

Court No. - 34

Case :- WRIT - A No. - 18482 of 2023

Petitioner :- Dr. Geeta Jaiswal And 55 Others

Respondent :- National Medical Commission And 4 Others

Counsel for Petitioner :- Mohit Kumar

Counsel for Respondent :- A.S.G.I.,C.S.C.,Dhananjay Awasthi,Vivek Kumar Singh

Hon'ble Ajit Kumar,J.

1. Heard Sri Rahul Sripat, learned Senior Advocate assisted by Sri Mohit Kumar, learned counsel for the petitioner and Sri Vivek Kumar Singh, learned counsel for the respondent nos.1 and 2.

2. By means of this petition filed under Article 226 of the Constitution petitioners seek quashing of the relevant part of the CBME Guidelines dated 01.08.2023 introduced by National Medical Commission which provides that the persons to be appointed as examiners must have total teaching experience of four years as Assistant Professor after obtaining post graduate degree following MBBS in the college affiliated to a recognized medical college by National Medical Commission.

3. The petitioners' grievance is that since they have been teaching faculty in the colleges prior to the introduction of this curriculum and have been examiners as well, such new modified guidelines have placed them in a disadvantageous position quite arbitrarily and is hit by Article 14 of the Constitution. He has further relied upon order passed by Kerala High Court in WP (C) No.34567 of 2023 entertaining the writ petition questioning the guidelines and granting interim protection to the extent that such teachers would continue to be appointed as examiners. He has also placed reliance upon some other order passed by Rajasthan High Court in D.B. Civil Writ Petition No.17958 of 2023 on 31.10.2023 granting similar protection.

4. Sri Vivek Kumar Singh, learned counsel for the respondent nos.1 and 2 submits that National Medical Commission has clarified its position as to the guidelines

that this note appended to Clause 6 (ii) of the CBME Guidelines 2023 which are put to challenge will have only prospective effect and is meant for only those teaching faculties which are appointed after the guidelines coming into force. Paragraph 3 of the instruction which has been placed before the Court is reproduced hereunder:

"3. Further, it is informed that the effect of CBME Guidelines, 2023 will not disturb the old faculty. They will continue to remain eligible for becoming the examiner. The CBME Guidelines, 2023 shall be applicable on new appointments."

5. Sri Singh, submits that in view of the clarification issued by the National Medical Commission, the controversy no more survives in so far as the challenge to the guidelines is concerned on this very ground.\

6. Learned Senior Advocate after perusing the note could not dispute the stand of National Medical Commission. Thus no more any cause survives to continue this petition.

7. In view of the above, petition is ***consigned to records*** with this observation that National Medical Commission shall follow its own clarification that have been placed before this Court.

Order Date :- 3.11.2023
Deepika