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

+ **W.P.(C) 1564/2020 & CM APPL. 5474/2020**

VIKAS KUMAR

..... Petitioner

Through: Mr. Ankit Singh with Mr. Inderjeet,
Advocates.

versus

UNIVERSITY OF DELHI & ORS

..... Respondents

Through: Mr. Kousik Ghosh, Advocate for
respondent no. 1 & 2/UOD.
Mr. T. Singhdev with Ms. Arunima
Pal, Advocates for respondent no.
3/MCI.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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17.02.2020

1. Mr. T. Singhdev and Mr. Kousik Ghosh have returned with instructions.
2. To be noted, Mr. Kousik Ghosh appears on behalf of respondent no. 1 & 2/University of Delhi (in short "UOD") while Mr. Singhdev appears on behalf of respondent no. 3/The Medical Council of India (in short "MCI").
3. Both counsels concede that the petitioner will have to be declared pass in the concerned paper i.e. Surgery in light of the ratio of the following judgment; *Maharashtra University of Health Sciences Vs. Paryani Mukesh Jawaharlal & Ors.* (2007) 10 SCC 201.

4. Furthermore, Mr. Singhdev says that the petitioner can also be considered for allocation of the grace marks qua the Paediatrics subject in terms of Regulation 13(10) of the Medical Council of India Regulations on Graduate Medical Education, 1997 (in short “MCI Regulations”). The said regulation reads as follows:-

“ (10) The grace marks up to a maximum of five marks may be awarded at the discretion of the University to a student who has failed only in one subject but has passed in all other subjects.”

5. Having regard to the submissions made by Mr. Singhdev and Mr. Ghosh, the UOD is directed to declare the petitioner as having passed in the Surgery paper in view of the ratio of the judgment adverted to hereinabove.

6. Insofar as the Paediatrics paper is concerned, the UOD will consider the petitioner’s case for award of 1 grace mark.

7. The writ petition is disposed of in the aforesaid terms.

8. Consequently, the pending application shall stand closed.

9. *Dasti.*

RAJIV SHAKDHER, J

FEBRUARY 17, 2020

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