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

Date of decision: 22nd August, 2019

+ LPA 507/2019 and CM Appl. No. 35243/2019 (stay)

SHIKHAR GUPTA

..... Appellant

Through: Mr. Sunil Dutt Dixit and Ms.
Yukti, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. K.V. Sreemithun, Sr. Panel
Counsel for respondent nos. 1
to 3
Mr. Jasbir Bidhuri, Adv. for
respondent no. 4

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

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22.08.2019

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This Letter Patents Appeal (LPA) has been preferred against the judgment and order delivered by the learned Single Judge in W.P.(C) No. 8147/2019 on 29th July, 2019 (Annexure P-1 to the memo of this LPA), whereby the learned Single Judge has not granted leniency to this appellant (original petitioner) for a change in the choice of medical college, which was allotted in the second round of counselling in the admission process of MBBS.

2. Having heard the counsel for the appellant (original petitioner) and looking into the facts and circumstances of the case, it appears that this appellant (original petitioner) is in search of admission in MBBS in the year 2019. The All India Quota rank in the unreserved category of this appellant (original petitioner) is “45” and he registered himself for counselling process on 27th June, 2019. During the counselling process, the first choice was filled up as Maulana Azad Medical College, Delhi and second choice was given as Vardhman Mahavir Medical College and Safdarjung Hospital, Delhi.

3. This appellant (original petitioner) got admission in Vardhman Mahavir Medical College and Safdarjung Hospital, Delhi. He deposited the amount of Rs.36,000/- and got his provisional admission letter, which was issued on 2nd July, 2019.

4. From the admission process, it appears that those students, who got admission after the first round of counselling in any medical college, can also fill up their choices of medical colleges in second round of counselling. After getting provisional admission in Vardhman Mahavir Medical College and Safdarjung Hospital, Delhi, it was optional for the appellant to go for the second round of counselling. However, for reasons best known to the appellant, this appellant had opted for second round of counselling.

5. In the second round of counselling, his first choice was Maulana Azad Medical College, Delhi and second choice was Vardhman Institute of Medical Sciences (VIMS), Nalanda, Bihar. However, it has been submitted by counsel for the petitioner that the second choice was marked by an oversight, and that the appellant clicked on Vardhman Institute of Medical Sciences, Nalanda, instead of

Vardhman Mahavir Medical College and Safdarjung Hospital, Delhi only because of the similarity of the names of both institutes.

6. Now, as per the rules of counselling for admission in MBBS, if any student goes for the second round of counselling and if he gets admission in any of the medical colleges of his choice in the second round of counselling, automatically provisional admission, obtained in the first round of counselling, will be deemed to have been cancelled.

7. In view of the aforesaid provisions, as this appellant (original petitioner) got admission in Vardhman Institute of Medical Sciences (VIMS), Nalanda, which was one of his choices of medical colleges in the second round of counselling, his provisional admission in Vardhman Mahavir Medical College and Safdarjung Hospital, Delhi was automatically cancelled.

8. Much has been argued by the counsel for the appellant (original petitioner) that there was an unintentional error committed by the appellant in clicking the choice of medical colleges in the second round of counselling and hence, the appellant may be allowed to change/alter his choice of medical college. We are not in agreement with this contention of the learned counsel for the appellant, mainly for the following reasons:-

(a) As per the rules of admission in MBBS, if any student, who has got provisional admission in the first round of counselling and opts for the second round of counselling, and if he gets admission in any of the medical colleges of his choice, which he has mentioned in the second round of counselling, automatically, provisional admission, obtained in the first round of counselling, is cancelled.

(b) We see no reason to alter the aforesaid rules of admission in MBBS while exercising our powers under Article 226 of the Constitution of India.

(c) If such leniency beyond law is sought by the appellant from this Court, then, a number of cases of students bemoaning their wrong choice can approach the Court, inasmuch as there shall be reshuffling of the choice of medical colleges by these students. This will lead to upsetting the settled admission process of MBBS. This may further lead to continuation of the said admission process for an infinite or indefinite period of time. Such an approach ought not to be adopted by the Court. Once the cut-off date is over, no alteration can be made in the choice of medical colleges.

(c) Apart from that the admission process is already over and students have already got admission in Vardhman Mahavir Medical College (VMMC) and Safdarjung Hospital, Delhi, as well as in Vardhman Institute of Medical Sciences (VIMS), Nalanda. If leniency is shown to this appellant for a change of choice of medical college, admitted students will have to be affected, or they may also give their altered choice for admission in medical colleges and again, for those students, who have already been admitted, leniency will have to be shown.

(d) It further appears, from the rules of the admission in a medical college, that if any student does not complete the admission process, after getting admission in the second round of counselling, then admission in the second round of counselling will also be automatically cancelled. Thus, in this eventuality, this appellant would not get admission, neither in the medical college where

provisionally he had obtained admission i.e. in Vardhman Mahavir Medical College and Safdarjung Hospital, Delhi in the first round of counselling nor he can get admission in Vardhman Institute of Medical Sciences (VIMS), Nalanda. Thus, as per the rules of admission in MBBS, the appellant cannot alter his choice of medical college, which he has filled up in the second round of counselling.

9. The aforesaid aspects of the matter were properly appreciated by the learned Single Judge, while deciding the writ petition, being WP(C) No. 8147/2019, *vide* judgment and order dated 29th July, 2019 (Annexure P-1). We are in agreement with the reasoning given by the learned Single Judge while deciding WP(C) No. 8147/2019; hence, there is no substance to interfere with the reasoning of the learned Single Judge and entertain this Letter Patents Appeal, and the same is dismissed.

CM No. 35243/2019

10. In view of the orders passed in this appeal, this application stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

AUGUST 22, 2019

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