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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 19.11.2019

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W.P.(C) 9468/2019

DR. REETESH ARORA & ANR

..... Petitioners

Through: Ms. Shaveta Mahajan with Mr. Mohit Choubey, Advocates.

versus

MEDICAL COUNCIL OF INDIA THROUGH SECRETARY & ORS

..... Respondents

Through: Mr. T. Singhdev with Ms. Arunima Pal and Mr. Tarun Verma, Advocates for respondent no. 1.
Mr. Anil Mittal with Ms. Komal Aggarwal, Advocates for respondent no. 2 along with Dr. N.C. Prajapati, Additional Director, DGME, UP.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL)

1. Learned counsel for the parties have taken several dates to evolve a consensus in the matter.
2. The petitioner no.2 has, admittedly, approached this Court along with his father i.e. petitioner no.1 for necessary relief as he is traumatised by the ragging experienced by him in Rama Medical College Hospital and Research Centre, Kanpur (in short "RMC").
3. The backdrop in which the instant petition has been filed is as follows:-

- 3.1 Petitioner no. 2 obtained admission in RMC on 09.07.2018.
- 3.2 Evidently, the petitioner was subjected to ragging by students of RMC.
- 3.3 It is the petitioner's case that incidents of ragging first commenced in and about October, 2018.
- 3.4 The petitioner no. 2 filed a complaint in this behalf. Upon receipt of complaint, RMC directed the delinquent students to vacate the hostel on 12.03.2019.
- 3.5 The petitioners aver that no further action was taken by RMC on the complaint filed.
- 3.6 Given this position, petitioner no. 1 on 18.03.2019 & 20.03.2019 filed a complaint with the Medical Council of India (in short "MCI"). In this complaint, a demand was also made for refund of advance fee pertaining to 2nd year which was deposited in and about February, 2019.
- 3.7 It appears that thereafter RMC woke up to the gravity of the situation and filed a complaint with Police Station, Bithur, District - Kanpur (Urban), Uttar Pradesh.
- 3.8 Based on the complaint, an FIR No. 125/2019 was registered by the aforementioned Police station on 28.04.2019.
- 3.9 The matter was escalated by the petitioners by making a representation on 13.05.2019 with the Director, AIIMS.
4. The record shows that on 06.06.2019, RMC informed petitioner no. 2 that it would have no objection to him migrating to another university.
- 4.1 The record also shows that on 08.06.2019, School of Medical

Sciences and Research & Sharda Hospital (in short “Sharda University”) issued a No Objection Certificate (NOC) in favour of petitioner no.2. *Via* this communication, it was conveyed to the petitioner no.2 that he could be admitted to the Sharda University against a vacant seat forming part of the 2017 batch provided requisite permission was granted in that behalf by the Board of Governors, MCI, the Director General Medical Education-Uttar Pradesh (in short “DGME”), and RMC. Furthermore, certain other aspects were also referred to (which were procedural in nature) such as deposit of full fees, security and hostel fees.

5. It is perhaps in this background that on 18.06.2019, the Board of Directors, MCI, communicated to DGME that even though petitioner no. 2 had not completed his first year of the MBBS course, to which he was admitted in RMC, it had decided to relax the condition. Accordingly, the Board of Governors, MCI referred the matter to DGME for appropriate action as per rules, since the aspect of migration fell within the domain of the State.

6. Upon notice being issued in the matter, counter affidavit was filed by the DGME.

7. I must indicate that though Board of Governors, MCI has been represented by counsel, it has not filed, formally, a counter affidavit in the matter.

8. Likewise, Sharda University/respondent no.4, though served, has not filed its counter affidavit in the matter.

9. It is in this background that on the previous date i.e. 13.11.2019, I had asked Mr.Anil Mittal who, appears for DGME to

take instructions in the matter.

10. The order passed on 13.11.2019 reads as follows:-

“1. Mr. Mittal, who appears for respondent No.2/DGME, says that he will seek instructions as to whether petitioner No.2 can migrate to either of the two colleges i.e. Dr. Ram Manohar Lohia Ayurvigyan Sansthan, Lucknow or Medical College, Agra.

1.1 I am informed that there is one seat available in each of the aforementioned colleges for academic session 2018-19.

2. Furthermore, Mr. Mittal will also obtain instructions as to whether the petitioner can migrate to Sharda University School of Medical Sciences and Research, Greater Noida, in the academic session 2018-19 against a seat available in the earlier academic session i.e. 2017-18.

3. To be noted, petitioner No.2 is agreeable for migration to any one of the aforementioned medical colleges.

4. Renotify the matter on 19.11.2019 at 2.15 p.m.

5. Dasti under the signatures of the Court Master. ”

11. Mr. Mittal has obtained instructions in the matter.

12. To be noted, Dr. N.C. Prajapati, Additional Director, DGME, UP is present in the Court.

13. Mr. Mittal submits that given the difficult traumatic circumstances through which petitioner no. 2 has passed through, in fitness of things, the most appropriate recourse would be that petitioner no. 2 should be allowed to migrate to Sharda University and be admitted in the said university in the academic session 2019-20.

14. Mr. Mittal also says that since, as noticed above, the one seat against which petitioner no. 2 can be admitted relates to academic session 2017-18, petitioner no.2's admission will relate to the said seat though for academic session 2019-2020.

14.1 Mr. Singhdev submits likewise.

15. Since there is no dispute that petitioner no. 2 was subjected to ragging which caused him and his family immense trauma, I am of the view that it would in the best interest of petitioner no. 2 who is a young student that he be given admission in the Sharda University in the academic session 2019-20.

16. Since the seat against which admission will be given to petitioner no. 2 relates to academic session 2017-18, this direction, as indicated above, is issued only to protect petitioner no.2 from the trauma of ragging.

17. It is made clear that this order is being issued in peculiar facts and circumstances which obtain in this case and hence will be not be cited as a precedent.

18. The order passed today will be conveyed by Dr. N.C. Prajapati, Additional Director, DGME, UP to the Sharda University.

19. Needless to add, the petitioner no. 2 will carry out the requisite formalities for gaining admission.

20. The petition is disposed of in the aforesaid terms.

21. *Dasti.*

RAJIV SHAKDHER, J

NOVEMBER 19, 2019

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