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

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Judgment delivered on: 26.08.2016

+ **W.P.(C) 7115/2016 & CM No. 29275/2016**

KINJAL RAJNIKANT PATEL AND ANR. Petitioners

versus

**NATIONAL BOARD OF EXAMINATIONS
AND ANR.**

..... Respondents

Advocates who appeared in this case:

For the Petitioner

:Mr. Satinder S. Gulati and Mr.Kamaldeep Gulati,
Advocates.

For the Respondents

: Dr. Rakesh Gosain, Adv. for R-1
Ms.Arati Bansal and Ms. Nandita Mishra, Advs. for R-2

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner seeks setting aside of the order dated 21.07.2016 and the result of PDCET (Post Diploma Common Entrance Test, 2016) whereby the petitioners have been held ineligible by the respondent – National Board of Examinations for the reasons that they had not submitted their proof of passing Post Graduate Diploma of final examination on or before the cut-off date 30.06.2016.

2. The petitioners had appeared in the final examinations conducted by the Rajasthan University in June, 2016.

3. On 28.06.2016, the respondent no. 1 conducted the competitive examination of DNBPDCEt for (Post Diploma) Course. The examination is conducted for filling up the seats in DNBPDCEt for (Post Diploma) Course and also other courses for the medical colleges and other institutions on all India basis.

4. It is contended that the petitioners completed their two year training programme as Post Graduate Diploma Residents in Department of Radio Diagnosis on 29.06.2016. It is contended that the result was declared by the Rajasthan University on 18.07.2016 for the qualifying examinations of Post Graduate Diploma. It is contended that the respondent no. 1 has not declared the result of the competitive entrance examinations on the ground that the petitioners are not qualified for admissions since their results for the qualifying examination has been declared after the cut-off date of 30.06.2016.

5. Learned counsel for the respondents submits that the last cut-off date of 31.05.2016 was subsequently extended to 30.06.2016. Since the petitioners have not qualified the qualifying examinations on or before 30.06.2016, they are not eligible in terms of the Information Bulletin to seek admission for the subject course for this academic session. It is contended that the examination for the subject course is held twice a year and the next course is to commence in January for

which the qualifying examination would be held prior to December 2016.

6. Reference may be had to the Information Bulletin which lays down the instructions as also the eligibility criteria for admission. The instructions to candidates reads as under:

*“*Completing Post Diploma Qualification means candidate should have completed the requisite two years training and his/her result of the final examination of the requisite Post Diploma qualification should have been declared by the cut off date i.e. 31st May, 2016. Candidates who are not completing the training by the cut off date or their final result has not been declared by the cut off date or they have not qualified in the requisite examination need not apply.*

*Cut off Date for Completing Post Diploma Qualification:
31st May, 2016. ”*

7. The eligibility criteria prescribed by the Information Bulletin for PDCET-July, 2016 reads as under:-

“3. ELIGIBILITY CRITERIA FOR PDCET-JULY 2016 ADMISSION SESSION

3.1 Candidates who have passed the final examination leading to the award of Post Graduate Diploma from Indian Universities which are duly recognized as per provisions of Indian Medical Council Act, 1956, Govt of India i.e. have passed/Passing the final examinations for Post graduate diploma on or before 31st May, 2016 can apply for Post diploma CET examination in the same Broad speciality. Candidates should have completed his/her 2 years post diploma training by 31st May, 2016.

3.2 Submissions of proof of having passed/passing the post graduate diploma final examination on or before the 31st May, 2016 is an essential pre-requisite. In case the candidate does not submit requisite proof of passing his/her post graduate diploma final examination, the candidate shall not be allowed to appear in PDCET July 2016 admission session.

3.5 Requests for appearing in PDCET from candidates, who are qualifying and getting their results of the basic eligibility qualification after 31st May, 2016 shall be summarily rejected.

Candidate who are qualifying their PG Diploma exit examination or and getting results after 31st May, 2016 or likely to qualify after 31st May, 2016 need not apply in the PDCET exam as they shall be ineligible to appear in the PDCET.”

8. Corrigendum was issued to the Information Bulletin on 03.05.2016 amending the eligibility criteria. The amended eligibility criteria changes the date of 31.05.2016 to 30.06.2016 in clauses 3.1, 3.2 as also 3.5.

9. Perusal of the instructions to candidates as also the eligibility criteria prescribed by the Information Bulletin show that the candidates who have passed or passing the final examination for Post Graduate Diploma (qualifying examination) on or before 30.06.2016 could apply for the Post Graduate Diploma CET Exam. The instructions as well as the eligibility criteria specifically states that the candidates who are qualifying their Post Graduate Diploma exit

examination (qualifying examination) or and getting their result after 30.06.2016 or likely to qualify after 30.06.2016 need not apply in the PDCET exam as they are ineligible to appear in the PDCET.

10. Admittedly, in the present case, the result of the petitioners has been declared after 30.06.2016. Two year qualifying courses of the petitioners commenced on 30.06.2014 and was to end on 29.06.2016. The petitioners would have known that it would be impossible for them to qualify the said qualifying exam before 30.06.2016 as the last date of course itself was 29.06.2016. The petitioners do not satisfy the very eligibility criteria as laid down by the Information Bulletin and thus the action of the respondents, in holding the petitioners ineligible for consideration for admission in the present course, cannot be faulted.

11. Reliance placed by the learned counsel for the petitioner on the judgment in the case **“Utkarsh Sharma Vs. UOI and Ors.” dated 18.11.2010** in W.P.(C) No. 7214/2010, **“Asha Vs. PT B.D. Sharma University of Health”**, (2012) 7 Supreme Court Cases 389 **and “Akash Kumar & Ors. Vs. All India Institute of Medical Sciences & Anr.”**, 2015 (152) DRJ 316 is misplaced as the said judgments are clearly not applicable in the factual matrix of the present case.

12. Reliance is placed on the said judgments to contend that merit would override all other criteria and also that the cut off date would not be sacrosanct.

13. The judgment in the case of **Utkarsh Sharma** (Supra) is not applicable as the petitioners therein had been granted provisional admission and at the stage of confirmation of the provisional admission, it was found that the petitioners had failed to qualify in one of the papers in the final qualifying examinations and the result of the compartment examination was declared later. The stipulated condition in the case of **Utkarsh Sharma** (Supra) was that a candidate could seek provisional admission awaiting the result of the qualifying examination and the provisional admission would later be confirmed on the result being declared. In the present case, there is no such stipulation that the provisional admission can be granted to the petitioners. The petitioners do not satisfy the very eligibility criteria for admission.

14. The judgment in the case of **“Asha Vs. PT B.D. Sharma University of Health Sciences”** (Supra) is also not applicable since in the said case, the Supreme Court was dealing with a situation where the appellant was denied admission in MBBS Course even though a candidate lower in merit had been admitted. In these circumstances, the Supreme Court held that the cut off date 30th September in considering the merit of a candidate, who was wrongly denied admission, would not be sacrosanct.

15. In the present case, even the result of the petitioner in the admission test has not been declared so the petitioner cannot claim to have secured high merit. In **Asha** (Supra), the petitioner therein was

qualified on merits but in the present case, the petitioner is ineligible for admission.

16. Further the judgment of the “**Akash Kumar & Ors. Vs. AIIMS & Anr.**” (Supra) is also not applicable in the factual matrix in as much as the prospectus therein stipulated that candidates who are due to appear in the qualifying examination or have already appeared and are awaiting result could apply for admission. In contradiction, in the present case, the respondents have categorically stated that those whose result is not likely to be declared by the cut off date need not apply.

17. Furthermore, it may be seen that this is a case where the course is held twice a year. The petitioners were very much aware that their results could not have been declared before the cut off date of 30.06.2016 as their qualifying course itself was till 29.06.2016.

18. In similar circumstances, a Division Bench of the High Court of Judicature at Bombay while interpreting the very same entrance test in W.P.(C) No. 8026/2016, titled as “**Dr. Ajinkya Shiraji Kale & Ors. Vs. Union of India & Ors.**” by Judgment dated August 2, 2006 has upheld the action of the respondent and held that in a pure academic exercise of the National Board of Examinations, the Court should not interfere and cause any obstruction. The students in State of Maharashtra whose result could not be declared before the cut off date were not granted relief.

19. Furthermore, it may be seen that the stipulation of the Information Bulletin is such that several candidates, who knew that they would not be able to qualify by the cut off date, would not have applied for the entrance test. The petitioners cannot be put at a better footing than the candidates, who in terms of the stipulation would not have applied.

20. In view of the above, I find no fault with the action of the respondents and find no merit in the petition. Accordingly, the Writ petition is dismissed.

AUGUST 26, 2016
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SANJEEV SACHDEVA, J

