

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 1644 of 2020**

- Vishwaja Jaulkar D/o Dr. Anuj Jaulkar, Aged About 20 Years Presently Pursuing Mbbs, 2nd Professional Course At Late Shri L.A.M Govt. Medical College, Raigarh, R/o Dr. Jawalkar Ent Hospital, Near Pragati College, Central Avenue Choubey Colony, Raipur District- Raipur, Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through- The Secretary, Health And Family Welfare And Medical Education Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nava Raipur, District Raipur, Chhattisgarh
2. President Medical Council Of India, Pocket-14, Sector-8, Dwarka, Phase-1, New Delhi.
3. Director of Medical Education D.K.S. Bhawan Parisar, Old Nurses Hostel, Raipur, District Raipur, Chhattisgarh
4. Registrar Pandit Deendayal Upadhyay Memorial Health Sciences And Ayush University of Chhattisgarh, Raipur, District Raipur, Chhattisgarh
5. Dean Pt. Jawaharlal Nehru Medical College, Raipur, District Raipur, Chhattisgarh
6. Dean Late Shri L.A.M Govt. Medical College, Raigarh, District Raigarh, Chhattisgarh

---- Respondents

For Petitioner	:	Ms. Naushina Ali, Advocate
For Respondent No.1,3,5 & 6/State	:	Mr. Vikram Sharma, Deputy GA
For Respondent No.2/MCI	:	Mr. R.S.Marhas, Standing Counsel
For Respondent No.4	:	Mr. Ajay Dwivedi, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Judgment on Board****Per, P. R. Ramachandra Menon, Chief Justice****07.08.2020**

1. Non consideration of the request made by the Petitioner to get Migration / Transfer in the 2nd Professional MBBS Course from the present Institution (Late Shri L.A.M. Government Medical College, Raigarh) to the Pt. Jawaharlal Nehru Medical College, Raipur; despite

availability of a vacant seat and the enabling provision under the Regulations issued by the Medical Council of India (for short, 'MCI') forms the subject matter of grievance projected in the writ petition.

2. The Petitioner has moved this Court with the following prayers :

“10.1. That, the Hon'ble Court may kindly be pleased to call for the entire records pertaining to the case of the petitioners.

10.2. That, the Hon'ble Court may kindly be pleased to issue an appropriate writ / order / direction and direct the Respondent No.2 and 3, to consider the case of the petitioner for Admission by Migration/transfer in the 2nd Professional MBBS Course, to Pt. Jawaharlal Nehru Medical College, Raipur, from Govt. Medical College Raigarh as per Regulation 1997 of the MCI.

10.3. That, this Hon'ble Court may kindly be pleased to issue an appropriate writ / order / direction and direct the Respondent No.1 and 3 to issue appropriate orders for Admission by Migration/transfer of the petitioner from Govt. Medical College Raigarh to Pt. Jawaharlal Nehru Medical College Raipur on the basis of NOC granted by Respondent No.5 within a specified time frame.

10.4. Any other relief/reliefs which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also kindly be granted.”

3. As put forth by Ms. Naushina Ali, the learned counsel for the Petitioner, on getting qualified in the National Entrance cum Eligibility Test (NEET) in the year 2018, the Petitioner was granted admission in the Late Shri L.A.M. Government Medical College, Raigarh for the 1st Professional MBBS Course. It is stated that the Petitioner has successfully completed the 1st Professional MBBS Course conducted by the University. By virtue of Rule 6 of the Medical Council of India Regulations on Graduate Medical Education, 1997 (for short, 'the

Regulations') Migration/Transfer from one medical college to another can be sought for and obtained on successful completion of the 1st Professional MBBS Course. As per Rule 6(4) of the Regulations, a candidate seeking for Migration should submit an application in proper form within one month of declaration of the result of the 1st Professional MBBS Course. In the instant case, the result of the 1st Professional MBBS Course Examination 2018-19 was declared on 19.09.2019. It is also pointed out that necessary application in this regard has been submitted well within time before the Respondent concerned and that the Petitioner has obtained necessary NOC (Annexure-P/4) from the 5th Respondent. Though necessary proceedings have been filed for granting NOC before the 6th Respondent as well (where the Petitioner is pursuing the studies as on date), it is still to be issued. No action has been taken by the 3rd Respondent / Director of Medical Education (DME) to grant Migration / Transfer to the Petitioner and hence the writ petition.

4. We heard Mr. Vikram Sharma, the learned counsel representing the Respondents No.1 and 3 (State / DME) as well as Mr. Ranbir Singh Marhas, the learned Standing Counsel for the MCI (2nd Respondent).
5. It is brought to our notice during the course of hearing by the learned counsel for the Petitioner that, under exactly similar circumstances, relief has been granted by this Court to a similarly situated student (Petitioner in WPC No. 917/2020) as borne by the judgment dated

13.03.2020, which is forming part of Annexure-P/9. The said verdict has been followed by a learned Single Judge of this Court for passing a similar verdict on 09.06.2020 in WPC 1130 of 2020. It is contended that the Petitioner is also entitled to get similar relief.

6. It is brought to the notice of this Court by the learned counsel representing the State that, the Migration / Transfer cannot be sought for and obtained as a matter of course, where various requirements are to be satisfied. It is pointed out by the learned Standing Counsel for the MCI that, NOC cannot be issued as a matter of course and that recognition of the Institution is mandatory. Similar contention with regard to the recognition of the Institution (same Institution where the Petitioner is pursuing the studies) as raised in WPC No.917/2020 has already been considered and dealt with by a Division Bench of this Court and it has been held that it was 'hyper-technical' and that admissions were still being made in the said Institution (which is stated as a Government Institution). Submission made by Mr. Ranbir Singh Marhas, the learned Standing Counsel for the MCI that the said Institution has obtained necessary permission to admit the students as required under Section 10A of the Indian Medical Council Act, 1956 was also specifically recorded in 'paragraph 9' of the above verdict.
7. We find that the requirements to get Migration/ Transfer from Late Shri L.A.M. Government Medical College, Raigarh (where the Petitioner is pursuing the studies as on date) to Pt. Jawaharlal Medical College,

Raipur, which is another Government College, stand substantiated.

We hold that the Petitioner is entitled to get the relief, being a similarly situated person as in the case of the Petitioner in WPC No.917/2020.

8. In the said circumstance, the 3rd Respondent-DME is directed to process the application preferred by the Petitioner and pass necessary orders for granting the Migration / Transfer, in accordance with law, as expeditiously as possible, at any rate, within 'two weeks' from the date of receipt of a copy of this judgment. The Petitioner is required to produce a copy of this judgment along with a full text of the writ petition before the 3rd Respondent for further steps.
9. With the above direction, the writ petition stands disposed off.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge