

IN THE HIGH COURT AT CALCUTTA
(Civil Appellate Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Subrata Talukdar

And

The Hon'ble Justice Lapita Banerji

MAT 1090 of 2022
with
IA No. CAN 1 of 2022

Jai Kumar Karnani

-Vs.
Sri Daksh Singhal &Ors.

with

MAT 1087 of 2022
with
IA No. CAN 1 of 2022

Jai Kumar Karnani

-Vs.
Supriya Bakshi&Ors.

with

MAT 1092 of 2022

with

IA No. CAN 1 of 2022

Dr Mainak Chakraborty &Anr.

-VS.-

Supriya Bakshi&Ors.

with

MAT 1095 of 2022

with

IA No. CAN 1 of 2022

Dr Mainak Chakraborty &Anr.

-VS.-

Sri Daksh Singhal &Ors.

with

MAT 1135 of 2022

with

IA No. CAN 1 of 2022

Sri Sabavath Nikhil Kumar &Anr.

-VS.-

The State of West Bengal &Ors.

MAT 1205 of 2022

with

IA No. CAN 1 of 2022

Supriya Bakshi

-VS.-

Union of India &Ors.

Mr. Jaydip Kar,

Mr. Soumya Majumdar,

Mr. Sumanta Biswas,

Mr. Bikash Shaw

..... For the Appellant in MAT 1087 of 2022 & MAT 1090 of 2022 and for the respondent No. 4 in MAT 1092 of 2022, MAT 1095 of 2022 & MAT 1135 of 2022 & for the respondent No. 7 in MAT 1205 of 2022.

Mr. Indranil Roy,

Mr. Sunit Kumar Roy

..... For the National Medical Commission in all the Appeals.

Mr. Sabyasachi Chowdhury,

Mr. Rajarshi Dutta,

Mr. Arjun Mukherjee,

Mr. Balaji Chakraborty

For the Appellant in MAT 1092 of 2022 & MAT 1095 of 2022 and Respondent Nos. 8&9 in MAT 1087 of 2022 & MAT 1205 of 2022 Respondent Nos. 7 & 8 in MAT 1090 of 2022 Respondent Nos. 5 & 6 in MAT 1135 of 2022.

Mr. Suddhasatva Banerjee,

Ms. Sreyashi Majumdar

..... For the Private Respondents/ the Writ Petitioners in all the appeals and Appellant in MAT 1135 of 2022.

Mr. Swapan Kumar Datta,

Mr. Rajat Datta

.... For the State in MAT 1090 of 2022,
in MAT 1135 of 2022,
in MAT 1205 of 2022.

Mr. Banshi Badan Maity

..... For the Union of India in MAT 1087 of 2022.

Mr. Biswarup Bhattacharya,

Mr. Rahul Karmakar,

Mr. Saptarshi Kumar Mal,

Mr. Sounak Mukherjee

. For the respondent in MAT 1092 of 2022 and MAT 1095 of 2022 & for the Appellant in MAT 1205 of 2022.

Mr. D.N. Maiti

Mr. S. Sarkar

..... For the WBUHS in

MAT 1087 of 2022,

MAT 1092 of 2022 &

MAT 1205 of 2022.

Mr. Siddhartha Banerjee

Mr. Subir Banerjee

Mr. Sudipta Nayan Ghosh

...For the Respondent No. 1 in MAT 1090 of 2022 and MAT 1095 of 2022.

Heard On : 05.04.2023

Judgement Delivered On : 22.06.2023

Subrata Talukdar, J.:-The short point in this batch of appeals arising out of the common Judgement and Order dated 23rd June, 2022 passed by the Hon'ble Single Bench in a batch of writ petitions, rests as follows.

Whether the power of nomination exercised by a Trust in terms of an Agreement with the State Government recognized by law to the Post Graduate Medical Course, is violative of the *merit only principle* which stands purportedly laid down in Rule 9 (4) of the Post Graduate Medical Education Regulations, 2000 (for short, referred to as the 2000 Regulations), as amended.

In short, the said Trust, morefully known as the Rai Bahadur Sukhlall Chandanmull Karnani Trust, holds the power to nominate in terms of a subsisting Agreement with the State Government dated 17th July, 1954 (hereinafter referred to as the said Agreement), such nomination being made out of and/or from candidates whose names appear in the Merit List (*ML*) of the National Entrance Eligibility Test– Post Graduate (*NEET-PG*) and, from only those candidates who have applied to the said Trust for getting the nomination.

Both the writ petitioners/who are the respondents to this bunch of appeals in MAT 1025 of 2022 and MAT 1135 of 2022 and the appellants, in MAT 1025 of 2022 and MAT 1135 of 2022/who were the private respondents to the writ petitions, were candidates whose names appeared in the Merit List of *NEET-PG* and had also applied for getting the nomination.

The said Trust, acting in terms of its own selection procedure under the said Agreement, nominated the appellants for the *PG* Course. The writ petitioners participated in the nomination process and could not be successful. The writ petitioners then approached the Hon'ble Single Bench with the prayer that since Rule 9 (4) of the 2000 Regulations provides for a *merit only* admission, the nomination of the appellants who were below the writ petitioners in the *NEET-PG* 2021 Merit List, was illegal.

The Hon'ble Single Bench struck down the nomination procedure itself including the nomination of the appellants in MAT 1092 of 2022 and 1095 of 2022, holding the same to be in violation of the *merit only* principle. Consequently, the prayer of the writ petitioners/appellants in MAT 1135 of 2022 and 1205 of 2022 to be selected as eligible Candidates in place and stead of the Private Respondents was also not allowed. The Hon'ble Single Bench additionally did not accept the contention of the appellants in MAT 1087 of 2022 and MAT 1090 of 2022 that the writ petitions were not maintainable, holding that the reliefs claimed in the writ petitions disclose a public law element.

In the further view of the Hon'ble Single Bench the issue of violation of the principle of *approbate and reprobate / estoppel by conduct*, would not arise against the writ petitioners since they had no knowledge while participating in

the nomination process that the same shall be violative of the *merit only* principle.

The findings of the Hon'ble Single Bench, to the mind of this Court, essentially carry the following reason stated in the following Paragraph of the impugned judgement:-

“41. There is hence a built-in unfairness in the whole process. While the PG medical seats are a limited few in number, the aspirants to these seats are in lakhs. The information of the nomination by the Trust is fortuitous and the selection criteria unknown and un-published. It hence raises a presumption that the Trust is controlling a separate entry under its own particular evaluation mechanism leaving out those who remain unaware of the nominations which may also include those who performed better in the NEET- PG than the candidates nominated by the Trust. The Trust hence renders itself vulnerable and subject to judicial scrutiny on all scores. The conclusion is that the nominations made by the Trust are in violation of the 2000 Regulations.”

Learned Senior Counsel appearing for the appellants, representing both the candidates as well as the said Trust, have, by filing independent appeals argued as follows: First, under the said Agreement the said Trust had a right to nominate to the PG Course managed by the State. The said Agreement has obtained a legal finality pursuant to the Judgement delivered by the Hon'ble

Division Bench of this Court on a Reference decided by a Hon'ble Third Judge affirming the said Agreement along with the power of the said Trust to nominate, subsequent to a difference of opinion arising *between two* Hon'ble Judges comprising the original Hon'ble Division Bench.

The findings of the Hon'ble Third Judge, which now forms the official order of the Hon'ble Division Bench, read as follows:-

“Moreover, it is to be seen that the State as well as the University are jointly trying to circumvent the solemn agreement entered into by the State with the Karnani Trust. The University is not acting independently in this matter but jointly with the State to frustrate the attempt of the Karnani Trust to nominate two candidates to the Post Graduate Medical Course.

The situation is not that Government has demanded admission of the boys nominated by Karnani Trust under the agreement and the University has declined to accept the nomination of the Trust. The University is acting in league with the Government and is trying to evade obligation created by the contract after having taken advantage of all the facilities created by the money donated by Karnani Trust. The University cannot be heard to say that it has no duty to fulfil the obligations created by the agreement, even after enjoying all the benefits of the contract.

There is another aspect of the matter. The agreement between the State and the Karnani Trust was entered into on July 17, 1954. The various facilities for importing post graduate medical training were created in the aforesaid hospital pursuant to the said agreement and a building was erected for conducting post graduate medical course. The Calcutta University shifted its post graduate medical classes to the new premises in the hospital campus and took advantage of the newly created facilities. Can it be said that the University Authority at that time was totally unaware of the agreement between the Karnani Trust and the State Government? Nobody, who was in high administrative position in the University, at that period, has come forward to say that the Vice- Chancellor or the members of the Senate and/or the Syndicate or members of the medical faculty of the Calcutta University were entirely unaware of the aforesaid agreement or the terms and conditions contained in the said agreement. The University having taken advantage of all the facilities created by the money donated by Karnani Trust cannot be heard to say that it has no duty to fulfill the obligations created by the agreement.

I was next contended that higher education must be for only the most meritorious students. Candidates are chosen on the basis of examination held by the University. If some nominees of a particular Institute or persons are admitted then better and more deserving boys will be deprived of their chance of getting higher education. This will not only have the effect of denying admission to the best candidates but also in a long term view will be against public interest. It was contended that the

Supreme Court has already expressed strong views against reservation of seats in Institutions imparting higher education.

This argument is not acceptable for two reasons. The instant case is a case of a person who had helped to create facilities for higher education by a large financial contributions. The contribution was made on a condition that the Donor would be entitled to nominate one candidate for each of the subjects. On behalf of the Donor it has been submitted to the Court that the trust does not want to be unreasonable. Having regard to all the facts and circumstances they are agreeable to their right being reduced to nomination of two candidates only. They are, however, not willing to give up their right altogether.

Rightly or wrongly the Government of West Bengal accepted this condition and the gift was obtained and utilized by the Government of West Bengal. It will not be proper for the present government of West Bengal to take the stand that the condition is unenforceable as being against the public policy. In my view, it will be against public policy if the Government of West Bengal feels free to abandon any agreement at any point of time after enjoying the benefit of the agreement.

The Government of west Bengal entered into a solemn agreement with the Karnani Turst. Pursuant to the agreement Karnani Trust paid a sum of Rs. 17,00,000/- to be utilized for certain specified purposes.

Karnani Trust also acquired certain rights under the agreement. The agreement has been acted upon and the fund

provided by the Karnani Trust has been utilised for the purpose of setting up post graduate medical course in, what was known as Presidency General Hospital Campus, I fail to how the condition for right of nomination of two otherwise qualified candidates to the post graduate medical course can be treated as unenforceable as being against Public Policy. In my judgment, the stand taken by the Government of West Bengal is against Public Policy. The present Government of West Bengal cannot unilaterally resile from the obligations created by the Government in 1954.

Moreover, a situation has not arisen that Government has demanded admission of the boys nominated by Karnani and the University has declined to accept the nomination of Karnani. The University having taken advantage of all the facilities arrested by the money donated by Karnani cannot be board to say that it has no duty to fulfil the obligations created by the agreement. At least such argument will not entertained in a Court of equity like a Writ Court.

It was next contended that higher education must be for the very best students. Candidates are chosen on the basis of examination held by the University. If come nominees of a particular Institute or Persons are admitted then better boys will be deprived of their chance of getting higher education.

This argument is not acceptable for two reasons. It appears from the University Regulations that admission to Post Graduate Medical Courses is not on the basis of merit alone. Various quotas have been provided for various categories of

candidates. A substantial quota is reserved for the employees of West Bengal Health Services in each of the subjects. The only condition is that Government nominees will have to obtain a minimum qualifying marks in the admission test examination hold for the purpose. The candidates will have to produce a certificate from the Director, Health Services West Bengal that the candidate is an officer of the West Bengal Health Services. This means that a large number of candidates will get admission only on the strength of obtaining minimum qualifying marks in preference to candidates. Who have obtained much higher marks merely because they are Government employees. It also appears from a circular issued by the Calcutta University that a large number of seats have been reserved for Government nominees. From example –

In M. D. General Medicines – 5 seats

In M. D. Obst. & Gynaecologist – 5 seats

have been reserved for Government nominees. Similarly, there are reserved seats in every faculty of Post Graduate Medical Courses for the Government nominees.

This Rule goes to show that the University was willing to accommodate Government candidates even though they were not the best candidates in the Post Graduate Medical Courses. This Rule could have been framed only at the instance of the Government. I fail to see why the State of West Bengal of the University cannot accommodate only two nominees of Karnani. It has been contended on behalf of Karnani that Karnani wants

to nominate only such candidates, who are otherwise eligible for admission to Post Graduate Courses. But if the nominees of Karnani have to sit for examination and justify, then the nomination becomes meaningless.

Having anxiously considered all aspects of the matter, I am in respectful agreement with the view expressed by Justice Ajay Nath Ray and also agree with the order passed by Justice Ajay Nath Ray.

Prayer asked for stay is refused.”

The appellants have therefore argued that the power of the said Trust to nominate is no more *res integra* . The finding of the Hon’ble Division Bench (*supra*) have not been challenged in the past and are also not under challenge in this batch of writ petitions.

Second, the *merit only* principle purported to be established by Rule 9 (4) of the 2000 Regulations does not take away from the legislative competence of the State to provide for a *separate channel of entry* into the PG Course. In this regard the appellants heavily rely upon the authority reported in (2021) 6 SCC 568 (for short, referred to as the Tamil Nadu Case, at the following Paragraphs):

“75. *It has been acknowledged in the decision of Modern Dental College [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] that there may be certain overlapping of subjects vis-à-vis Schedule VII*

List I Entry 66 and List III Entry 25 to the Constitution of India. In our opinion, the question of providing a separate entry path to in-service doctors may have some effect on the overall standard of medical education at the postgraduate degree level institutions, as the students who would gain admission to such courses may not come purely on the basis of a uniform order of merit. But that is not the manner in which we ought to interpret the expression “standards” in institutions of higher education. The Constitution Bench judgment in Modern Dental College [Modern Dental College & Research Centre v. State of M.P., (2016) 7 SCC 353 : 7 SCEC 1] has construed the words “coordination and determination of standards” to mean laying down the standards of education.”

“82. *Even if we proceed on the basis that Regulation 9 is a self-contained code, as held in Sudhir N. [Sudhir N. v. State of Kerala, (2015) 6 SCC 685, paras 22 to 24 : (2015) 2 SCC (L&S) 323 : 7 SCEC 283] , such interpretation having been approved in Dinesh Singh Chauhan [State of U.P. v. Dinesh Singh Chauhan, (2016) 9 SCC 749 : 8 SCEC 219] , in our view a self-contained code can cover only those subjects which are contained in such code. This is not an exhaustive code covering every feature of admission to postgraduate degree courses in medical education. If the code does not refer to certain matters, which do not have impact on or dilute the main subject for which the code is made, appropriate authorities are not enjoined from making provisions for such uncovered areas. This we hold because the field of legislation involved in the subject dispute is a shared field between the Union and the*

States. The legislative disability of the States would occur only when the Union legislation covers the same subject on which State undertakes legislative exercise and the State legislative instrument is found to be repugnant to the latter. There also can be vacant legislative zones within a code, and such vacant zones can be filled up by the appropriate legislature.

83.3. *Having regard to the legal and factual context of this case and considering the fact that the issue of legislative competence arises in respect of an entry belonging to shared, and not exclusive field of legislations, in our opinion the said sub-clause cannot be interpreted to mean that the State is denuded of the power to make a separate channel of admission to the said courses for in-service doctors from the State merit list. This is an issue of legislative competence and the Nazir Ahmad [Nazir Ahmad v. King Emperor, 1936 SCC OnLine PC 41 : (1935-36) 63 IA 372 : AIR 1936 PC 253 (2)] dictum does not come into conflict with the interpretation we are giving to this clause. Application of that principle solely on the basis of a Union legislation, without examining the scope of the State's legislative power in the given context, would be contrary to the constitutional scheme in having concurrent field of legislation. The said sub-clause does not prescribe specific bar on the State authorities in providing for such reservation or such separate entry channel.*

85. *Regulation 9 of the 2000 Regulations is no doubt a self-contained code. But as we have already observed, it is not an exhaustive code covering all aspects of admission in*

postgraduate medical degree courses. The scope of this code and extent of its operation has been explained by this Court in Yatinkumar Jasubhai Patel.”

The appellants proceed to further argue that the right of nomination exercised by the said Trust, a private body, is not subject to challenge in Writ Jurisdiction. It is additionally submitted that the writ petitioners participated in the nomination process with their eyes open and the result of the same was not identical to their position in the Merit List of *NEET-PG*, 2021. The position in the Merit List of the candidates only created a necessary eligibility criterion enabling them to apply for the nomination process. The writ petitioners waited for the result of the nomination process to be announced. When the writ petitioners found out that they have not been nominated, the writ petitions came to be filed challenging the nominations of the appellants as violative of the *merit only* principle.

The appellants accordingly raise the legal bar of *approbation and reprobation* and/or *estoppel by conduct* against the writ petitions.

Per Contra, Learned Counsel for the writ petitioners support the decision of the Hon'ble Single Bench arguing that there could be no departure from the *merit only* principle. Relying on the authorities reported in 2020) 8 SCC 705 at Paragraphs 7, 9, 11, 13, 19, 44, 46, 53, 55, 60, 61, 62 and 64, as well as on 2013) 11 SCC 246 at Paragraph 4 and 1999) 7 SCC 120 at Paragraphs

46 and 61, the writ petitioners assert that at the super specialty/*PG* stage it stands firmly established that there can be no compromise with merit.

It is submitted that the power of nomination is being exercised by the said Trust in respect of a Government funded *PG* education. The admitted candidates shall be entitled to pursue their education at the expense of the State. No extraneous consideration could be exercised by a private Trust in the matter of *PG* admission. The *merit only* principle, as established by the 2000 Regulations amended on the 5th of April, 2018 and holding statutory flavour, shall apply. In this regard reliance is placed on the authority reported in 2016) 7 SCC 353 at Paragraph 61.

Relying on 2020) 8 SCC 705 at Paragraph 649, the writ petitioners submit that a uniform entrance examination for medical seats is the law of the land and intended to remove unscrupulous operators. It is pointed out that the decision reported in (2021) 6 SCC 568, *T.N. Medical Officers Assn. v. Union of India* is only an authority on the point of reservation of *PG* medical seats by the State for its in-service doctors. It is submitted that even if the power of the State to accept nominations by the said Trust through a separate category is accepted, such nominations must be finally approved on the basis of performance in the NEET-*PG* and not otherwise.

Lastly, the writ petitioners raise the specific instance of the admission of one of the appellants, Ms. Sonia Ghosh, on the ground of the absence of legal validity of her OBC Certificate.

Having heard the parties and considering the materials placed, this Court, at the outset, finds merit in the approach of the Hon'ble Single Bench to have entertained the writ petition on the ground of involvement of the public law element.

This Court therefore finds no error in the perception of the Hon'ble Single Bench that the reliefs claimed in the writ petition were for admission to medical seats under the State quota to which the connected reliefs were for striking down the nomination to such State quota made by the said Trust.

Therefore, on an overall perception connected to the nature of the reliefs claimed in the *lis*, the Hon'ble Single Bench was correct in appreciating that the subject of PG admissions in State run institutions could be adjudicated in the writ jurisdiction of the Hon'ble Court by invoking the public law element.

Accordingly, this Court finds both the writ petitions and this bunch of analogous appeal to be maintainable.

This Court however does not find the view taken by the Hon'ble Single Bench in favour of the writ petitioners that they are not estopped by their conduct from questioning the selection procedure and/or being barred by the

principles of *approbation and reprobation*. This Court finds that the writ petitioners participated in the nomination process with their eyes open. It was known to the writ petitioners as well as to the other candidates that the nomination process would be the outcome of a distinct selection exercise to be conducted by the said Trust.

Knowing the above facts, the writ petitioners applied before the said Trust to be considered for the nomination independently of their position in the Merit List of *NEET-PG-2021*. Being unsuccessful in the selection exercise, the writ petitioners have challenged the same by way of filing the writ petition. This Court is unable to subscribe to the view expressed by the Hon'ble Single Bench that the candidates accepted the prescribed procedure but not the illegality of it. Such a conclusion is based on the premise that the prescribed procedure (of nomination) is *per se* illegal which may not be the position as the discussion below shall attempt to show.

It is an admitted fact that the writ petitioners participated in the nomination process knowing fully well that such would be distinct from *NEET-PG*. In fact, there could be no space for a nomination process if the same was merged with *NEET-PG*. However, the spirit of nomination as envisaged by the said Agreement contemplated the 'nomination process' to be based on the *NEET-PG* but enjoying its autonomy of selection.

Such challenge to a selection exercise after being unsuccessful is barred by law. In this connection useful reliance may be placed on the pronouncement of the Hon'ble Apex Court in *MCD v. Surender Singh*, (2019) 8 SCC 67 at Paragraph 18 which reads as follows:

“18. *From a perusal of the said clause it is noticed that though under the very clause there are no cut-off marks specified, Clause 25 would, however, provide the full discretion to DSSSB to fix the minimum qualifying marks for selection. In the instant case, keeping in view that the recruitment was for the post of Assistant Teacher (Primary) and also taking note of the orders passed by the High Court in an earlier petition requiring the maintenance of minimum standards, DSSSB while preparing the select list had stopped the selection at a point which was indicated as the cut-off percentage. In a circumstance where Clause 25 was depicted in Advertisement No. 1/2006, when the private respondents herein and the other petitioners before the High Court were responding to the said advertisement, if at all they had a grievance that the clause is arbitrary and might affect their right ultimately since no minimum marks that is to be obtained have been indicated therein, they were required to assail the same at that stage. On the other hand, despite being aware of the clause providing discretion to DSSSB to fix the minimum qualifying marks, they have participated in the selection process by appearing for the qualifying examination without raising any protest. In that circumstance, the principle of approbate and reprobate would*

apply and the private respondents herein or any other candidate who participated in the process cannot be heard to complain in that regard.”

Third, in the view of this Court the Hon’ble Single Bench ought to have appreciated that the Judgement and Order delivered by the Hon’ble Division Bench in Appeal No. 5298 of 1988 (*supra*) following the opinion of the Hon’ble Third Judge, carries a binding effect.

In this connection this Court reiterates that the pronouncement of the Hon’ble Division Bench of this Court in Appeal No.5298 of 1988 (*supra*) is no more *res integra* and the precedential value of such decision is binding on any judicial authority purporting to discuss the outcome of admission to the PG course connected to the exercise of the powers of nomination by the said *Trust* under the said Agreement dated 17th July,1954. In this connection, useful reliance may be placed on *Sakshi v. Union of India*, (2004) 5 SCC 518, which underscores as follows:

“23. *Stare decisis is a well-known doctrine in legal jurisprudence. The doctrine of stare decisis, meaning to stand by decided cases, rests upon the principle that law by which men are governed should be fixed, definite and known, and that, when the law is declared by a court of competent jurisdiction authorised to construe it, such declaration, in absence of palpable mistake or error, is itself evidence of the law until changed by competent authority. It requires that rules*

of law when clearly announced and established by a court of last resort should not be lightly disregarded and set aside but should be adhered to and followed. What it precludes is that where a principle of law has become established by a series of decisions, it is binding on the courts and should be followed in similar cases. It is a wholesome doctrine which gives certainty to law and guides the people to mould their affairs in future.”

Finally, this Court is unable to subscribe to the view of the Hon’ble Single Bench that the nomination process is inherently destructive of merit. It is a fact that only candidates who have obtained a position in the Merit List of *NEET-PG* are eligible to apply for the nomination. Therefore, the *merit only* principle as reiterated by the writ petitioners, is not inherently diluted by allowing the said Trust to follow a recognized legal procedure which bases itself on the merit position of the candidates in the *NEET –PG* Merit List. Since the exercise of nomination arising out of the said Agreement has been affirmed by law, it is no longer open on the part of the writ petitioners to circumvent such legal position by seeking a circuitous setting aside of the same on the allegation that the same is destructive of the merit only principle, more so, when the writ petitioners have themselves participated in the nomination process.

In this connection this Court finds merit in the discussion in 2021) 6 SCC 568 of the Tamil Nadu Case (*supra*) that the legislative competence of the

State extends to providing for a *separate channel of entry*, more so in a situation where such *separate channel of entry* stands affirmed by settled judicial authority.

From a conjoint consideration of judicial authorities reported in 2016) 7 SCC 353(*In the: Modern Dental College vs. State of M.P; 2020*)8 SCC 705(*In the: Christian Medical College Vellore Association vs. Union of India &Ors. and 2021*) 6 SCC 568(*In the: Tamil Nadu Medical Officer's Association and Ors. vs Union of India and Ors.- for that, the TN Case*), the following important takeaways emerge:

First, the *Seventh Schedule List I Entry 66* of the Constitution of India permits the Central Government to coordinate and determine the standards of medical education in the country. In other words, the merit only principle in terms of the amended Rule 9(4) of the 2000 Regulations establishes the minimum standard below which no option by a candidate for medical admission can be exercised.

Second, the above noted judicial authorities underscore the point that Rule 9(4) is not an exhaustive code. Entry 25 List III of the Seventh Schedule allows States the autonomy of their admission procedure in medical education. Such autonomy extends in law to the State '*quota*' in PG Admissions for in-service doctors.

Furthermore, since the State is lawfully permitted to provide for a *separate channel of entry*, this Court, in the facts of this case, is unable to accept the position that the nomination process runs foul of the *merit only* principle. To the contrary, this Court is persuaded to adopt a *purposive construction* of the nomination process. This Court is therefore prepared to accept the contention that since the nomination process starts by taking the merit list of *NEET-PG* to be its base position, the fact that such nomination process carries its own distinctive process thereafter, is not inherently destructive of *the merit only* principle.

This Court is also persuaded to hold the view that both the aspects of *coordination and determination of standards* and provision for *a separate channel of entry* are not outraged in the facts of this case particularly when the legal validity of the nomination process stands preserved.

Finally, before parting with this discussion, this Court must notice the objections raised by the writ petitioners to the candidature of Ms. Sonia Ghosh. This Court is not required to go into the objections raised at this stage since this Court is required to recognize the position that the candidate, Ms. Sonia Ghosh, was cleared for obtaining a position on the basis of her credentials and performance in the Merit List of *NEET-PG*, 2021.

For the above reasons, the appeals succeed.

The order impugned stands set aside

MAT 1090 of 2022 with IA No. CAN 1 of 2022 with MAT 1087 of 2022
With **IA No. CAN 1 of 2022 with MAT 1092 of 2022 with IA No. CAN 1 of 2022 with MAT 1095 of 2022 with IA No. CAN 1 of 2022 with MAT 1135 of 2022 with IA No. CAN 1 of 2022 with MAT 1205 of 2022 with IA No. CAN 1 of 2022** stand accordingly **disposed of**.

Parties shall be entitled to act on the basis of the server copy of the judgment and order placed on the official website of the Court.

Urgent Xerox certified photo copies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

I Agree.

(Lapita Banerji, J.)

(Subrata Talukdar, J.)