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

Date of Decision: 02.05.2018

+ W.P.(C) 4648/2018 & CM No.17946/2018

ALAN G

... Petitioner

Through: Mr.Manu Srinath with Mr.M.P.
Srivignesh & Mr.Jose
Abraham, Advs.

Versus

MEDICAL COUNCIL OF INDIA AND ORS.

..... Respondents

Through: Mr.T. Singhdev with Ms.Puja
Sarkar, Ms.Biakthansangi Das
& Mr.TarunVerma, Advs. for
R-1.
Ms.Bharathi Raju, CGSC for R-
2.
Mr.G. Prakash, Adv. for R-3 &
4.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the petitioner seeks a direction to the respondents to permit her to relinquish the seat allotted to her vide second round of allotment of the All India Quota seats and thereby permit her to take admission in the seat tentatively allotted to her under the State quota by the State of Kerala, vide allotment list dated

26.04.2018 in the PG Medical course for the academic year 2018-2019.

2. Learned counsel for the petitioner submits that the petitioner is a doctor working in the Kerala Government Service and had appeared in the NEET Exam, 2018 conducted by National Board of Examinations in Delhi on 07.01.2018, in which she secured a score of 642 with an All India Rank of 5384. With the aforesaid score, the petitioner was able to secure a seat in the first round of allotment of All India Quota seats, which she did not accept and thus participated in the second round of allotment in the All India Quota seats, where she was allotted the course of MD in (Preventive and Social Medicine/Community Medicine) at the Calicut Medical College on 14.04.2018, which seat was accepted by her on 22.04.2018.

3. Learned counsel for the petitioner submits that vide notification dated 05.04.2018, the respondent No.1 issued amendments to Clause 9 (IV) of the Medical PG Regulations, 2000 by adding the category of 'rural service' as an eligible category of in-service doctors for the grant of incentives in the form of weightage of marks. He further submits that based on this notification, the State of Kerala i.e. respondent No.3 had issued a Government order dated 12.04.2018, allotting 5% extra marks to rural candidates for each year of rural service upto 3 years, based on which, a list was issued on 21.04.2018 by the Respondent No. 3 wherein the Petitioner's score was increased from 642 to 802.5. He further submits that based on this increased score, the petitioner's rank in the State Quota had jumped to No. 28 but since the petitioner was not aware that her rank will go up in such

a drastic manner, she had no other choice except to accept the All India Quota Seat on 22.04.2018, which had been allotted to her in the second round of allotment of the All India Quota seats. He further submits that it is only on 26.04.2018, when the State of Kerala published its first tentative allotment list in the State quota seats, that the petitioner realized that she had been allotted MD in General Medicine Course at Calicut Medical College in the State quota, which seat is not being allotted to her despite her merit only because she had taken admission in the seat allotted to her in the second round of allotment of the All India Quota and was therefore compelled to approach this Court.

4. Mr. T. Singhdev, Advocate, who appears on advance notice for respondent no.1, submits that even though the petitioner may have been entitled to an increase of her score and a consequential improvement in her rank in the State Quota, the notification dated 05.04.2018, on which the petitioner places reliance, in itself makes it clear that, the candidates who accept the seat in the second round of allotment of the All India Quota seats, were not eligible to take part in any further rounds of counseling. He, thus, contends that in view of the admitted position that the Petitioner had, on 22.04.2018, taken admission in the course allotted to her in the second round of allotment of All India Quota, she was not at all eligible to be considered for allotment of any seat in the State Quota. He further submits that even otherwise it was always open to the petitioner to approach the State of Kerala before accepting the seat allotted to her in the second round of allotment of All India Quota seats, as admittedly

the order dated 12.04.2018 on which she places reliance, was issued much before the petitioner had accepted the seat and taken admission in the All India Quota.

5. Mr. G. Prakash, Advocate, who appears for the State of Kerala for respondent Nos.3 and 4 also supports the plea taken by Mr. T. Singhdev and submits that the order dated 12.04.2018 issued by the Government of Kerala also made it clear that the candidates who joined the PG course in the second round of allotment of the All India Quota seats, would not be eligible for further counseling. He thus contends that the petitioner, having willingly accepted the seat in the second round of allotment of the All India Quota, is not entitled to any benefit under the said Government order.

6. I have heard learned counsels for the parties and with their assistance, perused the record. Before dealing with the rival contentions of the parties, I deem it appropriate to refer to the relevant extracts of the notification dated 05.04.2018 issued by the respondent no.1 as also the Government order dated 12.04.2018 issued by the Respondent No.3, which read as under:-

"Notification dated 05.04.2018 issued by Respondent No. 1

Note:

1. xxx

2. xxx

3. xxx

4. xxx

5. *The following Matrix shall be applicable with regard to permissibility to students to exercise fresh choice during counselling:-*

<i>Round</i>	<i>Free Exit</i>	<i>Exit with forfeiture of fees</i>	<i>Ineligible for further counselling</i>	<i>Amount of registration fee</i>
<i>AIQ I/Deemed</i>	✓			
<i>AIQ II/Deemed</i>		<i>If not joined</i>	<i>If joined</i>	<i>Government- Rs.25,000 (half for SC/ST/OBC) Deemed- Rs.2,00,000/-</i>
<i>State Quota I</i>	✓			
<i>State Quota II</i>		<i>If not joined</i>	<i>If joined</i>	<i>Government- Rs.25,000(half for SC/ST/OBC) Private- Rs.2,00,000/-</i>
<i>State Quota Mop-up</i>			✓	
<i>Deemed Mop-Up</i>			✓	

Government Order dated 12.04.2018 issued by Respondent No. 3

5. The allotment for the academic year 2018-19 will be recast to consider the process of admission as envisaged in the gazette. But those who have already taken admission during the 1st allotment will be protected. As per para 11 of the notification those candidates who have joined PG course both in All India as well as state quota on exit, after being allotted to the seats in the 2nd round will have to forfeit 10% of the annual fee if they have not joined the course ie. The exit shall be allowed only on forfeiture of 10% of the total annual fee during the 2nd round and if they have joined the course they will not be eligible for further counselling."

7. A perusal of the aforesaid notification dated 05.04.2018 issued by the respondent no. 1 as also the Government order dated 12.04.2018 issued by the respondent no. 3 clearly shows, that both the

aforesaid documents contain a specific provision that the candidates who had taken admission in the PG courses in the second round of allotment of the All India Quota, would not be eligible to take part in further rounds of counseling. The petitioner has not challenged either the notification issued by the respondent no. 1 or the Government order issued by respondent no. 3 and thus the conditions thereof are binding on her.

8. In my considered view, in light of the aforesaid specific condition in the notification dated 05.04.2018 as also in the government order dated 12.04.2018, the petitioner after taking admission, on 22.04.2018, in the course allotted to her in the second round of allotment of the All India Quota, cannot be allowed to take part in the State counseling.

9. I am also of the view that in the event, the students like the Petitioner, who accept the seat allotted to them in the second round of allotment in the All India Quota, are subsequently allowed to take admission in the seats allotted to them under the State Quota, it will lead to never ending rounds of counseling and the same cannot be permitted. In the present case, I also find that the list whereby the Petitioner's score was improved for allotment of State Quota, had actually been issued by the State of Kerala on 21.04.2018 itself, and therefore before the Petitioner took admission in the course allotted to her in the second round of allotment in the All India Quota seats on 22.04.2018, she was already aware about her improved score in the State Quota and there was no reason as to why, in such circumstances, the Petitioner accepted the seat in the All India Quota on 22.04.2018.

In case, the Petitioner wanted to take benefit of her enhanced score, which was already known to her on 21.04.2018, she ought not to have exercised her option to accept the seat in the second round of allotment of All India Quota on 22.04.2018.

10. For the aforesaid reasons, I find no merit in the present petition and the same is hereby dismissed, with no order as to costs.

(REKHA PALLI)
JUDGE

MAY 02, 2018/gm.f

