

**203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of decision : 24.01.2019

1. CWP-28442-2018

**J.R. Kissan, Homoeopathic Medical College
& Hospital, Rohtak**

..... Petitioner

versus

Union of India and others

..... Respondents

2. CWP No.28729-2018

**Homoeopathic Medical College Association(Regd.)
Sector 26, Chandigarh**

.....Petitioner

versus

Union of India and others

....Respondents

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

**Present: Mr. Vivek Aggarwal, Advocate for the petitioner(in CWP-
28442-2018).**

**Mr.Dinesh Sharma, Advocate for the petitioner(in CWP-28729-
2018).**

Mr.Arun Gosain, Sr.Panel Counsel for respondent No.1-UOI.

**Mr.Keshav Kataria, Advocate for respondent No.2-Central
Council of Homoeopathy.**

**Mr.Jagbir Singh,Advocate for respondent No.4(in CWP-28442-
2018).**

**Mr.Ashish Rawal, Advocate for respondents No. 3 and 4(in
CWP-28729-2018).**

MAHESH GROVER, J. (ORAL)

By this order we will dispose of above said two petitions bearing Nos. CWP-28442-2018 and CWP-28729-2018. Since common questions of law and facts are involved so these writ petitions are being

decided by this common order.

The point in controversy raised before us is the eligibility condition prescribed for BHMS and BAMS provided in part III of the Regulations, the relevant of which is extracted herein below:-

“4. Eligibility criteria.- (i) No candidate shall be admitted to B.H.M.S.Degree Course unless he has passed-

(a) the higher secondary examination or the Indian School Certificate Examination which is equivalent to 10+2 Higher Secondary Examination after a period of twelve years study, the last two years of study comprising of Physics, Chemistry, Biology with Mathematics or any other elective subjects with English at a level not less than core course of English as prescribed by the National Council of Educational Research and Training after the introduction of the 10+2+3 years educational structure as recommended by the National committee on Education;”

The grievance centers around the directives issued by the Ministry of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) prescribing National Eligibility-cum-Entrance Test (NEET) as an essential condition to seek admission in the course for the academic year 2018-19. The relevant directive is extracted herein below:-

“In the process of streamlining the admissions and to bring meritorious students to the AYUSH systems of medicine in the country, the Ministry vide letter number R-13040/33/2016-HD(Tech) Part dated 26.4.2017(copy enclosed)-had requested all the State Governments to admit students in AYUSH under Graduate Courses from A.Y. 2018-19 through the merit list of National Eligibility-cum-Entrance Test (NEET) only. Therefore, it has been once again informed that from Academic Year 2018-19 all UG seats of AYUSH Degrees namely, BAMS, BHMS, BUMS, BSMS and BNYS shall be filled by considering the merit list of National Eligibility-cum-Entrance Test (NEET) only.”

Learned counsel for the petitioners contend that such a directive is contrary to the Regulations prescribed for the courses in question.

Learned counsel for respondent No.1-Union of India has referred to the instructions wherein, in clause 12 it has been stated that the result of NEET(UG) may be utilised by other entities of Central/State Government for admission purposes in accordance with their rules. We are of the opinion that the stand of the respondents is totally unjustified. Unless they amend the Regulations they cannot insist on NEET being an essential qualification for admission in said courses. Even if the stand of the respondents is appreciated, it only gives a direction that the result of NEET for Under Graduate Course may be utilised by other stake holders. We would be one with the respondents, that it may be desirable to have a fair selection from the students who have competed in NEET and occasioned a merit but are unable to be absorbed in the MBBS and BDS courses and such human resource may be desirous of pursuing the courses such as BAMS and BHMS but for the purpose they should have left the issue open to the Colleges and Universities rather than issuing a mandate. As things stand today the insistence on admission from students who have competed in NEET alone cannot be sustained. Indeed they can also be considered.

The writ petitions are allowed.

We, however, make it clear that if admissions have been made from amongst the students of NEET it would not nullify their admission.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

24.01.2019
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No