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

+ **W.P.(C) 1930/2017**

SHEESHPAL & ORS

..... Petitioners

Through: **Mr.Maharaj Singh, Adv.**

versus

UNIVERSITY OF DELHI & ORS

..... Respondents

Through: **Mr. Amit Bansal and Ms. Seema Dolo, Advs. for R1 and R2.
Mr. T. Singhdev, Ms. Puja Sarkar,
Ms. Biakthansangi and Mr. Tarun Verma, Advs. for R5.**

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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03.03.2017

CM No. 8575/2017 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 1930/2017

1. The present petition has been filed by the petitioners with the following prayers:

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A. Issue an appropriate direction / order or writ of certiorari to respondents or issue an appropriate direction / order or writ of mandamus quashing the letter declining to conduct special supplementary 1st professional

examination M.B.B.S dated 16.12.2016.

B. Any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioners.

C. Pass any other and further order (s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant petition, in the interest of justice and equity."

2. The only submission made by the learned counsel for the petitioners is based on an understanding that Rule 7.7 of the Medical Council of India Regulations on Graduate Medical Education, 2012 which reads as under, the respondent Nos.1 and 2 could not have held the supplementary examination before 60 days, in the month of October, 2016:

"Supplementary examination shall be conducted not earlier than 60 days and not later than 90 days after the declaration of results, so that the students who pass can join the main batch and the students who fail, will appear in the subsequent year."

He concedes to the fact that the petitioners herein had appeared in the supplementary examination held in the month of October, 2016. He also concedes to the fact that the petitioners have failed in the relevant paper(s) in which they have appeared in the supplementary examination. He does not dispute the fact that the petitioners have not objected to the respondents conducting the examination before 60 days. Learned counsel for the petitioners would also state that in the year 2015, the respondents had held the Special Supplementary Examination, which benefit/concession has not been given to the petitioners in this year.

3. On the other hand, Mr. T. Singhdev, learned counsel appearing for the respondent no.5 would submit that Regulation 7.7 of the Graduate Medical Education, 1997 as amended on 19th April, 2010, which reads as under, would govern the issue at hand and not Rule 7.7 as sought to be relied on by the learned counsel for the petitioner (as noted above).

“7(7) The supplementary examination for 1st Professional MBBS examination may be conducted within 6 months so that the students who pass can join the main batch and the failed students will have to appear in the subsequent year provided that the students who pass the supplementary examination shall be allowed to appear in the second professional MBBS examination only after he / she completes the full course of study of three semesters (i.e., 18 months) for the second professional MBBS examination irrespective of the examination of the main batch.”

According to him, the Delhi University, i.e., respondent nos. 1 and 2 has conducted the supplementary examination in terms of this Regulation inasmuch as the result of the First Year was declared on 18th August, 2016 and the Supplementary Examination was held in October, 2016, i.e., within six months. He states that the Rule as sought to be relied upon by the learned counsel for the petitioners is not the notified Rule/Regulation.

4. Having heard the learned counsel for the parties, suffice to state that the petitioners having appeared in the Supplementary Examination in the month of October, 2016, are precluded from challenging the conduct of the said Examination on the ground that it was held before 60 days. In any case, as submitted by Mr. Singhdev, the Rule 7.7 as sought to be relied upon by the petitioners is not the notified Rule. The relevant Regulation being the

one reproduced in Para 3, and the examination having held within six months, the action is justified. That apart, the concession as given in the year 2015 and noted by this Court at Page 103 of the Paper Book would reveal that the same was with regard to those candidates who could not appear in the Supplementary Examination. It is not such a case here inasmuch as the petitioners did appear in the Supplementary Examination, but had failed.

I do not see any merit in the petition. The petition is dismissed.

V. KAMESWAR RAO, J

MARCH 03, 2017/jg