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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 5753/2020 & CM APPLs. 20801-02/2020
KHALIFA JALEEL ANVER PASHA ... Petitioner
Through Mr.Ashish Upadhyay, Adv.
versus
MEDICAL COUNCIL OF INDIA & ORS. ... Respondents
Through Mr.T. Singhdev Mr.Tarun Verma
Adv. for Respondent no.1- Medical
Council of India
Mr.Vikrant Goyal, Adv. for R-2 & 3.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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28.08.2020

This hearing is conducted through video conferencing.

1. This Writ Petition is filed by the petitioner seeking a direction to the respondents to grant one time exemption to the daughter of the petitioner, Safia Fathima as an exception from the requirement of having to clear NEET for admission to RAK Medical & Health Science University, Ras Al Khaimah, UAE for the current academic session i.e. 2020-21 and to issue eligibility certificate for taking admission in the said University.
2. The case of the petitioner is that the petitioner along with her daughter is residing in Abu Dhabi, UAE and after her 12th class equivalent examination has filled her form for taking admission in RAK Medical & Health Science University, Ras Al Khaimah, UAE which is an approved college for imparting undergraduate medical education by the Medical Council of India and WHO.
3. It is pointed out that eligibility requirement for admission in an

undergraduate medical course in a foreign medical college and University has various requirements w.e.f. 01.03.2018 wherein it is required that the candidate has to pass the NEET (National Eligibility Test) as a pre-condition for studying abroad. The petitioner submitted her application for appearing in the NEET examination in December 2019. However, on account of the Pandemic and the Nationwide Lockdown which started on 25.03.2020 the examinations for NEET were cancelled and were subsequently scheduled for 26.7.2020 and now postponed to 13.09.2020. However, the classes for the MBBS course selected by the petitioner starting on 08.09.2020. In these facts it is pleaded that the petitioner will find it impossible to reach India to appear in the said examination on account of the travel restrictions. She has accordingly given her representation via email to the respondents on 03.08.2020, 07.08.2020 and 13.08.2020. Hence, the present writ petition.

4. It is agreed by the learned counsel for the parties that a co-ordinate Bench of this court in ***Bhaskara Prasad S Isukapalli vs. Medical Council of India & Ors. in W.P.(C) 5618/2020*** on 26.8.2020 has in identical facts noted the submission of the respondents and permitted the petitioner to clear the NEET Exam in 2020 or in 2021. The relevant portion of the said order reads as follows:-

"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:-

“XXXX XXXX XXXX

4. Accordingly, the candidate Ms. Ishika Kumari, owing to the extra ordinary 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.

XXXX XXXX XXXX”

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 that no further grievance of the petitioner subsists. He states that the petition be treated as closed. Ordered accordingly.”

5. Hence, the petitioner therein was permitted to qualify 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 to grant a provisional/permanent registration by the concerned stated Medical Council.

6. The aforesaid submission of learned counsel for the respondent was noted that the aforesaid decision shall be applicable to all students who are

taking admission in a foreign institute/University for pursuing foreign medical qualifications for which possessing NEET qualification is a pre-requisite.

7. This writ petition is also disposed of giving the same directions as in the aforesaid case being W.P.(C) 5618/2020 dated 26.8.2020. All pending applications, if any, also stand disposed of.

JAYANT NATH, J.

AUGUST 28, 2020