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

Date of Decision : 23.06.2020

+ **W.P.(C) 3633/2020 & CM 12942/2020**

DR. VIVEK KUMAR Petitioner
Through: Ms.Shashi Kiran, Adv.

versus

NATIONAL BOARD OF EXAMINATION & ANR.
.....Respondents
Through: Mr.Kirtiman Singh,
Mr.Rohan Anand, Mr.Waize Ali Noor,
Advs. for R-1.
Mr.Jivesh Kumar Tiwari, Adv. for R-2.
Mr.Dinesh Chand, Executive Director is
present.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (Oral)

1. The petitioner in the present petition is aggrieved of the Communication dated 14.06.2020 issued by the respondent no.1 informing the petitioner that he was not eligible to participate in the examination for the “Diplomat of National Board-Post Diploma Centralized Entrance” (hereinafter referred to as DNB-PDCET) All Indian Level Exam for the year 2020 on the ground that the petitioner

had been selected for the said course in January 2018 admission session and had to discontinue the said course.

2. The learned counsel for the petitioner submits, that while the petitioner had been allotted a specialty in Pediatrics from the Northern Railway Central Hospital in January 2018 session examination and had joined the said course on 04.06.2018, he was not allowed to complete that course on account of his absence for valid reasons. Infact, in spite of the respondent no.1 advising the National Railway Central Hospital by its letter dated 24.09.2018 to allow the petitioner to re-join the said course, the said Hospital did not adhere to the advice and did not allow the petitioner to re-join the said course. Thereafter, the petitioner gave the All India Examination of 2020 in which the petitioner again scored a high rank and was allotted Swami Dayanand Hospital with the specialty as Pediatrics in the first round of counseling. The examination notice allows the candidate to not to opt for the hospital allotted in the first round of counseling and instead opt for the second round of counseling. The petitioner accordingly opted for the second round of counseling and it is only at that stage that the respondent no.1 informed the petitioner by the Impugned Communication that the petitioner was not eligible for the All India Examination of 2020.

3. The learned counsel for the petitioner submits that the petitioner has already suffered by the arbitrary rejection of the hospital to allow the petitioner to complete the course in January 2018 session, in spite of the direction of the respondent no.1 as contained in its letter dated

24.09.2018. In any case, the bar on a candidate appearing for the 2020 examination is only for those students who have not completed the entire duration prescribed of a medical course. In the present case, the petitioner had been admitted to the Diploma course in Paediatrics on 04.06.2018, the two year course would come to an end on 03.06.2020, and therefore, the petitioner was eligible to be considered for the second round of counseling for the 2020 session conducted by the respondent no. 1.

4. On the other hand, the learned counsel for the respondent no. 1 has referred to Clause 1.5 of the 'Handbook for Centralized Counseling for DNB(Post Diploma) Courses January 2018 admission Session' to submit that in the said Handbook it was clearly stipulated that any candidate opting for confirmed seat in the said counseling, shall not be eligible to appear in the examination for the entire duration of the said course that is, for two years. He submits that for the 2020 examination, the cut-off date for determining the eligibility of a candidate was 30.11.2019 on which date clearly the petitioner had not completed the two years ban. Further, placing reliance on Clause 3.4 of the 'Information Bulletin for Diplomate of National Board Post Diploma Central Entrance Test for admission to Post Graduate DNB (Secondary) Courses 2020 Admission Session', he submits that it was clearly stipulated that any candidate who has joined the DNB (Post Graduate) Course in or after January 2018 admission session would not be eligible to appear in the said examination. The petitioner having joined the course in January 2018 admission session was, therefore,

ineligible for appearing in the 2020 admission session. He also places reliance on Clause 2.3 of the Handbook for Admission for the 2020 session. He submits that even otherwise the January 2018 admission course is still continuing and therefore, the petitioner was not eligible to participate in the 2020 admission session.

5. As far as the 2018 admission session and the submission of the petitioner that he was not allowed to re-join the said course in spite of the letter dated 24.09.2018 of the respondent no. 1, the learned counsel of the respondent no.1 submits that post the letter dated 24.09.2018, on a complaint being received against the petitioner of the petitioner having concealed at the time of the admission that he was an employee of the South Delhi Municipal Corporation and was under suspension, his admission was cancelled by the communication dated 14.11.2018. He submits that in any case, the present petition does not either challenge the conditions as set out in the Handbook of Admission or the letter dated 14.11.2018 informing the petitioner of cancellation of his admission for the 2018 session. He submits that, therefore, the Impugned Order has been rightly issued holding the petitioner ineligible for the 2020 academic session examination.

6. In the Rejoinder, the learned counsel for the petitioner submits that Handbook for Admission for January 2018 session clearly stipulates that the candidates shall not be eligible only for a period of two years that is the duration of the course for which they have been admitted. The said ban having been suffered by the petitioner as on 03.06.2020, the petitioner is eligible for being considered in the

second counseling for the 2020 examination. She further submits that the counselling process is still continuing and in fact, the date having been extended, the petitioner should be shown leniency and should be allowed to be considered for the said examination.

7. I have considered the submissions made by the learned counsels for the parties.

8. As far as the admission in the January 2018 session is concerned, there is no challenge in the present petition to the decision of the hospital not allowing the petitioner to undertake the course in spite of the letter dated 24.09.2018 of the respondent no.1. In fact, the petitioner has not been able to show any document protesting against the said decision of the hospital. On the other hand, the learned counsel for the respondent no.1 has produced before this Court the letter dated 14.11.2018 cancelling the admission of the petitioner on the ground of concealment. Though the petitioner submits that the said letter was not received by the petitioner, as there is no challenge with respect to the January 2018 examination, this Court need not proceed any further with the consideration of the said submissions. Suffice it to say that admittedly the petitioner is not claiming any relief on the basis of his admission in the 2018 admission session or the alleged arbitrary manner in which he was not allowed to complete the said course.

9. Coming to the 2020 admission session, the Information Bulletin for the 2020 admission session clearly provides, that any candidate who has joined the DNB Post Diploma course in or after January,

2018 admission session, would be ineligible to appear for the said examination. Clause 3.4 of the Information Bulletin for 2020 Admission Session is reproduced herein-below:

*"3.4 Candidates already pursuing a MD/MS/DNB course are not eligible to appear for DNB-PDCET till such time they have completed the duration of prescribed course or have been discharged from the course. Candidates who have joined DNB (Post Diploma) course in or after January 2018 Admission session are not eligible to appear in **DNB-PDCET 2020** admission session. This shall be irrespective of their resignation or discontinuation from the course due to any reason."*
(Emphasis Supplied)

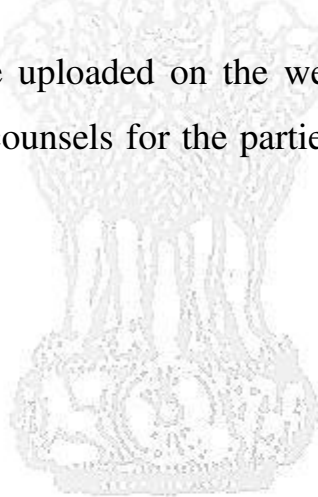
10. In the present petition, there is no challenge to the said clause. Though the learned counsel for the respondent no.1 has placed reliance on the Judgment of the Supreme Court in **Mabel vs. State of Haryana** 2002 6 SCC 318 and of this Court in **Dr. Nidhi Goyal vs. Faculty of Medical Sciences, University of Delhi** 2015 SCC OnLine Del 8347, this Court again need not detain itself with this submission as there is no challenge to Clause 3.4 in the present petition.

11. The submission of the petitioner that the 2018 Handbook of Admission debars the petitioner from appearing in another entrance examination for a period of two years only, cannot also be accepted inasmuch the Information Bulletin for 2020 Admission Session clearly provides that the eligibility of a candidate for the 2020 examination is to be determined as on 30.11.2019. Any candidate becoming eligible

thereafter was not to be considered for the said examination. Merely because the examination /selection process has continued thereafter, would not make all the candidates who became eligible after the cut-off date entitled to appear or seek any relief for the said examination. In any case, in view of Clause 3.4 of the Information Bulletin, there is a complete embargo on consideration of a candidate who had taken admission in the January, 2018 admission process.

12. In view of the above, I find no merit in the present petition and the same is dismissed. There shall be no order as to costs.

13. The order shall be uploaded on the website and shall also be provided to the learned counsels for the parties on the e-mail address provided.



NAVIN CHAWLA, J

JUNE 23, 2020
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