

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No. 456 of 2022 (O&M)

Date of decision:- 13.01.2022

Dr. Parneet Sandhu wife of Dr. Angad Singh Sangha

.....Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.

Present:- Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Arjun Partap Atma Ram, Advocate, for the petitioner.

Mr. Arun Gosain, Sr. Government Counsel for respondent
No.1-Union of India.

Mr. Anil Mehta, Senior Standing Counsel with
Mr. Sumeet Jain, Addl. Standing Counsel for U.T. Chandigarh-
respondents No.2 to 4.

(The aforesaid presence is being recorded through video conferencing since the
proceedings are being conducted in virtual Court).

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RAVI SHANKER JHA, CHIEF JUSTICE (oral)

This petition has been filed by the petitioner being aggrieved by the impugned notice dated 07.01.2022 (Annexure P-7) by which the petitioner, who has appeared in NEET-2021 examination, for seeking admission in Post Graduate MD/MS Course at Government Medical College & Hospital, Sector 32, Chandigarh, has been informed that her claim is not being considered for admission on account of “***not eligible based on the citizenship***”.

Learned senior counsel appearing for the petitioner submits that the petitioner is a Canadian citizen and is an Overseas Citizen of India Card Holder (OCI). It is submitted that respondent-authorities have issued a

notification dated 04.03.2021 (Annexure P-8) under Section 7-B of the Citizenship Act, 1955, by which the authorities have provided that OCI card holders shall not be eligible for admission against any seat reserved exclusively for Indian citizen. It is further clarified and explained in the notification that OCI card holder is a foreign national holding passport of a foreign country and is not a citizen of India. He submits that the authorities have also issued a Prospectus for admission to MD/MS Course for the session 2021-22 in Government Medical College and Hospital, Chandigarh (Annexure P-6) and as per the eligibility criteria, for all India quota, State quota and left over seats, only those students who are Indian citizens are eligible to apply for admission. He, however, submits that notification dated 04.03.2021 (Annexure P-8) has been assailed before the Supreme Court in a Writ Petition (Civil) 1186 of 2021 wherein the Supreme Court by an interim order dated 29.10.2021 has permitted the petitioner therein to appear in the counselling in the general category at par with Indian citizens for the purpose of NEET-PG counselling and admission for the session 2021-22. Similarly, in Writ Petition (Civil) No. 1397 of 2020, the Supreme Court by an interim order dated 08.11.2021 has ordered that the applicants therein and all other eligible candidates, who are similarly situated, are permitted to appear in the counselling in the General on par with Indian Citizens to pursue MBBS/BDS courses and other undergraduate/Post Graduate courses in approved/recognized medical/Dental and other colleges/Institutes for the academic session 2021-22 only.

He asserts that inspite of the provisions contained in the Prospectus and the notification dated 04.03.2021, the Supreme Court vide orders (ibid) has permitted the OCI card holders to be considered for admission under the general category at par with Indian citizens for the

purposes of NEET PG counselling for the session 2021-22. However, the respondent-authorities without taking note of the said orders has declared the petitioner ineligible based on citizenship. Thus, he submits that the act of the respondent-authorities smacks of non-application of mind and infact amounts to contempt of the orders passed by the Supreme Court.

Learned Senior Standing Counsel appearing for respondent-Union Territory, Chandigarh, on advance copy, submits that the authorities have considered the claim of the petitioner as per the provisions contained in the Prospectus. He, however, submits that the interim orders passed by the Supreme Court (Annexures P-9 to P-11) were not placed before the respondent-authorities. He submits that the authorities would examine the claim of the petitioner seeking participation in the MD/MS Post Graduate Counselling for the session 2021-22 as a general category candidate treating her at par with Indian citizens in terms of the aforesaid orders passed by the Supreme Court subject to fulfillment of other eligibility criteria/conditions prescribed and take a decision thereon in accordance with law.

Learned senior counsel for the petitioner submits that an eligible candidate is required to file an application for counselling through online between 12.01.2022 to 17.01.2022. It is submitted that the petitioner has not yet filed any such application but she will do so with all necessary and required documents prescribed by law.

Learned Senior Standing Counsel for Union Territory, Chandigarh submits that in case the petitioner does so, the authorities shall look into the claim of the petitioner in the light of the orders passed by the Supreme Court as well as the provisions of the Citizenship Act and other eligibility criteria prescribed therein.

In view of the aforesaid statements made by learned counsel for both the parties, the petition stands disposed of. It is made clear that respondent-Union Territory of Chandigarh would consider the claim of the petitioner in the light of the orders passed by the Supreme Court without being influenced by their notice Annexure P-7. For the same was issued without the orders passed by the Supreme Court being in the knowledge of the authorities. It is made clear that this order and the consequent steps including admission, if any, granted to the petitioner would be subject to any further and final orders passed by the Supreme Court in the pending writ petitions.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

13.01.2022
ravinder

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No