

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURWPC No. 2330 of 2021

1. Khushboo Gawri D/o Shri Navin Gawri Aged About 21 Years
R/o C/o Seth Gangoo Mal Contractor, Fafdihi, Lane - 4 Raipur
District Raipur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Principal Secretary,
Health And Family Welfare And Medical Education
Department, Mahanadi Bhawan, Mantralaya, Atal Nagar,
Nava Raipur District Raipur Chhattisgarh.
2. Director Of Medical Education D.K.S. Bhawan Parisar, Old
Nurses Hostel, Raipur, District Raipur Chhattisgarh.
3. Dean Pt. Jawaharlal Nehru Medical College, Raipur, District
Raipur Chhattisgarh.
4. Dean BRLSABVM Government Medical College,
Rajnandgaon District Rajnandgaon Chhattisgarh.
5. Registrar Pandit Deendayal Upadhyaya Memorial Health
Sciences And AYUSH University Of Chhattisgarh Raipur,
District Raipur Chhattisgarh.
6. National Medical Commission Through Its Secretary General,
Ministry Of Health And Family Welfare Government Of
India, C/o Pocket - 14 Sector - 8, Dwarka, Phase - 1. New
Delhi.

---- Respondents

For Petitioner :	Ms Naushina Ali, Advocate
For Respondent /State :	Shri Vikram Sharma, Dy. Govt. Adv.
For Respondent No.5 :	Shri Ajay Dwivedi, Advocate
For Respondent No.6 :	Shri Ranbir Singh Marhas, Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Prashant Kumar Mishra, Ag. CJ

Hon'ble Smt. Rajani Dubey. J.

Order On Board

By

Prashant Kumar Mishra, Ag. CJ.

07-07-2021

1. Petitioner is a second year MBBS student in the Bharat Ratna Late Shri Atal Bihari Vajpayee Memorial Medical College Rajnandgaon (henceforth 'the GMC, Rajnandgaon'). She is seeking migration from the said college to the Pt. Jawahar Lal Nehru Memorial Medical College, Raipur (henceforth 'the GMC, Raipur') under Regulation 6 of the Medical Council of India Regulations on Graduate Medical Education, 1997 (henceforth 'the Regulations').
2. According to the petitioner she has successfully completed the 1st Professional MBBS course conducted by the respondent No.5 Pt. Deendayal Upadhyay Memorial Health Sciences And AYUSH University Of Chhattisgarh Raipur (henceforth 'the University'), therefore, as per Regulation 6 of the Regulations she is entitled to migrate from one Medical College to another and hence she has submitted the application within the stipulated time i.e. within one month of declaration of the result of the 1st Professional MBBS Course.
3. It is argued that the relieving college i.e. the GMC, Rajnandgaon, has already issued NOC (No Objection Certificate) on 2-7-2021, copy of which has been filed before this Court along with covering memo dated 5-7-2021, however, the joining college i.e. the GMC, Raipur, has not taken steps for issuance of NOC. It is further argued that

there is vacancy in the joining College yet the application is not processed by the DME.

4. In ***Vishwaja Jaulkar v State of Chhattisgarh and Others*** (WPC No.1644 of 2020 decided on 7-8-2020) while noting submission of learned counsel for the petitioner it has been specifically observed by a coordinate Bench of this Court, as noted in para 3, that NOC has not been issued by the 6th respondent therein i.e. Raigarh College. In the said case State's objection to the prayer for migration has been noted and rejected in para 6 by branding it as hyper technical.
5. It is also to be noted that in the two earlier writ petitions i.e. in ***Nida Us Sahr v State of Chhattisgarh & Others*** (WPC No.917 of 2020 decided on 13-3-2020) & ***Arshad Raza Sheikh v State of Chhattisgarh & Others*** (WPC No.1130 of 2020 decided on 9-6-2020) this Court has allowed migration upon finding that vacancy exists in the respective Medical Colleges where migration is sought.
6. At this juncture, learned counsel for the State would submit that issuance of NOC is not an empty formality. The NOC issued could satisfy the DME as to whether the seat is available at the joining College or not.
7. Having heard learned counsel for the parties and on perusal of the documents, particularly the orders passed by the different Benches of this Court, including the coordinate Benches, we are of the considered view that the petitioner is entitled to similar relief. It is not stated in the return that the petitioner has not passed the 1st Professional MBBS course examination or that vacancy is not available in the

joining college. Therefore, if the application has been filed within stipulated time, the application seeking migration is required to be processed and necessary orders are required to be passed in view of similar orders passed by this Court.

8. Accordingly, the writ petition is disposed of directing the competent authority to pass necessary orders allowing migration to the petitioner from the GMC, Rajnandgaon to GMC, Raipur, within a period of two weeks from the date of receipt of certified copy of this order.
9. There shall be no order as to cost(s).

Sd/-

(Prashant Kumar Mishra)
Acting Chief Justice

Sd/-

(Rajani Dubey)
Judge

Gowri