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

% *Decided on: 08th April, 2021*

+ LPA 124/2021

PRIYANKA BEDI

..... Appellant

Through: Mr. Rakesh Munjal, Sr. Adv. with Mr. Shaurya Sahay, Adv.

versus

UNIVERSITY OF DELHI AND ORS

..... Respondents

Through: Mr. Mohinder Rupal and Ms. V. Bhawani, Adv.
for University Of Delhi.
Mr.T. Singhdev and Mr.Abhijit Chakravarty,
Adv. for R-4.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

: **D.N.PATEL, Chief Justice (Oral)**

CM APPL. 11640/2021 (exemptions)

Allowed, subject to all just exceptions. The application is disposed of.

LPA 124/2021, CM APPL. 11638/2021 (stay) & CM APPL. 11639/2021 (addl. doc.)

1. Being aggrieved and dissatisfied by the **interim order** passed by the learned Single Judge in WP(C) 3586/2021 dated 18th March, 2021

(Annex. A-1 to memo of this appeal) the present Letters Patent Appeal (LPA) has been preferred by the original petitioner.

2. Having heard the learned counsels from both the sides and looking to the facts and circumstances of the case, it appears that this appellant (original petitioner) sought an interim relief before learned Single Judge in writ petition praying for the permission to allow appellant (original petitioner) to appear in 3rd year professional MBBS examination and supplementary examination to be conducted by the Respondent No.4 (National Medical Commission). This interim relief was not granted by the learned Single Judge vide order dated 18th March, 2021 and hence the present (LPA) has been preferred by the original petitioner.
3. On perusal of the facts presented before us, it appears that this appellant (original petitioner) who joined the MBBS professional course in the year 2011 and subsequently she was unable to clear first year's MBBS examination which was due in the year 2012. Several attempts were made by this appellant (original petitioner) to clear first year of MBBS during **2012 to 2016** and ultimately in the month of September, 2016, she managed to clear 1st year of MBBS examination.
4. Similar is the position for second year's MBBS examination. This original petitioner could not clear examination of 2nd year of MBBS which was due in the year 2017. Several attempts were made by this appellant between 2017 and 2020 and ultimately in the month of September, 2020, this appellant managed to clear 2nd year of MBBS examination.

5. Now, this appellant wants to appear in the 3rd year's examination of MBBS. It appears that as per the prevailing rules & regulation especially resolution number 150 dated 9th July 2011 of Academic Council of the University of Delhi, which is annexed (at annexure A/3 of the memo of this appeal), the Clause 4 (b) of the said regulation prescribes maximum time limit of 8 years for completion of the MBBS course. For the ready reference, Resolution No. 150 dated 09.07.2011 of the Academic Council of University of Delhi when the Clause 4(b) reads as under: -

“Training period and time distribution:

XXXX XXXX XXXX

- (b) ***Span Period:*** *Maximum of 08 (eight) years from the date of admission in the 1st Professional MBBS Course (excluding internship training period).”*
6. In view of the aforesaid position of the facts and also keeping in mind, the Resolution passed by the Academic Council of the University of Delhi, no error has been committed by the learned Single Judge in arriving at a conclusion that an interim relief sought by this appellant (original petitioner) in form of allowing the appellant to appear in 3rd year professional MBBS Examination cannot be granted at this stage.
7. The reasons given by the learned Single Judge are in paragraph 7 of the impugned order for the ready reference, Para 6 & 7 of the impugned order reads as under:

6. *Mr. Shaurya Sahay, learned counsel for the petitioner does not dispute at this stage that the petitioner was admitted to the course in question only after the aforesaid Ordinance was passed, but submits that the petitioner was not informed about the span period at any time.*

7. *Having regard to the provisions of the Ordinance extracted above, I am of the view that the petitioner has not made out a prima facie case. The Ordinance provides a maximum period of eight years for the MBBS course, which ordinarily takes five years to complete. This is evidently the petitioner's tenth year in the course. The petitioner has also not challenged the Ordinance in question which, according to Mr. Rupal, is a public document, available on the University's website. I therefore do not consider this a fit case for grant of an interim order, at this stage. However, it is made clear that, in the event the petitioner ultimately succeeds in the writ petition, she will be permitted to take the pending examinations at that stage.*
8. Learned counsel appearing for the appellant has argued out the matter at length, but it is pertinent to mention that as the writ petition is already pending and is coming up for further hearing on 2nd June 2021, we are not inclined to scrutinize and adjudicate each and every issue presented before us in this Letters Patent Appeal, as it would render the adjudication of writ petition infructuous. Further from the facts at hand it appears that there is no balance of convenience in favour of the appellant, therefore, no stay/ interim relief can be granted.
9. We are in full agreement with the reasons given by the learned Single Judge; hence we see no reason to entertain this Letters Patent Appeal (LPA) and the same is therefore dismissed.

CHIEF JUSTICE

JASMEET SINGH, J

APRIL 08, 2021/ 'ms'

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