

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

MISC. APPLICATION [W.P.(C)] No. 136 of 2024

REF : W.P.(C) No. 740 of 2023

Dr. Mekhulshim Tontanga Maring, Senior Casualty Medical Officer (Sr. CMO), Accident and Trauma Centre (ATC), JN Institute of Medical Sciences (JNIMS), aged about 36 years S/o T. Leinai Maring, Khunbi Village, P.O. Pallel P.S. Machi Tengnoupal District, Manipur – 795131.

.... Applicant

- Versus -

1. Union of India represented by its Secretary, Ministry of Health and Family Welfare, Government of Delhi, New Delhi – 110001.
2. State of Manipur represented by Commissioner/Secretary Health & Family Welfare, Old Building Secretariat Babupara, Imphal Manipur – 795001.
3. Jawahar Lal Nehru Institute of Medical Sciences represented by the Director, JN Institute of Medical Sciences (JNIMS), Porompat, Imphal East, Manipur – 795005.
4. National Board of Examination in Medical Sciences represented by its Secretary, Mahatma Gandhi Marg (Ring Road), Ansari Nagar, New Delhi – 110029.
5. Dr. Pukhrambam Kiran Singh, Senior Resident (SR) Surgery Department JN Institute of Medical Sciences (JNIMS), C/O Director, JN Institute of Medical Sciences (JNIMS), Porompat, Imphal East, Manipur – 795005.

.... Respondents

B E F O R E
HON'BLE MRS. JUSTICE GOLMEI GAIPHULSHILLU

For the applicant : Mr. Serto T. Kom, Advocate
For the respondents: Mr. Nongdamba, Advocate
Mr. Dimalkumar Haobam, Advocate
Mr. H. Ishwarlal, Sr. Advocate

Date of hearing : 29.11.2024
Date of judgment & order : **28.02.2025**

JUDGEMENT & ORDER
(CAV)

[1] Heard Mr. Serto T. Kom, learned counsel appearing for the applicant, Mr. Nongdamba, learned counsel appearing for the Union of India, Mr. Dimalkumar Haobam, learned counsel appearing for the State and Mr. H. Ishwarlal, learned senior counsel appearing for the respondent No. 5.

[2] The present application has been filed with the following prayer:

(a) Direct the respondents No. 1, 2 and 3 of the writ petition, to consider for adjustment of the admission of the applicant/writ petitioner namely Dr. Mekhulshim Tontanga Maring and the respondent No. 5 namely, Dr. Pukhrambam Kiran Singh in the 2 (two) available seats of PG Medical (Surgery) at JNIMS i.e.:

(i) To the PG Medical (Surgery) Seat of JNIMS sponsored quota where both of them are already admitted and also to the

(ii) PG seat (All India Quota) vacated by Dr. Sagnik Roy Chowdhury, 1st year PG student in General Surgery Dept. JNIMS on 25th November, 2023 which remains unfilled and which cannot be filled up through fresh counseling.

(b) To pass any appropriate order or orders as deem fit by this Hon'ble High Court.

[3] Brief fact of the case is that the connected main petition was filed on the following grounds:

(i) Cancellation of the admission of the petitioner through the impugned order dated 18.01.2023 and the admission of the respondent No. 5 to PG (Surgery) of JNIMS sponsored quota through impugned order 19.10.2023 are illegal and arbitrary because of the reasons herein below:

(a) The writ petitioner scored higher marks i.e. 308 and the respondent No. 5 scored less marks i.e. 127 marks.

(b) The petitioner already got admitted in the PG Medical Seat (Surgery) of JNIMS sponsored quota and also deposited a sum of Rs. 1,00,000/- (Rupees one lakh) as admission fee.

(c) The petitioner after admission started attending class. The petitioner is an employee of JNIMS serving as a Senior Casualty Medical Officer who was promoted vide order dated 06.03.2021 from Casualty Medical Officer. Being a Senior Casualty Officer, he was allowed to compete for the PG seats for JNIMS Institute quota in the examination of NEET-PG, 2023 conducted by National Board of Examination in Medical Sciences vide notification dated 21.10.2022

of JNIMS. The petitioner was allotted the PG Seat (Surgery) of the JNIMS sponsored quota through the 2nd Round of PG Counselling and was admitted for the academic session 2023 – 2024. The respondent No. 5 did not participate the 2nd Round due to lack of marks to be eligible for the 2nd Round of PG Counselling for JNIMS sponsored quota.

(ii) The portion of Para No. 3 of the notification dated 21.10.2022 is unreasonable and illegal, the same is reproduced herein below:

"(iii) If eligible candidates are available from the regular Senior Resident/Tutor/Demonstrator/Lady Medical Officer in the concerned subject after lowering the NEET-OG cut off percentile in the subsequent round, the Sr. Casualty Medical Officer/Casualty Medical Officers who has been allotted P.G. Seat must surrender the seat."

(iii) This Hon'ble High Court, upon hearing the parties except respondent No. 5, passed an interim order dated 21.10.2023 thereby staying the operation of the impugned order dated 18.10.2023 as far as the petitioner is concerned and the same has been extended from time to time. Operative portion of the interim order is extracted herein below:

"Considering the submissions at the Bar, this Court passes an interim order staying operation of the impugned order dated 18.10.2023 as far as petitioner is concerned till the next date.

However, it is made clear that interim order will not affect the operation of the impugned order dated

18.10.2023. With respect to the private respondent, JNIMS authorities are at liberty to consider his case as per Rules. List on 20.11.2023 along with W.P.(C) No. 736 of 2023.

Furnish a copy of this order to learned counsel for the parties in the course of the day."

[4] Dr. Sagnik Roy Chowdhury, first year PG student JNIMS, Imphal, Manipur in General Surgery PG Department (for the academic session 2023-2024) vacated his seat i.e. PG Seat (Surgery) All India Quota at JNIMS by tendering his resignation letter dated 25.11.2023 on the ground of his mental depression and family problem. The resignation of the said Dr. Sagnik Roy Chowdhury was accepted by imposing a penalty of Rs. 3,00,000/- (Rupees three lakh) vide resolution No. 3 of the meeting of the JNIMS with Director held on 01.12.2023 and the same is extracted herein below:

"3. Dr. Sagnik Roy Chowdhury, 1st Year P.G. student in General Surgery Deptt. has submitted his resignation letter from P.G. sent (AIQ) on 25th Nov. 2023 on the ground of his mental depression and family problem. As per JNIMS Rules and wasting of the P.G. Seat, he shall pay a sum of Rs. 3,00,000/- (Rupees Three Lakhs) only as penalty."

[5] The learned counsel appearing for the applicant submits that the respondent No. 3 in his application filed for vacation of interim order registered as MC[W.P.(C)] No. 427 of 2023 disclosed one of the difficulties faced by JNIMS is that, one seat cannot be occupied by 2 (two) candidates.

[6] The learned counsel appearing for the applicant further submits that in view the above facts that both the applicant and the respondent No. 5 have already been admitted in the PG Seat (Surgery) on payment of Rs. 1,00,000/- (Rupees one lakh) as fee each for the academic

session 2023-2024 and also they have been allotted a Guide. Both the applicant and respondent No. 5 deserve to be retained to complete the course in the interest of public to avoid hardship to them as well as to avoid wastage of the aforementioned PG Seat (Surgery) of All India Quota in view of the fact that the All India Quota was already closed and result was declared on 24.11.2023 by the Medical Counselling Committee and therefore, the said seat would remain wasted if not occupied. Hence, the present application has been filed.

[7] Mr. Dimalkumar Haobam, learned counsel appearing for the State submits that the present application may be disposed of by directing only the Union of India not both the State and JNIMS.

[8] Mr. H. Ishwarlal, learned senior counsel appearing for the respondent No. 5 submits that the PG Seat (Surgery) of All India Quota vacated by Dr. Sagnik Roy Chowdhury, 1st Year PG Student in General Surgery Department, JNIMS may be adjusted and the instant application may be disposed of.

[9] In the facts and circumstances and as admitted by the learned counsel appearing for the parties as stated above and on the basis of the agreement made by the learned counsel appearing for the parties before this Court, and also to the fact that the applicant as well as the respondent No. 5 have already completed the process of admission to the PG Seat (Surgery) on payment of Rs. 1,00,000/- (Rupees one lakh) each and the respondent allowed a guide to both of them, the applicant and respondent No. 5 deserve to be retained to complete the course in the

interest of public to avoid hardship to the applicant as well as the respondent No. 5 and to avoid the wastage of seat vacated by Dr. Sagnik Roy Chowdhury, 1st Year PG Student in General Surgery Department, JNIMS on 25th November, 2023 which remains unfilled and which cannot be filled up through fresh counselling, the respondent No. 1 is directed to consider for adjustment of the admission of the applicant/petitioner Dr. Mekhulshim Tontanga Maring to the seat vacated by Dr. Sagnik Roy Chowdhury, 1st Year PG Student in General Surgery Department, JNIMS on 25th November, 2023.

[10] With the above direction, the present application stands disposed of.

JUDGE

FR/NFR

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