

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12273 OF 2023

Dr. Nandika Vivek Savaskar

.. Petitioner

Vs.

The Assistant Director General (ME)

Medical Counselling Committee & Ors.

.. Respondents

- Mr. T.D. Deshmukh, for the Petitioner.
- Mr. Rui Rodrigues a/w. Ms Gargi Warunjikar, for Respondent Nos.1 and 3.
- Mr. N.C. Walimbe, AGP for the Respondent–State.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 10th OCTOBER, 2023.

P.C. :

1. Copy of the communication received by the learned counsel for Respondent Nos.1 and 2 is produced before the Court. The same is taken on record and marked as Document “A” for identification.

2. Based upon this communication, learned counsel for Respondent Nos.1 and 2 submits that one seat kept vacant for NRI quota is available to be filled up in Stray Round and the authorities have shown their willingness to offer the same to the petitioner herein. Learned counsel for Respondent Nos.1 and 2 submits that the offer so made by the authorities is confined to only this case and it would not be treated as a precedent in any other case. This statement is accepted by this Court.

3. Learned counsel for Respondent Nos.1 and 2 points out that the law in this regard is now well settled after the judgment of the Apex Court in the case of *Consortium of Deemed Universities in Karnataka (Codeunik) & Anr. Vs. Union of India & Ors., Writ Petition (Civil) No.689/2017*, came to be delivered on 22.08.2017. He further submits that it is not the law that for filling up NRI seats only and only merit should be the criteria and he further submits that, to some extent, apart from merit, some other relevant factors, including the fees offered by the student, could also be relevant. He invites our attention to the observations made in this regard in the case of *P.A. Inamdar Vs. State of Maharashtra*¹, which are quoted in the case of *Consortium of Deemed Universities in Karnataka (Codeunik) & Anr. (supra)*, which read thus :-

“It was also pointed out that people of Indian origin, who have migrated to other countries, have a desire to bring back their children to their own country as they not only get education but also get reunited with Indian cultural ethos by virtue of being here. They also wish the money which they would be spending elsewhere on education of their children should rather reach their own motherland. A limited reservation of such seats, not exceeding 15%, in our opinion, may be made available to NRIs depending on the discretion of the management subject to two conditions. First, such seats should be utilized bona fide by the NRIs only and for their children or wards. Secondly, within this quota, the merit should not be given a complete go-by. The amount of money, in whatever form collected from such NRIs, should be

¹ (2005) 6 SCC 537

utilized for benefiting students such as from whom, on well defined criteria, the educational institution may admit on subsidized payment of their fee. To prevent misutilisation of such quota or any malpractice referable to NRI quota seats, suitable legislation or regulation needs to be framed. So long as the State does not do it, it will be for the Committee constituted pursuant to the direction in Islamic Academy to regulates.”

4. The law on which reliance has been placed by the learned counsel for Respondent Nos.1 and 2, no doubt holds the field even today and if it is to be applied to the case of the petitioner here, the other factors, apart from merit of the candidates from NRI quota, would also have to be considered by this Court. But, today that need has been obviated by what is stated in the communication marked as Document “A”.

5. Accordingly, we dispose of this petition in terms of what is stated in the communication dated 09.10.2023 marked as Document “A” for identification. The petitioner is at liberty to accept the offer and take appropriate decision in her own discretion. The acceptance or whatever decision she may take in the matter shall be in terms of the timelines indicated in the schedule for stray vacancy round. We clarify that this order shall not be treated as precedent.

6. Petition is disposed of accordingly.

[FIRDOSH P. POONIWALLA, J.]

[SUNIL B. SHUKRE, J.]