

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 1st May, 2015

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LPA No.551/2013

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY**

..... Appellant

Through: Mr. Mukul Talwar, Mr. Sradhananda Mohapatra
and Mr. Vipin Singh, Advs.

Versus

DR. SMIT RAJPUT & ORS

..... Respondents

Through: Mr. Manoj Goel and Mr. Shuvodeep Roy, Advs.
for R-1 to 8.

Ms. Zubeda Begum, Adv. for R-9/GNCTD.

Mr. Mohinder J.S. Rupal and Ms. Sandhya
Raghav, Advs. for R-10/DU.

Mrs. Suparna Srivastava, Mr. Kumar Harsh and
Mr. Neelmani Pant, Advs. for R-11/UOI.

Mr. T. Singhdev, Mr. Manan Khera and Mr. Vishu
Agarwal, Advs. for R-12/MCI.

Mr. Krishnan Venugopal, Sr. Adv. with Ms. Bina
Madhavan, Ms. Akanksha Mehra, Mr. Udai
Rathore and Mr. Laksh Puri, Advs. for R-23.

AND

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LPA No.170/2014

DR. KUSHAL AGRAWAL & ORS

..... Appellants

Through: Mr. Manoj Goel and Mr. Shuvodeep Roy, Advs.

Versus

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY & ORS**

..... Respondents

Through: Mr. Mukul Talwar, Mr. Sradhananda Mohapatra
and Mr. Vipin Singh, Advs. for R-1/GGSIPU.

Ms. Zubeda Begum, Adv. for R-2/GNCTD.

Mr. Mohinder J.S. Rupal and Ms. Sandhya Raghav, Advs. for R-3/DU.

Mrs. Suparna Srivastava, Mr. Kumar Harsh and Mr. Neelmani Pant, Advs. for R-4/UOI.

Mr. T. Singhdev, Mr. Manan Khera and Mr. Vishu Agarwal, Advs. for R-5/MCI.

Mr. Krishnan Venugopal, Sr. Adv. with Ms. Bina Madhavan, Ms. Akanksha Mehra, Mr. Udai Rathore and Mr. Laksh Puri, Advs. for R-16.

CORAM:-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J.

1. The fight, in these intra-court appeals, both against the judgment dated 29th July, 2013 of the learned Single Judge in W.P.(C) No.3952/2013 filed by the six appellants in LPA No.170/2014 along with respondents No.17 and 18 therein, is with respect to the seats in the Post Graduate Medical Courses (PGMCs) of Guru Gobind Singh Indraprastha University (GGSIPU), the appellant in LPA No.551/2013. The claim in the writ petition preferred by the said eight students of the Maulana Azad Medical College (MAMC), Delhi, affiliated to Delhi University (DU), was that they besides being entitled to be considered for admission for the seats in PGMCs of their own college / university, are also entitled to be considered for admission to the PGMCs of GGSIPU. Needless to state that GGSIPU as well as some of its students who were impleaded as parties to the writ petition, controverted the

said claim. The learned Single Judge in the impugned judgment dated 29th July, 2013 has partly allowed the said claim of the students of DU, by directing that the students of DU are entitled to be considered for admission to the 50% of the State / Institutional quota seats in PGMCs of GGSIPU. Aggrieved therefrom, LPA No.551/2013 has been preferred by GGSIPU. The students of DU who had filed the writ petition are also aggrieved from being held entitled to be considered only for 50% of the PGMCs seats of State/Institutional quota in GGSIPU and claim to be entitled to be considered for 100% of the said seats and have filed LPA No.170/2014 in this regard. As far as the students of GGSIPU, who were impleaded as respondents to the writ petition were concerned, aggrieved from the judgment dated 29th July, 2013, they preferred SLP No.24528/2013 and the Supreme Court vide ad-interim order dated 5th August, 2013 therein stayed the operation of the judgment of the learned Single Judge. However upon LPA No.551/2013 having been preferred by GGSIPU, the Supreme Court vide order dated 17th January, 2014 in the said Special Leave Petition, adjourned the hearing thereof *sine die* till the disposal of the said appeal before this Court and further directed that the interim order dated 5th August, 2013 shall remain effective until the decision of the appeal.

2. Certain applications for impleadment came to be filed in LPA No.551/2013 but need is not felt to refer thereto as no reference was made thereto at the time of hearing.

3. We have heard Mr. Mukul Talwar, Advocate for GGSIPU, Mr. Krishnan Venugopal, Senior Advocate for students of GGSIPU, Mr. Manoj Goel, Advocate for the students of DU / writ petitioners and Mr. Mohinder J.S. Rupal, Advocate for DU.

4. In accordance with the judgments of the Constitution Bench in *Saurabh Chaudhri Vs. Union of India* (2003) 11 SCC 146 and (2004) 5 SCC 618, the admissions to the PGMCs in various colleges / institutions in the country are made from two sources; 50% of the seats are to be filled on the basis of All India Post Graduate Medical Entrance Examination (AIPGME) in which all medical graduates from all across the country are eligible to appear and the remaining 50% of the seats are to be filled on the basis of entrance examination conducted by different universities / colleges open only to students who have done their MBBS from the same college(s)/ university. In common parlance, the former category is known as All India Quota and the latter as the State / Institutional quota.

5. As far as Delhi is concerned, it has seats in PGMCs besides in Maulana Azad Medical College, Lady Hardinge Medical College (LHMC) and University College of Medical Sciences (UCMS) affiliated to DU also in Vardhman Mahavir Medical College (VMMC), Ram Manohar Lohiya Post Graduate Institute of Medical Education and Research (RML-PGIMER) and in the Employees State Insurance Post Graduate Institute of Medical Sciences and Research (ESI-PGIMSR), all affiliated to GGSIPU.
6. 50% of the seats in PGMCs in DU were / are accordingly of All India quota and the remaining 50% are reserved only for the students who have done their MBBS from DU.
7. Similarly, 50% of the seats in PGMCs in GGSIPU were / are of All India quota and the remaining 50% are reserved for students who have done their MBBS from GGSIPU.
8. Eight students of DU filed the writ petition from which theses appeals arise, with respect to the admissions to the academic year 2013-14. We may record that prior to the academic year 2013-14, DU and GGSIPU were making admission to the 50% State / Institutional quota seats in PGMCs by holding separate examination. With effect from the academic year 2013-14,

the Medical Council of India (MCI) provided for a single eligibility-cum-entrance examination viz. National Eligibility cum Entrance Test (NEET-PG) for admission to PGMCs. Both DU as well as GGSIPU, for admission to the academic year 2013-14 instead of holding their separate entrance tests for admission to the 50% seats of the State / Institutional quota were required to make admissions thereto on the basis of the merit list of NEET-PG. It was the case of the said 8 students of DU in the writ petition:

- (i) that GGSIPU was set up by the Government of National Capital Territory of Delhi (GNCTD);
- (ii) however GGSIPU, instead of considering all the students who had done their MBBS from Delhi, including from medical colleges affiliated to DU, for admission to the 50% seats in PGMCs, of the State / Institutional quota, was restricting the admission thereto only to such of the students who had done their MBBS from GGSIPU or medical colleges affiliated to GGSIPU;
- (iii) that while laying down the eligibility criteria for admission to State / Institutional quota seats in PGMCs, no further artificial

distinction / bifurcation could be made on the basis of affiliation to the different universities and all the students who have done MBBS from Delhi, ought to be treated equally;

- (iv) that while DU, as against 600 seats in MBBS, had only 230 seats in PGMCs, GGSIPU had as many as 122 seats in PGMCs as against 150 seats for MBBS thereby assuring nearly every MBBS graduate of GGSIPU a post graduate seat;
- (v) that the students of GGSIPU were thus enjoying unfair advantage over their counterparts in DU;
- (vi) that the State quota seats in PGMCs in colleges situated in Delhi could not be segregated on the basis of their respective affiliation to DU or GGSIPU;
- (vii) that the action of GGSIPU, of not allowing MBBS graduates from medical colleges of Delhi though affiliated to DU admission to PGMCs in medical colleges affiliated to GGSIPU, was at the cost of merit; while less meritorious candidates from GGSIPU were able to secure PGMCs seat of the State /

Institutional quota, the more meritorious candidates of DU were left out.

9. The learned Single Judge, in the impugned judgment has found/observed/recorded/ held: -

- (a) that a comparison of the relative merit of the candidates from GGSIPU and DU in the result of NEET- PG, 2013 showed that as against 27 candidates of DU who found place in the first 3000 ranks, only three candidates of GGSIPU had qualified and that too in ranks much lower than that of DU candidates; similarly as against 264 candidates of DU who found place amongst the total 44000 ranks, only 122 candidates of GGSIPU had found place and again in much lower ranks;
- (b) the Supreme Court in *Dr. Pradeep Jain Vs. Union of India* (1984) 3 SCC 654 held that though theoretically speaking, if admissions are given on the basis of All India National Entrance Examination, each individual would have equal opportunity of securing admission, but that would not take into account diverse considerations such as differing levels of social

economic and educational development of different regions, disparity in the number of seats available for admission to the MBBS course in different States and difficulties experienced by students from one region who might in the competition on all India basis get admission to the MBBS course in another region far remote from their own; thus a certain percentage of reservation on the basis of residence requirements may legitimately be made in order to equalize the opportunities for medical admission and such percentage of reservation may also include institutional reservation for students passing from the same college or clearing the qualifying examination from the school system of the educational hinterland of the medical colleges in the States; however as far as admissions to PGMCs are concerned, it would be eminently desirable not to provide for any reservation based on residence requirement within the State or on institutional preference;

- (c) in *Saurabh Chaudhri* (supra) however it was held that institutional preference should be limited to 50%, the rest being

left for open competition based primarily on merit on all India basis;

- (d) the right of a meritorious student to get admission in a PGMC is a fundamental right which cannot be whittled down, except for valid considerations; reliance in this regard was placed on ***Islamic Education Vs. State of Karnataka*** (2003) 6 SCC 697 - it was precisely for this reason that an All India Entrance Test called NEET-PG, 2013 was held for admission to all the medical institutions in the country so that all the candidates seeking admission to the medical institutions are subjected to same examination, same set of questions and same ways of evaluation of answer books;
- (e) that though the Supreme Court in ***Dr. Saurabh Chaudhri*** (supra) had observed that in an ideal situation the meritorious students are treated equally but such a situation continues to be a mirage, thereby necessitating preference/reservation to certain classes;

- (f) however a classification to withstand the touchstone of equality, has to be based on a reasonable and intelligible differentia, which, in turn, must be founded on a rational basis;
- (g) that considered on the basis of their rank in NEET-PG, 2013, the MBBS graduates who passed out from DU were much more meritorious than the candidates who passed out from GGSIPU;
- (h) excluding the candidates who passed out their MBBS/BDS course from DU, despite their having obtained higher marks in an Entrance Test which was common to all the candidates in the country, would not be constitutionally valid;
- (i) a region wise classification had been upheld by the Courts for the reason of absence of common examination and for the reason that it was felt that the Government which provides funds for functioning of an institution has a right to decide the source from which admission could be made – however in the case of Delhi, both DU as well as GGSIPU are situated in the same territory and it cannot be said that DU caters to the need of one region and GGSIPU to the need of another; there are no

backward or forward areas and no geographical division in the jurisdiction of GGSIPU and DU; thus neither of the reasons which prevailed while upholding region wise classification were applicable to Delhi;

- (j) the reason given by GGSIPU, that the students of DU being more meritorious will take all the PGMCs seats in GGSIPU, to the detriment of the students from GGSIPU, is irrational and defies logic;
- (k) it was nobody's case that the infrastructure available in GGSIPU was inferior to that in DU or that GGSIPU suffered from any other disadvantage;
- (l) in fact the reason for which exception was carved out with respect to All India Institute of Medical Sciences equally applies to GGSIPU also;
- (m) the Supreme Court also in ***P.K. Goel Vs. U.P. Medical Council*** (1992) 3 SCC 232 had rejected the Scheme of the seven medical colleges of Uttar Pradesh, of inspite of having a

Common Entrance Examination, filling up their seats on the basis of merit list of their own students;

- (n) though the Supreme Court in ***Dr. Pradeep Jain*** supra had upheld the practice prevalent of reservation of seats for Delhi students only but at that time there was only one University in Delhi and GGSIPU had not been set-up; the said consideration was not available to students passing MBBS/BDS from GGSIPU since both GGSIPU and DU were situated at the same place and the students from GGSIPU did not suffer from any disability or disadvantage or handicap;
- (o) had the Supreme Court approved the University wise preference/reservation in ***Dr. Pradeep Jain***, it would not have struck down University based classification in ***Nidamarti Maheshkumar Vs. State of Maharashtra*** 1986(2) SCC 534;
- (p) there is no statutory rule framed by GGSIPU for giving preference/reservation to its students while making admissions to 50% PGMC seats of the State quota;

- (q) the GNCTD also had not framed any rule providing for preference/reservation to students from GGSIPU for admission against the 50% State quota seats in PGMCs;
- (r) therefore there is no statute or statutory rule permitting preference/reservation to the students passing their qualifying examination from the GGSIPU for the purpose of admission to PGMC in the said University;
- (s) in fact DU also does not have any statutory rule for providing preference/reservation to its own students in the matter of admission to PGMCs;
- (t) an administrative decision of the University to accord preference/reservation to its own students, in the matter of admission to PGMC, cannot be treated at par with a statutory rule/regulation which could be framed either by the Government or by the University;
- (u) as many as 12 other States with multiple Universities were interpreting the institutional preference to mean preference for all the students passing out from various Universities in the

concerned State; of the remaining States, three had no Medical College, five had only one University/Medical University and five had only one Medical College and therefore the question of institutional preference/reservation did not arise in their case;

- (v) there is no intelligible differentia between the MBBS graduates of GGSIPU and the MBBS graduates of DU, both of which Universities are situated in the same territory, without any regional disparity and geographical division or jurisdiction;
- (w) though the Supreme Court in *Christian Medical College, Vellore Vs. UOI* (2014) 2 SCC 305 had done away with NEET-PG but the same would be irrelevant; and,
- (x) that as per the view taken by the Supreme Court in various cases, 50% of the State quota seats of PGMCs available in GGSIPU should be filled up purely on the basis of ranks obtained by the candidates passing out their qualifying examination either from DU or from GGSIPU and the remaining 50% of such seats should be filled up from amongst the medical graduates of GGSIPU alone.

Accordingly, GGSIPU was directed to prepare and issue two separate lists, one containing the names of the eligible medical graduates of both the Universities, who are to be considered for admission to half of the State quota seats and the second list containing the names of only eligible GGSIPU medical graduates, who are to be considered for admission against the remaining 50% seats in the State quota for admission to PGMCs in the Academic Session 2013-14.

10. One thing which immediately stares in the face of the judgment of the learned Single Judge is that while half of the 50% State/Institutional quota seats in PGMCs in GGSIPU were thrown open to students of DU also, no similar direction was issued with respect to the State / Institutional quota PGMCs seats in DU. Thus, while half of the State / Institutional quota seats in GGSIPU became available to DU candidates, it was not so vice-versa. It was perhaps because, though the students of DU who had filed the writ petition sought relief against GGSIPU, they did not seek a similar relief against their own University i.e. DU, to also throw open its PGMCs seats of the State / Institutional quota to the students of GGSIPU; rather it appears that DU did not even file a counter affidavit before the learned Single Judge.

The judgment of the learned Single Judge also does not record the stand of DU in this regard.

11. However during the pendency of the appeals before this Court, DU in or about February, 2014 filed an affidavit stating that the learned Single Judge, in the impugned judgment had wrongly observed that DU does not have a statutory rule providing for preference/reservation to its own students in the matter of admission to PGMCs. Attention was invited to Section 30 of the University of Delhi Act, 1922 and to Clause 5 of Appendix-II of Ordinance-V of DU relating to PG Degree Courses providing for such reservation. It was further stated that since the students of DU who had filed the writ petition had not sought any relief against DU, DU was not called upon to make its stand clear. It was yet further stated

“Be that as it may, the University of Delhi is open to consider the issue to allow the eligible students of GGSIPU to be considered for admission in PGMCs in accordance with the Admission/Reservation Rules of the University of Delhi, provided they have appeared in the Entrance Test notified by the University of Delhi and provided the GGSIPU allows the students of University of Delhi to appear in the Entrance Exam conducted by the GGSIPU and to participate in the admission process”.

12. However the counsel for the DU during the hearing stated that DU is not willing to allow the students of GGSIPU admission to PGMCs seats of the State/Institutional quota in DU. On enquiry it was stated that the statement aforesaid in the affidavit of February, 2014 was merely of being willing to consider, and is not binding on DU.

13. The common contention of the counsel for GGSIPU, the senior counsel for impleaded students of GGSIPU and of DU was:-

- I. that the reliefs claimed in the writ petition were specific to the admission to the academic year 2013-14;
- II. that of the eight students of DU who had preferred the writ petition, two did not even join in filing the appeal and the remaining six have also since done their post-graduation and are no longer interested in seeking admission to PGMCs seats of the State quota in GGSIPU;
- III. that the relief claimed in the writ petition was in the backdrop of the situation prevailing for admission to Academic Year 2013-14; admission to State quota seats in all medical colleges in the country, in that year, was on the basis of NEET-PG;

however upon NEET-PG having been abolished by the Supreme Court vide judgment in *Christian Medical College, Vellore* (supra), the situation as prevailing prior thereto is back in vogue and which in any case does not permit of a common merit list of the students of GGSIPU and DU; while DU makes admission to PGMCs seats of the State quota on the basis of the rank in AIPGME held for filling up the All India quota seats, GGSIPU holds its own separate examination for the said purpose and in which students of DU are not entitled to participate; and,

IV. that the reliefs claimed in the writ petition, on the basis of NEET-PG which now no longer exist, have become impossible of granting.

14. The counsel for the six of the eight students of DU who had filed the writ petition (and who are the appellants in LPA No.170/2014) does not dispute that all the eight students have since done their post-graduation either from a seat in All India quota or from DU only and are now no longer desirous of admission to the PGMCs seats of the State quota in GGSIPU. He

however states that the question involved is an important one and in the interest of all students of DU and thus should be decided. With respect to the contention of the other counsels, of the relief claimed being now no longer feasible, he has contended that the relief claimed in the writ petition has to be read as not confined to the admissions for the Academic Year 2013-14 only but also to all successive years. He has yet further contended that the abrogation of NEET-PG does not pose any difficulty as GGSIPU and DU can be directed to either hold a Common Examination for filling up of their State/Institutional quota seats or to make admissions thereto on the basis of rank in the AIPGME held for filling up of All India Quota seats. He however admitted that the State / Institutional quota seats only in GGSIPU cannot be directed to be open for DU students and the State / Institutional quota seats in DU also have to be directed to be open for GGSIPU students.

15. Since the counsel (for appellants in LPA No.170/2014) though admitting that his clients were left with no cause of action sought to purportedly espouse the cause of the MBBS graduates of DU in general, we asked him as to how he can claim to be representing them or acting in their interest.

16. No answer was forthcoming except for stating that opening up of all the State quota seats in DU as well as GGSIPU to students of both the Universities is important for the sake of upholding the principle of meritocracy.

17. We further enquired from the counsel (for the appellants in LPA No.170/2014) as to how a direction against DU to open up its PGMCS seats of the State quota to students of GGSIPU also can be given without any such relief having been claimed in the writ petition or even now.

18. The only answer forthcoming is that since the DU, in its affidavit of February, 2014 filed in this appeal, has shown willingness to consider the same, they should be so directed. The counsel however has no answer to the pleas raised in the said affidavit of DU, of it having a statutory rule against allowing the same and which aspect has not been adjudicated by the learned Single Judge, having been not called upon to adjudicate the same.

19. The counsel (for appellants in LPA No.170/2014) otherwise admits that the direction cannot be one way only i.e. of directing GGSIPU only to open up its seats to the students of DU without a corresponding direction to DU.

20. The counsel has yet further contended that the judgment abrogating NEET-PG was pronounced on 18th July, 2013 i.e. a few days before the impugned judgment dated 29th July, 2013 and the learned Single Judge was fully aware of the same. He has further contended that inspite of NEET-PG having been abrogated, the Supreme Court vide order dated 17th January, 2014 supra did not allow the SLP preferred by the students of GGSIPU and on the contrary is awaiting the decision in this appeal. It was argued that thus the Supreme Court has also taken a view that the present proceedings, notwithstanding the abrogation of NEET-PG, are maintainable.

21. The other counsels clarify that though NEET-PG was abrogated vide judgment dated 18th July, 2013 but admissions to the PGMCs seats of the State quota for the Academic Year 2013-14 were made according to the rank in NEET-PG only, though State/Institution wise, as none of the Universities/Colleges had held their own examination as they used to earlier.

22. We have perused the order dated 17th January, 2014 of the Supreme Court and do not find the Supreme Court to have therein applied itself to the effect of abrogation of NEET-PG. In fact the stage therefor did not arise. We are unable to accept the contention of the advocate for appellants in LPA

No.170/2014 that the Supreme Court has formed any view that the present proceedings remain alive notwithstanding abrogation of NEET-PG. Just like with respect to a judgment it is the principle that it is a precedent on what it lays down and adjudicates and not on what may be inferred therefrom, similar is the case with respect to the orders. From the factum of the Supreme Court having adjourned the SLP before it *sine die* awaiting the outcome of this appeal, it cannot be said that the Supreme Court has directed this Court to return a finding on merits if otherwise this Court finds the same to be unnecessary.

23. Though we have heard the counsels at length on merits but for the reasons following are of the view that it would not be appropriate for this Court to in these proceedings return any finding on merits:-

- A. the writ petition from which these appeals arise were filed not in public interest but as a private *lis*. The settled principle with respect to a private *lis* is that if the cause of action therefor disappears even at an appellate stage, the same is to proceed no further. Supreme Court in ***Shipping Corporation of India Ltd. Vs. Machado Brothers*** (2004) 11 SCC 168 though in the

context of a civil suit held that if by subsequent events the original proceeding has become infructuous, it is the duty of the Court to take such action as is necessary and which includes disposing of infructuous litigation, as continuing such litigation will be like flogging a dead horse and not benefit any of the parties. Supreme Court in ***Rajesh D. Darbar Vs. Narasingrao Krishnaji Kulkarni*** (2003) 7 SCC 219 also dealt with the impact of subsequent happenings under the heads of, first its bearing on the right of action, second, on the nature of the relief and third, on its importance to create or destroy substantive rights. It was *inter alia* held that it is important that the party claiming the relief must have the same right from which the relief may flow and that subsequent events in the course of the case cannot be constitutive of substantive rights enforceable in that very litigation except in a narrow category. Admittedly the eight students of DU who had filed the writ petition from which these appeals arise are now left with no cause of action. This proceeding is now being pursued purportedly to espouse the cause of the other students of DU in general but from whom

neither Mr. Manoj Goel, Advocate nor the appellants in LPA No.170/2014 have any authority. We do not really know what the students of DU want. Whether they are willing to, as against having a chance of seeking admission to the PGMCs seats of the State quota in the GGSIPU, have the State quota seats of DU also opened to students of GGSIPU to whom they are not open as yet. Though these appeals have remained pending for some time and the hearing itself has spanned over a few months, none of the other students of DU have come forward. Though some intervention applications were filed but have not been pressed/pursued. We would hesitate to return a finding, in vacuum, on such an important issue affecting a large number of students.

- B. The counsel for appellants in LPA No.170/2014 also agrees that the opening up of the State quota seats cannot be one sided; either such seats in both Universities have to be opened to students from both Universities or in neither. However no relief against DU was claimed. It is a classic case of the writ petitioners, at the time of filing of the writ petition wanting a

portion of the pie of GGSIPU seats without wanting to share their own. They have only now become wiser. However in the process, the question whether DU can be so directed remained to be considered and there are no pleadings even with respect thereto. For this reason alone, we cannot in the absence of any pleadings, for the first time in this appeal, consider the said aspect. Once that is so, we do not feel the need to consider whether a direction can be given to GGSIPU to open up its PGMCs seats of the State / Institutional quota to MBBS graduates from DU. No purpose would be served thereby.

- C. The Court does not indulge in academic exercise. Reference in this regard may be made to *Arnit Das Vs. State of Bihar* (2001) 7 SCC 657 observing that it is settled practice that the Court does not decide the matter which are only of academic interest on the facts of a particular case. Following the said principle, the Division Bench of this Court in *Association For Development Vs. Union of India* MANU/DE/1491/2010, even in a Public Interest Litigation, did not proceed to decide the challenge to the appointment of members of National

Commission for Protection of Child Rights whose term was expiring shortly after the time the petition came up for hearing. It was held that no purpose would be served in adjudicating on that aspect. Earlier to that also, the Constitution Bench in **A.K. Roy Vs. Union of India** (1982) 1 SCC 271 had observed that the position is firmly established in the field of Constitutional adjudication that the Court will decide no more than needs to be decided in any particular case. It was held that abstract questions present interesting challenges, but it is for scholars and text-book writers to unravel their mystique; it is not for the courts to decide questions which are but of academic importance.

- D. There is merit also in the contention that the relief claimed in the writ petition was premised on the existence at the time of admissions to the academic year 2013-14 of a Common Entrance Test i.e. NEET-PG to check the *inter se* merit of the students of both Universities. NEET-PG, after the institution of the writ petition, has ceased to exist. The learned Single Judge however, concerned only with the admissions to the academic

year 2013-14, still went ahead to issue directions since notwithstanding NEET-PG having been held to be illegal, admissions to that academic year were to be on the basis of that only. However it is not so for subsequent years for allowing the directions issued by the learned Single Judge to be followed for the subsequent years also, directions to GGSIPU and DU to hold a common examination for admission to State/ Institutional quota seats in PGMCs in both, to test the *inter se* merit of students of both universities will also have to be issued and modalities thereof will have to be devised and for which again neither any relief has been claimed nor pleadings exist. This Court would hesitate from venturing into the said aspect also for the first time in appellate jurisdiction; and,

- E. The issue involved is undoubtedly an important one having wide ramifications which may extend to outside Delhi also. Without proper pleadings, we would not like to venture into the same.

24. Though we are not returning any findings on merits as aforesaid but may record that the situation as in Delhi is not comparable to the situation which the learned Single Judge found prevalent in some of the other States i.e. of having a Common Entrance Examination for admission to PGMCs seats of several State Universities and treating the quota to be a State quota and not an Institutional quota. Here, both the Universities are not State Universities. While DU is a Central University, GGSIPU is a State University. We had during the hearing enquired from Mr. Manoj Goel, Advocate whether there was any comparable situation in any other State. No instance could be given. Mr. Krishnan Venugopal, Sr. Advocate in this regard has contended that there were different criteria for reservation in the two Universities with separate lists of reservations and which would also pose a problem if a common admission process was to be followed. Again, in the circumstances aforesaid, the said issue has remained to be pleaded/addressed. It was also the contention of Mr. Venugopal that *Nidamarti Maheshkumar* relied upon by the learned Single Judge was a case of admission to MBBS and not of admission to post-graduate seats, the criteria for admission where to is different.

25. We in the circumstances, without going into the merits, set aside the impugned judgment, leaving however the question open for adjudication in an appropriate case. Resultantly LPA No.551/2013 is allowed and LPA No.170/2014 is dismissed; however no order as to costs.

RAJIV SAHAI ENDLAW, J

CHIEF JUSTICE

MAY 1, 2015

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