

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

% **Date of decision: 26th March, 2021.**

+ **LPA No.715/2019**

NATIONAL BOARD OF EXAMINATIONS **Appellant**

Through: Mr. Kirtiman Singh, CGSC with Mr.
T. Yasin, Advocate.

Versus

DR. RAJANI SINHA & ORS. **Respondents**

Through: Mr. Ghanshyam Thakur, Adv. for
R-1.

Ms. Anju Gupta, Adv. for R-2.

Mr. T. Singhdev, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE AMIT BANSAL

RAJIV SAHAI ENDLAW, J.

1. This intra-court appeal impugns the judgment dated 1st October, 2019, allowing W.P.(C) No.12477/2018 preferred by the respondent no.1 and directing the appellant National Board of Examinations (NBE) to issue a Diplomat of National Board (DNB) Degree in the Family Medicine specialty, qua the concerned year, in favour of the respondent no.1.

2. The appeal came up first before the Court on 15th November, 2019, when the same was admitted and after hearing the counsel for the respondent no.1 appearing on advance notice on that date, the operation, implementation and execution of the impugned judgment was stayed during the pendency of the appeal.

3. We have heard the counsels.

4. The facts, not in dispute, are (i) the respondent no.1, a graduate in Medicine and desirous of a DNB qualification awarded by the appellant

NBE, participated in the Centralized Entrance Test (CET) of the year 2015 and on being declared successful therein, was registered for training with the respondent no.4 Christian Institute of Health, Sciences & Research, Dimapur, Nagaland (Institute), accredited to the appellant NBE and commenced her three years training programme, on 24th June, 2015; (ii) the three years mandatory training of the respondent no.1 was to complete on 23rd June, 2018; (iii) the respondent no.1, subject to completion of her training on or before 30th June, 2018, being the cut-off date prescribed in the “Information Bulletin and Application Form for Diplomate of National Board Final Examination (Broad Specialties) (DNB -FINAL: DECEMBER 2017) (Practical Only: Mar/Apr/May, 2018)”, was eligible to appear for the DNB Final Theory Examination held in December, 2017 and DNB Practical Examination held in May, 2018 and so appeared in the said examinations, on the basis of DNB Training Completion Certificate (Provisional) dated 19th September, 2017 issued by the respondent no.4 Institute, certifying that the respondent no.1 will be completing the mandatory three years training on 23rd June, 2018 and had availed of 25.5 days’ leave in the year 2015-16, 16.5 days’ leave in the year 2016-17 and no leave from 2017 till the date of issuance of the said Certificate; in the said Certificate, it was also mentioned as under:-

*“In case **Dr. Rajani Sinha** is unable to complete her DNB training on or before the cutoff date i.e. **23rd August 2018** towards eligibility determination, I understand that the candidature of the candidate shall stand cancelled.”;*

(iv) the respondent no.4 Institute, vide another letter also dated 19th September, 2017 to the appellant NBE, certified that the respondent no.1 joined the course on 24th June, 2015 and was expected to complete the mandatory three years of training by 23rd August, 2018 and requested the appellant NBE to allow the respondent no.1 to appear in the DNB Final Theory Examination in December, 2017, as she was eligible therefor; (v) the respondent no.1 appeared for both the aforesaid examinations; (vi) however as per the DNB Training Completion Certificate (Final) dated 6th August, 2018 issued by the respondent no.4 Institute, the respondent no.1 completed the mandatory three years of training on 5th August, 2018, having availed of leave of 63 days in the year 2017-18, besides the leave of 42 days mentioned in the DNB Training Completion Certificate (Provisional) dated 19th September, 2017 issued earlier, and on the basis whereof the appellant NBE had allowed the respondent no.1 to take the DNB Final Theory Examination and DNB Practical Examination; (vii) the respondent no.1 thus had availed of total leave of 105 days during the entire DNB training period, instead of the maximum leave of 74 days to which she was entitled; and, (viii) the appellant NBE, vide its letter dated 5th October, 2018, informed the respondent no.1 that the respondent no.1, during the three years of training period, having availed of excessive leave resulting in her having completed her training only on 5th August, 2018 i.e. after the cut-off date for December, 2017 examination of 30th June, 2018, did not fulfill the eligibility criteria as prescribed in the Information Bulletin aforesaid and her candidature for DNB Final Examination 2017 could not be considered and that she had been declared ineligible as she failed to satisfy the prescribed eligibility criteria; the respondent no.1 was

further informed that consequently, her appearance in the DNB Theory Examination held in December, 2017 and DNB Practical Examination held on 18th May, 2018 was being treated as null and void; the respondent no.1 was yet further informed that she may however again apply for appearing in the DNB Final Examination.

5. Impugning the aforesaid communication dated 5th October, 2018, the writ petition from which this appeal arises, was filed.

6. The writ petition has been allowed, observing/reasoning/holding that (i) though between 1st November, 2017 and 9th March, 2018 the respondent no.1 took extra leave on medical ground but with due permission of the respondent no.4 Institute; (ii) the result of the DNB Final Theory Examination was declared on 28th March, 2018 and on 2nd May, 2018, the respondent no.1 received her admit card for the DNB Final Practical Examination and on the basis of which admit card she appeared in the DNB Final Practical Examination; however when results of the final practical examination were declared in June, 2018, her result was withheld; (iii) as per the DNB Training Completion Certificate (Final) dated 6th August, 2018 issued by the respondent no.4 Institute, the respondent no.1 completed her DNB training on 5th August, 2018; (iv) the respondent no.1 submitted her DNB Training Completion Certificate (Final) dated 6th August, 2018 with the appellant NBE, on 8th August, 2018 and vide e-mail dated 29th August, 2018 submitted explanation to the appellant NBE with regard to the extra leave taken by her; (v) the appellant NBE was however not convinced and held the respondent no.1 ineligible and ordered the result of the DNB Final Theory Examination and DNB Practical Examination, taken by the

respondent no.1, as null and void; (vi) the respondent no.1, after passing her CET, joined training with the respondent no.4 Institute affiliated with the appellant NBE; (vii) the DNB training in the Family Medicine specialty had to be completely under the supervision of the respondent no.4 Institute; thus the respondent no.4 Institute was charged with the responsibility of not only granting leave and maintaining record of the same but to also issue the final certificate to the candidate, concerning completion of DNB training; (viii) since the training was conducted by the respondent no.4 Institute affiliated to appellant NBE, the respondent no.4 Institute's understanding of the scheduled cut-off date as against the one prescribed in the Information Bulletin aforesaid, was of seminal importance from the point of view of the respondent no.1; (ix) undoubtedly the respondent no.4 Institute, while issuing the DNB Training Completion Certificate (Provisional) dated 19th September, 2017, which was an essential precursor to the respondent no.1 being allowed to sit in the DNB Final Theory Examination, indicated that for determination of her eligibility, the scheduled cut-off date would be 23rd August, 2018; (x) there was no dispute that the respondent no.1 completed her DNB training before the scheduled cut-off date i.e. 5th August, 2018; (xi) the argument advanced on behalf of the appellant NBE that since the provisional DNB Training Completion Certificate (Provisional) dated 19th September, 2017 adverted to the fact that the mandatory three years of training would get completed on 23rd June, 2018, the appellant NBE was not required to refute what was written in the letter, misses the difference between the prescribed cut-off date and the scheduled cut-off date; (xii) the entire training programme of the respondent no.1 proceeded on the basis that she was required to complete her DNB Training before the scheduled

cut-off date as indicated in the DNB Training Completion Certificate (Provisional) dated 19th September, 2017; (xiii) the argument on behalf of the appellant NBE, that the respondent no.1 could not have taken leave in excess of that which was stipulated, without prior approval of the appellant NBE, had no impact in the facts of the case; (xiv) the burden of supervising the training was on the respondent no.4 Institute affiliated to the appellant NBE and the respondent no.1, with regard to availability of leave, was rightly guided by the respondent no.4 Institute; (xv) the fact that the respondent no.4 Institute gave leave to the respondent no.1, which according to it was in accordance with the provisions of the Leave Rules of the Information Bulletin aforesaid, should hold the field; the interpretation of the Leave Rules by the respondent no.4 Institute, from the point of view of the respondent no.1, would have to be given due weight; and, (xvi) the respondent no.1 completed the training within the cut-off date i.e. 23rd August, 2018 and the writ petition thus had to be allowed.

7. The counsel for the appellant NBE has taken us through the various Rules and has contended that the prescribed cut-off date for completing the three years of training was 30th June, 2018 and the respondent no.4 Institute, in the DNB Training Completion Certificate (Provisional) dated 19th September, 2017, had erroneously stated that in case the respondent no.1 was unable to complete her training on or before the cut-off date of 23rd August, 2018, her candidature shall stand cancelled. Attention is drawn to the letter dated 18th December, 2018 of the appellant NBE to the respondent no.4 Institute, seeking clarification in this regard and to the response dated 20th December, 2018 of the respondent no.4 Institute thereto to the effect that as per the appellant NBE's Information Bulletin for DNB

Final Examination-December, 2017, two months of extension was permissible under extraordinary circumstances and the respondent no.1 had called up the appellant NBE to confirm regarding the cut-off date and the respondent no.1 had been informed by the appellant NBE that the cut-off date was two months beyond the normal training date i.e. 23rd August, 2018.

8. Per contra, the counsel for the respondent no.1 has supported the judgment allowing the writ petition and has contended that the respondent no.1 having cleared/passed the DNB Final Theory Examination and DNB Practical Examination, should not be denied the benefit thereof for the reason of delay, even if any, in the completion of training. It is argued that the said delay also, was on medical ground and satisfied wherewith, the respondent no.4 Institute had granted leave to the respondent no.1. It is argued that once leave had been granted, the period thereof could not be added to the period of training. In support of his contentions, the counsel for the respondent no.1 has relied upon the decisions in *Amulya Mysore Vs. National Board of Examination* MANU/DE/1519/2015, *The National Board of Examinations Vs. Teena Peter* MANU/KE/0084/2017, *Garima Singh Vs. Hindu Rao Hospital* 188 (2012) DLT 16, *N. Siva Krishna Vs. National Board of Examination* MANU/DE/1327/2015, *National Board of Examinations Vs. G. Anand Ramamurthy* (2006) 5 SCC 515 and the judgment dated 10th April, 2013 in Writ Appeal No. 3361/2012 titled *National Board of Examinations Vs. Dr. Sajad Ahmed*.

9. We have considered the respective contentions and perused the records.

10. “Information Bulletin & Application Form for Diplomate National Board Final Examination (Broad Specialties) (DNB -FINAL: DECEMBER 2017) (Practical Only: Mar/Apr/May, 2018)” published by the appellant NBE, *inter alia* provided as under:-

“2. INFORMATION FOR CANDIDATES

- 2.1. *DNB – Final is an exit examination leading to the award of DNB qualification.*
- 2.2(a) *A candidate registered with NBE as a DNB trainee and obtaining requisite period of training as prescribed by NBE & fulfilling other eligibility criteria as stated in the Information Bulletin may appear for the DNB final examination (Board Specialty).*
- ...
- 2.8. *Candidates should go through this bulletin carefully for eligibility criteria before writing to NBE. Queries pertaining to eligibility and other issues will only be entertained if the information requested is not given in the bulletin or on website www.natboard.edu.in*
- ...
- 2.11. *Candidate found to be ineligible at any stage of DNB examination will not be permitted to appear in the examination. In an unlikely event of any ineligible candidate appearing and/or passing the DNB examination, the results/candidature of such candidate shall be cancelled and/or are deemed to be cancelled.*
- 2.12. *Instructions in the information-bulletin are liable to change based on decisions taken by the NBE from time to time. However, candidates shall be governed by Information Bulletin vide which they were registered for determining the eligibility. For theory & Practical Exams the candidates shall be governed by Information Bulletin by which they apply for the theory Examinations.*
- 2.13. *NBE reserves the right to withdraw permission, if any, granted inadvertently to any candidate who is not*

eligible to appear in the DNB Examinations even though the admit card/roll number has been issued or name/roll number is displayed on NBE website.

2.14. *Candidates' eligibility is purely provisional & is subjected to the fulfillment of meeting eligibility criteria as defined by NBE.*

...

2.17. *In case of any ambiguity in interpretation of any of the instructions/terms/rules/criteria regarding the determination of eligibility/conduct of examinations/registration of candidates/information contained herein the interpretation of the National Board of Examinations shall be final and binding in nature.*

...

4.1 Eligibility (Board Specialty) :

The Last date for submission of application form is 13th October, 2017.

- a. **DNB Candidates:** *Candidates who have undergone training as a DNB trainee at any National Board of Examinations accredited institute or any medical college/university recognized institute after having registered with NBE as a DNB trainee and are completing their prescribed (as per registration letter) training as DNB trainee as per the following schedule can undertake the DNB Final Examination in the same specialty subjected to completion of training by the date mentioned & submission of certificate to this effect.*

<i>Cut off date for completion of DNB Training</i>
<i>30th June, 2018</i>

Submission of Training Completion Certificate along with leave records for DNB trainees is an essential pre-requisite. In case the candidate does not submit the training Completion certificate (as per applicable format

given in Annexure III & IV) with the application form, his/her application may be rejected and fees forfeited.

Ex-candidates are required to submit copy of training completion certificate as per Annexure IV.

Request for extension in cut off date for completion of training for the purpose of eligibility determination for DNB final Examination shall not be considered.

...

- C. Post Diploma :** *Candidates who are registered with NBE and completing their prescribed training (as per the registration letter issued by NBE) by 30th June, 2018 are eligible to appear in DNB Final Exam. Submission of Training Completion Certificate along with leave records for DNB trainees is an essential pre-requisite. In case the candidate does not submit the training Completion certificate and leave records (as per applicable format given in Annexure-III & IV) with the application form, his/her application may be rejected and fees forfeited.*

Candidates not completing their DNB training at the time of submitting the application are required to submit provisional training completion certificate as per format in Annexure-III along with leave records and also required to submit Annexure-IV within 15 days of completion of their training. Such candidates shall be provisionally allowed to apply for DNB Examination at sole discretion of NBE and subject to compliance of eligibility criteria prescribed.

All candidates registered with NBE have to submit a self-attested copy of the registration letter/registration number issued by NBE with the application form for final examination.

...

4.5 Declaration of DNB Final Results

...

- b. *Results of DNB final examinations (theory & practical) are declared as PASS/FAIL. In case the applicant candidate is provisionally eligible on date of declaration of result his/her result shall be withheld & shall be declared only upon being status eligible.*
- c. *DNB final Practical result shall not be declared if, the candidate has not submitted final training completion certificate in the prescribed format and/or the thesis has not been accepted.*

...

10. NBE LEAVE RULES

1. *DNB Trainees are entitled to leave during the course of DNB training as per the Leave Rules prescribed by NBE.*
2. *A DNB candidate can avail a maximum of 20 days of leave in a year excluding regular duty off/Gazetted holidays as per hospital/institute calendar/policy.*

...

5. *No kind of study leave is permissible to DNB candidates. However, candidates may be allowed an academic leave as under across the entire duration of training program to attend the conferences/CMEs/Academic programs/Examination purposes.*

DNB COURSE	NO. OF ACADEMIC LEAVE
<i>DNB 3 years Course (Board & Super Specialty)</i>	<i>14 Days</i>
<i>DNB 2 years Course (Post Diploma)</i>	<i>10 Days</i>
<i>DNB Direct 6 years Course</i>	<i>28 days</i>

...

7. *Any other leave which is beyond the above stated leave is not permissible and shall lead to extension/cancellation of DNB course.*

8. *Any extension of DNB Training for more than 2 months beyond the scheduled completion date of training is permissible only under extra-ordinary circumstances with prior approval of NBE. Such extension is neither automatic nor shall be granted as a matter of routine. NBE shall consider such requests on merit provided the seat is not carried over and compromise with training of existing trainees in the Department.*

...

10. Medical Leave

- 10.1 *Leave on medical grounds is permissible only for genuine medical reasons and NBE should be informed by the concerned institute/hospital about the same immediately after the candidate proceeds on leave on medical grounds.*
- 10.2 *The supporting medical documents have to be certified by the Head of the Institute/hospital where the candidate is undergoing DNB training and have to be sent to NBE.*
- 10.3 *The medical treatment should be taken from the institute/hospital where the candidate is undergoing DNB training. Any deviation from this shall be supported with valid grounds and documentation.*
- 10.4 *In case of medical treatment being sought from some other institute/hospital, the medical documents have to be certified by the Head of the institute/hospital where the candidate is undergoing DNB training.*
- 10.5 *NBE reserves its rights to verify the authenticity of the documents furnished by the candidate and the institute/hospital regarding Medical illness of the candidate and to take a final decision in such matters.*
11. **11(i) Total leave period which can be availed by DNB candidates is $120+28 = 148$ days for 6 years course, $60+14=74$ days for 3 years course and $40+10 = 50$ days for 2 years course. This includes all kinds of eligible leave including academic leave. Maternity/Paternity leave can be availed separately by eligible candidates. Any kind of leave including medical leave exceeding the**

aforementioned limit shall lead to extension of DNB training. It is clarified that prior approval of NBE is necessary for availing any such leave.

11(ii) The eligibility for DNB Final Examination shall be determined strictly in accordance with the criteria prescribed in the respective information bulletin.

*Eg.- Candidate joining DNB 3 years course in July 2017 admission session on 15th Oct. 2017 shall be completing his/her DNB training on 14th Oct. 2020 under normal circumstances wherein there is no extension of training. If his/her training is extended due to leave on medical grounds or any other reason for 3 months after adjusting eligible leave available in the entire duration of DNB training, the training shall be completing on 14th Jan. 2021. If as per the Information Bulletin for Final Examination June 2020, the cutoff date for completion of training is **31st Dec.2020**, such candidate shall not be eligible for June 2020 Final Examination.”*

Annexures III and IV prescribe format of the DNB Training Completion Certificate (Provisional) and DNB Training Completion Certificate (Final) and in which format the Provisional and Final Certificates aforesaid were issued by the respondent no.4 Institute in respect of the respondent no.1.

11. In view of the aforesaid Rules, we are respectfully unable to agree with the reasoning in the impugned judgment, that since the appellant NBE did not immediately respond to the DNB Training Completion Certificate (Provisional) dated 19th September, 2017, *inter alia* providing that in case the respondent no.1 was unable to complete the DNB training on or before the cut-off date of 23rd August, 2018 towards the eligibility determination, her candidature shall stand cancelled, the same became binding on the appellant NBE and the appellant NBE could not subsequently refute that

the cut-off date was 30th June, 2018 and not 23rd August, 2018. It cannot be lost sight of that the appellant NBE is an examining body and is to function not as per the *ipse dixit* of the persons manning it from time to time but as per its Rules and Regulations published from time to time. The said Rules and Regulations, in the present case contained in the Information Bulletin for DNB Final Examination-December, 2017, clearly prescribed cut-off date as 30th June, 2018 and there was no reason for the respondent no.4 Institute to, in the DNB Training Completion Certificate (Provisional) dated 19th September, 2017, mention the cut-off date as 23rd August, 2018. The same was clearly a mistake of the respondent no.4 Institute. Merely because the appellant NBE did not immediately refute the same and / or merely because the appellant NBE, notwithstanding the said error / mistake in the DNB Training Completion Certificate (Provisional) of the respondent no.1, allowed the respondent no.1 to take the examination would not change the cut-off date prescribed for all those taking the subject examination, for the respondent no.1. Once an autonomous body, as NBE is, particularly an Examining Body, is governed by its Rules and Regulations, it is not open to any person manning the said body, to grant relaxation in the said Rules and Regulations or to change the same by his / her conduct, express or implied viz. of non-refutation of the error in the certificate aforesaid. This is what differentiates a society governed by law from a society governed by men. Moreover, the principle in law, of deducing admission from non-refutation, is otherwise also not an absolute one. It cannot be lost sight of that an Examining Body such as the appellant NBE, holding examinations for thousands if not lakhs of students, cannot be expected to minutely scan through each and every communication submitted to it and to refute any

content contrary to the Rules. The Rules of examination cannot change merely by stating the wrong in a communication especially when the Examining Body in its Rules has clearly provided that the entrance to the examination was purely provisional and that the candidature for the examination could be cancelled at any time as and when finding that the candidate was not eligible to appear in the examination. The reasoning given by the Single Judge is capable of mischief, playing havoc with the standards of the examination and of being abused by institutes and students. An Examining Body such as the appellant NBE, is bound by its own Rules and without any provision in the Rule vesting any discretion in it, does not have any discretion to change or bend the Rules for any candidate.

12. We have perused the judgments relied upon by the counsel for the respondent no.1 and find that none of them come to the aid the respondent no.1. In ***Amulya Mysore*** supra, the DNB candidate had compensated for the number of days of excess leave, before the cut-off date. In ***Teena Peter*** supra, the excess leave availed by the DNB candidate had been granted by the appellant NBE, which alone under the Rules is competent therefor. As distinct therefrom, in the present case, the excess medical leave admittedly taken by the respondent no.1 was without prior approval of appellant NBE. Once the Rules clearly provide that excess medical leave has to be with prior approval of appellant NBE, neither the respondent no.4 Institute nor the respondent no.1 could have entertained any doubt with respect thereto and leave, even if granted by respondent no.4 Institute, cannot make the respondent no.1 eligible for the examination when in accordance with the Rules, she was / is not. We are also unable to agree with the reasoning in the impugned judgment, that since the respondent no.4 Institute is

accredited to the appellant NBE, the appellant NBE is bound by its act of granting medical leave in excess of that provided and without approval of appellant NBE. It has not been reasoned that the appellant NBE has any administrative control over the respondent no.4 Institute. Merely because the training imparted by the respondent no.4 Institute meets the parameters of appellant NBE and the appellant NBE has granted accreditation to the respondent no.4 Institute, would not bind the appellant NBE with the leave granted by respondent no.4 Institute in excess of that provided in the Rules to the respondent no.1. It cannot also be lost sight of that the respondent no.1 herself is highly educated, qualified to grant medical care to others and expected to have made herself conversant with the Rules and Regulations of the examination and has to bear the consequences of violation thereof. In ***Garima Singh*** supra, there was miscommunication between the hospital and the appellant NBE in relation to the cut-off date due to the implementation of a revised/revamped procedure. As distinct therefrom, in the present case there was no ambiguity as to the prescribed cut-off date being 30th June, 2018 as per the Information Bulletin for DNB Final Examination -December, 2017. ***N. Siva Krishna*** supra, rather than supporting the respondent no.1, is against the respondent no.1. Therein also the candidates concerned had availed of excess leave and relief was denied on the ground that the candidates concerned had not completed their training prior to the cut-off date. In ***G. Anand Ramamurthy*** supra, the Supreme Court held that the High Court was not justified in directing the petitioner to hold examinations against its policy, in complete disregard to the mandate of the Courts for not interfering in the academic matters particularly when the interference in the facts of the matter leads to

perversity and promotion of illegality. Finally, in *Dr. Sajad Ahmed* supra, the relief was granted in the light of different facts and circumstances, where a DNB candidate had been admitted in contravention of the relevant guidelines.

13. In the present case there is no manner of doubt that the respondent no.1 did not satisfy the criteria for appearing in the DNB Final Examination 2017 and as per the Rules, her candidature was liable to be cancelled and was rightly cancelled. Once the actions of the appellant NBE are found to be in terms of its Rules, the Court cannot direct the appellant to act in violation thereof or allow relief to the respondent no.1 in violation of the Rules governing her examination. The appellant NBE is expected to uphold the standards of medical qualifications / degrees awarded by it and Courts cannot by their orders, dilute the rigours prescribed for upholding the said standards. A Co-ordinate Bench in *Rajat Duhan Vs. All India Institute of Medical Sciences* MANU/DE/4003/2019 has reiterated that any eligibility criteria is bound to cause hardship to some set of students, particularly if they are closure to cut-off criteria; however such considerations cannot outweigh with the Court to dilute the standards of academic excellence prescribed by the academicians, who are experts in the field.

14. However since considerable time has passed, we have enquired from the counsel for the respondent no.1, whether the respondent no.1 participated in the DNB Final Examination for the years 2018, 2019 and 2020, since her candidature for the DNB Final Examination 2017 stood cancelled.

15. The response is in the negative. The only explanation is, that since the respondent no.1 had filed the writ petition and had also succeeded therein, she did not feel the need to appear again in the examination in which she had already succeeded.

16. We are unable to agree. It was open to the respondent no.1 to, without prejudice to her rights and contentions in the writ petition and/or in defence to this appeal, appear in the DNB Final Examination held in the years 2018, 2019 and 2020. The reluctance of the respondent no.1 to so partake in the examination of the subsequent years inspite of the result of the examination of the year 2017 being under a cloud, lends us to believe that the respondent no.1 herself does not consider herself competent enough to clear the examination and the clearance of the examination of the year 2017, for which she was not eligible, was a fluke.

17. The mere fact that respondent no.1 had cleared/passed the DNB Final Theory Examination and DNB Practical Examination of the year 2017 does not entitle the respondent no.1 to the relief. We, as Judges, take oath to decide cases in accordance with law and not in accordance with our individual standards of sympathy. Application of law in the present case does not permit us to disregard the same and grant any relief to the respondent no.1. Even otherwise, grant of relief otherwise than in accordance with law but on consideration of sympathy and equity, leads to uncertainty and can in future also lead to candidates, similarly placed as the respondent no.1, instead of taking the examination in the following year, choosing to litigate. It cannot be lost sight of that the respondent no.1 participated in the examination process on the basis of Rules, Terms and

Conditions contained in the Information Bulletin for DNB Final Examination-December, 2017 and cannot, after failing to meet the eligibility criteria as per the said Terms and Conditions, be permitted to find fault therein. Reference in this regard may be made to the decisions in *G. Anand Ramamurthy* supra, *Injamam Ul Hossain Vs. All India Institute of Medical Science* MANU/DE/2166/2020 and *Edem Sanketh Vs. Union of India* MANU/DE/2377/2020.

18. Resultantly the appeal succeeds and is allowed. The judgment under appeal is set aside and the writ petition preferred by the respondent no.1 is dismissed.

However no costs.

RAJIV SAHAI ENDLAW, J.

AMIT BANSAL, J.

MARCH 26, 2021

‘pp’..

(Corrected & released on 15th April, 2021)