



W.P.No.36021 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.36021 of 2023
and W.M.P.No.35997 of 2023

M.Sujatha

.... Petitioner

-Vs-

1.National Medical Commission
Rep.by its Secretary
Undergraduate Medical Education Board
Pocket-14, Sector-8, Dwarka, Phase-I
New Delhi-77.

2.National Board of Examinations in Medical Sciences
Rep.by its Chairperson, Medical Enclave, M.G.Marg
Ring Road, Ansari Nagar, New Delhi-110 029.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to consider the petitioner's application made in R-15012/026566/2023 dated 30.08.2023 in the light of Senior Secondary School Examination Mark Statement and Certificate dated 26.09.2023 in respect of pass in Biology subject issued by the National Institute of Open Schooling, within time frame so as to enable the petitioner to write the ensuing FMGE 2024 examination.

For Petitioner : Mr.N.Subramaniyan

For Respondents : Ms.Subharanjani Ananth



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ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to consider the petitioner's application made in R-15012/026566/2023 dated 30.08.2023 in the light of Senior Secondary School Examination Mark Statement and Certificate dated 26.09.2023 in respect of pass in Biology subject issued by the National Institute of Open Schooling, within time frame so as to enable the petitioner to write the ensuing FMGE 2024 examination.

2. The petitioner completed her 12th Standard in March 1994. Thereafter, she joined her Diploma in Pharmacy, which she completed in February 2003. Subsequently, she joined Jalal-Abad State University, Krygyzstan for completing her M.D. in Medicine. Though the degree is termed as M.D., it is said to be equivalent to M.B.B.S., in India.

3. In order to practice in India, the petitioner would have to write the Foreign Medical Graduates Examination (hereinafter referred to as 'FMGE') conducted by the National Medical Commission (NMC). The application made by the petitioner was not accepted because Biology was not one of the major subjects in her 12th Standard. Taking note of this objection, the petitioner has undergone a course in Biology through National Institute of Open Schooling



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(NIOS) system.

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4. The NMC's decision not to recognize the NIOS Certificate was the subject matter of writ petitions before the other High Courts. The Delhi High Court struck down the regulation and the candidates were permitted to continue their M.B.B.S. Course. This was taken up to the Supreme Court in S.L.P.(C) No.21720 of 2018. The Supreme Court was not inclined to grant stay of the order passed by the Delhi High Court, thereby the candidates who have undergone NIOS course have been permitted to continue their M.B.B.S. Course for which they have been selected.

5. The case of the petitioner is that she has completed the course in Krygyzstan in the year 2022. There is a four year window before which a person, who has completed her Medicine course in Foreign countries, should take up the FMGE Examination.

6. Ms.Subharanjani Ananth, learned counsel appearing for the respondents has brought to my notice an order passed by the Supreme Court of India in W.P.(C) No.26 of 2022 dated 15.12.2022, where the Supreme Court has not interfered with the petitioners proceeding with their M.B.B.S Course though their schooling is through NIOS. In the light of the order passed by the Delhi High Court and the subsequent orders passed by the Supreme Court, I am inclined to pass the following order.



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- (a) The National Medical Commission (NMC) shall open the portal enabling the petitioner to register for FMGE 2024 Examination to be conducted on **20.01.2024**.
- (b) The petitioner will be permitted to take up the FMGE Examination on **20.01.2024**.
- (c) It is made clear that the petitioner will not be entitled to claim equity in case the Supreme Court holds that NIOS Certificate is not valid for a medical course in India. In other words, if the Supreme Court holds against the persons similarly placed like the petitioner, the petitioner will not be entitled to get the benefit of the result of the FMGE Examination, which she undertakes to take up shortly.

7. With the above directions, this writ petition is disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

28.12.2023

Index : Yes/No

Neutral Citation : Yes/No

KST

Note : Issue order copy today (28.12.2023)

To



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- 1.The Secretary
National Medical Commission
Undergraduate Medical Education Board
Pocket-14, Sector-8, Dwarka, Phase-I
New Delhi-77.
- 2.The Chairperson
National Board of Examinations in Medical Sciences
Medical Enclave, M.G.Marg, Ring Road,
Ansari Nagar, New Delhi-110 029.



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V. LAKSHMINARAYANAN, J.

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