

#63,70,71 & 72

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 29.08.2018

W.P.(C) 8207/2018

PRIYANK SHRARMA

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

W.P.(C) 8247/2018

**MAHESH KUMAR (MINOR) THROUGH HIS
FATHER BHOOP SINGH GURJAR**

..... Petitioner

versus

UNION OF INDIA AND ORS

..... Respondents

W.P.(C) 8248/2018

SANCHIT KAPOOR

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

W.P.(C) 8252/2018

KARTIK SINGH SAWHNEY

..... Petitioner

versus

UNION OF INDIA AND ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr. Manu Beri, Mr. Prasenjit Keswani and Mr. Raghvendra Pratap Singh, Advocates in W.P.(C) 8207/2018
Mr. Jeetender Gupta, Advocate in W.P.(C) 8247/2018, 8248/2018 & 8252/2018

For the Respondents : Mr. Ruchir Mishra, and Mr. Mukesh Kumar Tiwari, Advocates for UOI
Mr. Mohinder J.S. Rupal and Mr. Prang Newmai, Advocates for University of Delhi
Mr. T. Singhdev, Mr. Abhijit Chakravarty, Mr. Tarun Verma, Ms. M. Biakthansangi Das, Ms. Amandeep Kaur and Ms. Puja Sarkar, Advocates for MCI
Mr. Amit Bansal and Ms. Seema Dolo, Advocates for CBSE

CORAM:
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. These four petitions raise similar questions of law and fact and are, therefore, disposed of with this common order.
2. It is an admitted position that the petitioners, cleared the National Eligibility Cum Entrance Test (hereinafter referred to as 'NEET') (UG)-2018 and were provisionally granted admission to Maulana Azad Medical College/University College of Medical Sciences, New Delhi in MBBS course. The petitioners were granted admission in the physically handicapped category, based on the benchmark disability suffered by them.
3. Subsequent thereto, on the recommendations of the Expert Committee set up by the Medical Council of India (for short 'MCI'), the medical

colleges vide the communications impugned herein, dated 02.08.2018, denied admission to the petitioners on the ground that, owing to their physical disabilities, they are not eligible to pursue undergraduate medical education.

4. It is an admitted position that, the aforesaid recommendations of the Expert Committee have not attained finality, inasmuch as, they are pending consideration before the Central Government. No amendments in the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as the 'said Act') or in the Regulations framed by the MCI, have been made so far in order to enforce the said recommendations.

5. Even otherwise, the information bulletin published by the CBSE clearly provided that, in accordance with the provisions of the said Act and based on the merit list of the NEET (UG), 5% of the annual sanctioned intake capacity was mandated to be filled up by candidates with benchmark disabilities.

6. Aggrieved by the act of commission on behalf of the official respondents, in precluding them from pursuing their undergraduate medical education, the petitioners have assailed the impugned orders passed by the former, by way of the present writ petitions.

7. Vide similar orders, passed on different dates, this Court expressed a *prima facie* view that, the recommendations of the Expert Committee, set up by the MCI, disentitling persons with specified benchmark disability from pursuing undergraduate medical education, are abhorrent to the principles enshrined in the Constitution of India and to the provisions of the said Act.

8. In this view of the matter, the University of Delhi was directed not to offer for counseling the seats to which the petitioners had been granted provisional admission, to any other candidates, till further orders.

9. Mr. T. Singhdev, learned counsel appearing on behalf of MCI invites my attention to a judgment and order dated 24.08.2018 in W.P.(C) 669/2018, titled as **Purswani Ashutosh (Minor) Through Dr. Kamlesh Virumal Purswani vs. Union of India & Ors.,** rendered by the Hon'ble Supreme Court of India.

10. In this behalf, Mr. T. Singhdev, learned counsel appearing on behalf of MCI fairly states that, in terms of the directions passed in the subject judgment and order dated 24.08.2018, the present petitions would have to be allowed.

11. The Hon'ble Supreme Court of India in **Purswani's** case (*supra*) has held as follows:-

“Be that as it may, as mentioned hereinabove, it is not necessary for this Court to adjudicate the question of whether Section 32 of the 2016 Act is attracted or not, in view of the admission that the Medical Education Regulations which incorporate the provisions of the 2016 Act in relation to reservation to higher educational institutions, have statutory force and are binding on the MCI. The regulations have not yet been amended by the MCI in the light of the recommendations made by its Committee and the decision taken at the Secretariat level. No amendment in the 2016 Act or in the regulations framed by the MCI have been made so far.

For the reasons discussed above, this Court holds that the petitioner cannot be denied admission to the MBBS course if he qualifies as per his merit in the category of persons with disability. In the event, the petitioner is found to be entitled to admission, he shall be given admission in the current academic year 2018-19.”

12. A plain reading of the above extracted paragraph leaves no manner of doubt that, the Hon’ble Supreme Court of India has found persons with physical disabilities, entitled to admission to MBBS courses, in the event they qualify as per merit, in the said category.

13. In view of the foregoing, the present writ petitions are allowed. The impugned communications denying the petitioners’ the right to pursue undergraduate medical education are accordingly set aside and quashed. The University of Delhi is directed to confirm the admission granted to the

petitioners forthwith, in the respective medical colleges in the MBBS course for the academic session 2018-19, subject to completion of all the necessary formalities.

14. With the above directions, the writ petitions are disposed of.

15. A copy of this judgment be given *dasti* under the signature of Court Master to counsel for the parties.

**SIDDHARTH MRIDUL
(JUDGE)**

AUGUST 29, 2018
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