

#81

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.08.2018.

W.P.(C) 8235/2018 & CM APPL. 31519-31520/2018

NANCY RUSTAGI

.... Petitioner

Versus

UNION OF INDIA & ORS.

... Respondents

Advocates who appeared in this case:

For the Petitioners	: Ms. Rekha Rustagi and Ms. Mitanshi Rustagi, Advs.
For the Respondents	: Mr. Vivek Goyal, CGSC with Mr. Bibhash Kumar, Adv. for UOI/ R-1 to 3, Dr. Gurleen Kaur (Consultant), Medical Counseling Committee, Directorate General of Health Services Ms. Pragya Juneja, Assistant Registrar (Adv.) for LHMC, & Mr. Mohinder J.S. Rupal and Mr. Prang Newmai, Adv. For University of Delhi

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

1. The Present writ petition under Article 226 of the Constitution of India is essentially limited to seeking a direction to the respondents to grant the petitioner admission in MBBS Course, conducted by Lady Hardinge Medical College, respondent no. 3 herein (for short 'LHMC').

2. It is an admitted position that, predicated on the result in the National Eligibility cum Entrance Test (UG-2018), the petitioner was allotted a seat in the MBBS Course, under General, DU Internal and All India Quota in LHMC. However, the petitioner was unhappy with the said allocation since University College of Medical Sciences was her first choice. As a result, after having taken admission in the MBBS course to LHMC and paid the requisite fee, the petitioner opted for upgradation by seeking the MBBS course *inter alia* to University College of Medical Sciences.

3. It is the petitioner's assertion that, to her shock and consternation, she was informed by the official respondents that, she has been allotted a seat in the Bachelor of Dental Surgery (for short 'BDS') in Maulana Azad Institute of Dental Sciences, New Delhi, by way of the upgradation sought by her and that, her admission in MBBS course conducted by LHMC has been cancelled.

4. Aggrieved by the cancellation of her admission in the MBBS course in LHMC and the allotment of the BDS course in Maulana Azad Institute Dental Sciences, the petitioner has instituted the present proceedings praying as follows:-

"1. Issue Writ of certiorari quashing the ANNEXURE-E whereby MBBS Seat of Petitioner in Lady Hardinge Medical College-the respondent no. 3 has been cancelled and BDS seat has been allotted in Maulana Azad Institute of Dental Sciences, New Delhi, by MCC under Respondent no. 2 during Second round of Counseling in the name of upgradation.

2. Issue Writ of Mandamus directing the respondents to allow the Petitioner to retain her MBBS seat in Medical College i.e. Respondent no. 3."

5. Ms. Rustagi, learned counsel appearing on behalf of the petitioner, limits the relief in the present petition to a direction to the official respondent to permit the petitioner to retain her MBBS seat in LHMC, predicated on her assertion that, there is a seat available in the said institution.

6. Mr. Vivek Goyal, learned CGSC states that, pursuant to the second round of counseling, seats are still lying vacant in the MBBS course in LHMC. Mr. Goyal, further, on instructions states that, the last round of Mop-Up round of counseling in LHMC is yet to take place.

7. It is axiomatic that when it comes to admission of students, the official respondents are required to be responsive and sensitive to the needs of meritorious candidates, lest the latter are denied from exercising their freedom of choice on account of inadvertent mistakes. It is trite to state that, when it comes to admissions of students, it is imperative that the principal criterion observed should be met. It would be a traversity of justice if a candidate who has, on the basis of the rank secured by her, in an All India Examination is denied admission to a course of her choice, merely because of her committing a mistake, whilst exploring other options for upgradation. Even otherwise, in the facts and circumstances of the present case, the allotment of BDS course in an institute not of her choice cannot be said to be an upgradation.

8. In this view of this matter, it is considered just, necessary and appropriate to allow the present petition and direct the official respondents to allot a seat to the petitioner in MBBS course in Lady Hardinge Medical

College for the academic year 2018-19 forthwith, particularly, in view of the circumstance that, seats in the subject course are available for Mop-Up round of counseling.

9. The writ petition is allowed and disposed of accordingly.

10. *Dasti* under the signature of Court Master.

AUGUST 10, 2018

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**SIDDHARTH MRIDUL
(JUDGE)**

नस्यमेव जयते