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

+ **W.P.(C) 6565/2018**

SNEHA YADAV

..... Petitioner

Through: Mr. Alok Singh and Mr. Amarendra
Pratap, Advocates.

versus

GURU GOBIND SINGH INDRAPRASTH UNIVERSITY
& ANR

..... Respondents

Through: Ms. Anita Sahani, Advocate for R-1.
Mr. T. Singhdev and Ms. Biakthan
Sangi Das, Advocates for R-2/MCI.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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08.06.2018

1. The Petitioner is an MBBS graduate from the Nalanda Medical College, Patna. She appeared for the NEET-PG Examination, 2018 (*hereinafter*, 'NEET PG, 2018') and her NEET-PG, 2018 rank was 33,675. She applied to the Respondent University (*hereinafter*, 'University') seeking admission in the PG medical courses and registered herself in the allotment process & counselling.
2. A learned Single Judge of this Court in *W.P.(C) 5971/2018 titled Dr. Rohan Kapoor & Ors. Vs. GGSIPU*, had passed the following order on 30th May 2018:-

“By way of the present petition, the petitioners who are eleven in number, have sought quashing of the institutional reservation done by the respondent no.1/University in respect of the state quota seats. Learned counsel for the

petitioners points out that the seats in the said class providing for 100% institutional preference, is included in the Information Bulletin which was issued in February, 2018 itself.

In view of the aforesaid position, when the matter was taken up for hearing on 29th May, 2018, it was put to learned counsel for the respondents whether they are willing to consider the present petitioners in the vacancies which may be available presently.

Mr. Talwar, learned senior counsel for respondent no.1 submits that as on now, 62 vacant seats are available after the mop up counselling round of the State quota which can be filled up by conducting counselling of candidates from the All India Quota on the basis of the All India NEET Merit List. He further submits that besides the aforesaid 62 seats, one further seat has become available pursuant to letter dated 28th May, 2018 issued by Director General of Health Services and there additional seats have also become available on account of students having left the University for joining other Institutions. He, therefore, prays that these four seats may be permitted to be filled up from the State quota by way of institutional preference.

The learned counsel for the petitioners who is otherwise agreeable to the suggestion of learned senior counsel for the respondent no.1, vehemently, opposes the prayer made by respondent no.1 in regard to these four additional seats. He draws my attention to the order dated 25th May, 2018 passed by the Hon'ble Supreme Court in WP(C) No.556/2018 and contends that the order of the Supreme Court clearly shows that any seats which remain after 18th May, 2018, have to be filled on the basis of students from "All India NEET Merit List" as per the order of merit on or before 31st May, 2018.

Learned counsel for the respondent no.3, who appears on advance notice, also supports the contention of learned counsel for the petitioners on this aspect and submits that the aforesaid order of the Supreme Court does not permit the respondent no.1 to offer these four additional seats, at

this belated stage to state quota candidates by way of institutional preference.

Having considered the rival contentions of the parties I find merit in the contention of learned counsel for the petitioners that at this belated stage, respondent no.1 cannot be allowed to offer the aforesaid four seats to candidates from the State quota by applying the institutional preference criteria, I am of the considered opinion that in view of the aforesaid order of the Supreme Court, it is incumbent upon the respondent no.1 to offer all the 66 available seats to candidates only on the basis of their merit in the All India NEET Merit List.

Accordingly, it is directed that the respondent no.1 will hold a counselling on 31st May, 2018 at 4.00 p.m. of all the eligible candidates desirous of taking admission against the aforesaid 66 seats on the basis of the "All India NEET Merit List".

It is made clear that in case any further seats are made available, they will also be offered in the same counselling which is scheduled to be held tomorrow i.e. 31st May, 2018. However, it is made clear that any candidate who has already taken admission in any other college, will not be permitted to take part in the counselling scheduled to be held tomorrow. The respondent no.1 will be entitled to take declarations from the candidates in this regard at the time of counselling.

It is also made clear that this Court has not examined the merits of the grounds urged in the petition and the same are left open to be decided in an appropriate case.

The petition is disposed of in the aforesaid terms.

DASTI under signatures of Court Master."

3. As per this order, the Guru Gobind Singh Indraprasth University (hereinafter, 'GGSIPU') was directed to hold counselling on 31st May, 2018 at 4.00 p.m. of all eligible candidates desirous of taking admission in MD/MS courses of 2018 against the 66 vacant seats, on the basis of All

India NEET Merit List. This Court had also made it clear that if further seats are available, the same shall also be offered in the same counselling which is scheduled to be held on 31st May, 2018.

4. Pursuant to this order, GGSIPU issued a notification dated 30th May, 2018 fixing the time for counselling as **4.00 p.m. onwards** on 31st May, 2018. However, it prescribed the time for registration of counselling from **4.00 p.m. to 6.00 p.m. strictly.**

5. The seat allotment of registered candidates was to take place from 6.00 p.m. onwards. The Petitioner was to travel from Alwar, Rajasthan and reached the counselling venue around 6.00 p.m. She requested the authorities to allow her to register for the counselling; however, since it was past 6.00 p.m., she was not allowed to register. She then wrote a letter at 6:05 pm, on the spot and handed it over to the University. Despite the same, she was not allowed to register and participate in the counselling.

6. There were about 15 students who were all present and despite there being vacant seats, none of them were allowed to sit for counselling. The final allotment began only around 9.00 p.m. The Petitioner wrote an email on 1st June, 2018 at 9 o'clock at night, giving the following details

“Respected Sir/M'am

I, Dr. Sneha Yadav was there in IP University Counselling which was held on 31/5/18 @ 4pm onwards as per order of Delhi High Court dated 30/5/18 in Writ Petition No.5971/2018 of Dr Rohan Kapoor.

Because it was the last day of counselling all over India, we have to be notified atleast 24hrs before for such prestigious govt counselling, we approx 15 candidates managed to reach there much before the starting of counselling allotment process but they didn't consider us for registration.

After a timely conversation with Incharge Counselling IP University he told us that everybody who so ever came here before start of documents verification may be considered for seat allotment if there are seats left vacant after allotment of timely registered candidates with fulfilment of eligibility criteria.

Also as per Hon'ble High Court of Delhi order, that IP University (respondent no.1) will hold in counselling on 31st May, 2018 at 4:00 p.m. of all the eligible candidates desirous to take admission against the aforesaid 66 seats on the basis of the "All India NEET Merit List" & there is no time boundation stated for counselling counselling as it is last minute career dependent decision.

The counselling notice on the mcc site was given in such short notice.

IP University denied me & 15 candidates (approx) even after fulfilling eligibility criteria. We gave application for considering us for the vacant seats left after the allotment but the committee did not consider our appeal.

Seats left vacant at present:

1) VMMC College & Safdarjung hospital:

MD Anatomy-5 MD Biochem-2, MD Community Medicine-5, MD Microbiology-2, MD Physiology-6, MD Microbiology-4.

So, kindly consider us for the seats left vacant as we reached at counselling venue much before start of counselling allotment process.

Receiving by IP University PGMC Academic Coordinator given to me (attached below) dated 31/5/18 & other's.

I will be obliged and if possible save our crucial one year career for who wants to join the left vacation/available seats in concerned specialities.

Thanking you

Yours Sincerely Dr Sneha Yadav

NEET Roll no.-1805110885

NEET Rank- 33675

Contact no.-9599782340

E-mail: snehay22@gmail.com”

7. Upon not receiving any response, she filed the present writ petition seeking the following reliefs –

- “(a) Issue a writ in the nature of mandamus by directing the respondents to allow the petitioner for counselling and registration in MD/MS Courses-2018 in the desired institution;*
- (b) Issue a writ in the nature of mandamus by directing the respondents to immediately take admission of the petitioner in her desired stream of subject;*
- (c) Pass any other and further order / direction which this Hon’ble Court may deem fit and proper in the given facts and circumstances of the present petition in the interest of justice.”*

8. The advance copy of the writ petition was given to the counsel for GGSIPU. Ms. Anita Sahani, Ld. Counsel for GGSIPU, produced the minutes of the meeting of the PG Admissions Committee dated 31st May, 2018. As per the said minutes, it appears that several students reported after the 6.00 p.m. deadline and even uptill 11:20 p.m. At the same time, MBBS graduates of GGSIPU gave a joint representation that the counselling should not be notified overnight and it should be stopped. There was a huge commotion due to which the police had been called to control the situation at hand.

9. Ms. Sahani informs the Court that as on 31st May, 2018, when the counselling was concluded, more than 24 seats were still vacant and there are likely to be more seats lying vacant, since some students may have

withdrawn from the University and taken admission in other colleges subsequently.

10. This Court has considered the prayer in the writ petition and the facts and circumstances leading to the same. There is no doubt that GGSIPU was given permission to conduct the counselling on 31st May, 2018 by the earlier order dated 30th May, 2018. The said order was clear that all vacant seats could be offered for counselling and when there were students waiting till the middle of the night, there was no reason why vacant seats could not have been filled up on the basis of All India NEET Merit List. The representations given to the authorities on spot clearly show that there were a large number of students who were willing to register for counselling.

11. There is no doubt that, post graduate seats in medicine are extremely valuable and students who do not get admission lose out on a full year before they can apply again for post graduates studies. Moreover, neither the University, the college nor the students benefit with vacant seats and the authorities ought to fill up all the vacant seats.

12. However, this Court is bound by the dictum of the Supreme Court judgment in ***Mridul Dhar v. Union of India (2005) 2 SCC 65***, as per which the date for post graduate counselling and admission cannot be extended by this Court beyond 31st May, 2018. This view has also been reiterated in ***Ashish Ranjan Vs. UOI (2016) 11 SCC 225*** wherein the Supreme Court has observed that all stakeholders ‘*follow the schedule in letter and spirit and not make any deviation whatsoever*’. However, in ***Ashish Ranjan***, the Supreme Court had permitted the National Board of Examination’s request for extension of time in respect of declaration of result of the Post-Graduation Medical Education Examination, due to the natural calamity

which had occurred in the State of Tamilnadu.

13. Considering that the seats for MD/MS courses are vacant in GGSIPU, counsel for the Petitioner seeks liberty to approach the Supreme Court, which is accordingly granted. The writ petition is, accordingly dismissed with liberty as prayed for.

14. A copy of this order be given *dasit* under signature of the Court Master.

PRATHIBA M. SINGH, J.
(VACATION BENCH)

JUNE 08, 2018

Rekha