

CWP NO. 12981 OF 2014
Date of decision: 9.04.2015**Manika Arora****..... Petitioner****versus****State of Haryana and others****..... Respondents****Coram: Hon'ble Mr. Justice Rakesh Kumar Jain****Present:** Mr. Sanchit Punia, Advocate
for the petitioner.

Mr. D.K.Mittal, DAG, Haryana.

Mr. Ramesh Hooda, Advocate
for respondents No. 2 and 3.Mr. Yagyadeep, Advocate
for respondent No. 5.**Rakesh Kumar Jain, J.(Oral)**

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing the decision dated 16.04.2014 and 11.06.2014 by which the respondent No. 5 has declined the prayer of the petitioner for migration from SGT Medical College, Gurgaon to BPS Govt Medical College, Khanpur. It is submitted that his prayer has been declined only on the ground that the college in which the petitioner is studying at present, namely, SGT Medical College, Gurgaon is not recognised to award the degree of MBBS.

After reply has been filed, the petitioner filed the rejoinder and placed on record the letter issued by the respondent No. 5 dated 21.06.2012, 28.04.2013 and 5.06.2014. According to these documents, the SGT Medical College, Gurgaon has been recognised, therefore, it is argued that there is no

impediment in the migration of the petitioner from the SGT Medical College, Gurgaon to BPS Govt Medical College, Khanpur.

Counsel for respondent No. 5 has , however, submitted that the Migration Rules of respondent No. 5 have been amended on 22.12.2008 and now called the “Regulation on Graduate Medical Education((Amendment), 2008 part-III”. He has referred to Rule 3(i) which read as under:

“3(i) In Chapter II, clause 6, under the heading “**Migration**”, Sub-Clause 6(1) **shall be substituted** as under:-

“6(1) Migration of students from one medical college to another medical college may be granted on any genuine ground subject to the availability of vacancy in the college where migration is sought and fulfilling the other requirements laid down in the Regulations. Migration would be restricted to 5% of the sanctioned intake of the college during the year. No migration will be permitted on any ground from one medical college to another located within the same city.”

(ii) In Chapter II, clause 6, under the heading “**Migration**”, Sub-Clause 6(4) **shall be substituted** as under:

“6(4) For the purpose of migration an applicant candidate shall first obtain “No Objection Certificate” from the college where he is studying for the present

and the university to which that college is affiliated and also from the college to which the migration is sought and the university to which that college is affiliated. He/She shall submit his application for migration within a period of 1 month of passing (Declaration of result of the 1st Professional MBBS examination) alongwith the above cited four "No Objection Certificate" to: (a) the Director of Medical Education of the State, if migration is sought from one college to another within the same State **or** (b) the Medical Council of India, if the migration is sought from one college to another located outside the State".

It is submitted that even if the college in which the petitioner is presently studying has been recognised and the order passed by the respondent No. 5 is set aside, his case has to be considered in terms of the aforesaid rule.

Faced with this situation, counsel for the petitioner has submitted that the impugned order may be quashed and he may be given permission to make an application to respondent No. 5 for the purpose of his migration in terms of the amendment rules and may also be provided an opportunity of personal hearing.

Counsel for respondent No. 5 has submitted that he has no objection if the impugned orders are quashed by this Court and the petitioner is permitted to file a fresh application and also an opportunity of personal hearing before the relevant Committee of respondent No. 5, if the

rule permits.

In view of the aforesaid, the present writ petition is allowed and the impugned orders are hereby quashed with liberty to the petitioner to file a fresh application for seeking migration in terms of the amended rules within a period of four weeks from today and in case such an application is filed to respondent No. 5, within the stipulated time, respondent No. 5 shall give an opportunity of personal hearing (if it is provided in the rules), to the petitioner and take the decision on his application within one month thereafter.

9th April, 2015

Shivani Kaushik

[Rakesh Kumar Jain]
Judge