

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on : 19.12.2024

Pronounced on : 14.05.2025.

Case:- **WP(C) No. 1828/2024**

**Prashant Balotra, Age – 25 years
S/o Sh. Rampal Sharma,
R/o Village Chachwal,
P/O. Rajpura, District Samba.**

.....Petitioner

Through: Mrs. Surinder Kour, Sr. Advocate with
Ms. Manpreet Kour, Advocate

Vs

- 1. Union Territory of J&K through
Commissioner Secretary to Government,
Health and Medical Department,
Civil Secretariat, Jammu.**
- 2. J&K Board of Professional Entrance Examinations
Through Chairman,
4th Floor, South Block, Bahu Plaza, Jammu.**
- 3. The Secretary,
J&K Board of Professional Entrance Examinations,
Jammu.**
- 4. The Controller of Examinations,
J&K Board of Professional Entrance Examinations,
Jammu.**
- 5. Principal and Dean,
Indira Gandhi Government Dental College,
Rehari Chungi, Jammu.**

..... Respondents

Through: Mr. Raman Sharma, AAG.
Mr. Sumeet Bhatia, GA.

Case:- **WP(C) No. 1939/2024**

**Shabnam Saini, Age 26 years,
D/o Romesh Kumar Saini,
R/o Village Chak Keeman, Arnia.**

.....Petitioner

Through: Mr. Jatin Singh Gill, Advocate

Vs

1. UT of J&K through Commissioner Secretary to Government, Health & Medical Education, Civil Secretariat, Srinagar/ Jammu.
2. Chairman, J&K Board of Professional Entrance Examination, 4th Floor, Sought Block, Bahu Plaza, Jammu.
3. Secretary, J&K Board of Professional Entrance Examination, 4th Floor, Sough Block, Bahu Plaza, Jammu.
4. Controller of Examination, J&K Board of Professional Entrance Examinations, 4th Floor, South Block, Bahu Plaza, Jammu.
5. Principal and Dean, Indira Gandhi Government Dental College, Rehari Chungi, Jammu.
6. Prashant Balotra, S/o Rampal Sharma, R/o Village Chachwal, P.O. Rajpura, District Samba.

..... Respondents

Through: Mr. Raman Sharma, AAG.
Mr. Sumeet Bhatia, GA.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

JUDGMENT

WP(C) No. 1828/2024

1. "What's in a name? That which we call a rose, by any other word would smell as sweet."
2. Shakespeare indited immortal lines in his work 'Romeo & Juliet' can very fittingly introduce the present case bearing a scenario as to the petitioner possessing pass certificate of BDS course but not yet issued a formal degree and for that being

denied admission to a merit earned MDS seat in 2024 academic session.

3. As the facts are said to be nine points of law so operating facts of the case calls for full narration.

4. **Vyas Dental College and Hospital Jodhpur** is a duly recognised Dental College where in the petitioner came to be admitted in the year **2017** for a four years' BDS course successfully completed by the petitioner in the year **2022** followed by one year internship completed in the year **2023**.

5. Accordingly, the petitioner came to be issued a provisional certificate by reference to roll number **103892** and enrolment number **2017/13115** by the Rajasthan University of Health Sciences, Jaipur certifying the petitioner to have passed final BDS Main Examination **January 2022**.

6. The Provisional Certificate so issued to the petitioner bears number **56931** dated **26/03/2022** issued under the seal and signature of the Controller of Examinations. The provisional certificate has a footnote that the printed degree of passing the examination to be issued in the course of time.

7. The petitioner's admission for BDS course in the Vyas Dental College and Hospital Jodhpur is said to have been on the basis of an order dated **12/09/2017** passed by the Hon'ble Supreme Court of India in **I.A. No. 89915/2017**.

8. The petitioner came to possess an Attempt Certificate No. VDC&H/Estd/Princ/2023-24/9276(A) dated **11/04/2023** issued by the Chairman & the Director/Dean Academics of Vyas Dental College & Hospital certifying that the petitioner has passed every examination in first attempt.

9. The petitioner is also having a **Transfer Certificate** dated **11/04/2023** issued by Vyas Dental College & Hospital through its Chairman registering its NOC for the petitioner to join MDS Programme in any other institution.

10. Upon declaration of result for **MDS – 2024** on **03/04/2024** by the National Board of Examinations NBE, New Delhi, the Ministry of Health and Family Welfare, Government of India came to provide the result of candidates belonging to the UTs of J&K/Ladakh, who had appeared in the National Eligibility Entrance Test (NEET) for admission to MDS Courses for Session – 2024, to the respondent No. 2- Jammu and Kashmir Board of Professional Entrance Examination (in short **“BoPEE”**) on **19/06/2024** pursuant where to the respondent No. 2-BoPEE is said to have issued a brochure relatable to admission process for the needful purpose.

11. The respondent No. 2-BoPEE from its end came forward with issuance of a notification **No. 039-BOPEE of 2024** dated **03/07/2024** thereby notifying NEET-PG roll number wise list of MDS candidates for the facility of enabling the interested candidates to check their results on the official website of the BoPEE.

12. The above referred notification No. **039-BoPEE of 2024** was meant to pave way for next notification regarding online registration of the eligible candidates. In Annexure A to this notification No. 039-BOPEE of 2024, the petitioner's roll number **2455105515** came to be mentioned at serial number **177**. Total candidates by their roll numbers falling above cut off marks mentioned in the Annexure A were **358**.

13. The respondent No.2-BoPEE came forward with issuance of next notification No. **043-BOPEE of 2024** dated **05/07/2024** thereby informing all said 358 candidates to register themselves Online for 50% of UT quota seats of UT of J&K/Ladakh for enabling the respondent No.2-BoPEE to undertake preparation of provisional merit list (in short **PML**).

14. Timeline for Online registration was from **07/07/2024** to **09/07/2024** and for their Online registration, the candidates were required to upload the documents as enlisted in the notification and said list is as follow:

1. **BDS Degree Certificate.**
2. Registration with the State/UT Dental Council/DCI.
3. Internship completion certificate (up to 30/06/2024).
4. Domicile Certificate of UT of J&K or Ladakh as the case may be.
5. Valid Reserved Category Certificate.
6. Difficult Area Certificate.
7. NEET-PG Score Card.
8. Valid EWS Certificate.
9. NOC from Govt./Competent Authority for In Service candidates.
10. An undertaking from candidates of UT of Ladakh.

11. ST Certificates for Candidates of UT of Ladakh.

It is worth mention herein next as to **Note-1** & **Note-3** obtaining in the Notification No. 043-BoPEE of 2024 (supra) which read as under:

Note-1: Any candidate, who falls within the qualifying merit has not registered himself/herself shall not be considered for counselling/allotment of seat under any circumstances or candidate who has registered himself/herself but failed to upload the documents or have not uploaded all documents up to the prescribed date i.e., 09/07/2024 shall also not be considered for counselling/allotment of seat.

Note-3: Mere submission of Application Form and Registration of Candidates shall not confer any right on any candidate for admission, but it shall be subject to the fulfilment of the Eligibility Criteria and the qualification prescribed for the said course and after check and verification of their documents at the time of admission by the College/Institution authorities if the candidate(s) is provisionally selected.

11. Upon scrutiny of Online submitted registration forms and the documents uploaded by the candidates, the respondent No.2-BoPEE came to declare provisional merit list (**PML**) of NEET MDS Courses-2024 for the candidates belonging to the UT of J&K/Ladakh by issuance of Notification No.**045-BOPEE of 2024** dated **11/07/2024**.

Annexure A to this notification No. 045-BOPEE of 2024 declared **60** candidates in the provisional merit list (**PML**).

12. The petitioner came to figure in this provisional merit list **PML** at serial number **27** with NEET Rank of **2255**, UT Rank of **27**, Score **499** and category **ALC**. Against the petitioner's name in the

Annexure A, a deficiency came to be pointed out with respect to his **Degree**.

13. In the above referred notification No. 045-BOPEE, it came to be mentioned that some of the candidates figuring in the provisional merit list (**PML**) are having their registration forms deficient for want of one or more documents but still their registration forms are being provisionally approved and they would be allowed to participate in the online/offline counselling process as the BoPEE may decide later subject to the condition that such candidates shall submit all the deficient documents along with other relevant documents as required by the colleges/institutions at the time of admission, if selected, otherwise their selection would be cancelled.

14. The respondent No.2-BoPEE came forward with another notification No. **049-BOPEE** of **2024** dated **16/07/2024** in furtherance of Notification No. 045-BOPEE of 2024 dated 11/07/2024 to take forward the exercise with respect to declaration of select list for conduct of counselling.

15. In the meanwhile, the petitioner came to earn his registration with J&K Dental Council vide registration certificate number **6987** dated **18/07/2024** bearing registration number A – **6083** issued by the Registrar J&K Dental Council under the Dentists Act, 1948.

16. The respondent No.2- BoPEE came to issue a Notification No. **054-BOPEE** of **2024** dated **22/07/2024** thereby announcing provisional select list of **19 candidates** in **Annexure A** thereto where

in the petitioner figured at serial number **13** with allotment of seat in the discipline of **Conservative Dentistry and Endodontics** in the Government Dental College, IGGDC, Jammu under ALC category.

17. In this BoPEE select list notification No. **054-BOPEE of 2024**, the selected candidates came to be advised to report at the respective colleges/institutions allotted to them from the date of notification till 25/07/2024, along with mentioned original documents which are enlisted herein as under: -

- i) Matriculation Certificate.
- ii) **BDS Degree Certificate.**
- iii) Internship Completion Certificate (upto 30-06-2024).
- iv) BDS Marks Cards.
- v) NEET Result card.
- vi) Domicile Certificate of candidates belonging to UT of J&K/ Ladakh.
- vii) DCI/ UT Dental Council Registration Certificate.
- viii) Valid Category Certificate.
- ix) Candidates who have passed BDS Degree from outside the country to enclose DCI clearance/recognition certificate.
- x) NOC for seeking admission to MDS courses from the competent authority in case of in-service candidates.
- xi) Proof of Identity by way of Aadhaar Card, Driving License, Passport, or any other verification document of identity as may be accepted by the institute.
- xii) Any other document(s) as may be deemed necessary by the college/institution.
- xiii) The service born to be submitted by the candidates belonging to UT of Ladakh, which shall be provided to them by the concerned colleges/institutions.

17. As per **Note-III** of the Notification No. **054-BOPEE of 2024**, the selected candidates to whom seat stood allotted in the first round of counselling were to compulsory join the colleges and the courses so allotted within the prescribed period which was latest by **25th July 2024** by completing requisite formalities that is submission of

documents and submission of such other documents/undertakings as may further be required by the concerned college/institution.

18. **Note-IV** in Notification No. **054-BOPEE of 2024** mandated upon the colleges/institutions concerned to ensure proper check and verification of the document/eligibility as per guidelines issued by DCI before the selected candidate is to be allowed for admission and in case of any discrepancy in the requisite documents, same is required to be reported to the board for taking further course of action under rules.

19. The petitioner came to report himself before the Admission Committee of the **Indira Gandhi Government Dental College**, IGGDC Jammu along with his testimonials and also an undertaking as prescribed in **Notification 054 of 2024** stating therein that presently he was unable to submit degree certificate and migration certificate and would do the needful as soon as after the same are issued by and from the University.

20. In addition, the petitioner also submitted fact in his affidavit about the case pending before the High Court of Rajasthan on the basis of which the Dental Council of India was directed to upload the names of the BDS candidates of the Vyas Dental College and Hospital Jodhpur 2017 batch which included the petitioner. The petitioner also acknowledged that on his failure to produce the deficient documents he was willing to forfeit his admission and not to make any future claim to it.

21. Notwithstanding the undertaking so given by the petitioner, the Admission Committee of the **Indira Gandhi Government Dental College**, IGGDC Jammu refused to entertain the petitioner for admission for the allocated seat and in this regard came to address a communication No. **IGGDCJ/Acad/24/1554-55** dated **25/07/2024** to the Controller of Examinations, the respondent No.2-BoPEE stating there in that the petitioner is not possessing provisional degree certificate/BDS degree certificate and no migration certificate issued by the concerned university for provisional admission and further stating that the registration of the petitioner with the **Dental Council of India**, DCI on the basis of an interim direction of the High Court of Rajasthan is not referring to the **Indira Gandhi Government Dental College**, IGGDC Jammu . Thus, instructions in the matter came to be solicited by the **Indira Gandhi Government Dental College**, IGGDC from the respondent No. 2-BoPEE.

22. On behalf of BoPEE, its Under-Secretary came to address reply letter No.**BOPEE-EXAM/26/2024(7514779)** dated **25/07/2024** there in mentioning that as per Note IV, it is for the College/Institute to note that in case a candidate is not joining his allotted college/course and/or fails to comply with necessary formalities, his/her admission to be cancelled. The respondent No.2-BoPEE never instructed or guided the **Indira Gandhi Government Dental College**, IGGDC Jammu as to what is required to be done with respect to the petitioner's case in particular.

23. The petitioner at his end also came to address a representation on 26/07/2024 to the Chairman of the respondent No.2- BoPEE stating about his disability to produce the BDS degree and migration certificate and assuring the production of the requisite documents upon issuance of the same by his college/university.

24. In the backdrop of the aforesaid developments, the respondent No. 2-BoPEE came forward with issuance of a **Notification No. 062-BOPEE of 2024** dated **31/07/2024** declaring commencement of second round of physical counselling for upgradation/allotment of seats in NEET MDS Course, 2024 in the Govt. Dental Colleges of UT of Jammu & Kashmir with 8th August 2024 as being the date for the said exercise.

25. The petitioner on his part apprehending loss of his earned MDS seat on account of no clear response from the respondent No. 2 – BoPEE's end and the respondent No. 5 – Indira Gandhi Government Dental College, Jammu's side relating to confirmation of his admission for the MDS course without production of the BDS degree and instead entertaining his pass certificate for the requisite purpose, came forward with the institution of the present writ petition on **21/07/2024** seeking a relief in the form of appropriate writ/direction/order unto the respondents i.e. the respondent No. 2-BoPEE and the respondent No. 5 – **Indira Gandhi Government Dental College**, IGGDC Jammu to admit the petitioner in the MDS Course and to allow him to pursue MDS course in the discipline of **Conservative Dentistry and Endodontics** for which the petitioner is

provisionally selected in terms of notification No. **054-BOPEE of 2024 dated 22.07.2024** and further seeking a relief of restraining the said respondents in particular to cancel the candidature of the petitioner for the MDS course in the said discipline.

26. Accompanying the writ petition was an application filed by the petitioner seeking ad interim direction unto the respondents restraining them to fill the seat of the petitioner against which the petitioner stood selected for the MDS course in the discipline of **Conservative Dentistry and Endodontics** in the respondent No. 5 – Indira Gandhi Government Dental College, Jammu and also restraining the writ respondents from conducting the counselling for the discipline of **Conservative Dentistry and Endodontics** till the decision of the main writ petition.

27. In response to the writ petition so filed by the petitioner, this Court, by virtue of very first order dated **02/08/2024**, called upon the respondents No. 1 & 5 and the respondents No. 2 to 4 respectively to file reply to the writ petition on an immediate note by observing that since the second round counselling in terms of **Notification No.062-BOPEE of 2024** dated **31/07/2024** was scheduled to be held on 08/08/2024, as such, the case was ordered to be listed a day before i.e. on 07/08/2024. Order dated 02/08/2024 carried a rider that in case of non-filing of reply by the respondents, an appropriate order to be passed.

28. On **06/08/2024**, the respondents No. 2 to 4 i.e. BoPEE and its two officials came forward with their reply to the writ petition

whereas the respondent No. 5 – Indira Gandhi Government Dental College, Jammu came forward with its own reply.

29. On the basis of the writ petition and the reply thereto, the writ court came to pass an order dated **07.08.2024** in terms whereof *prime facie* case was found to be made out by the petitioner with an interim direction for the respondents to allow the petitioner to participate in the counselling process at his own risk and responsibility.

30. In his writ petition, the petitioner came to plead that just because of his situational inability to produce the BDS degree he was being subjected to suffer loss of admission by not entertaining the pass certificate which disability is not because of any fault on his part but because of an issue with the Vyas Dental College and Hospital Jodhpur (Rajasthan) for which the petitioner was stating the reasons.

31. The respondents No. 2 to 4 from their end came forward with a reply mechanical in tone and tenor stating that the petitioner's provisional selection was cancelled as he had failed to join the college in pursuance of **Notification No. 054-BOPEE of 2024** dated **22/07/2024** upto the cut-off date and time on **25/07/2024** as a result whereof his seat was reported to be a shortfall to the Dental Council of India and for that second round registration/ counselling was undertaken and completed as the whole process was time bound.

32. It came to be stated as a factual position by the respondents No. 2 to 4 that the petitioner had failed to submit mandatory/requisite

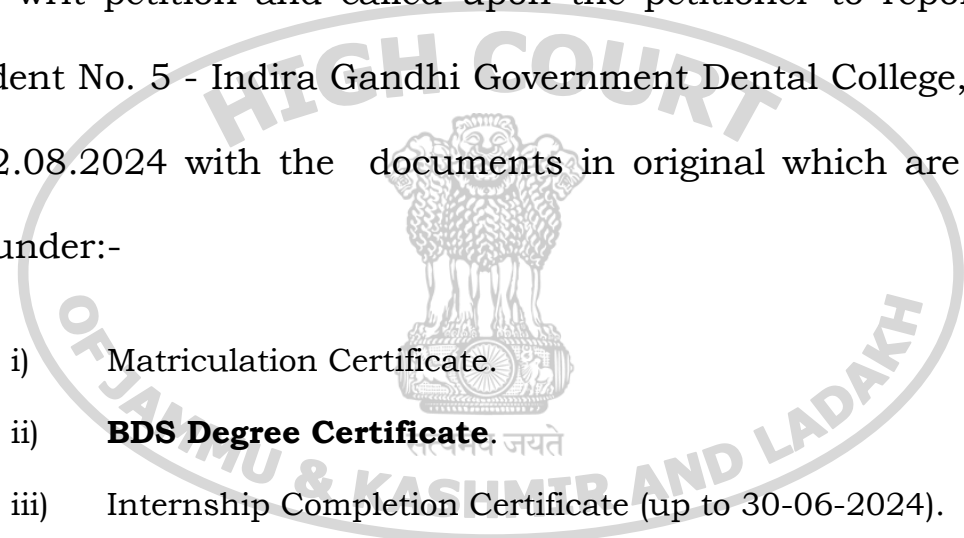
documents despite many opportunities given to him to do so and that the order of the High Court of Rajasthan was unrelated to the matter in hand and unknown to the respondent No. 2 - BoPEE and the respondent No. 1 -UT of Jammu & Kashmir they being not party before the High Court of Rajasthan. It came to be emphasized by the respondents No. 2 to 4 in their reply that unless a candidate possesses valid bachelors certificate/valid internship certificate and is duly registered with the Dental Counsel of India/Jammu and Kashmir he is not eligible to pursue higher courses and provisional selection (if any) secured is liable to cancellation.

33. The respondent No. 5 – Indira Gandhi Government Dental College, Jammu came forward with a stand that since the petitioner was not possessing the requisite documents which is mandatory for admission to MDS course, as such, his case was forwarded to the respondent No. 2 – BoPEE for further instructions in the matter. In its reply, the respondent No. 5 – Indira Gandhi Government Dental College, Jammu came to submit that as per regulation 5 of **Master of Dental Surgery Course Regulations, 2017**, it is mandatory for a candidate to possess a degree in BDS before his/her admission to MDS course.

34. In its reply by the respondent No. 5 – Indira Gandhi Government Dental College, Jammu it is never disclosed as a matter of fact as to vide which decision of the respondent No. 2 – BoPEE or for that matter of the respondent No. 5 – Indira Gandhi Government Dental College, Jammu, the petitioner's admission for MDS course

was declared to be cancelled. In fact, even in the reply submitted by the respondents No. 2 to 4, no such declaration with respect to the cancellation of the petitioner's admission to MDS course came to be spelled out. It is, thus, by an implied mode that the petitioner's admission to MDS course is reckoned to have been cancelled.

35. After passing of an order dated 07/08/2024, the respondent No. 2 – BoPEE came forward with the issuance of a notification No. 067-BOPEE of 2024 dated 09/08/2024 referring therein about the passing of order dated 07.08.2024 by this Court in the petitioner's present writ petition and called upon the petitioner to report to the respondent No. 5 - Indira Gandhi Government Dental College, Jammu upto 12.08.2024 with the documents in original which are enlisted herein under:-

- 
- i) Matriculation Certificate.
 - ii) **BDS Degree Certificate.**
 - iii) Internship Completion Certificate (up to 30-06-2024).
 - iv) BDS Marks Cards.
 - v) NEET Result card (wherever applicable).
 - vi) Domicile certificate of candidates belonging to UT of J&K/Ladakh.
 - vii) DCI/ UT Dental council Registration certificate.
 - viii) Valid Category certificate(whenever applicable).
 - ix) Candidate who has passed BDS Degree from outside the country to enclose DCI clearance/recognition certificate.
 - x) NOC for seeking admission to MDS courses from the Competent Authority in case of in-service candidates.

- xi) Proof of Identity by way of Aadhaar card, Driving License, Passport or any other verification document to identity as may be accepted by the Institute.
- xii) Any other document(s) as may be deemed necessary by the College/Institution.

36. The petitioner was mandated to join his provisionally allotted college/seat upto **12/08/2024** till 04.00 p.m. with testimonials as referred herein above.

37. It is pertinent to mention here that the petitioner had all the requisite documents available at his disposal and already produced except the BDS degree which, as already stated by the petitioner, is to be issued by the Rajasthan University of Health Sciences on a Convocation to be held and also related to the disposal of the writ petition pending before the Rajasthan High Court. There is no scope for dispute to the fact that the petitioner is having a valid BDS pass certificate and also an internship certificate from the Vyas Dental College and Hospital Jodhpur (Rajasthan), as confirmed in his favour which came to be entertained for the purpose of his registration with UT of Jammu & Kashmir Dental Council. The petitioner's registration with Dental Council of India is on the basis of an order issued by the High Court of Rajasthan. Thus, but for formal degree as a document, the petitioner is having all the essential documents at his disposal to confirm his eligibility to join MDS course in the respondent No. 5 - Indira Gandhi Government Dental College, Jammu in the discipline of **Conservative Dentistry and Endodontics**.

38. The petitioner still found himself in no man's land without earning an entry for his admission in the respondent No. 5 – Indira Gandhi Government Dental College, Jammu.

39. In the meantime, an application CM no. 4720/2024 came to preferred by the applicant – Shabnam Saini seeking impleadment in the writ petition as a co-respondent pleading the facts that she has also qualified NEET MDS-2024 figuring in the UT list at serial number 36 under Roll No. 2455105344 in the notification No. **039-BOPEE of 2024** dated **03/07/2024**, followed by her mention in Notification No. **05-BOPEE of 2024** dated **11/07/2024** in which she came to figure at Sr. No. 30 under ALC category, followed by her figuring in the select list issued in terms of **Notification No. 054-BOPEE of 2024** dated **22/07/2024** and is the next candidate in line for admission after the petitioner and since the petitioner was not accommodated, as such, she is entitled to avail the admission for the seat otherwise allotted and meant for the petitioner. The applicant- Shabnam Saini, thus, sought her impleadment saying that the petitioner's claim is prejudicial to facilitating her admission for the MDS seat in the respondent No. 5 - Indira Gandhi Government Dental College, Jammu in the discipline of **Conservative Dentistry and Endodontics**.

40. The applicant – Shabnam Saini simultaneously filed a writ petition WP(C) No. 1939/2024 on 12/08/2024, in which she came to name the petitioner herein as respondent No. 6. The applicant- Shabnam Saini in her writ petition WP(C) No. 1939/2024 has sought the following reliefs: -

- A. MANDAMUS: Commanding the respondents to allow the petitioner to participate in 3rd round of counseling process for allotment of seat of Masters of Dental Surgery in Govt. Dental College, Jammu, the petitioner being eligible, and qualified after having scored 490 marks figuring as next incumbent to be considered for allotment of seat of MDS (Discipline Conservative Dentistry and Endodontics) in ALC Category in the GDC Jammu if respondent no.6 fails to furnish his degree certificate.
- B. MANDAMUS: Commanding the respondents to follow, due process in light of their rules and regulations to consider the petitioner's candidature for the allotment of seat MDS (Discipline Conservative Dentistry and Endodontics) in ALC Category in the GDC Jammu if respondent no.6 fails to furnish his degree certificate.

41. Thus, a locking position came to take place in the form of two writ petitions coming on board i.e. WP(C) No. 1828/2024 filed by the petitioner – Prashant Balotra and WP(C) No. 1939/2024 filed by the petitioner Shabnam Saini both vying for admission to MDS course, 2024 in the respondent No. 5 - Indira Gandhi Government Dental College, Jammu for the discipline of **Conservative Dentistry and Endodontics**.

42. By virtue of an order dated 12.08.2024 passed by this court in writ petition WP(C) No. **1939/2024** filed by the petitioner – Shabnam Saini, this Court came to direct the respondents, in particular BoPEE and the Indira Gandhi Government Dental College, Jammu which figures as the respondents No. 2 & 5 in the writ petition to consider the appearance of the petitioner –Shabnam Saini in the counselling process without prejudice to the right of the petitioner –

Prashant Balotra who figured as the respondent No. 6 in her said writ petition so as to ascertain *inter-se* merit between them.

43. The respondent No. 2 – BoPEE came forward with a Notification No. **071-BOPEE of 2024** dated **14.08.2024** reciting therein that by virtue of 3rd/Mop-Up round of counselling(physical) for Upgradation/Allotment of Seats for NEET-MDS Course conducted on 13th August, 2024, the candidates provisionally upgraded/allotted seats/disciplines in the Govt. Dental Colleges of UT of Jammu & Kashmir have been notified calling upon the selected candidates to join by 20/08/2024 upto 04.00 p.m. along with their testimonials.

44. It is in this notification No. 071-BoPEE of 2024 that the petitioner- Shabnam Saini of writ petition WP(C) No. 1939/2024 came to be shown allotted MDS seat for **Conservative Dentistry and Endodontics** in the respondent No. 5 - Indira Gandhi Government Dental College, Jammu under ALC/IV category on the basis of her UT rank – **30** and NEET Rank- **2528** and NEET Score-**490**.

45. It is pertinent to mention here that the petitioner – Prashant Balotra of writ petition WP(C) No. 1828/2024, is having NEET Rank **2255**, NEET Score – **499** and UT Rank-**27** under ALC/IV category.

46. This Notification No. 07-BOPEE of 2024, thus, paved a way for the entry of the petitioner – Shabnam Saini of the writ petition WP(C) No. 1939/2024 for MDS seat in the respondent No. 5 - Indira Gandhi Government Dental College, Jammu in the discipline of **Conservative Dentistry and Endodontics** otherwise meant for the

admission of the petitioner – Prashant Balotra in the writ petition WP(C) No. 1828/2024 thereby leaving him high and dry engaged with his present writ petition, thereby presenting a situation in hand for this Court to deal with by examination of the issue as to whether the petitioner – Prashant Balotra deserved to suffer loss of his merit earned MDS seat for the discipline of **Conservative Dentistry and Endodontics** in the respondent No. 5 - Indira Gandhi Government Dental College, Jammu.

47. In the backdrop of the aforesaid facts and circumstances as laid down hereinabove forming the totality of the factual contents of the case, the petitioner in his writ petition in para 9 (i) to (iii) has assailed the action on the part of the respondent No. 2 – BoPEE and the respondent No. 5 – Indira Gandhi government Dental College, Jammu asserting that he has been subjected to an illegal and arbitrary approach and action at the end of the concerned respondents despite explaining the reasons which are beyond his control as to how the BDS degree was getting held up in being issued to him.

48. The petitioner has very vehemently asserted that it cannot be a case against him that he has not undergone the BDS course and/or has not passed it which is confirmed from the provisional certificate issued by the Rajasthan University of Health Sciences, Jaipur issued only upon successful completion of BDS course.

49. The Court has already made reference to all the credentials and testimonials issued by the Vyas Dental College & Hospital,

Jodhpur as well as the Rajasthan University of Health Sciences, Jaipur fully confirming the status of the petitioner as being a pass-out of BDS course.

50. The petitioner had earned his admission to BDS course in the Vyas Dental College & Hospital, Jodhpur on the basis of indulgence granted by the Hon'ble Supreme Court of India in September, 2017 on which basis the petitioner carried out his BDS Course studies and successfully completed it and, therefore, denial of admission in MDS seat otherwise earned by him on his merit tantamounted to undermining the very indulgence of the Hon'ble Supreme Court of India related with the admission of batch of students for BDS course in Vyas Dental College & Hospital, Jodhpur which included the petitioner as well.

51. In response to the petitioner's challenge, the respondents No. 2 to 4 i.e. BoPEE and its officials have come forward with a rubber like insistence and repetition of the plea that since the petitioner was not able to produce the BDS degree, as such, it was well within the right of the respondent No. 5 – Indira Gandhi government Dental College, Jammu to refuse the admission to the petitioner.

52. In this regard, the respondents No. 2 to 3 in their reply has drawn reliance from notification No. 045-BOPEE of 2024 dated 11/07/2024 referring to the **want of production of documents by the candidates to suffer cancellation of selection**, notification No. 054-BOPEE of 2024 dated 22/07/2024 citing a clause provided therein that **if any candidate secures admission to PG degree or**

diploma course by fraud, concealment of facts or mis-statement, the admission of such a candidate is liable to be cancelled and further exploiting Note-IV providing that a candidate failing to comply with formalities liable to suffer cancellation of admission.

53. The respondents No. 2 to 4 i.e. BoPEE and its officials have referred a communication received from the respondent No. 5 – Indira Gandhi Government Dental College's end related to seeking consultation/advice with respect to dealing with the case of the petitioner not being able to produce BDS degree but otherwise allotted MDS seat in the No. 5 – Indira Gandhi Government Dental College, Jammu, in response where to being simply told to follow the mandate of notification No. 054-BOPEE of 2024 dated 22/07/2024 providing for college and institute that a **candidate failing to comply with necessary formalities liable to suffer cancellation of admission.**

54. The respondent No. 5 – Indira Gandhi Government Dental College, Jammu at its end has come forward with the writ reply literally following the standpoint of the respondents No. 2 to 4.

55. Article 14 of the Constitution of India is a constitutional disinfectant meant to purge decision making as well as decision, be it of adjudicatory and/ or administrative authority falling within the scope of article 12 of the constitution of India which the respondents in the present case are, rendering the decision and decision making both amenable to scrutiny in judicial review jurisdiction of this Court.

56. For the aforesaid proposition, this Court need not load with the present judgment with the evolution of case law related to judicial review of administrative action except to cite judgment of the Hon'ble Supreme Court of India in the case of **“West Bengal Central School Service Commission and others Vs Abdul Halim and others” 2019 AIR SC 4504**, in which case also selection related decision making became the subject matter of judicial review holding therein in para 31 that if a decision cannot rationally be supported by the materials on record, the same may be regarded as perverse and also that if a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ court under the sweep of power under article 227 of the constitution of India thereby rendering such unreasonable orders void.

57. In the present case, this Court has no iota of hesitation to say that there is no express order at the end of the respondent No. 2 – BoPEE as well as the respondent No. 5 – Indira Gandhi Government Dental College, Jammu as to on what basis the petitioner has been denied and deprived admission for his earned MDS seat except refusal to entertain him for admission without putting in black and white a decision bearing reason to said effect. The respondent No. 5 – Indira Gandhi Government Dental College, Jammu simply exchanged communications to self draw therefrom a right of refusal to entertain the petitioner for his admission to MDS seat on the pretext of inability of the petitioner to come up with the BDS degree.

58. When this Court examines this stand point of the concerned respondents, this Court is constrained to bear in perspective that could the respondents No. 2 to 5 afford to take the petitioner to be a non-BDS graduate and the answer has to be loud no for the reason being that the petitioner is having a legitimate pass certificate issued by the Rajasthan University of Health Sciences, Jaipur certifying the petitioner to have passed BDS course successfully in his first attempt in all semesters, internship completion certificate which certifies status of an intern to be a BDS pass out, uploading of the petitioner's credentials by the Dental Counsel of India though by the directions of the High Court of Rajasthan, registration of the petitioner by the Jammu & Kashmir State Dental Council.

59. It is at this stage of the case that the decision makers were supposed to pose a question that whether the notifications issued from the end of the respondent No.2 – BoPEE at all required BDS degree only *per-se* as an essential document for a candidate to confirm his/or her admission for MDS seat earned by and allotted to him/her or the notifications in reference suggested something else. This Court has already reproduced the contents of the related notifications issued from the end of the respondent No. 2 – BoPEE starting from notification No.043-BOPEE of 2024 dated 05/07/2024 and notification No. 054-BOPEE of 2024 dated 22/07/2024. In both the notifications, the expression used by the respondent No. 2 – BoPEE is **“BDS Degree Certificate,”** meaning thereby it could be BDS Degree or BDS Certificate otherwise “Degree” and “Certificate” cannot go together as a unitary expression unless and until both words

individually co-relate with BDS and that is a perfect sense of the expression of the BDS Degree Certificate.

60. It cannot be heard from the end of the respondents that the petitioner was not having BDS Certificate which was very much there for the respondents to take note of indisputably certifying the petitioner to have successfully completed his BDS course studies.

61. As per Black's Law Dictionary the word **"degree"** is defined as:-

"A title conferred by a college, university, or professional school upon completion of a program of study, signifying that the recipient has attained a certain level of knowledge or skill in a particular field."

62. An educational degree is nothing but a decorative exhibit of a successful completion of a educational course of study by a student/scholar from a recognized educational institution, be it professional or non-professional, general or special studies, whereas the pass certificate is the actual and underlying proof of passing of a given educational course of study by a student which is exhibited by formal Degree. This is where the opening words of this judgment citing the lines of William Shakespeare highlighting their reliance in the context of the present case.

63. Thus, a degree is a name giving to a pass certificate and nothing else and, therefore, cannot be allowed to take value precedence over the pass certificate to the extent of negating the pass certificate which in the present case the respondents No. 2 & 5 have

actually done by dismissing the BDS pass certificate of the petitioner and then deny him his rightful admission to MDS seat and course.

64. Thus, the decision of the respondents No. 2 & 5 which is more a decision by default being nowhere put in writing as thoroughly arbitrary, unreasonable and frivolous which has surely subjected the petitioner to an unfair denial of his seat.

65. Since the petitioner has suffered loss of his MDS seat by virtue of an arbitrary and unfair decision making and action at the end of the respondents in general and the respondents No. 2 & 5 in particular and, therefore, the petitioner cannot be left in lurch because of the fact that the academic session for which he was to be admitted for MDS course in the respondent No. 5 – Indira Gandhi Government Dental College, Jammu has already taken off.

66. For this scenario, applying the mandate of judgment of the Hon'ble Supreme Court of India in the case of **"S. Krishna Sradha v State of Andhra Pradesh and others," 2020 AIR SC 47**, the petitioner is held entitled to be admitted to MDS course in the discipline of **Conservative Dentistry and Endodontics** for the next academic session of 2025 in the respondent No. 5 – Indira Gandhi Government Dental College, Jammu or for that matter in any other Dental College in the UT of Jammu & Kashmir whichever that may be and for this purpose the respondent No. 2 – BoPEE as well as the respondent No. 5 – Indira Gandhi Government Dental College, Jammu are directed, jointly as well as severally, to take up the matter with the concerned authority whatsoever/whomsoever to arrange for the

petitioner a MDS seat in the discipline of **Conservative Dentistry and Endodontics** under **RBA category** for the coming **Academic Session – 2025**.

67. Disposed of.

WP(C) No. 1939/2024

68. In view of the adjudication of the writ petition WP(C) No. 1828/2024, there is no scope left for adjudication of this writ petition WP(C) No. 1939/2024, as it is for the respondents concerned to take a call with respect to the petitioner- Shabnam Saini whether to accommodate her for MDS seat which otherwise was meant for the petitioner – Prashant Balotra in writ petition WP(C) No. 1828/2024 for the last Academic Session-2024.

69. **Disposed of** accordingly.



सत्यमेव जयते

(RAHUL BHARTI)
JUDGE

JAMMU
14.05.2025
Muneesh

Whether the judgment is speaking:	Yes
Whether the judgment is reportable :	Yes