterology, Rheumatology and Endocrinology, or to take an informed decision in that regard.

JANUARY 11, 2019/bh

C.HARI SHANKAR, J