

Court No. - 1

Case :- WRIT - C No. - 21917 of 2017

Petitioner :- Vandana Mittal And Ors.

Respondent :- Union Of India Thru. Secy. Ministry Health And Family Welfar

Counsel for Petitioner :- Ambrish Singh Yadav,Gaurav Mehrotra

Counsel for Respondent :- C.S.C.,A K Verma,A.S.G.,Amit Jaiswal-Ojus Law,Amit Kumar,Gyanendra Kumar Srivasta,Sanjay Bhasin,Savitra Vardhan Singh

connected with

(1) Case :- WRIT - C No. - 22434 of 2017

Petitioner :- Divya Chaubey

Respondent :- U.O.I. Thru. Secy. Ministry Of Health And Family Welfare And Ors

Counsel for Petitioner :- Ambrish Singh Yadav,Jain Prakash Singh

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Sanjay Bhasin,Savitra Vardhan Singh

(2) Case :- MISC. BENCH No. - 24480 of 2017

Petitioner :- Mayo Institute Of Medical Sciences Thru Director

Respondent :- State Of U.P Thru Prin Secy Medical Edu Lko & Ors

Counsel for Petitioner :- Ram Raj,Chetna Singh

Counsel for Respondent :- C.S.C,Gyanendra K. Srivastava,Gyanendra Kumar Srivastav,Sanjay Bhasin

(3) Case :- MISC. BENCH No. - 24580 of 2017

Petitioner :- T.S. Misra Medical College & Hospital Thru Prin. Brigadier R

Respondent :- U.O.I. Thru. Secy. Ministry Of Health & Family Welfare & Ors

Counsel for Petitioner :- Sunil Kumar Chaudhary,Ram Saran Awasthi

Counsel for Respondent :- C.S.C.,A.S.G.,Anand Dwivedi,Gyanendra Kr. Srivastava,Gyanendra Kumar Srivastav,Sanjay Bhasin

(4) Case :- MISC. BENCH No. - 30254 of 2017

Petitioner :- Rama Medical College Hospital & Research Centre Thru. Prin.

Respondent :- State Of U.P. Thru. Secy., Medical Education & 5 Ors.

Counsel for Petitioner :- Ambrish Singh Yadav,Gaurav Mehrotra,Mrs. Komal Jaiswal-Ojus L

Counsel for Respondent :- C.S.C.,A.S.G.,Anand Dwivedi,Anurag Verma,Gyanendra Kumar Srivastav,Sanjay Bhasin

(5) Case :- MISC. BENCH No. - 30268 of 2017

Petitioner :- Shri Ram Murti Smarak Institute Of Medical Sciences Lko.

Respondent :- State Of U.P.Through Secy.Medical Education Lko.And Ors.

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Amit Jaiswal-Ojus Law,Mrs. Komal Jaiswal-Ojus L

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kumar Srivastav,K.D. Nag,Sanjay Bhasin

(6) Case :- MISC. BENCH No. - 31046 of 2017

Petitioner :- K.D. Medical College Hospital & Research Centre Thru Chairma

Respondent :- State Of U.P. Thru. Secy. Medical Education & Others

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Komal Jaiswal

Counsel for Respondent :- C.S.C.,A.S.G.,Anurag Verma,Gyanendra Kr.

Srivastava,Gyanendra Kumar Srivastav,Sanjay Bhasin

(7) Case :- MISC. BENCH No. - 31061 of 2017

Petitioner :- Muzaffarnagar Medical College Thru.Treasurer Gaurav Swaroop

Respondent :- State Of U.P. Thru. Secy. Medical Education & Others

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Mrs. Komal Jaiswal-Ojus
L

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Gyanendra Kumar
Srivastav,Sanjay Bhasin,Waseeq Uddin Ahmad

(8) Case :- MISC. BENCH No. - 31072 of 2017

Petitioner :- G.S. Medical College & Hospital Thru. Secy. Ankit Sharma

Respondent :- State Of U.P. Thru. Secy. Medical Education & Others, Janpat

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Mrs. Komal Jaiswal-Ojus
L

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Gyanendra Kumar
Srivastav,Sanjay Bhasin,Waseeq Uddin Ahmad

(9) Case :- MISC. BENCH No. - 31409 of 2017

Petitioner :- Rajshree Medical Research Institute Thru. Chairman Rajendra

Respondent :- State Of U.P. Thru. Secy. Medical Education & Others, Janpat

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Mrs. Komal Jaiswal-Ojus
L

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Gyanendra Kumar
Srivastav,K.D. Nag,Sanjay Bhasin

(10) Case :- MISC. BENCH No. - 31418 of 2017

Petitioner :- Subharti Medical College Thru. Principal Dr. A.K. Srivastava

Respondent :- State Of U.P. Thru. Secy. Medical Education & Others, Janpat

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Mrs. Komal Jaiswal-Ojus
L

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Gyanendra Kumar
Srivastav,Sanjay Bhasin

(11) Case :- MISC. BENCH No. - 31447 of 2017

Petitioner :- Career Institute Of Medical Sciences & Hospital Thru. Chairm

Respondent :- State Of U.P. Thru. Secy. Medical Education & Others, Janpat

Counsel for Petitioner :- Gaurav Mehrotra,Ambrish Singh Yadav,Mrs. Komal Jaiswal-Ojus
L

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Gyanendra Kumar
Srivastav,Sanjay Bhasin,Shobhit Mohan Shukla

(12) Case :- MISC. SINGLE No. - 21521 of 2018

Petitioner :- Megha Pant & others

Respondent :- State Of U.P. Thru. Secy. Medical

Counsel for Petitioner :- Lalta Prasad Mishra

Counsel for Respondent :- C.S.C.,A.S.G.,Gyanendra Kr. Srivastava,Sanjay Bhasin, K.D.
Nag

(13) Case :- WRIT - C No. - 22122 of 2018

Petitioner :- Ayush Agarwal And Anr.

Respondent :- State Of U.P. Thru. Secy. Medical Education Lucknow And Ors.

Counsel for Petitioner :- Vikas Vikram Singh

Counsel for Respondent :- C.S.C.,A.S.G.,Amit Jaiswal,Arpit Kumar,Gyanendra Kumar
Srivastav,K.D. Nag,Sanjay Bhasin

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Jaspreet Singh,J.

Hon'ble Manish Mathur,J.

While referring the matter to the Larger Bench, a Division Bench of this Court has framed the following four questions on 23.02.2018 in Writ-C No. 21917 of 2018 and Writ-C No. 22434 of 2017:-

"(I) Whether a Division Bench of this Court while deciding W.P. No. 10289 (MB) of 2017 Sarswati Medical College vs. Union of India & others along with connected petitions & other similar petitions vide judgments dated 15.06.2017 and 22.08.2017 (Annexure-12 and Annexure No.15), correctly understood and applied the law declared by the Supreme Court in the case of P.A. Inamdar(supra) and Modern Dental College case(supra), as followed by another Division Bench in the case of U.P. Unaided Medical College Welfare Association case (Supra) and the Full Bench decision in Tuples case, (supra) on the subject of admission to professional courses such as MBBS, by permitting students who had been admitted by the opposite party no.6 Medical College on the basis of private negotiations without following the process of centralized counselling which is part of the single window procedure envisaged by the Supreme Court, contrary to the statutory Regulations, 1977 made by the Medical Council of India and the relevant orders of the Government of India and the State Government for holding centralized counselling, to pursue the course and also in quashing the order of the Medical Council of India discharging them from the course?

(II) Whether the judgment dated 15.06.2017 passed in the case of Saraswati Medical College (supra) and connected petitions and the judgment dated 22.08.2017 passed in other similar petitions following the aforesaid judgment, constitute a binding precedent specially for the cases at hand ?

(III) Whether the aforesaid judgments dated 15.06.2017 and 22.08.2017 can be reviewed suo-motu by this Court in exercise of its inherent powers under Article 226 of the Constitution of India; should they be reviewed?

(IV) Whether the petitioners herein are entitled to any relief as prayed by them?"

Thereafter, another Division Bench of this Court, vide order dated 01.08.2018 has directed that the rest of the aforesaid bunch of writ petitions be heard by the Full Bench alongwith Writ-C No. 21917 of 2017 and Writ-C No. 22434 of 2017.

Since with regard to second reference, nomination of Hon'ble the Chief Justice was not available on record, vide order dated 06.10.2023, the Office was directed to submit a report as to whether Writ Petition No. 21521 of 2018 for a reference to be made was at all placed before Hon'ble the Chief Justice as per Chapter V Rule 6 of Allahabad High Court Rules, 1952 or not, as to whether any reference made thereof has been directed to be tagged with the pending matter before the Larger Bench.

Pursuant to our order dated 06.10.2023, an office report dated 12.10.2023 has been placed before us.

According to the office report, Writ-C No. 21521 of 2018, *Megha Pant and another v. State of U.P. through Secretary, Medical Education and others*, was **not** placed before Hon'ble the Chief Justice for compliance of the Court's order dated 01.10.2018 and in this manner, the matter has not been referred to the Larger Bench on the questions framed above.

In view of above, all other writ petitions be de-linked from reference made in Writ-C No.21917 of 2017 and Writ-C No. 22434 of 2017 and the same be listed before appropriate bench on 18.10.2023.

Heard Sri Gaurav Mehrotra, learned counsel for the petitioners, Sri Sanjay Bhasin, learned Senior Advocate along with Sri Kshitij Mishra, learned counsel appearing for the Director General, Medical Education, Sri Gyanendra Kumar Srivastava, learned counsel appearing for respondent Nos.2 & 5, Sri Savitra Vardhan Singh, learned counsel appearing for respondent Nos.1 & 7 and Sri V.P. Nag, learned Additional Chief Standing Counsel for the State-respondents in Writ-C No. 21917 of 2017 as also Sri Jain Prakash Singh, learned counsel for the petitioner in Writ-C No. 22434 of 2017.

At the very outset, Sri Gaurav Mehrotra, learned counsel for petitioners has submitted that both the petitioners have joined elsewhere and as such the relief prayed for in the Writ-C No. 21917 of 2017 has virtually become infructuous.

Insofar as the connected Writ-C No. 22434 of 2017 is concerned, learned

counsel for petitioner does not have any instructions but it cannot be said that even after passing of more than five years, the petitioner may not have completed her course. However, any benefit accruing to the petitioners in the connected Writ-C No. 21917 of 2017 shall remain affected as a consequence of dismissal of writ petition as infructuous.

Insofar as other three questions framed for consideration before the Larger Bench are concerned, the same have been rendered as an academic exercise and more so for the reason that in view of the subsequent judgment rendered in **Writ Petition (Civil) No. 267 of 2017, *Dar-Us-Slam Educational Trust and others v. Medical Council of India and others***, the pending reference has been rendered infructuous. In any case the questions framed for consideration before the Larger Bench, as and when they arise in appropriate proceedings, shall be dealt with in accordance with law.

The Reference is accordingly **disposed of** and Writ-C No.21917 of 2017 and Writ-C No. 22434 of 2017 are **dismissed as infructuous** in above terms.

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[Manish Mathur, J.] [Jaspreet Singh, J.] [Attau Rahman Masoodi, J.]

Order Date :- 13.10.2023

Satish