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

+ **W.P.(C) 5618/2020, CM Nos. 20353/2020 & 20354/2020**

BASKARA PRASAD S ISUKAPALLI

..... Petitioner

Through: Mr. Ashish Upadhyaya, Adv.

versus

MEDICAL COUNCIL OF INDIA & ORS.

..... Respondents

Through: Mr. T. Singhdev, Adv. for R-1

Mr. Nirvikar Verma, Adv. for R-2 to
4/Union of India

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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26.08.2020

This matter is being heard through video-conferencing.

CM No. 20353/2020

Exemption allowed subject to all just exceptions.

Application is disposed of.

CM No. 20354/2020 (by petitioner seeking exemption from filing the attested supporting affidavits of the petition from the oath commissioner)

For the reasons stated in the application, the same is allowed and petitioner is exempted from filing the attested supporting affidavits of the petition from the oath commissioner. Application is disposed of.

W.P.(C) 5618/2020

1. This petition has been filed by the petitioner with the following prayers:-

“It is therefore most respectfully prayed in view of the aforesaid facts and circumstances to this Hon’ble Court to be pleased to issue a Writ in the nature of:

A. Mandamus thereby directing the respondents to grant one time exemption to daughter of the petitioner namely Ms. Lakshmi Nandita Isukapalli D/o. Bhaskara Prasad S Isukapalli as an exception from the requirement of having to clear NEET for admission to Newcastle University Medicine Malaysia, for the Current Academic Session i.e. 2020-2021.

B. Alternatively the daughter of the petitioner namely Ms. Lakshmi Nandita Isukapalli D/o. Bhaskara Prasad S Isukapalli should be permitted to take admission in Newcastle University Medicine Malaysia, for the Current Academic Session i.e. 2020-2021 and further as an exception be given an opportunity to clear NEET in the next three sessions (as marks of NEET are also valid for three academic sessions).

C. Grant such other or further reliefs as this Hon’ble Court may in the facts and circumstances of this case deem fit, expedient and / or appropriate.”

2. The submission of Mr. Ashish Upadhyaya, learned counsel for the petitioner is twofold; (i) because of COVID-19, the respondents may not insist upon the petitioner to meet the requirement of NEET for taking admission in a foreign institute in this year; (ii) because of the restrictions

put by DGCA, as she is unable to travel, she be exempted from writing the NEET examination in this year.

3. Mr. Singhdev, learned counsel for the MCI/respondent No.1 states that pursuant to the orders passed by this Court in ***W.P.(C) No. 4708/2020 Peeyoosh Bharat Saini vs. Medical Council of India and Ors.***, the petition of the petitioner was considered by the MCI as representation in consultation with Ministry of Health & Family Welfare, Government of India and pursuant to the concurrence given by the Ministry of Health & Family Welfare, the Medical Council of India has communicated the decision to the petitioner in that writ petition wherein, MCI in para 4 of their communication dated August 25, 2020, stated as under:-

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4. Accordingly, the candidate Ms. Ishika Kumari, owing to the extraordinary situation of COVID 19 Pandemic, as a lone-time measure, may proceed abroad for taking admission in Foreign Medical Institute for obtaining Primary Medical Qualification, provided she fulfils the criteria as provided in the “Eligibility Requirement For Taking Admission In An Undergraduate Medical Courts in a Foreign Medical Institution Regulations, 2002” as well as “the Screening Test Regulations, 2002” read with “Regulations on Graduate Medical Education, 1997” for admission to MBBS Course. However, it is incumbent upon her to qualify the NEET-UG in 2020 or 2021. In case, she fails to qualify NEET-UG in 2020 or 2021, her decision to continue her Foreign Medical Courses thereafter shall be at her own risk, as she shall not be entitled to appear for the Screening Test and thereby would not be entitled for grant of Provisional / Permanent

Registration by the concerned Stated Medical Council. Further, it is incumbent upon her to faithfully follow with norms laid down by the Central Government for travelling abroad in view of COVID 19 Pandemic.

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4. Mr. Singhdev also states that the aforesaid decision shall be applicable to all the candidates, who are taking admission in a foreign institute / University for pursuing foreign medical qualification for which possessing the NEET qualification is a prerequisite.

5. On submission No.2, Mr. Singhdev has drawn my attention to the order passed by the Supreme Court in the case of ***Abdul Azeez vs. Union of India, Civil Appeal No. 2986/2020*** dated August 24, 2020, wherein the Supreme Court, on a similar plea, has stated as under:-

“8. The High Court was informed that the Vande Bharat Mission flights are available for students and efforts will be made by the Ministry of External Affairs to accommodate Indian students and Overseas Citizenship of India (OCI) students before the NEET examination. To allay any apprehension of the expatriate students, we requested the learned Solicitor General to discuss the matter with the concerned authorities and permit the expatriate students to travel by the Vande Bharat Mission flights for the purpose of taking the NEET examination. The learned Solicitor General fairly accepted the suggestion and submitted that he will speak to the authorities and request them to accommodate the expatriate students.

9. As no details have been given about any expatriate student eligible to take both JEE and the NEET examinations, we are not

Inclined to accept the submission of Mr. Haris Beeran. The State Governments shall consider the genuine requests for relaxation of quarantine conditions made by expatriate students to attend NEET examination on 13.09.2020.”

6. In view of the above, Mr. Ashish Upadhyaya states no further grievance of the petitioner subsists. He states that the petition be treated as closed. Ordered accordingly.

V. KAMESWAR RAO, J

AUGUST 26, 2020/ak