

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

(Proceedings conducted through video conferencing)

CWP No.19608 of 2020(O&M)

Date of decision: 19.11.2020

Dr, Amit Kumar

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Raj Kumar Makkad, Advocate for the petitioner.

Mr. S.S. Pannu, DAG, Haryana.

REKHA MITTAL, J.

By invoking Article 226 of the Constitution of India, the petitioner prays for issuance of writ of mandamus to direct the respondents to issue Sponsorship-cum-NOC for admission in PG course through NEET-PG-2021 applied vide applications (Annexure P-3 and P-7), in consonance with the policy dated 19.03.2018 (Annexure P-10), Haryana Government notification dated 18.02.1972 (Annexure P-11) and MCI Notification dated 05.04.2018 (Annexure P-12) with protection of pay and all consequential benefits arising therefrom. Another prayer made by the petitioner is for revocation of suspension order dated 27.12.2019 (Annexure P-6) and grant of regular pay-scale, seniority, arrears of pay etc. with interest.

Counsel for the petitioner would argue that the petitioner joined service of State of Haryana as a qualified Medical Officer, on 14.09.2015. He completed probation of 2 years on 13.09.2017 as

confirmed by respondent No.1 vide order dated 20.08.2018. All India Institute of Medical Sciences (in short 'AIIMS') gave advertisement for Combined Entrance Test (INI-CET) for admission to PG courses vide which application with Sponsorship Certificate/NOC should reach upto 5 PM on 20.11.2020. The petitioner submitted application to respondent No.1 (through proper channel) for grant of Sponsorship-cum-NOC vide application dated 12.10.2020. It is argued that application submitted by the petitioner has not been allowed rendering him unable to submit Sponsorship-cum-NOC. It is further argued that though the petitioner was suspended from service w.e.f. 01.07.2019 vide order dated 27.12.2019 as he remained in judicial custody in a criminal case and it was decided to initiate disciplinary proceedings under Rule 7 of Haryana Civil Services (Punishment and Appeal) Rules, 2016 (in short 'the Rules') but despite expiry of about 1½ years of lodging of FIR, neither challan has been submitted in the Court nor chargesheet has been issued by the Disciplinary Authority. It is vehemently argued that case of the present petitioner does not fall within the purview and ambit of clause (v) under the heading 'Procedure of Applying/Issuance of NOC of Policy dated 19.03.2018 (Annexure P-10)', therefore, necessary directions may be issued to respondent No.1 to allow the No Objection Certificate. Counsel would fairly inform that he does not press the claim with regard to protection of pay etc.

Copies of memo dated 17.11.2020 and 18.11.2020 received through email of the Court, on behalf of the respondents, are taken on record.

Counsel for the respondents, by relying upon copies of the aforesaid documents, would argue that FIR No.144 dated 19.04.2019 under Sections 201, 205, 420, 464, 465, 468, 471, 193, 237, 120-B IPC and Section 7/13 of the Prevention of Corruption Act, 1988 was registered against the petitioner in Police Station Civil Lines, Sonapat. The offences charged against the petitioner attract moral turpitude. The petitioner remained in custody w.e.f. 01.07.2019 to 04.10.2019 on the basis whereof he had been placed under suspension vide order dated 27.12.2019 and decided to be charge-sheeted under Rule 7 of the Rules. It is argued with vehemence that taking into consideration nature of offence charged against the petitioner and the provisions of clause (v) referred to by counsel of the petitioner, he is not entitle to Sponsorship Certificate/NOC as per policy decision dated 19.03.2018 of the State of Haryana.

I have heard counsel for the parties, perused the paper-book and documents made available by counsel for the respondents.

Before advertng to submissions made by counsel for the parties, it is pertinent to mention that the petitioner did not disclose the particulars of FIR registered against him on 19.04.2019 even though there is reference to the factum of lodging of FIR and petitioner being placed under suspension. The petitioner even did not produce copy of the said FIR for perusal and appreciation and as such he is guilty of concealing material facts from the Court. Not only this, counsel for the petitioner despite asking of the Court was not ready to reveal as to on what allegations the FIR was registered against him though eventually he disclosed that the said FIR pertains to some postmortem examination conducted by the petitioner in discharge of his official duties. Taking into

consideration the aforesaid, petition is liable to be dismissed on this score alone.

The State of Haryana framed Policy regarding Post Graduation (Degree/DNB/ Diploma) courses for HCMS/HCDS Doctors in the Department of Health. Under the heading ‘Procedure of Applying/Issuance of NOC’, a relevant extract reads as follows:-

“Any in-service doctor desirous of undertaking P.G. Degree/Diploma/ DNB Course will be required to apply for a “No Objection Certificate” before the counseling to the competent authority. No doctor can ask for a NOC for PG course (Degree/ DNB/ Diploma) as a matter of right. However, the State Government may grant NOC subject to the following conditions:-

- (i) xx xx xx
- (ii) xx xx xx
- (iii) xx xx xx
- (iv) xx xx xx
- (v) The applications for NOC will be will be considered subject to the conditions that there are no adverse remarks against the doctor (i.e. integrity/ honesty/ efficiency etc.) and no disciplinary proceedings Under Rule-7 are pending against the officer. Any adverse reports of professional conduct will also be taken into account while considering the services of a person satisfactory service or otherwise for the grant of NOC.”

Admittedly, in the instant case, FIR No.144 dated 19.04.2019 has been registered against the petitioner for committing serious offences under the Indian Penal Code as well as offence under the Prevention of Corruption Act, 1988. The mere fact that challan has not been presented in the Court or chargesheet has not been issued in disciplinary proceedings would not nullify the effect of the said FIR particularly in the circumstances that as per clause (v) reproduced hereinbefore, any adverse reports of professional conduct can also be taken into account while considering services of a person to be satisfactory or otherwise. In this view of the matter, I find it difficult to accept contention of the petitioner that he is eligible for issuance of Sponsorship Certificate/NOC for getting admission in PG course, advertised by AIIMS.

For the foregoing reasons, finding no merit, the petition fails and is accordingly dismissed leaving the parties to bear their own costs.

NOVEMBER 19, 2020

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no