

CWP-17311-2022

Date of Decision: 07.09.2022

Dheeraj Kumar Karmania and others**....Petitioners****VS****Pt. B.D. Sharma University and others****....Respondents****CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL**Present: Mr. R.K. Sharma, Advocate
for the petitionersMr. Harmanjot Singh Gill, Advocate for
Ms. Jasmine Gill, Advocate
for respondents No. 1 to 3

SUDHIR MITTAL, J. (Oral)

The petitioners are students of M.B.B.S. course. They took admission in August 2019 but could not clear the 1st Professional in four chances. Thus, their education has been discontinued. They are before this Court with the plea that at the time of their admission the Medical Council of India Regulations on Graduate Medical Education, 1997 (hereinafter referred to as 'the Regulations') as amended upto the year 2018 did not provide for any restriction. The said Regulations were in force on the date of admission of the petitioners. An amendment was made vide notification dated 04.11.2019 restricting the number of chances for clearing the 1st Professional to four. The said amendment is not applicable to the petitioners as neither the amended Regulations were in force at the time of their admission nor the prospectus restricted the number of chances for clearing the 1st professional. Reference has also been made to judgment dated 07.09.2018 passed by this Court in CWP No. 394 of 2018 titled as ***Rohit Kumr vs.***

Pt. B.D. Sharma University of Health Sciences, Rohtak and others and

The argument can not be accepted as it is not based on sound legal principle. Any amendment to a Regulation operates prospectively but with effect from the date of the unamended provision. It obliterates the provision as existing prior thereto. Thus, no advantage can be taken of the unamended provision. Judgment in ***Rohit Kumar (supra)*** infact is against the petitioners. After noticing a Division Bench judgment of the Bombay High Court in ***Bhakti vs. State of Maharashtra and others*** passed in Writ Petition No. 13510 of 2017 decided on 06.03.2018, it has been held that an amended Regulation will be applicable with effect from the date of amendment and the old provision ceases to exist and will not govern any body.

In view of the above, the writ petition has no merit and is dismissed.

07.09.2022

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**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned Yes/No
Whether Reportable : Yes/No