

#64

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.07.2018

W.P.(C) 7040/2018

JASMEEN KAUR

.... Petitioner

versus

UNION OF INDIA AND ORS.

.. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rahul Kripalani & Mr. Shreyas Mehrotra, Advocates.

For the Respondents : Mr. Ripu Daman Bhardwaj, Adv. for R-1 with Dr. Srinivas
Director General, Ministry of Health.

Mr. Amit bansal & Ms. Seema Dolo, Advs. for R-2.

Mr. T.Singhdev with Ms. Puja Sarkar, Mr. Tarun Verma &

Mr. Abhijit Chakravorty, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The present petition has been instituted on behalf of a candidate who has secured All India 24392nd rank in the NEET UG, 2018 examination.
2. At the time of registration for the first round of All India Counselling, the petitioner expressed her options as 'All India Quota' seats, as well as, 'Central University Quota' seats. The petitioner participated in the counselling process but could not be granted admission on account of her All India merit.
3. It is an admitted position that the second round of All India Counselling for Central and Deemed Universities has commenced on 10th of

July, 2018 and is scheduled to continue till the 11th of July, 2018. It is the submission of the petitioner that on account of the circumstance that she limited her options at the time of applying online for registration to 'All India Quota' and 'Central University Quota', she has been precluded from registering afresh for the second round of counselling under the category of 'Deemed Universities'.

4. Learned counsel appearing on behalf of the respondent no.1 states that the portal permitting candidates to register for the second round of counselling has since been closed on the 8th of July, 2018 and the petitioner having limited her options as afore-stated in the first round, cannot be permitted to register afresh for the second round under the category of 'Deemed Universities' since that option had not been exercised by her earlier. It is further stated that during the process of online registration, candidates are permitted one opportunity to reset their choices and the petitioner having utilized that opportunity, cannot be permitted once again to apply for the category of 'Deemed Universities' as an option in the second round of counselling.

5. On a specific query from the court, it emerges that although there are no rules or regulations that bar fresh registration to those who may have exercised limited options on an earlier occasion, the process permitting a candidate, such as the petitioner, to exercise her options at this stage would require the re-opening of the portal which would cause inconvenience and delay in the completion of the process of registration.

6. It is a settled legal position that construction of rules or procedure which promotes justice and prevents miscarriage has to be preferred. The rules or procedure is the handmaid of justice and not its mistress. [Ref:

Salem Advocate Bar Association, T.N. vs. Union of India, reported as ***(2005) 6 SCC 344***.

7. In view of the foregoing, it is trite to state that merit cannot be defeated on technical grounds. It is an admitted position that considering the All India rank secured by the petitioner, she may be entitled to participate successfully in the second round of counselling for admission to a medical course conducted by the Deemed Universities.

8. In this view of the matter, the only course that commends itself in the interest of justice is to direct respondent no.1 to permit the petitioner to register afresh for the 'Deemed Universities' category in the second round of counselling, in accordance with law.

9. Needless to state that, the above direction is being issued in view of the special facts and circumstances of the present case and in view of the legal position that there is no bar for a meritorious student to be considered for admission to a medical course by all institutions who conduct such courses.

10. It is further clarified that the option of registering afresh shall be available to the petitioner up till closing of the business hours today, subject to the respondent no.1 making online registration facility available to the petitioner and informing her in this behalf.

11. With the above directions, the writ petition is disposed of.

12. Dasti under signatures of the Court Master.

SIDDHARTH MRIDUL
(JUDGE)

JULY 10, 2018/ak