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

Date of Decision – 03.04.2018.

+ W.P.(C) 3033/2018 & CM No.12102/2018

DR. NISHTHA MIDHA

..... Petitioner

Through: Mr.Suhail Malik & Mr.Vikas
Malik, Advs.

versus

DIRECTOR GENERAL OF HEALTH SERVICES AND ORS.

..... Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Vibhu Tripathi, Adv. for
UOI.

Mr.Mohinder J.S. Rupal,
Mr.Prang Newmai &
Ms.Slomita Rai, Advs. for DU.

+ W.P.(C) 3035/2018 & CM No.12105/2018

DR KARANDEEP SINGH

..... Petitioner

Through: Mr.Suhail Malik & Mr.Vikas
Malik, Advs.

versus

DIRECTOR GENERAL OF HEALTH SERVICES AND ORS.

..... Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Vibhu Tripathi, Adv. for
UOI.

Mr.Mohinder J.S. Rupal,
Mr.Prang Newmai &
Ms.Slomita Rai, Advs. for DU.

+ W.P.(C) 3037/2018 & CM No.12110/2018

DR KARTIK SAHANI Petitioner

Through: Mr.Suhail Malik & Mr.Vikas
Malik, Advs.

versus

DIRECTOR GENERAL OF HEALTH SERVICES AND ORS.

..... Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Vibhu Tripathi, Adv. for
UOI.

Mr.Mohinder J.S. Rupal,
Mr.Prang Newmai &
Ms.Slomita Rai, Advs. for DU.

+ W.P.(C) 3038/2018 & CM No.12112/2018

DR ABHINAV AGARWAL Petitioner

Through: Mr.Suhail Malik & Mr.Vikas
Malik, Advs.

versus

DIRECTOR GENERAL OF HEALTH SERVICES AND ORS.

..... Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Vibhu Tripathi, Adv. for
UOI.

Mr.Mohinder J.S. Rupal,
Mr.Prang Newmai &
Ms.Slomita Rai, Advs. for DU.

+ W.P.(C) 3040/2018 & CM No.12116/2018

DR. PRATEEK KUMAR JHA Petitioner

Through: Mr.Suhail Malik & Mr.Vikas
Malik, Advs.

versus

DIRECTOR GENERAL OF HEALTH SERVICES AND ORS.

..... Respondents

Through: Mr.Anil Soni, CGSC with
Ms.Priyanka Singh, Adv. for
UOI.

Mr.Mohinder J.S. Rupal,
Mr.Prang Newmai &
Ms.Slomita Rai, Advs. for DU.

+ W.P.(C) 3039/2018 & CM No.12114/2018

DR. HIMANSHU SHEKHAR Petitioner

Through: Mr.Suhail Malik & Mr.Vikas
Malik, Advs.

versus

DIRECTOR GENERAL OF HEALTH SERVICES AND ORS.

..... Respondents

Through: Ms.Monika Arora, CGSC with
Mr.Vibhu Tripathi, Adv. for
UOI.
Mr.Mohinder J.S. Rupal,
Mr.Prang Newmai &
Ms.Slomita Rai, Advs. for DU.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The present batch of writ petitions raise common issues with similar prayers and are being decided vide this common order.
2. For the sake of convenience, the facts of W.P.(C) No. 3033/2018 are being noted.
3. Vide the present petition, the Petitioner, who is a qualified doctor having completed her M.B.B.S. from Maulana Azad Medical College in 2016, has sought a direction to the Respondent Nos. 1 and 2 to conduct the counseling for 50% quota reserved for All India Seats and 50% reserved for State

Seats on separate dates, as per the practice being followed in other states.

4. Learned counsel for the Petitioner submits that the Petitioner, having appeared in the Eligibility cum Entrance Test (Post Graduate Examination, 2018) conducted by the National Board of Examinations, had obtained an All India Rank of 1759. He submits that the Petitioner, having obtained M.B.B.S. from Delhi University was entitled to apply both under the All India Quota and the quota for 'Deemed and Central Universities' (also referred to as State Quota), which has been made applicable to Delhi University, Banaras Hindu University and Aligarh Muslim University. He submits that when the schedule for online counseling (Allotment Process) for NEET for the 50% All India Quota and 50% quota for Deemed and Central Universities for Post Graduate (MD/MS/Diploma and MDS) was issued by the Respondent No. 1 on 16.03.2018, the Petitioner learnt that the counseling process, including exercising and locking of choices for both the quotas, was being done simultaneously. Learned counsel for the Petitioner submits that this is against the past practice, whereby the said counseling for the All India Quota and State Quota were done on separate dates, giving the candidates an opportunity to first choose seats under the All India Quota, whereafter they were free to participate in the State Counseling and again choose and lock a seat from the State Quota, and then finally decide which of the

two seats they would surrender and which one they would take admission in.

5. It may be noticed that though, as per the schedule, the Petitioners were expected to and have admittedly exercised their choices both in the 'All India Quota' and in the 'Deemed and Central University Quota' from 17.03.2018 onwards, the present petition was filed only on 23.03.2018. On 23.03.2018, when the petitions were taken up for hearing, this Court had duly noticed the objections raised by Respondent Nos. 1 and 2, that the schedule which the Petitioners had impugned had been fixed by them in terms of only guidelines issued by the Medical Council of India (MCI), which had been published in the Gazette notification dated 20.02.2018 and was, therefore, in the public domain for over one month.

6. Perusal of the order dated 23.03.2018 shows that the learned counsel for the Respondents, had also pointed out that, according to them, MCI was a necessary party to the proceedings. However, learned counsel for the Petitioners, neither made a request for impleading MCI nor any application to implead MCI has been preferred till date in the present proceedings. Even today, it has been put to the learned counsel for the Petitioners as to whether he would like to implead MCI, but he submits that since the Petitioners are not impugning the notification dated 20.02.2018 issued by the MCI, there is no necessity to implead MCI. He further submits that the

Petitioners became aware of the aforesaid position only upon issuance of the notice dated 21.03.2018 by Respondent No. 3.

7. In accordance with the directions of this Court, the Respondent Nos. 1 and 2 have filed their counter affidavit. Ms. Arora, further submits that, even though there is a variation of 4 days in the schedule issued by the Respondent No. 1 viz-a-viz the dates prescribed under the MCI notification, the said delay is only because the Respondents were waiting for the State Governments to release the seats to be included in the All India Quota. She further submits that the Respondents have, however, followed the MCI's notification dated 20.02.2018 in its true letter and spirit, as the basic problem which the notification sought to address was to avoid blocking of seats by candidates by ensuring that the counseling for 'All India Quota' as also for the 'Central and Deemed University Quota' are conducted on the same date.

8. Learned counsel for the Petitioners had already made a statement on 02.04.2018 that he does not wish to file any rejoinder and, therefore, the matter has been heard at length.

9. Having heard the learned counsel for the parties, I find that two vital facts emerge from the record, the first being that Respondent No.1 has fixed the impugned schedule only on the basis of the authorization given to it by MCI and the said schedule is primarily based on the notification dated 20.02.2018 issued by the MCI. It is thus evident that, even though Respondent Nos. 1 and 2 had fixed the impugned schedule only

as per the directions of the MCI, neither the notification issued by the MCI prescribing a common date for counseling of 'All India Quota' and for 'Central and Deemed Universities' has been impugned nor has the MCI been impleaded as a respondent in the present petition.

10. The second vital fact which emerges from the record is that the Petitioners have approached this Court, only after they had already started exercising their options as per the impugned schedule w.e.f. 17.03.2018. It is also an admitted position that the registration for the first counseling stands concluded as on 26.03.2018, whereafter the result of the first counseling was declared on 29.03.2018. Thereafter, the eligible candidates have already started reporting to their respective colleges from 29.03.2018 itself, which process will be completed on 05.04.2018.

11. In view of the admitted position that the Petitioners have neither impugned the notification dated 20.02.2018 issued by MCI, based on which the schedule has been fixed by Respondent Nos. 1 and 2, nor impleaded the MCI as a party respondent, in my opinion, the present petition is not maintainable. Even otherwise, since the first counseling has already concluded and the Petitioners had approached this Court only after having exercising their options w.e.f. 17.03.2018 in accordance with the impugned schedule, I find no reason to interfere with the counseling process at this stage.

12. The petitions are dismissed with no order as to costs.

13. The pending applications also stand disposed of.

REKHA PALLI, J

APRIL 03, 2018

gm

