

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3643 OF 2017

Dr. Shubhra Srivastava

...Petitioner

vs.

State of Maharashtra and Others

...Respondents

Mr. Ravindra Lokhande, for the Petitioner

Mr. V.N. Sagare, AGP for the Respondent-State.

**CORAM : SHANTANU S. KEMKAR &
B.P. COLABAWALLA, JJ.**

DATE : MARCH 31, 2017

P.C.:

. Feeling aggrieved by the Condition Nos. 1 to 5 and 10 of the Medical Postgraduate Entrance Examination (PGM-CET) Eligibility Criteria, 2013 notified on 1st November, 2011 making it mandatory to serve in the rural areas, the Petitioner has filed this Petition seeking quashment of the said Conditions and with a prayer to allow her to appear in the counselling session scheduled on 4th April, 2017.

2. According to the Petitioner the said Circular is not applicable to her as she had got admission for MBBS in the year 2009 and therefore the Circular which was in vogue at that time

will only be applicable for getting admission in NEET PG 2017 in MS/MD/Diploma courses. It is also the case of the Petitioner that the purpose of executing bond should only be to serve rural areas and not to pay the huge amount.

3. We have heard the learned counsel for the Petitioner as also the learned AGP for the State and perused the documents filed along with the Petition.

4. In order to appreciate the rival contentions, it would be appropriate to extract the Clause Nos. 1 to 5 and 10 of the Medical Postgraduate Entrance Examination (PGM-CET) Eligibility Criteria, 2013 for ready reference.

1. Candidate will be allowed to appear for PGM-CET only twice-first time for the examination conducted before the date of internship completion and second time for the examination conducted after the completion of mandatory internship period.

2. Being eligible and allowed for two attempts as above, if candidate does not take admission to a postgraduate course, he or she will have to complete the Bond service before taking subsequent attempts of PGM-CET.

3. PGM-CET 2013 is proposed to be conducted in January/February, 2013. Those who are appearing for PGM-CET 2012 as second attempt and desirous to appear for PGM-CET- 2013 (which will be counted as third attempt) will have to complete one year Bond Service.

4. Candidates appearing PGM-CET-2012 as third or more attempt but do not take admission to a postgraduate course will have to complete one year Bond Service before appearing for PGM-CET 2013 for subsequent attempts.

5. For desirous candidates there is no limit of attempts for appearing to PGM-CET Examination once mandatory one year Bond Service is completed after taking two attempts.

10. Candidate will have to complete one year Bond Service before appearing for PGM-CET Entrance Examination for third attempt. Candidate who does not wish to do one year Bond Service will be made eligible for third and subsequent attempts after paying Bond Penalty as per the rules.

5. It is not in dispute that the Petitioner was admitted in the MBBS course in the year 2009. for the eligibility to appear in the Postgraduate PGM Course the criteria fixed for PGM course will only apply. Admittedly the Petitioner had appeared in the year 2015 (1st attempt) and thereafter in the year 2016 (2nd attempt) in the Postgraduate Course (PGM) Examination but in both the attempts she failed. Thus as per Clause No. 10 of the Eligibility Criteria, it is necessary for the candidate to have complete one year Bond Service before appearing for PGM-CET Entrance Examination for third attempt. The candidate who does not wish to do one year Bond Service will be made eligible for third and subsequent attempts after paying Bond Penalty as per the rules.

6. The said clause No. 10 of the Eligibility Criteria was in existence when the Petitioner unsuccessful in the first as well as second attempt of the PGM Examination in the year 2015 and 2016 respectively, therefore, she cannot now be allowed to say that for third attempt the said Clause will not be applicable.

7. We are of the view that the Petitioner with open eyes having participated in the PGM Entrance Examination of the year 2015 and again in the year 2016, cannot be allowed to turn around and challenge the Eligibility Criteria. If she wants to make attempt for the third time of the same examination she cannot be allowed to contend that the Eligibility Criteria is unreasonable. In any event, we do not find any ground being made out by the Petitioner to grant relief claimed in the Petition.

8. At this stage, the learned counsel for the Petitioner submitted that the Petitioner will serve the rural areas after completion of Postgraduate. We have considered the aforesaid submission but in the absence of any clause permitting to complete the Post graduation first and then to serve the rural area in regard to the candidates of the Petitioners category the Petitioner

cannot be extended such relief.

9. As a result, we find no ground to invoke the jurisdiction under Article 226 of the Constitution of India.

10. Consequently, the Petition fails and is hereby dismissed.

(B.P. COLABAWALLA, J.)

(SHANTANU S. KEMKAR, J.)