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

+ W.P.(C) 5537/2020 & CM APPL.19941/2020 (stay)

DR. JITENDRA KUMARPetitioner

Through: Mr Kaushal Yadav, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr Kirtiman Singh, CGSC for NBE
with Mr Waize Ali Noor and Mr
Rohan Anand, Advocates.

+ W.P.(C) 5541/2020 & CM APPL.19969/2020 (stay)

DR. NAVEEN KUMAR AGARWALPetitioner

Through: Mr Abhay Gupta, Advocate.

versus

NATIONAL BOARD OF EXAMINATION Respondents

Through: Mr Kirtiman Singh, CGSC for NBE
with Mr Waize Ali Noor and Mr
Rohan Anand, Advocates.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **25.08.2020**

The hearing was conducted through video conferencing.

1. Mr. Kirtiman Singh, learned Standing Counsel for the NBE states, upon instructions, that as of 23.08.2020, a fresh notification has been issued, whereunder the petitioners would be eligible to participate in further counselling. All eligible candidates are required to complete the formalities, as specified in the said notification by 31.08.2020.
2. The learned counsel for the petitioners state that they have seen and are aware of the said notification and that they will comply with the

requisite formalities.

3. Mr. Kaushal, learned counsel states that petitioner- Dr. Jitendra Kumar has a fresh NOC in terms of the format prescribed by the BNE. He however apprehends that since the fresh round of counselling will bring forth a large number of candidates, it could jeopardise allotment of courses of the petitioners' choice. The court is assured by the NBE that allotment of course preference will be as per merit schedule/rank of the candidates, i.e. those who have secured a higher rank in the merit list, will be given preference over the candidates who have secured lower ranks, for picking their courses.
4. The petitioner-Dr. Naveen Kumar Agarwal's case is somewhat peculiar because he is posted in a rural area, where he is the chief doctor; he possibly could not leave his patients, especially in the current pandemic times. Because of his constraints, he could not obtain the requisite NOC from the government. Nevertheless, he has provided a NOC, which is annexed to the petition as Annexure-P8. All that remains to be done is to provide a fresh NOC in terms of the prescribed format. Insofar, as he has a NOC, albeit not in the prescribed format and is eligible for counselling, the non-format NOC should not come in the way of his being considered for the counselling.
5. Nevertheless, the petitioner shall apply to the Government of Uttar Pradesh for obtaining the requisite NOC, in the prescribed format. The request of the petitioner to the Department of Health, Government of Uttar Pradesh shall be annexed, when he uploads his data on the internet. It is expected that upon receipt of the petitioner's

application, the Government of Uttar Pradesh would issue the requisite NOC before 30.08.2020, so as to facilitate the petitioner to upload it and/or make it available to the NBE before the date of deadline. Irrespective of the availability of the fresh NOC, since there is an in-principle NOC provided by the petitioner, the petitioner- Dr. Naveen Kumar Agarwal, shall be allowed to participate in the counselling.

6. Both the petitions, along with the pending applications, stand disposed-off in the above terms.
7. Should the petitioners have a grievance apropos the courses allotted to them, it will be open to them pursue their remedies in accordance with law.
8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

AUGUST 25, 2020/rd