

Court No. - 3

Case :- WRIT - C No. - 8984 of 2023

Petitioner :- Charu Mishra

Respondent :- Union Of India, Ministry Health And Family Welfare Deptt. Govt. Of India Thru. Prin. Secy. And Ors

Counsel for Petitioner :- Amit Pandey

Counsel for Respondent :- A.S.G.I.,C.S.C.,Gyanendra Kumar Srivastava

Hon'ble Vivek Chaudhary,J.

Hon'ble Manish Kumar,J.

1. Heard learned counsel for parties.

2. Present writ petition is filed for the following main reliefs:

"A. Issue a writ order or direction in the nature of Mandamus commanding/directing the respondent no.4 to strictly comply with the direction passed by the respondent no.3 made in terms of the order dated 29.03.2023 passed by the Hon'ble Court in Writ C No.6127 of 2020, within a period of two weeks.

B. Issue a writ order or direction in the nature of Mandamus commanding/directing the respondent no.1 and State Government of U.P. to conduct an enquiry as to why the delay has occurred for so long and due to what reasons the order dated 29.03.2023 has not been complied till date."

3. The order of this Court dated 29.3.2023 passed in Writ-C No.6127 of 2020 reads as follows:

"Heard Shri Chandar Shekhar Singh, learned counsel for the petitioner, learned Additional Chief Standing Counsel for the State, Shri Gyanendra Kumar Srivastava, learned counsel for the National Medical Commission, Shri Mrityunjay Pratap Singh, learned counsel for the opposite party no. 5 and Shri Akhilesh Kumar Srivastava, learned counsel for the opposite party no. 6.

After arguing the matter at some length learned counsel for the petitioner on being confronted with the fact that the National Medical Commission, which has substituted erstwhile Medical Council of India, is alone competent to take a decision on migration as is being claimed by the petitioner whether from a private to another private medical college or from a private to a Government Medical College as far as may be permissible,

has not yet taken any decision in the matter, he submitted that he may be relegated before the National Medical Commission for appropriate decision in terms of Regulation 6 of the Regulations known as Graduate Medical Education Regulations, 1997. However, he also submitted that the fee which she has already deposited with the opposite party no. 5 but has not been allowed to pursue the studies, should be adjusted with the new college if such transfer is permitted. Learned counsel for the opposite party no. 5 has objections with regard to adjustment of fee.

Let the National Medical Commission consider the application of the petitioner which may be submitted within a period of three weeks from today. While considering the application the opposite party no. 5 and such other stake holders as may be relevant, may also be heard by it and thereafter, a considered decision be taken in terms of Regulation 6 referred hereinabove and/or such other regulations or law as may be applicable on the subject. The decision should be taken within the next three months. Consequences shall follow accordingly as per law.

If the petitioner is still aggrieved she can challenge the decision before the appropriate forum/ Court.

It is open for the National Medical Commission to consider all other grievances of the petitioner vis-a-vis the opposite party no. 5 and other opposite parties regarding which it may otherwise have jurisdiction so that entire controversy may be brought to an end effectively and substantively.

*With the aforesaid observations/directions, the writ petition is **disposed of.**"*

4. This Court required the report to be submitted by today. Today, learned Standing Counsel has provided a copy of report of the Committee along with covering letter dated 27.10.2023 of the D.G.M.E. The same is taken on record. The D.G.M.E. has also forwarded the said report by communication dated 30.10.2023 to the Director, Under Graduate Medical Education Board (U.G.M.E.B.), New Delhi for taking appropriate action under the same.

5. A copy of the said report is also provided to learned counsel for petitioner today in Court. The petitioner is at liberty to take appropriate steps in accordance with law.

6. Since the report is already submitted, no further orders are required to be passed in the present writ petition. However, it is expected that the Director, U.G.M.E.B., New Delhi shall take

an appropriate decision on the basis of the said report in accordance with law within a period of four weeks from the date a certified copy of this order is placed before him.

7. With the aforesaid observations, present writ petition stands ***disposed of.***

[Manish Kumar, J.] [Vivek Chaudhary, J.]

Order Date :- 1.11.2023

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