

HIGH COURT OF CHHATTISGARH, BILASPUR
WPC No. 632 of 2018

- Saurabh Sinha S/o Shri Alok Kumar Sinha, Aged About 16 Years Through His Father Alok Kumar Sinha, S/o Shri B.P. Sinha, Aged About 46 Years, R/o 27 Kholi, Near Patta Godam, Bilaspur, District Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Union Of India Ministry Of Health And Family Welfare, Through The Secretary, Nirman Bhawan, P.S. Connaught Place, New Delhi - 110011
2. Central Board Of Secondary Education (CBSE) Shiksha Kendra, 2 - Community Centre, Preet Vihar, Delhi - 110092
3. Medical Council Of India Aiwan - E - Galib Marg Kotla Road, New Delhi - 110002
4. State Of Chhattisgarh, Through The Secretary, Department Of Health And Family Welfare, D.K.S. Bhawan Mantralaya Raipur Chhattisgarh.
5. Director, Medical Education Directorate, Government Of Chhattisgarh, New Mantralaya Raipur Chhattisgarh.

---- Respondents

For Petitioner	: Shri Abhishek Sinha and Shri Jitendra Pali, Advocates.
For Respondent No.1	: Shri Rajesh Kumar Kesharwani, Advocate.
For Respondent No.2	: Shri Tarun Dadsena, Advocate on behalf of Shri T.K. Tiwari, Advocate.
For Respondent No.3	: Shri R.S. Marhas, Advocate.
For State/Respondent No.4 & 5:	Shri Prafull N. Bharat, Additional Advocate General.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice

Hon'ble Shri Justice Sharad Kumar Gupta

Order on Board

Per Thottathil B. Radhakrishnan, Chief Justice

08.03.2018

1. The petitioner is an aspirant for NEET examination for admission to MBBS course. He was born on 05.01.2002 and therefore, would attain the age of 17 years on 05.01.2019. Regulations of the Medical Council of India; for short, 'MCI' prescribe that an Applicant should have attained the age of 17 years as

on 31st December of the year of admission. According to MCI the cut-off date as regards the attainment of 17 years of age, for the current year, is therefore 31.12.2018.

2. The plea of the Petitioner and the argument advanced on his behalf is that the last date of admission is 30.09.2018 and those Applicants who had not attained 17 years but would attain 17 years before 31.12.2018 would have actually been admitted and therefore, there is no rationale to sustain a classification between those who were not 17 years as on 31.12.2018 and those who had attained 17 years as on that date. In substance, the plea is that the fixation of 31.12.2018 i.e. the 31st December of the admission year as the cut-off date as to age of the applicant, has no rational basis.
3. Hearing the learned counsel for the Petitioner, the learned counsel for the MCI, the learned counsel for the Union of India, the learned Additional Advocate General and the learned counsel for the CBSE, it needs to be noted that fixation of cut-off date is done by the MCI through its Regulations. No challenge is levied against the power of the MCI to fix a cut-off date. The limited plea is that the fixing of 31st December of the “admission year” is an irrational decision and it amounts to hostile discrimination as between two groups of applicants, solely on the basis of date of birth.
4. The learned counsel for the MCI points out that the issue in hand was considered by the Rajasthan High Court in **Akshanjali Morya Vs. Union of India, 2013 SCC Online Rajasthan 1698**, upholding the fixation of the cut-off date as noted above.
5. The aforesaid precedent notwithstanding, we may note that the fixation of a cut-off date is itself an extended legislative function. The challenge levied to such legislative function can be considered only to the extent where the fixation of a cut-off date is proved to be irrational and with no basis at all. For one thing, the cut-off date is based on a date which is not picked up at random, but as the last

date of a calendar year i.e. the last date of December of the “admission year”, which is the ear-marked calendar year for the course and batch. This is the only reasonable way of understanding the term “year of admission” in Clause 4 (1) MCI Regulations. There is no other way of applying that term by reading into it, the term “academic year” referred to in Clause 5 (5) of the MCI Regulations. Even assuming that the “academic year” 2018 will stretch to sometime later on and would end by the later half of the 2019, it would not be permissible for a judicial exercise to shift the effect of the cut-off date from 31.12.2018 to 31.12.2019. Date of birth of an individual is a definite fact. Persons born, on or before a particular date, form a class by themselves. Confining admission to them for a particular “academic year” or “admission year”, creates and restricts the zone of admission to those who have attained or would attain 17 years before the cut-off date. That does not amount in any hostile discrimination of those who were born later and would attain 17 years of age only after 31.12.2018 even if some of them may attain 17 years of age before the end of the “academic year”. The cut-off date has definitely been fixed by MCI on relevant considerations and we do not see that it is one which could be held as violative of Article 14 of the Constitution of India.

6. For the aforesaid reasons, this writ petition, therefore, fails accordingly.
7. In the result, this writ petition is dismissed.
8. Issue certified copy today itself.

Sd/-

(Thottathil B. Radhakrishnan)
Chief Justice

Sd/-

(Sharad Kumar Gupta)
Judge