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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 2610/2017 & C.M. No.30890/2017

DR. DEEKSHA KALRA & ORS

..... Petitioners

Through Mr.Angad Mehta, Advocate.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY & ORS

..... Respondents

Through Mr.Mukul Talwar, Sr.Adv. with
Mrs.Anita Sahani, Advocate for
R-1/GGSIPU.

Mr.Mohinder J.S.Rupal, Mr.Prang
Newmai and Ms.Slomita Rai,
Advocates for DU.

Mr.Sidhartha Shankar Ray, Advocate
for R-3.

Mr.Sankalp Jain and Ms.Rajul
Jain, Advocates for R-4/UOI.

Mr.T.Singhdev, Mr.Abhijit
Chakravarty and Ms.Puja Sarkar,
Advocates for R-5/MCI.

Mr.Shadan Farasat and Mr.Ahmed
Said, Advocates for GNCTD.

Mr.Kirtiman Singh, Mr.Prateek
Dhanda and Mr.Waize Ali Noor,
Advocates for R-6.

Mr.Shivendra Singh and
Ms.Deepanshi Ishar, Advocates for
R-7 and R-110.

+ W.P.(C) 8145/2017

PRANAY NIJHAWAN AND ORS

..... Petitioners

Through Petitioner in person.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY AND
ORS

Through Respondents
Mr.Mukul Talwar, Sr.Adv. with
Mrs.Anita Sahani, Advocate for
R-1/GGSIPU.
Mr.Mohinder J.S.Rupal, Mr.Prang
Newmai and Ms.Slomita Rai,
Advocates for DU.
Mr.Sidhartha Shankar Ray, Advocate
for R-3.
Mr.Sankalp Jain and Ms.Rajul
Jain,Advocates for R-4/UOI.
Mr.T.Singhdev, Mr.Abhijit
Chakravarty and Ms.Puja Sarkar,
Advocates for R-5/MCI.
Mr.Shivendra Singh and
Ms.Deepanshi Ishar, Advocates for
R-7 and R-110.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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23.11.2017

There are 5 petitioners in W.P.(C) 2610/2017 and there is one petitioner in W.P.(C) 8145/2017. Both these petitions have impugned the eligibility criteria laid down by the University of Delhi and Guru Gobind Singh Indraprastha University (GGSIPU) wherein institutional preference/reservation has been laid down by the said institutions in the post graduate (MBBS/BDS) courses; submission is that the aforementioned respondent-Universities holding institutional counselling is illegal; the seats in these post graduate courses should

not have an institutional reservation; seats in the post graduate courses should be open for all residents of Delhi.

The averments in the writ petition aver that under Article 9A of the Post Graduate Medical Education Regulation, 2000, the eligibility criteria on the basis of which counselling to post graduate medical seats can be conducted has to be on the basis of the merit list of a national eligibility-cum-entrance test. It is pointed out that no doubt the NEET Examination has been formulated which is at an all India level and the aforementioned petitioners had qualified in the NEET Examination yet both of them having graduated their MBBS from the Delhi University, the criteria laid down by the aforementioned Universities (Delhi University and GGSIPU) that a 50% institutional preference is available in their respective institutes for students who have graduated from their respective Universities is an illegality. Submission being that the aforementioned petitioners should also have been permitted to participate to get benefit of the seats available in the post graduates courses of the GGSIPU as well.

In the course of arguments, this Court has been informed that Dr.Deeksha Kalra (petitioner no.1 in W.P.(C) 2610/2017) has since secured admission at the Lady Harding Medical College in the subject of Psychiatry which is her post graduate subject. Dr.Pranay Nijhawan (petitioner in W.P.(C) 8145/2017) has secured admission in the post graduate course in the subject of Anaesthesiology at the Maulana Azad Medical College. Petitioner nos.2 to 5 in W.P.(C) 2610/2017 are still students of the MBBS course; they are admittedly not eligible for a post graduate course.

Respondents have filed their counter affidavits opposing the stand of the petitioners. At the outset learned counsel appearing for the respondents point out that a detailed interim order had been passed in W.P.(C) 2610/2017 wherein all arguments addressed before this Court today had been considered and answered in the detailed order which is dated 13.4.2017. The Division Bench has dismissed the appeal against that order. This order having been confirmed there is little left to argue in the present petition. Learned counsel appearing for respondent no.1 points out that the Apex Court in (2017) 7 SCC 636 Saurabh Dwivedi and Ors. Vs. Union of India and Ors. had an occasion to consider the State quota vis-a-vis the Central Quota and the 50% reservation of post graduate seats by the States; this had been upheld by the Apex court. The Apex Court had quoted with approval the Constitution Bench Judgment delivered by the Apex Court in (2003) 11 SCC 146 Saurabh Chaudri Vs. Union of India wherein the original scheme as framed in (1984) 3 SCC 654 Pradeep Jain Vs. Union of India was reiterated and reservation by way of institutional preference confined to 50% was held to be legal and valid.

Learned counsel appearing for respondent no.5/MCI points out that a time schedule had been laid down by the Apex Court for admission to the post graduate courses (MBBS and BDS) and this timeline has expired on 31.5.2017. It cannot be extended. That apart, the aforementioned petitioners (namely Dr.Deeksha Kalra – petitioner no.1 in W.P.(C) 2610/2017) and Pranay Nijhawan – petitioner in W.P.(C) 8145/2017) have already secured admission in the post graduate courses of their choice at the Lady Harding Medical College and

Maulana Azad Medical College respectively. Undertakings have also been given by the concerned petitioners. Attention has been drawn to the aforementioned documents wherein the candidates before taking admission had undertaken that she/he would not pursue any other course unless the duration of the present course under which she/he has been admitted is completed and this provisional admission was final and binding upon the said candidates. Submission is that by way of these writ petitions the petitioners are in fact flouting these undertaking as well.

Arguments have been heard. Record has been perused.

On the perusal of the record, this Court notes that the prayer made in the present petitions has been considered in the interim order passed by this Court on 13.4.2017. The prayer (d) has been specifically decided. The case law and the respective submissions of the parties including Regulation 9A of the Post Graduate Medical Education Regulation, 2000 of the MCI had been considered. The submission of the petitioners that common counselling and Regulation 9A has to include pooling of the students without any institutional preference was the bone of contention. The law laid down by the Apex Court in Dr.Pradeep Jain (supra) has been highlighted in para 15 of the said order where certain percentage of seats on the basis of institutional preference was permitted to be reserved not exceeding 50% which is the practice being followed both by GGSIPU and Delhi University. Such an institutional preference was held to be valid and not violative of Article 14 of the Constitution of India as had been held by the Apex Court in the judgment of Saurabh Chaudri (supra).

Moreover, Regulation 9A only refer to conduct of counselling by the State and the State retaining itself with the overall superintendence, direction and control; this pooling of seats of respondent no.1 and 2 was held prima facie to be impermissible as respondent no.1 (GGSIPU) being a State University and respondent no.2 being a Central University were governed by two different reservation policies.

This fact is not in dispute. The question of pooling of these seats by common counselling thus could not arise. As noted supra, this interim order passed by this Court on 13.4.2017 was affirmed by the Division Bench when the LPA No.322/2017 preferred against that judgment had been dismissed on 01.5.2017. The Division Bench had noted that the first round of counselling for the post graduate medical seats was already over and the students had joined their courses. Relief prayed for before the Division Bench had been declined.

This Court noting the narration of facts of the instant case, as also the case law laid down by the Apex Court as also noting the admitted position that Dr.Deeksha Kalra (petitioner no.1 in W.P.(C) 2610/2017) and Dr.Pranay Nijhawan (petitioner in W.P.(C) 8145/2017) have already obtained admission in the post graduate courses at the Lady Harding Medical College (Psychiatry) and Maulana Medical College (Anaesthesiology) and undertakings to the effected (as noted supra) having been furnished by them and the timeline (31.5.2017) for admission having been over which timeline cannot be extended in view of the directions of the Apex Court in (2016) 11 SCC 225 Ashish Ranjan Vs. Union of India, this Court is of

the view that the reliefs prayed for in the present petition cannot be answered in favour of the petitioners.

Petitions are without any merit.

Dismissed.

INDERMEET KAUR, J

NOVEMBER 23, 2017
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