

\$~8

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

Date of decision: 30th July, 2020

+ **W.P.(C) 4755/2020 & CM APPLs. 17160-61/2020**

DR. MACHAT BALAKRISHNAN MENON Petitioner

Through: Mr. John Mathew, Advocate.
(M:9891278195)

versus

MEDICAL COUNCIL COMMITTEE & ORS. Respondents

Through: Mr. Kirtiman Singh, CGSC and Mr.
Rohan Anand, Advocate for R-1.
Mr. T. Singhdev and Mr. Abhijit
Chakravarty, Advocate for R-4.

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. It is submitted that the main relief is not against the Medical Council of India.
3. The Petitioner – Dr. Machat Balakrishnan Menon has filed this petition under dire circumstances as he apprehends that his admission to MD (Pathology), a non-clinical branch at Maulana Azad Medical College (*hereinafter* “MAMC”) may either be cancelled or not confirmed.
4. The facts leading up to the present petition are that the Petitioner is a qualified doctor who has completed his M.B.B.S. from Travancore Medical College, Kollam, which is affiliated to the Kerala University of Health Sciences. He pleads that he belongs to the Economically Weaker Section

(*hereinafter*, “EWS”) of society and holds an EWS certificate from the state of Kerala. The National Eligibility Entrance Test (NEET) examination for Post Graduate admission was conducted on 5th January, 2020 in which the Petitioner participated. The same was conducted by the National Board of Examination (NBE). The results of the NEET examination were published on 29th January, 2020 and the Petitioner obtained rank No.35948. After the results were declared, he registered himself with Respondent No.1 i.e. the Medical Council Committee for the counselling.

5. Ld. counsel for the Petitioner submits that he was allotted a seat in MD (Community Health) at the National Institute of Community Health, New Delhi in the first round of counselling between April and May, 2020. However, he chose to wait for the second round of counselling. In the second round of counselling, the Petitioner was not allotted any seat. However, after the second round of counseling, in the mop-up round organized by the Medical Counseling Committee (*hereinafter*, “MCC”), the Petitioner was allotted a seat in MAMC for MD (Pathology). A copy of the allotment letter dated 22nd July, 2020 is placed on record.

6. The Petitioner thereafter received an e-mail asking him to report along with all the original documents by 27th July, 2020 before 2:00 p.m. The said e-mail was sent by MAMC on 25th July, 2020. The Petitioner accordingly reached MAMC on 26th July, 2020 and all the documents etc. were submitted and he was made to fill the registration form. He also deposited the requisite fee. However, after the admission process was completed, on the evening of 26th July, 2020 one of the staff members of the MAMC informed the Petitioner that there is some complication in his admission and accordingly he was asked to visit the office of the Registrar of MAMC.

Even after visiting the Registrar, there was no clarity and the Registrar asked the Petitioner to meet Dr. B. Srinivas, ADGME, Directorate General of Health Services, Ministry of Health and Family Welfare, at his Office situated at Nirman Bhawan, New Delhi. He thereafter wrote an e-mail on 27th July, 2020 to MCC, however, till date there is no clarity. No communication was received by him that his admission has been cancelled nor has any communication been received by him that his admission is confirmed. Since the deadline for closing of the post-graduate admissions is 31st July, 2020, he has filed the present writ petition.

7. Ld. counsels for Respondent Nos.1 and 4 have appeared on advance notice. Mr. Kirtiman Singh, Id. CGSC appearing for the MCC, which supervises the allotments of the colleges and courses and which is also the organization monitoring the counselling process, submits that confusion has arisen because the Petitioner has in his registration form for counselling, opted for three quotas i.e., the All India Quota, Central Inst. Quota and the Delhi University Quota. The Petitioner could not have opted for the Delhi University Quota as he had passed his M.B.B.S. from Kerala. Ld. CGSC submits that because the Petitioner opted for the Delhi University Quota despite a rank of more than 35,000, he was allotted a seat in MAMC. In order to support his contention that the Petitioner made a mistake, the registration form has been shown to the Court wherein the M.B.B.S. passing university is mentioned as Delhi University.

8. Professor Srinivas has joined the video-conferencing hearing and submits that in the registration form the college from where a candidate has passed his/her M.B.B.S. is not sought and only the quota for which he/she wishes to apply is sought. He submits that the Petitioner has opted for four

separate quotas and therefore the software automatically picked his candidature for all four quotas. He further submits that considering his rank, the Petitioner is not entitled to admission in MAMC for MD (Pathology) course.

9. Mr. John Mathew, Id. counsel for the Petitioner submits that the Petitioner has not misrepresented any information in any manner. He relies upon the registration form which he completed in the MAMC which is at page 31 of the writ petition wherein he has given all the details of the various courses which he had completed, specifying that he has completed his first, second and third professional course in Kerala itself. He submits that that Petitioner has never intended to mislead anyone in the counselling but was only seeking to submit the information which was sought. He further submits that insofar as the M.B.B.S. passing university column of the registration form is concerned, the words 'Delhi University' is reflected due to Auto-fill mode and this is not an option that has been filled in by the Petitioner.

10. Considering the rival contentions of the parties there is clearly a need to hear the Delhi University, the MAMC and MCC and call for their affidavits in the matter. The Petitioner, in his registration form for Delhi University has clearly mentioned that he has passed his M.B.B.S. from Travancore Medical College, Kollam which is affiliated to the Kerala University of Health Sciences. Insofar as the registration form which is shown by the MCC is concerned, the same would require to be further looked into so as to ascertain whether some fields are auto-filled. There appears to be some mismatch between what is being stated by the Petitioner and the stand of the MCC. The MAMC, where the Petitioner has obtained admission would also require to state its position considering the fact that

the document verification etc. has happened in MAMC.

11. If the Petitioner's admission is not protected, it would cause irreparable injury to the Petitioner as the said seat is likely to be filled up in the further rounds of counselling which are to take place. Accordingly, it is directed that notice be issued to the MAMC and Delhi University. Respondent No.1 shall file a counter-affidavit in the matter and place on record an unfilled registration form for counselling and the completely filled registration form of the Petitioner. MAMC and Delhi University shall also file their respective counter-affidavits. Notice be also served upon Mr. Mohinder Rupal, Id. Standing Counsel for Delhi University to expedite the affidavit to be filed by Delhi University.

12. In the meantime, it is directed that till the next date of hearing, the seat which has been allotted to the Petitioner shall not be filled in the further counselling sessions.

13. List on 19th August, 2020.

PRATHIBA M. SINGH
JUDGE

JULY 30, 2020
dj/T