

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
*Date of decision: September 06, 2017*

+ **LPA 583/2017 & C.M. 32386/2017**

RAVI SINGHAL ..... Appellant

Through: Mr. Yashish Chandra &

Mr. Shantanu, Advocates

Versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY &  
ANR. .... Respondents

Through: Ms. Anita Sahni, Advocate for  
respondent No.1

Mr. T.S. Singhdev & Ms. Puja Sarkar,

Advocates for respondent No.2

**CORAM:**

**HON'BLE MR. JUSTICE S. RAVINDRA BHAT**

**HON'BLE MR. JUSTICE SUNIL GAUR**

**S. RAVINDRA BHAT, J. (OPEN COURT)**

1. The appellant's grievance is with respect to the order of the learned Single Judge rejecting his writ petition seeking a direction to the respondents to permit him to migrate from Fakhruddin Ali Ahmed Medical College, Barpeta, Assam to North DMC Medical College, Bara Hindu Rao Hospital, Delhi.

2. Appellant was admitted to the Fakhruddin Ali Ahmed Medical College, Barpeta, Assam on the basis of ranking in the pre-medical test conducted in the academic year 2015-16. After completion of his first year, he applied for migration. The relieving University i.e. Srimanta Sankaradeva University of Health and Sciences, Guwahati, Assam granted him "No Objection Certificate" on 1<sup>st</sup> October, 2016. Claiming that the counterpart North DMC Medical College, Bara Hindu Rao

Hospital, Delhi also agreed to admit him, he applied for permission to migrate to the Guru Gobind Singh Indraprastha University to which the North DMC Medical College, Bara Hindu Rao Hospital, Delhi is affiliated. This request was rejected *inter alia* on the ground that Ordinance 7 of the Guru Gobind Singh Indraprastha University, which governed the North DMC Medical College, Bara Hindu Rao Hospital, Delhi, did not permit migration. The University also relied upon Regulation 6 of Medical Council of India in the counter affidavit filed by it, in the proceedings initiated by appellant under Article 226 of the Constitution of India. It was also contended that Fakhruddin Ali Ahmed Medical College, Barpeta, Assam and North DMC Medical College, Bara Hindu Rao Hospital, Delhi were not recognized under Section 11(1) of The Indian Medical Council Act, 1956, which was a precondition for an application of the migration under regulation of Medical Council of India (Regulation 6). It was further submitted that the appellant's case is summarized in his plea in the writ petition in this regard, which reads as follows:-

*“4.5 That therefore invocation of Armed Forces (Special Powers) Act, 1958, affirms the security concerns for the people residing therein.*

*4.6 That additionally, the petitioner found it difficult to adjust to the cultural differences and diet of north east region which proved to have its toll on the mental and physical health of Petitioner. It is apposite to note that petitioner is living outside the house for the first time and had completed his schooling in Delhi itself.*

*4.7 That in such background, it became imperative for Petitioner and his parents to look for more peaceful and conducive options to further pursue the courses. Besides,*

*Petitioner looked for regular and direct parental guidance and support, who are settled in Delhi. It is submitted that Petitioner's parents are doctors, and therefore any possibility of Petitioner living with parents would give him an advantage and support in pursuing his studies.*

*4.8 That all medical colleges (except a few) in the country including the Petitioner's college of Fakhruddin Ali Ahmed Medical College, Barpeta, Assam, and Respondent no.1 GGSIPU and North DMC Medical College, works under control and supervision of Medical Council of India and are bound by the provisions of Indian Medical Council Act, 1956 and its Regulations."*

3. The learned Single Judge, after hearing the parties was of the opinion that the appellant's claim was unmerited primarily on an interpretation of Regulation 6 of Medical Council of India. She also took note of the relevant decisions and relied upon a decision of this Court in W.P.(C) 5436/2012, *Trisha Gupta Vs. Guru Gobind Singh Indraprastha University & anr.*. The relevant part of Single Judge's findings is as follows:-

*"20. The facts of the instant case reveal that the petitioner had applied for migration within the stipulated period. The MBBS result of the petitioner was declared on 05.09.2016. He had submitted his application for migration to the second year course of MBBS in the University of respondent No.1 on 06.07.2016. This was well within the time period. In fact the communication dated 22.05.2017 (placed on record by respondent No.2) clearly shows that the Migration Sub-Committee had considered the case on 09.11.2016 who had rejected it on the ground that since the college from where the petitioner is seeking migration was not recognized and the college to which he seeks migration was also not recognized; in view of bar of Section 11 (2) of the Indian Medical Council Act, migration was not permitted. The minutes of this meeting*

*dated 09.11.2016 had however been communicated to the petitioner only on 22.05.2017. This was for no fault of the petitioner. Contention of the petitioner is that the petitioner had in this interregnum entered the clinical course. In this scenario, this argument of the respondent finds no merit as it is because of the fault of the respondent that this matter had been delayed. The petitioner had applied within the time span; his case not having been considered and he having been communicated about it more than seven months (after the meeting of 09.11.2016) cannot be a reason to fault the case of the petitioner.*

*21. XXXX*

*22. XXXX*

*23. That apart the case of the petitioner must fail for another valid reason and which is that both the colleges i.e. from where the petitioner is seeking migration (Fakhruddin Ali Ahmed Medical College, Barpeta, Assam) and the recipient college (North Delhi Medical College, Delhi of respondent No.1 University) are both not recognized under Section 11(2) of the Medical Council Act, 1997. The fact that both the colleges are not recognized colleges is an admitted fact. A bald submission has been made by the petitioner that there is a deemed recognition granted to both these colleges. This submission is neither here and nor there. There is nothing to support this submission of the petitioner which is wholesomely denied by the respondents. Regulation 6 (2) specifically states that migration of students from one college to another is permissible only if both the colleges are recognized by the Central Government under Section 11 (2) of the Indian Medical Council Act and it shall not result in increase in the sanctioned intake capacity for the academic year concerned in respect of the receiving medical college. The second contention has not really to be gone into as the first clause which postulates both the relieving college as also the receiving college must be recognized has not been fulfilled. The hurdle of Regulation 6 (2) not having been crossed by the petitioner, this is a*

*clear case where the prayer sought for by the petitioner cannot be granted.”*

4. Learned Counsel for appellant contended that the emphasis placed upon “*genuine grounds*” and the interpretation of the Regulations by the learned Single Judge is erroneous. Reiterating the submissions made in the writ petition, it was contended that so long as there were sufficient vacancies to the permissible extent of 5% in the receiving college (North DMC Medical College, Bara Hindu Rao Hospital, Delhi) and there were some grounds which cannot be characterized as unreasonable, the request for migration cannot be brushed aside. It was submitted that even though appellant conceded in the proceedings that Fakhruddin Ali Ahmed Medical College, Barpeta, Assam was declared a disturbed area prior to his joining, the full impact of the state of affairs was not apprised to him. It was urged that after reporting to Fakhruddin Ali Ahmed Medical College, Barpeta, in Assam, appellant discovered that the local conditions were not suitable, both on account of his limitation of diet as well as language. It was submitted that initially due to lack of knowledge of local language, appellant cannot interact with patients in an effective and meaningful manner. It was also submitted that on the other hand, facilities available to the appellant clubbed with the fact that there were vacancies in North DMC Medical College, Bara Hindu Rao Hospital, Delhi, meant that he could meaningfully pursue his educational career, in Delhi.

5. Learned Counsel for appellant traced the history of Regulation 6 of Medical Council of India and submitted that pre 2008, regulations were interpreted by this Court in *Trisha Gupta (supra)* to state that one of the

possible grounds to see was whether the area is declared disturbed or not. It was submitted that since there is no change in the wording of the Statute, which has infact widened, in that context, the same interpretation should be made in this case too.

6. This Court has carefully considered the material on record and rival submissions made by Counsel for the parties. What prevailed upon the Single Judge was plain text of Regulation 6 and the fact that both the colleges i.e. Fakhruddin Ali Ahmed Medical College, Barpeta, Assam and North DMC Medical College, Bara Hindu Rao Hospital, Delhi, are not recognized under Section 11 of The Medical Council of India Act, 1956. Regulation 6, which is relevant, reads as follows:-

*“6. Migration*

- (1) Migration of students from one medical college to another medical college may be granted on any genuine ground subject to the availability of vacancy in the college where migration is sought and fulfilling the other requirements laid down in the Regulations. Migration would be restricted to 5% of the sanctioned intake of the college during the year. No migration will be permitted on any ground from one medical college to another located within the same city.*
- (2) Migration of students from one college to another is permissible only if both the colleges are recognized by the Central Government under Section 11 (2) of the Indian Medical Council Act, 1956 and further subject to the condition that it shall not result in increase in the sanctioned intake capacity for the academic year concerned in respect of the receiving medical college.*
- (3) The applicant candidate shall be eligible to apply for migration only after qualifying in the first professional MBBS examination. Migration during clinical course of study shall not be allowed on any ground.*

*(4) For the purpose of migration an applicant candidate shall first obtain "No objection Certificate" from the college where he is studying for the present and the university to which that college is affiliated and also from the college to which the migration is sought and the university to which that college is affiliated. He/She shall submit his application for migration within a period of 1 month of passing (Declaration of result of the 1<sup>st</sup> Professional MBBS examination) alongwith the above cited four "No Objection Certificates" to: (a) the Director of Medical Education of the State, if migration is sought from one college to another within the same State or (b) the Medical Council of India, if the migration is sought from one college to another located outside the State."*

7. Taking the second point first, i.e. with respect to recognition, the Medical Council of India in its affidavit had averred with respect to Statutes of two respected colleges, which is as follows:-

*"7. It is submitted further submitted that as per the provisions of Regulations 6(2) of the Graduate Medical Education Regulations, 1997, migration of students from one college to another is permissible only if both the medical colleges are recognized by the Central Govt. under Section 11(2) of the Indian Medical Council Act, 1956. In the present case the petitioner is seeking migration from Fakhruddin Ali Ahmed Medical College, Barpeta, Assam to North Delhi Municipal Corporation Medical College, Delhi, both the medical colleges are yet to be recognized by the Central Govt. under Section 11(2) of the Indian Medical Council Act, 1956. Fakhruddin Ali Ahmed Medical College, Barpeta, Assam was permitted to be established by the Central Govt. under Section 10A in the academic year 2012-13 and similarly North Delhi Municipal Corporation Medical College, Delhi was permitted to be established by the Central Govt. under Section 10A in the academic year 2013-14. Thus, as per the provisions of Regulations 6(2) of the Graduate*

*Medical Education Regulations, 1997 the petitioner cannot be granted migration from Fakhruddin Ali Ahmed Medical College, Barpeta, Assam to North Delhi Municipal Corporation Medical College, Delhi. The present petition deserves to be rejected on this ground also. It is prayed accordingly.”*

8. A plain reading of Regulation 6 (2) clarifies that migration from one college to another is feasible and can be permitted if both the colleges are recognized by the Central Government under Section 11 (2) of The Indian Medical Council Act, 1956. In this case, this essential condition was not fulfilled when the appellant had sought migration. The Counsel had contended that Fakhruddin Ali Ahmed Medical College, Barpeta, Assam has since been recognized. However, the fact remains that when migration was sought, it was not recognized. Even otherwise, both the colleges i.e. Fakhruddin Ali Ahmed Medical College, Barpeta, Assam and the North DMC Medical College, Bara Hindu Rao Hospital, Delhi (*to which migration was sought*) were not recognized when migration was sought. Even today the Bara Hindu Rao College is not recognized under Section 11 (2) of The Indian Medical Council Act, 1956.

9. The heart of the controversy is whether the grounds urged by the appellant for migration (that is Fakhruddin Ali Ahmed Medical College, Barpeta, Assam, is situated in a disturbed area and that he could not adapt to the local conditions on account of his lack of knowledge of local language and inability to adapt to local food) are “*genuine grounds*”. On both these grounds, this Court is of the opinion that the learned Single Judge has arrived at a correct conclusion. One can understand “*genuine*” or special circumstances on account of health which are unknown when a child or candidate secures admission. As far as, the prevailing conditions



are concerned, there is no dispute that Assam was and remained a disturbed area and so, was declared as such for some time, even when the appellant obtained admission. Furthermore, he continued to live there for a year. No specific instance of violence, bombing, curfew etc. was actually cited. So far as the question of diet and lack of knowledge of local language is concerned, the Court is of the opinion that these two reasons cannot objectively be called as “*genuine*”, having regard to the entirety of circumstances. Possibly there could be circumstances where local diet and climatic conditions could lead to some kind of disease or allergy but it is not the case here.

10. What was emphasized by counsel for respondents during the course of hearing was that the appellant wishes to take advantage of his parents’ knowledge, expertise and established practice in Delhi since they are medical practitioners. A candidate who wishes to benefit from his parents’ expertise, cannot be faulted. However, that *per se* would not entitle him to claim that the application or request for migration is “genuine”.

11. In view of the above discussion, the Court is of the opinion that there is no merit in the appeal. It is accordingly dismissed along with pending application.

**S. RAVINDRA BHAT**  
**(JUDGE)**

**SUNIL GAUR**  
**(JUDGE)**

**SEPTEMBER 06, 2017/r**