



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA  
AND  
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.A.Nos.1892 of 2021  
& C.M.P.No.12087 of 2021  
and  
W.P.No.16958 of 2021  
& C.M.P.No.17966 of 2021

W.A.No.1892/2021 :

National Testing Agency  
rep. by TSG, NEET Unitm  
Additional Block,  
C-20/1A/8, Sector 62,  
Noida - 201 309,  
Uttar Pradesh

.. Appellant/Respondent 2

Vs.

1. Minor SP. Shree Harini  
rep. by her father and Natural Guardian  
G.Saravakumar,  
No.107-B, Main Road,  
Thippirjapuram Post,  
Kumbakonam Taluk,  
Thanjavur District.

.. Respondent 1/Petitioner

2. Union of India rep. by  
its Secretary to Government,  
Ministry of Health and Family Welfare,  
Nirman Bhavan, New Delhi.

.. Respondent 2/Respondent 1

3. The Board of Governors,  
National Medical Commission,  
Pocket 14, Sector 8,  
Dwarka, Phase-1,



New Delhi-110 077, India.

.. Respondent 3/Respondent 3

4. The Central Board of Secondary Education,  
Shiksha Kendra,

No.2, Community Centre,  
Preet Vihar, New Delhi.

.. Respondent 4/Respondent 4

Prayer : Writ Appeal filed under Clause 15 of Letters Patent against the order dated 17.03.2021 in W.P.No.3367 of 2021.

Prayer in WP.3367 of 2021: Petition filed under Article 226 of the Constitution of India Praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 22.08.2019 and 18.11.2019 of the 3rd Respondent herein, quash the same and consequently direct the Respondents 1 to 3 herein to permit the petitioner to sit for the NEET 2021 examination without insisting for completion of 17 years as on December 2021.

For Appellant : Mr.G.Rajagopalan,  
Senior Counsel  
for Ms.Sunitakumari

For Respondents : Mr.AR.L.Sundaresan, Senior Counsel  
for M/s.AL.Gandhimathi for R1

Mr.R.P.Pragadish  
Central Govt.  
Standing Counsel for R2

Ms.Shubaranjani Ananth for R3

Mr.G.Nagarajan for R4

W.P.No.16958/2021 :

Minor SP. Shree Harini  
Rep. by her father and Natural Guardian  
G.Saravakumar,  
No.107-B, Main Road,  
Thippirjapuram Post,  
Kumbakonam Taluk, Thanjavur District.

.. Petitioner

Vs.



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1. Union of India rep. by  
its Secretary to Government,  
Ministry of Health and Family Welfare,  
Nirman Bhavan, New Delhi.
2. The Joint Director,  
National Testing Agency,  
Additional Block C-20/1A/8, Sector 62,  
Noida, Uttar Pradesh.
3. The Board of Governors,  
National Medical Commission,  
Pocket 14, Sector 8,  
Dwarka, Phase-1,  
New Delhi-110 077, India.
4. The Central Board of Secondary Education,  
Shiksha Kendra,  
No.2, Community Centre,  
Preet Vihar, New Delhi.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution praying to issue a Writ of Certiorari Mandamus calling for the records relating to the order dated 09.08.2021 in F.No.NTA/Legal/MADHC/WP367/2021 of the second respondent and quash the same and consequently direct the respondents 1 to 4 herein to permit the petitioner to apply and sit for the NEET (UG 2021) examination scheduled to be held in 12<sup>th</sup> September 2021 without insisting for completion of 17 years as on December 2021.

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel  
for M/s.AL.Gandhimathi

For Respondents: Mr.R.P.Pragadish,  
Central Govt.  
Standing Counsel for R1

Mr.G.Rajagopalan, Senior Counsel  
for Ms.Sunitakumari for R2

Ms.Shubaranjani Ananth for R3

Mr.G.Nagarajan for R4



## COMMON JUDGEMENT

PUSHPA SATHYANARAYANA, J.

The National Testing Agency laid challenge to the order of the learned Single Judge dated 17.03.2021 in W.P.No.3367 of 2021 in this appeal.

2. The writ petition is filed by Minor SP. Shree Harini through her Father and Natural Guardian seeking to quash the order of the second respondent dated 09.08.2021 in F.No.NTA/Legal/MADHC/WP367/2021 and consequently direct the respondents 1 to 4 herein to permit the petitioner to apply and sit for the NEET (UG 2021) examination scheduled to be held in 12.09.2021 without insisting for completion of 17 years as on December 2021.

3. The short facts leading to the filing of this writ appeal and the writ petition, as has been culled out from the affidavit of the writ petition, are as under :

3.1. SP.Shree Harini was born on 04.05.2005. Since she was assessed to be superior range of intelligence ahead of her age, so also her IQ level, she was given double promotion in her Middle School to High School class and she stood top in her school in 10<sup>th</sup> Standard and 12<sup>th</sup> Standard, which course she completed in March, 2021. She is ambitious to become a Medical Practitioner. She will complete 17 years of age in May 2022, which is the minimum age limit prescribed for writing National Eligibility-Cum-Entrance Test (NEET). As she has I.Q. at 143, as per the Neuro Psychological Clinical Reports, her father, on her behalf, submitted a representation dated 30.07.2019 to the National Testing Agency (NTA) seeking permission to participate in NEET 2021, which was rejected on 22.08.2019. While so, the NTA published Information Bulletin for NEET (UG) 2021 examination.

3.2. She filed writ petition only in the year 2021, i.e., W.P.No.3367 of 2021 seeking to quash the above rejection order dated 22.08.2019 and to direct the respondents 1 to 3 therein to permit her to sit for the NEET 2021 Examination without insisting for completion of 17 years as on December, 2021.

3.3. A learned Single Judge of this Court disposed of the writ petition with a direction to the petitioner appear before the National Institute of Mental Health and Neuro Sciences (NIMHANS), Bangalore, Karnataka, subjecting her to I.Q. analysis and if she is eligible to appear in the NEET UG 2021 examination,



she may be permitted to sit in the examination. Aggrieved over the same, the instant appeal is filed.

3.4. Accordingly, she appeared before the NIMHANS on 22.06.2021 and the said authority, after assessing her gave a certificate. Armed with that, she sent a similar representation dated 19.07.2021 to the NTA. Since she could not apply online owing to her under age, she approached NTA, citing the order of this Court. According to her, she was asked to approach the said authority on 09.08.2021, on which date, the order rejecting her representation dated 19.07.2021 was e-mailed to her. In that backdrop, questioning the rejection order dated 09.08.2021, W.P.No.16958 of 2021 is instituted.

3.5. When this writ petition was listed before the writ Court, a learned Single Judge vide order dated 02.09.2021 directed the Registry to post it along with the instant writ appeal after getting appropriate orders of the Hon'ble Chief Justice. Thus, the writ petition is tagged with this appeal and posted before us, as per the order of the Hon'ble Chief Justice.

4. Heard learned Senior Counsel appearing for the appellant, learned Senior Counsel appearing on behalf of the writ petitioner/respondent and the learned counsels appearing on behalf of the other official respondents and perused the materials placed before this Court.

5. The question that arises for consideration is whether the completion of the age of 17 years on or before 31<sup>st</sup> December of the year admission to the MBBS Course as per the Regulations on Graduate Medical Education (Amendment), 2017 (2017 Regulations) can be relaxed insofar as the respondent in the appeal / writ petitioner is concerned ?

6. The learned Single Judge has passed the impugned order in W.P.No.3367 of 2021 filed by the writ petitioner, in the following terms :

"9. In view of the above, this Court disposes of this Writ Petition by referring the petitioner to the National Institute of Mental Health and Neuro Sciences (NIMHANS), Bangalore, Karnataka, which is the apex centre for mental health, to analyse her I.Q. and thereafter, if she is eligible to appear in the NEET UG 2021 examination, she may be permitted to sit in the examination. The aforesaid exercise shall be completed



within a period of eight weeks from the date of receipt of copy of this order. Registry is directed to serve a copy of this order to NIMHANS, Bengaluru, Karnataka."

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7. Whether such direction is right or not, when the Regulation governing the field clearly and categorically stated otherwise. At this juncture, it is relevant to note the 2017 Regulations was issued by the Medical Council of India in exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956, with the previous sanction of the Central Government. Regulation 4 of the same reads as follows :

"4. Admission to the Medical Course-Eligibility Criteria : No candidate shall be allowed to be admitted to the Medical Curriculum proper of first Bachelor of Medicine and Bachelor of Surgery course until he/she has qualified the National Eligibility Entrance Test, and he/she shall not be allowed to appear for the National Eligibility-Cum-Entrance Test until :

(1) He/she shall complete the age of 17 years on or before 31<sup>st</sup> December of the year of admission to the MBBS.

(1A) He/she has obtained a minimum of marks in National Eligibility-Cum-Entrance Test as prescribed in Clause 5 of Chapter II."

8. The said regulation has been incorporated in Bulletin NEET (UG) 2021 under Chapter 4 captioned - ELIGIBILITY AND QUALIFICATIONS FOR MBBS AND BDS COURSE. Clause 4.1. of the said Bulletin reads as follows :

"4.1. Eligibility to appear in NEET (UG)-2021

Eligibility for appearing in NEET (UG), as per related Regulations of NMC and DCI are as follows :

4.1.1. He/she has completed 17 years of age at the time of admission or will complete that age on or before 31 December of the year of his/her admission to the first year Undergraduate Medical Course."

9. A reading of the above said Regulation and the Bulletin makes it very clear and explicit and there is no ambiguity. Therefore, this Court has got no role to interpret the law, when there is no doubt on the interpretation.



10. The very purpose of having an uniform common entrance examination through a Centralized Admission Process itself is to make the entire process transparent and merit based and to eliminate corruption. The writ petitioner is well aware of the age limit incorporated by the National Medical Commission (NMC). However, based on the Neuro Psychological Assessment and the Certificate, she wants to write the forthcoming NEET Examination.

11. Admittedly, she has not challenged the age limit fixed either in the Regulation or the Bulletin, though she has been fighting for her right from 2019. She is ineligible even for appearing in the forthcoming NEET UG Examination, 2021, in view of under-age.

12. Mr.AR.L.Sundaresan, learned counsel appearing on behalf of the writ petitioner, argued that the candidate has been assessed to have high performance IQ, Verbal IQ and had performed intellectually superior range and her overall memory functioning was also in a superior range and has been certified as eligible for educational service for the cognitively gifted.

13. In this regard, we would like to state that there are many aspirants, particularly, from the rural background, who do not have facilities available to them even for a coaching class or training sessions to clear the NEET in the first go, even to say, in the last attempt. The students, who are preparing for the NEET have to cover a larger syllabus and work hard, owing to the high level of competition. There are students, who will have the access to coaching classes, latest text books and internet to their advantage, to prepare for the examination. On the other hand, equally there are aspirants for the NEET, who will not even have access to apply for the NEET online on their own and they have to walk miles to have access to the internet, when equally they are meritorious. Many of the students clear the NEET only on a second or subsequent attempts, including those meritorious once, as they need more time to cover the larger syllabus. While so, if the candidates like the petitioner, who has not fulfilled the age criteria is allowed to write the examination, in the event of her success, it may deprive a seat to another meritorious student, who may not have the age and ability to write the NEET for the second time or third time.



14. As stated supra, prescribing the age limit is within the domain of the authorities concerned and the scope of judicial review is very limited. We are of the considered view that the authorities, who have been conducting the NEET, before formulating the regulations would have taken all the relevant aspects into consideration and would have obtained opinion from the experts in the subject and then only finalized and prescribed the age limit as a matter of policy.

15. Considering the claim of the candidates as that of the writ petitioner for reduction of age limit for the eligibility to write NEET may be a good move in the right direction for them. Nonetheless, the Courts directing the authorities to do it right away in one instant is not good. The authorities may consider age relaxation by giving four or five years of advance notice, or in a phased manner, so that those candidates, who are already preparing for the NEET and invested a few years in this regard should be allowed to exhaust their attempts. In the event NMC reduces the age limit and also the number of attempts, it may not be acceptable for many. Therefore, judicial review in this regard to reduce the age limit or exempt a student should be refrained.

16. The learned counsel for the NMC also brought out the distinction between intelligence and maturity. While "intelligence" is having or showing the ability to understand, learn and think, "maturity" means the ability to respond to a situation in an age appropriate.

17. Be that as it may, when the prescription of the minimum of age is not even challenged by the writ petitioner, the same cannot be altered in the instant proceedings. The prayer of the writ petitioner to permit her to write the examination would tantamount to exempting her of the age prescribed. When there is no such exemption clause available in the Regulations, we cannot traverse beyond the age prescribed.

18. At this juncture, it is relevant to note that a Full Bench of the Rajasthan High Court in the judgment rendered in Gautam Kapoor V. State of Rajasthan, 1986 SCC OnLine Raj 48, has answered the same question in the following manner :

"4. It cannot be doubted that a certain degree of maturity of body and mind is essential in a student



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joining the medical course and it is not unusual to reckon the same with reference to the age of the person. Undoubtedly there may be exception to the general rule, but a general rule is not to be based on exceptions. The Medical Council of India, which is constituted under the Indian Medical Council Act, 1956 and is a body of experts in the field, is also required to prescribe the minimum standards of medical education. It is also empowered by the Act to make Regulations generally to carry out the purpose of the Act and particularly for the matters specified expressly in Section 33 of the Act. One of the recommendations made by the Medical Council of India in exercise of its statutory power is that the minimum age limit of 17 years at the time of entry into a Medical College should be prescribed. There is no dispute that this minimum age limit is being followed throughout the country and for a long time. We have also, therefore, to bear in mind this fact while deciding the question whether such a restriction on age limit can be treated as unreasonable or arbitrary so as to violate Article 14 of the Constitution.

.....

11. Consequently, our answers to the questions referred to us for decision are as under:—

(1) The impugned provision prescribing the minimum age limit of 17 years to be completed in the year of admission to the First Year M.B.B.S.B.D.S. Course by the candidate is valid.

....."

19. The Hon'ble Supreme Court in *Dr. Preeti Srivastava V. State of Madhya Pradesh*, (1999 [7] SCC 27), observed that it would not be correct to say that the norms for admission has no connection with the standard of education.

20. The First Bench of the Delhi High Court, placing reliance on *Gautam Kapoor* case and a catena of earlier decisions of the Hon'ble Supreme Court and other High Courts, in the judgment dated 11.07.2003 made in Civil Writ Petition No.4353 of 2003 (*Mohit Kumar Arora V. University of Delhi*), held that "the requirement of age, both minimum and maximum is mandatory and not



directory. In professional courses the authorities thought it proper to have proper maturity and understanding of the course by the candidate and have the requirement to prescribe the age and it is based on intelligible differentia. There is an objective to be achieved. The classification of 17 years is based on rational aspect."

21. A co-ordinate Bench of this Court in the judgment dated 28.06.2011 in W.A.No.1270 of 2010 (C.Suriyarajan V. Akila Kannan and others) held as follows :

"18. The substantive contention of the petitioner pertains to his passing the qualifying examination even before attaining the age of seventeen years and the denial of medical seat solely on the ground of non-completion of seventeen years. The factum of his obtaining the basic qualification even before completing the age of seventeen years, cannot be taken as the acid test to verify the correctness of MCI Regulations. The experts in the field opined that candidates for medical education should attain maturity so as to enable them to grasp the subjects. It is true that there are exceptions. However Regulations cannot be tested solely on the basis of such exceptions and individual cases.

19. The Medical Council of India has evolved a Regulation for the purpose of applying to all the candidates irrespective of the State. In normal course, it is possible to pass plus two only on attaining the age of seventeen years. This also weighed with the Medical Council of India to prescribe the age limit at seventeen. Merely because the Medical Council of India was not in a position to produce materials considered by the experts for the purpose of prescribing the minimum age, it cannot be said that the Regulation is unreasonable. Similarly, merely because in other countries there is no age limit for submitting applications for MBBS Course, it cannot be said that the Medical Council of India to take a decision in the matter. The Court cannot substitute its views in a matter like this."

22. The Hon'ble First Bench of the Allahabad High Court in Ankit Chaturvedi V. Union of India through Secretary (Health)



"10. Undoubtedly, education is a constitutional right and constitutes an essential part of life. But this does not foreclose the statutory powers of an expert academic authority to prescribe reasonable conditions for the pursuit of education in areas over which it has been vested with jurisdiction by Parliament. The requirement that a candidate should have completed 17 years of age on the 31st day of December of the year in which admission is taken to the MBBS Degree Course is based on a rational foundation.

12. The second perspective from which the matter can be looked at, is the assessment that a student in order to seek entry to a medical course should have attained a certain degree of maturity. Maturity and experience are not unrelated to age and, in fact, conventional wisdom would also indicate that maturity and experience are functions of age. Aberrations or exceptions do not define the ambit of constitutional validity. The constitutional validity of a Legislative measure or subordinate legislation has to be determined on the basis of a generality of application and not on the basis of exceptions. For these reasons, we come to the conclusion that there is no merit in the constitutional challenge. The petition



shall accordingly stand dismissed. There shall be no order as to costs."

23. Mr.G.Rajagopalan, learned Senior Counsel placed reliance on a recent judgment of the Hon'ble First Bench of the Delhi High Court in Master Akash Yadav Minor through Mr.Surendra Kumar Yadav V. Union of India and others, 2021 SCC OnLine Del 4114, wherein, it has been observed as follows :

"9. We have heard the learned counsel for the Petitioner and examined his contentions. Succinctly put, Petitioner seeks a direction from this Court to amend Regulation 4(1), as aforesaid, to read down the minimum age of 17 years stipulated therein as 15 years and permit the Petitioner to appear for the NEET-2021, though being underage by 12 months and 26 days. We are afraid that this contention of the Petitioner cannot be accepted by this Court. It is a settled law that prescribing age limits for appearance in entrance examinations is the domain of the concerned authorities, with their expertise in the field. In a writ jurisdiction, it is not open to this Court to decide as to which age would be the most appropriate minimum age for appearing in the entrance examinations. Neither does this fall within the scope of judicial review in a writ jurisdiction nor does the Court have the necessary expertise to alter the age limits to suit a particular examination. Moreover, prescribing the minimum age limit requires an expert opinion with a deeper insight into the particular examination and the requirements of the academic courses for which the examination is conducted. These are policy decisions and the Petitioner has been unable to point out any arbitrariness or mala fides in the prescription of minimum age of 17 years for NEET-2021.

10. It ought to be kept in mind that the primary role of the Court is to interpret the Rules and Regulations and no interference is called for when the Regulations are unambiguous and the Petitioner has been unable to point out a single reason that appeal to this Court for reduction of the age limit.

11. The matter can be looked into from yet



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another angle. Petitioner herein seeks reduction of age as he is underage by 12 months and 26 days. In the future, there could be yet another petition where another Petitioner may seek permission to appear being underage by 11 months, followed by another petition seeking reduction by 3 years. Surely, this Court cannot give directions to the Respondents to enact Regulations, which are tailor made to suit the convenience or requirements of the candidates aspiring to appear in the entrance test."

24. The impugned order passed by the learned Single Judge was also relied on by the learned counsel for the petitioner therein. The Hon'ble First Bench of the Delhi High Court, relying upon the judgments of the Full Bench of the Rajasthan High Court in Gautam Kapoor's case (cited supra) and the Hon'ble First Bench of the Allahabad High Court in the case of Ankit Chaturvedi (cited supra), held as follows :

"14. In view of the aforesaid, we do not find merit in the contentions of the Petitioner. Insofar as the reliance on the judgment of the Madras High Court in Minor SP. Shree Harini (Supra) is concerned, we are informed that the same is pending consideration before the Division Bench of the Madras High Court. Even otherwise, this Court does not agree with the view taken by the Learned Single Judge of the Madras High Court and the directions issued therein, which in any case are not binding on this Court. There is no merit in the writ petition and the same only deserves to be dismissed."

25. The learned Senior Counsel appearing on behalf of the NTA placed reliance on some more decisions rendered by Division Benches of various High Courts and this Court and also the orders of the learned Single Judges, wherein, it has been consistently held that the fixation of age limit as completion of 17 years in the year of admission is held to be proper.

26. The learned Senior Counsel for the writ petitioner circulated the order of a learned Single Judge of Patna High Court dated 30.01.2013 in Writ Jurisdiction Case No.1912 of 2013 (Amrit Deo Agrawal @ Amrit Deo Arya V. The Chairman, Central Board of Secondary Education and another). The minor petitioner



therein was born on 01.01.1997 and she lacks only one day to be eligible for admission to the Medical Course. Even otherwise, this Court does not want to rely upon the said order of the learned Single Judge of the Patna High Court.

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27. Besides, the aforementioned reasons, allowing the writ petitioner to sit for the NEET would open up the Pandora's box and the Courts of this country will be flooded with such similar claims. On the other hand, except contending that the writ petitioner has high IQ level and she performed intellectually superior range in all the IQ tests, the learned Senior Counsel for the writ petitioner does not raise any other valid ground to take a different view in the matter.

28. For the foregoing reasons, the Writ Appeal is allowed and the order of the learned Single Judge dated 17.03.2021 passed in W.P.No.3367 of 2021 is set aside thereby the said writ petition is dismissed. Consequently, the instant writ petition is also dismissed as devoid of merits. However, there will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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W.A. No.1892 of 2021 &  
W.P.No.16958 of 2021

KRISHNAN RAMAJASMY, J.

I have carefully gone through the judgment of my learned Sister Judge, I agree with every word that has been said by her. But considering the nature/importance of the issue, I would like to add the following few words of my own.

2. Since the writ petitioner/first respondent was given double promotion from 7th Standard to 9th Standard based on her I.Q., she became ineligible to appear for NEET 2021, AIIMS and JIPMER 2021 entrance examinations though she completed the basic qualifying examination of +2 as she was lacking 4 months and 5 days to complete the age of 17 years as on December 2021. For getting admission to the Medical Course, as per Regulation 4(1) of the Regulations on Graduate Medical Education, 1997 framed by the Medical Council of India, the incumbent shall complete the



age of 17 years on or before 31st December of the year of admission to the MBBS Course.

3. By impugned proceedings dated 22.08.2019 and 18.11.2019, the 3rd respondent/Board of Governors, National Medical Commission has clarified that relaxation in the age for admission into MBBS course is not permissible and accordingly, not granted the age relaxation to appear NEET examination.

4. It is pertinent to note that the first respondent has pursued her +2 examination through the Central Board of Secondary Education (in short, CBSE) which is a national level Board of Education in India for public and private schools, controlled and managed by the Union of India and as per the Guidelines of Central Board of Secondary Education, the minimum age to appear in the 10th board examination is 14 years as on 31st of December of the year of the examination. The first respondent was given double promotion from 7th standard to 9th standard and allowed her to appear for 10th board examination even before completing 14 years of age and there was no objection all along by CBSE for the first respondent and even to appear for 12th board examination while she was below the age of 16. Therefore, when the first respondent has been permitted by the CBSE to complete her 12th board examination even before the age 16, I feel that there may be no justification on the part of the 3rd respondent to reject her request for age relaxation. However, since the Rule is specifically provided a bar, which this Court cannot struck down. The Rules prescribed by CBSE vis-a-vis the Regulations on Graduate Medical Education, 1997 are contradictory to each other since the CBSE has not raised any objection for the first respondent to appear for 12th board examination even before the age of 16, while the Regulation 4(1) of the Regulations on Graduate Medical Education, 1997 framed by the MCI, insists the incumbent to complete the age of 17 years on or before 31st December of the year to become eligible to appear for examination for admission to the MBBS Course. Thus, while permitting the first respondent to clear 12th board of examination even prior to age of 16 by CBSE which is controlled and managed by the Union of India, considering her intelligence and maturity, the MCI which is also controlled and managed by the Union of India, cannot take away the legitimate expectation of the respondent by denying her the opportunity to appear for NEET 2021 examination, which will hit by 'doctrine of legitimate expectation' and amounts to denial



of right guaranteed under Article 14 of the Constitution of India. However, as concluded by my learned Sister Judge, the minimum age limit of 17 years does not permit the first respondent to participate in the NEET-2021 examination unless and otherwise, the said Rule is reconsidered by the MCI, this anomaly would continue. In fact, in similar circumstances, though while non-granting the relief, a Division Bench of Andhra Pradesh High Court (consisting Hon'ble Mr. Justice V. Ramasubramanian and Hon'ble Mr. Justice N. Balayogi) in W.P.No.31337 of 2016, dated 21.09.2016, having taken note of these kind of situations, has observed as under in para 4:

“4 But hard cases cannot make bad law. Therefore, in view of the decision in Master Alli Sai Deepak (supra), these Writ Petitions are dismissed. But before parting, we would like to record our concern that the Medical Council of India (MCI) should take a call on such cases, as cases of persons whose age falls short by a few days, cannot really be considered as under-aged. The concept of considering a person as under-aged may apply to persons who could not have completed SSLC at a particular time or who could not have completed Intermediate at a particular time and it cannot be applied to cases where the candidates have broadly entered into the required age, but had not completed the same due to the shortage of few days.”

5. Having regard to the above, I am of the view that the MCI has to look at the concern of such students and come up with some solution.

6. With the above, I concur with the reasons of my learned Sister Judge for allowing the Writ Appeal.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,  
Ministry of Health and Family Welfare,  
Government of India,  
Nirman Bhavan,  
New Delhi.
2. The Joint Director,  
National Testing Agency,  
Additional Block C-20/1A/8, Sector 62,  
Noida, Uttar Pradesh.
3. The Board of Governors,  
National Medical Commission,  
Pocket 14, Sector 8,  
Dwarka, Phase-1,  
New Delhi-110 077, India.
4. The Central Board of Secondary Education,  
Shiksha Kendra,  
No.2, Community Centre,  
Preet Vihar, New Delhi.
5. The National Institute of Mental  
Health and Neurosciences (NIMHANS)  
Hosur Road, Near Bangalore Milk Dairy,  
Hombegowda Nagar, Bangalore, Karnataka.

+1cc to M/s.Shubharanjani Ananth, Advocate, S.R.No.45777  
+1cc to M/s.AL.Ganthimathi, Advocate, S.R.No.45351  
+1cc to M/s.Sunita Kumari, Advocate, S.R.No.45295

W.A.Nos.1892 of 2021  
and  
W.P.No.16958 of 2021

RGN(CO)  
SB(11/11/2021)