

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

% **Date of decision: 25th March, 2021.**

+ **LPA 370/2020 & C.M. No.31429/2020 (for stay)**

MEENAKSHI AND ORS

..... Appellants

Through: Mr. Abhay Kumar & Mr. Kumar
Milind, Advs.

Versus

ALL INDIA INSTITUTE OF MEDICAL
SCIENCE AND ORS

..... Respondents

Through: Dr. Harsh Pathak and Ms. Shaveta
Mahajan, Advs. for R-1.
Mr. Tanveer Ahmed Ansari, Senior
Panel for UOI.
Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advs. for UGC.

AND

+ **LPA 374/2020, C.M. No.31668/2020 (for permission to file
additional documents) & C.M. No.31669/2020 (for stay)**

SHATARUPA BHATTACHARYA

..... Appellant

Through:

versus

ALL INDIA INSTITUTE OF MEDICAL
SCIENCES & ORS.

..... Respondents

Through: Dr. Harsh Pathak and Ms. Shaveta
Mahajan, Advs. for R-1.

Mr. Apoorv Kurup and Ms. Nidhi Mittal, Advs. for UGC.

AND

+ **LPA 375/2020 & C.M. No.31683/2020 (for stay)**

LAVI BHATI

..... Appellant

Through: Mr. Ashish Garg, Adv.

Versus

ALL INDIA INSTITUTE OF
MEDICAL SCIENCES & ORS.

..... Respondents

Through: Mr. Ajay Digpaul, CGSC with Mr.
Makan R. Digpaul, Adv. for UOI.
Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advs. for UGC.

AND

+ **LPA 376/2020 & C.M. No.31906/2020 (for stay)**

SMRITI ARORA

..... Appellant

Through: Mr. Prashant Bhardwaj, Adv.

Versus

ALL INDIA INSTITUTE OF MEDICAL
SCIENCE & ORS.

..... Respondents

Through: Mr. Dushyant Parashar & Mr. Manu
Parashar, Advs. for R-1.
Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advs. for UGC.
Mr. Ajay Digpaul, CGSC with Mr.
Makan R. Digpaul, Adv. for UOI.
Mr. Jasbir Bidhuri, Adv. for
GGSIPU.

AND
+ **LPA 5/2021 & C.M. No.205/2021 (for stay)**

PARVIND Appellant
Through: Mr. Ashish Garg, Adv.

Versus

ALL INDIA INSTITUTE OF
MEDICAL SCIENCE & ORS. Respondents
Through: Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advs. for UGC.
Mr. Avnish Singh, Advocate for R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

RAJIV SAHAI ENDLAW, J. (Oral)

1. These intra Court appeals impugn the common judgment dated 2nd December, 2020 of dismissal of W.P.(C) Nos.8527/2020, 8592/2020, 7831/2020, 7832/2020 and W.P.(C) No.9206/2020, preferred by the appellants.

2. The writ petitions were filed, with respect to the entrance examination for admission in the M.Sc and Ph.D. courses for the academic year 2020-2021 of the respondent All India Institute of Medical Sciences (AIIMS). As per the prospectus published for admission, even those who till the stipulated date, may not have cleared the qualifying examination but were likely to clear the qualifying examination by the stipulated date, were permitted to apply but further provided that if such candidates do not clear

the qualifying examination by the stipulated date, they would not be admitted. The appellants appeared in the entrance examinations held and in the result declared, though found themselves in the merit list at a position which would have entitled them to admission, could not secure admission owing to having not cleared the qualifying examination by the stipulated date. This led to the filing of the writ petitions, aggrieved from order of dismissal whereof these appeals have been filed.

3. Vide orders dated 17th December, 2020 and 6th January, 2021 in these appeals, status quo was directed to be maintained and as a consequence whereof the courses which were to commence in August and September, 2020, have not commenced till now. Owing thereto, urgency was expressed on the last date of hearing and appeals listed for hearing for today.

4. The counsel for AIIMS states that though a large part of the first year of the two year course is already over, but the Academic Council of AIIMS, today morning has instructed him to make a statement before this Court that if the status quo is lifted, the curriculum will be completed before the end of the academic year, by making up for the lost time by holding classes on all holidays.

5. We have heard the counsels for the appellants and the counsels for the respondents. Though the facts may be different qua each of the appellants but the thread running through the arguments is the same.

6. The appellants could not clear the qualifying examination by the stipulated date owing to their respective universities having delayed, either the conduct of the qualifying examinations or the declaration of result of the examinations and which delay has cost them the admission in the M.Sc and

Ph.D. courses at the respondent AIIMS in spite of securing a position in the merit list.

7. The counsels for the appellants have argued, (i) that AIIMS itself delayed the admission process and the result of the entrance examination, though originally expected to be declared in July, 2020, was declared only in October, 2020; however notwithstanding its own delays, the respondent AIIMS is insisting upon sticking to the cut-off date stipulated in the prospectus for clearing the qualifying examination; (ii) that once AIIMS itself has delayed the entrance examination, the declaration of the result thereof and the entire admission process, the cut off date should also be proportionally changed; (iii) there is no delay or fault attributable to any of the appellants and the appellants cannot be made to suffer for reasons over which they had no control and which were of general nature, applicable to all; (iv) that though AIIMS is not governed by the University Grants Commission (UGC) but UGC also has granted extension of timelines owing to the prevalent Covid-19 pandemic and on the same parameters, AIIMS also ought to have extended the cut off date and cannot deprive admission to meritorious students on such grounds; reliance is placed on *S. Krishna Sradha Vs. The State of Andhra Pradesh* 2019 SCC OnLine SC 1609, judgment of a three Judge Bench on a reference owing to the apparent conflict in *Asha Vs. Pt. B.D. Sharma University of Health Sciences* (2012) 7 SCC 389 and *Chandigarh Administration Vs. Jasmine Kaur* (2014) 10 SCC 521, unequivocally holding that a meritorious student, for no fault of his/her, cannot be illegally denied admission particularly if he/she has pursued his/her legal right expeditiously, without delay and that such a

student is entitled to the relief of admission, more particularly in medical courses.

8. We have enquired from the counsels for the appellants, whether any of the appellants had cleared the qualifying examination before the declaration of the results of the entrance examination.

9. The answer is in the negative.

10. We have next enquired from the counsels, whether not the other applicants for admission to the subject courses, though lower in merit than the appellants who owing to their position in the merit list were entitled to admission but for having not cleared the qualifying examinations, have secured a right of admission and whether not grant of admission to the appellants now, in preference over those whose admissions crystallized on declaration of result, will displace such applicants and how can such applicants be displaced without even being made a party to the proceedings.

11. The counsels state that the appellants are claiming remedy in their own right and are not displacing anyone.

12. We have considered the aforesaid contentions.

13. As far as *S. Krishna Sradha* supra is concerned, that was in facts where the students, though entitled to admission, had been denied admissions owing to the faulty admission process and/or owing to violation of rules and what was held in that case, was in the said facts. It is a settled principle of law that a judgment is a precedent on what was for adjudication and what has been adjudicated and no more. Reference in this regard may be made to *Union of India Vs. Dhanwanti Devi* (1996) 6 SCC 44, *Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd.* (2003) 2 SCC 111, *Punjab National Bank Vs. R.L. Vaid* (2004) 7 SCC 698 and *National*

Resource Allocation, In Re (2012) 10 SCC 1. Thus what has been held qua students denied admission owing to a violation of the Rules, cannot be applied where admissions are in compliance of the Rules.

14. Else, the consistent view of the Courts, as noted by the Single Judge in the impugned judgment also, has been that terms and conditions of prospectus of admission bind the parties and are to be abided by.

15. Though the delay in conduct of the qualifying examination or declaration of result thereof, this time around may be attributable to the Covid-19 pandemic but it is not as if in the past there were no such delays; in the past also, individual universities/colleges have delayed conduct of examinations and declaration of result and which has cost its students further admissions and in none of the cases, was it ever held, to our remembrance, that for such reasons, the provisions of the prospectus would be given a go-bye and the Courts would intervene. Even otherwise, the interference by the Courts in academic matters, which are best left to be governed to the education bodies, has to be minimal and the Courts, by making orders, cannot interfere in the running of the educational institutions and academic courses. Reference in this regard may be made to ***Dr. J.P. Kulshrestha (Dr.) Vs. Chancellor, Allahabad University*** (1980) 3 SCC 418, ***Maharastra State Board of Secondary Education Vs. Paritosh Bhupesh Kumar Sheth*** (1984) 4 SCC 27, ***Bhushan Uttam Khare Vs. Dean, B.J. Medical College*** (1992) 2 SCC 220, ***All India Council for Technical Education Vs. Surinder Kumar Dhawan*** (2009) 11 SCC 726 and ***Basavaiah (Dr.) Vs. Dr. HL Ramesh*** (2010) 8 SCC 372. Already for the last nearly three months, the academic calendar of AIIMS has suffered for

the reason of interim orders in these proceedings and a year cannot be permitted to be wasted.

16. It cannot also be forgotten that there may be a large number of students, who by now would have cleared the qualifying examination and may have had a meritorious position in the result of the entrance examination but have chosen not to pursue any legal remedy. There is no reason why the appellants alone should be given the benefit of COVID-19 and why it should not be extended to all others also who may be entitled thereto.

17. There has to be a finality to admissions. The appellants participated in the admission process, in terms of the prospectus published for such admissions. As per the terms and conditions of such admission process, the appellants are not eligible for admission. As per the said terms and conditions, others, though placed lower in merit in the result of the entrance examination, are eligible for and entitled to admission. The Court cannot displace those who have already been admitted or whose admissions have been crystallized, to admit the appellants. Reference in this regard may also be made to *Ran Vijay Singh Vs. State of Uttar Pradesh* (2018) 2 SCC 357.

18. There is no merit in the appeals.

Dismissed.

RAJIV SAHAI ENDLAW, J

AMIT BANSAL, J

MARCH 25, 2021/A

(corrected and released on 5th April, 2021)