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

Date of decision: 07.02.2020

+ **W.P.(C) 6993/2017**

ABHISHEK SAXENA Petitioner

Through : Ms. Latika Choudhury, Adv.

versus

NATIONAL BOARD OF EXAMINATION AND
ANR

..... Respondents

Through : Mr. Kiritman Singh with Mr. Waize
Ali Noor, Advocates for NBE.
Mr. Dev P. Bhardwaj with Mr. Jatin
Teotia and Mr. Abhishek Yadav,
Advocates for UOI.

+ **W.P.(C) 7449/2017**

VAIBHAB SHARMA AND ANR Petitioners

Through : Ms. Latika Choudhury, Adv.

versus

NATIONAL BOARD OF EXAMINATION

.... Respondent

Through : Mr. Kiritman Singh with Mr. Waize
Ali Noor, Advocates for NBE.
Mr. Dev P. Bhardwaj with Mr. Jatin
Teotia and Mr. Abhishek Yadav,
Advocates for UOI.

+ **W.P.(C) 7591/2017**

KUSHAL PANDYA Petitioner

Through : Ms. Latika Choudhury, Adv.

versus

NATIONAL BOARD OF EXAMINATION AND
ANR

..... Respondents

Through : Mr. Kiritman Singh with Mr. Waize
Ali Noor, Advocates for NBE.
Mr. Dev P. Bhardwaj with Mr. Jatin
Teotia and Mr. Abhishek Yadav,
Advocates for UOI.

+ **W.P.(C) 7751/2017**

YASH KATARIA AND ORS.

..... Petitioners

Through : Mr. Shaurya Sahay, Adv.

versus

NATIONAL BOARD OF EXAMINATION

..... Respondent

Through : Mr. Kiritman Singh with Mr. Waize
Ali Noor, Advocates for NBE.
Mr. Dev P. Bhardwaj with Mr. Jatin
Teotia and Mr. Abhishek Yadav,
Advocates for UOI.

+ **W.P.(C) 8187/2017**

DR. T. BANIJKANTA SINGHA

..... Petitioner

Through : None.

versus

NATIONAL BOARD OF EXAMINATION AND
ANR

..... Respondents

Through : Mr. Kiritman Singh with Mr. Waize
Ali Noor, Advocates for NBE.
Mr. Dev P. Bhardwaj with Mr. Jatin
Teotia and Mr. Abhishek Yadav,
Advocates for UOI.

+ **W.P.(C) 2244/2018**

DR. LISSA THOMAS AND ORS.

..... Petitioners

Through : Ms. Latika Choudhury, Adv.

versus

NATIONAL BOARD OF EXAMINATION AND
ANR

..... Respondents

Through : Mr. Kiritman Singh with Mr. Waize
Ali Noor, Advocates for NBE.
Mr. Dev P. Bhardwaj with Mr. Jatin
Teotia and Mr. Abhishek Yadav,
Advocates for UOI.

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL):

1. A common issue arises for consideration in the captioned writ petitions. The issue being the applicability of Clause 3.1 contained in the Information Bulletin related to July 2017 academic session, concerning the Diplomite of National Board Post Diploma Centralized Entrance Test [hereinafter referred to as "Entrance Exam"]. The said clause reads as follows.

***"3. ELIGIBILITY CRITERIA FOR DNB-PDCET –
JULY 2017 ADMISSION SESSION***

3.1 Candidates who have passed the final examination leading to the award of Post Graduate Diploma from Indian Universities which are duly recognized as per provisions of Indian Medical Council Act, 1956, Govt of India i.e. have passed/Passing the final examinations for Post graduate diploma on or before 30th June, 2017 can apply for the Post diploma CET examination in the same Broad specialty. Candidate should have completed his/her 2 years of post diploma training by 30th June, 2017."

1.1. As would be evident upon perusal of Clause 3.1 extracted hereinabove, only those candidates were eligible for DNB courses, who had

passed the final examination of their respective postgraduate courses on or before on 30.06.2017, *albeit*, from an Indian University recognised under the Indian Medical Council Act, 1956 and cleared the Entrance Exam.

2. In other words, the candidates who were interested in applying for the DNB courses should have their results declared and, thus, passed the postgraduate diploma course, which was the stipulated basic qualification, on or before the stipulated cut-off date i.e. 30.06.2017.

3. In the captioned writ petitions, the case set up by each of the petitioners before the Court was, that although, they had completed their two years postgraduate diploma course and taken the final examination, for one reason or the other, their result was not declared by the concerned University.

3.1. Furthermore, in anticipation that their results would be declared before the stipulated cut-off date i.e. 30.06.2017, they sat for the entrance exam to gain admission to the DNB courses offered by the National Board of Examinations [hereinafter referred to as “NBE”].

3.2. What is not in dispute is that each of the petitioners had qualified the Entrance Exam and were otherwise eligible to be admitted to the DNB courses, save and except, for the fact that the results of their postgraduate diploma courses had not been declared by the concerned university before the cut-off date i.e. 30.06.2017.

4. It is in this backdrop that each of the petitioners approached this court by way of the captioned writ petitions and pursuant to interim orders passed by the Court were allowed to participate, in the first instance, in the counselling scheduled for gaining admission to DNB courses and, thereafter,

provisionally admitted to the concerned course and allowed to take the examinations conducted by the NBE *qua* the same.

5. Consequently, majority of the petitioners have taken their final examinations *qua* the DNB course to which they have been provisionally admitted. These results, however, have been withheld by the NBE due to the pendency of the captioned matters.

6. The NBE has furnished the details pertaining to each of the petitioners who are arrayed as parties in the captioned petitions concerning their results *qua* the final theory examination as well as the practical examination.

6.1. It would be relevant to point out that a miniscule number of petitioners during the pendency of the captioned matters, as intimated by the learned counsel for the parties, have opted for “other courses” and, therefore, their plea before the Court has been rendered infructuous.

6.2. Likewise, a small number of petitioners, having failed in their theory exam, which was held in June 2019, have reappeared *qua* the same in December 2019; the result(s) of which are awaited. Consequently, these candidates can only sit, if at all, for the practical exam in May 2020.

7. Therefore, in a nutshell, the petitioners in the captioned matters can be divided into three categories.

7.1. The first category [Category I] comprises those petitioners, who have passed their theory exam held in June 2019.

7.2. The second category [Category II] comprises those petitioners, who have taken admission in other courses and, therefore, *qua* them, the captioned petitions have been rendered infructuous.

7.3. The third category [Category III] comprises those petitioners, who have either appeared in the theory exam held in December 2019, or have

failed in the theory exam held in June 2019 and have, thereafter, reappeared in the theory exam held in December 2019 and, thus, await the results *qua* the same. These are the candidates who will appear for their practical exam, if at all, in May 2020.

8. The granular details of each of these petitioners are set out in a tabular form below.

S. No.	Category	Writ Petition	Name of the Petitioner	Remarks
1.	I	W.P. (C) 6993/2017	Abhishek Saxena	Passed: theory examination
2.	I	W.P. (C) 6993/2017	Venkatesh	Passed: theory examination
3.	I	W.P. (C) 6993/2017	Deepanshu Agarwal	Passed: theory examination
4.	I	W.P. (C) 6993/2017	Rashmi G	Passed: theory examination
5.	I	W.P. (C) 6993/2017	Vinayak Rajshekhar	Passed: theory examination
6.	I	W.P. (C) 6993/2017	S Shyam	Passed: theory examination
7.	I	W.P. (C) 6993/2017	Shweta Patel	Passed: theory examination
8.	I	W.P. (C) 6993/2017	Kripa S	Passed: theory examination
9.	I	W.P. (C) 6993/2017	Ranganatha A Davaranavadagi	Passed: theory examination
10.	I	W.P. (C) 6993/2017	Bhosle Abhinav Ramachandra	Passed: theory examination
11.	I	W.P. (C) 6993/2017	Deepika MP	Passed: theory examination
12.	I	W.P. (C) 6993/2017	Varna V Shet	Passed: theory examination
13.	I	W.P. (C) 6993/2017	Deepak Shee B	Passed: theory examination
14.	I	W.P. (C) 6993/2017	Preeti Singh	Passed: theory examination

				examination
15.	I	W.P. (C) 7449/2017	Devika Bhattacharya	Passed: theory examination
16.	I	W.P. (C) 7591/2017	Kaushal Pandya	Passed: theory examination
17.	I	W.P. (C) 7751/2017	Yash Kataria	Passed: theory examination
18.	I	W.P. (C) 7751/2017	Apporva N	Passed: theory examination
19.	I	W.P. (C) 7751/2017	Priyanka Tiwari	Passed: theory examination
20.	I	W.P. (C) 7751/2017	Raghavenda Savanth S	Passed: theory examination
21.	I	W.P. (C) 7751/2017	Devika Lawande	Passed: theory examination
22.	I	W.P. (C) 7751/2017	Ayesha Mariam	Passed: theory examination
23.	II	W.P. (C) 6993/2017	Nithya P	Joined another course
24.	II	W.P. (C) 7751/2017	Megha Neeralagi	Joined another course
25.	II	W.P. (C) 7751/2017	Lavanya K	Joined another course
26.	II	W.P. (C) 7751/2017	Vinaya P	Joined another course
27.	II	W.P. (C) 7751/2017	Sandhya S Patil	Joined another course
28.	II	W.P. (C) 7751/2017	Snehalata P	Joined another course
29.	II	W.P. (C) 7751/2017	Manohar S	Joined another course
30.	II	W.P. (C) 7751/2017	Sunil	Joined another course
31.	II	W.P. (C) 7751/2017	Monica Mrudubhashini Michael	Joined another course
32.	II	W.P. (C) 7751/2017	Navedita Sarkar	Joined another course
33.	II	W.P. (C) 7751/2017	Pradeep Kumar	Joined another course
34.	II	W.P. (C) 2244/2018	Lisa Jane Thomas	Joined another

				course
35.	III	W.P. (C) 7449/2017	Vaibhav Sharma	Appeared in theory exam held in December 2019
36.	III	W.P. (C) 2244/2018	Ramya Raj	Appeared in theory exam held in December 2019
37.	III	W.P. (C) 2244/2018	Vidya Bahuleyan	Reappeared in theory exam held in December 2019
38.	III	W.P. (C) 8187/2018	Banijkanta Singha *None appeared on behalf of the petitioner.	Reappeared in theory exam held in December 2019

9. As would be evident, much water has flown since the writ petitions were entertained by this Court. These petitioners have reached the end of their journey, so to speak.

9.1. The only impediment in the petitioners being formally admitted to their DNB course is the delayed declaration of their postgraduate diploma course by the concerned university, over which, they unarguably had no control.

10. While it was the stand of the NBE before me that the rigour of eligibility criteria contained in Clause 3.1 could not be relaxed, looking at the peculiar facts and circumstances of this case, it would do more harm, both to the petitioners and the society at large, having regard to the time and money invested by them, if one were to deprive the petitioners the just fruits of their labour.

10.1. Undoubtedly, the seats, which were provisionally allotted to the petitioners, cannot be allocated to anyone else. Dismissing the writ petitions,

at this stage, would result in incalculable loss to the society at large if not the petitioners.

11. Therefore, the NBE is directed to declare the results of the practical exam concerning those petitioners who fall in Category I. In case, they were to be declared pass in the practical exam, the NBE would take the necessary consequential steps of awarding degree-certificates *qua* their respective DNB course, subject to the fulfilment of necessary formalities.

11.1. Insofar as the petitioners falling in Category II are concerned, no further directions are required to be issued as their pleas before the Court have been rendered infructuous.

11.2. As regards the petitioners falling in Category III, the NBE is directed to declare the results concerning the theory exam and, in case, they were to pass the same, they would be allowed to take the practical exam which is slated to be held in May 2020. Upon those petitioners passing the theory and the practical examinations, the NBE would take necessary consequential steps of awarding degree-certificates *qua* their respective DNB course, as is directed to be done *qua* the petitioners falling under Category I.

12. Needless to emphasize, this order has been passed in the circumstances which are *sui generis* and, therefore, will not be cited as a precedent.

13. The writ petitions are disposed of in the aforementioned terms.

RAJIV SHAKDHER, J

FEBRUARY 07, 2020