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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11601/2019**

DR. SUNIL GAUTAM AND ORS. Petitioners

Through: **Mr. Rakesh Dhingra, Adv.**

versus

UNIVERSITY OF DELHI AND ORS. Respondents

Through: **Mr. Mohinder J S Rupal & Mr.**

Hardik Rupal, Advs. for University of Delhi

Mr. Ajay Kumar Singh, Bipin Bihari Singh

and Abhishek Pandey, Advocates for R-3

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

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19.03.2024

1. Mr. Rakesh Dhingra, learned Counsel for the petitioners, confines his relief in the present case to Petitioners 1 and 2, namely, Dr. Sunil Gautam and Maha Mritunjay Pandey. Qua Petitioner 3, he does not press this petition.

2. This writ petition purports to be a fallout of WP (C) 9365/2018 (*Yaman Kumar Sharma and Ors v. University of Delhi and Ors.*¹) and connected writ petitions, which were decided by me *vide* judgment dated 10 October 2019.

3. The petitioners in this writ petition, like the petitioners in *Yaman Kumar Sharma*, seek admission to seats in the post-graduate (MD/MS) courses in Ayurveda being conducted by the Faculty of



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Ayurveda and Unani Medicine (FAUM), University of Delhi (hereinafter referred to as “the DU”).

4. The petitioners in *Yaman Kumar Sharma*, like the present petitioners, had obtained their BAMS (Bachelor of Ayurvedic and Medicine and Surgery) and BUMS (Bachelor of Unani Medicine and Surgery) qualifications and were, therefore, eligible for securing admission to the post-graduate course (MD/MS).

5. Those petitioners, and these petitioners, are aspirants to the (MD/MS) course in Ayurveda.

6. The petitioners in *Yaman Kumar Sharma* and the writ petitions tagged with it, had participated in the All India Ayush Post Graduate Entrance Test (AIAPGET)-2018, which was held on 24 June 2018.

7. The results of the AIAPGET were declared by the Ministry of Ayush on 20 August 2018. Yaman Kumar Sharma and his co-petitioners, as well as the petitioners in the tagged writ petitions, approached this Court as, owing to delays not attributable to them, the final one year period of their compulsory internship, stipulated as an eligibility pre-requisite for admission to the MD/MS course, would be completed only after the last cut-off date on 23 November 2010.

8. For the limited purposes of the present writ petition, it is not necessary to enter into the details of the various submissions advanced



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in said writ petitions.

9. Suffice it to state that, insofar as the said writ petitions were concerned, this Court noted, in para 48(viii)(a) and (b) of its judgment, that, as the cut-off date for making admission to the MD/MS Ayurveda course was 15 November 2018, the petitioners who had approached this Court after the said date could not be granted any relief. As a result, WP (C) 12540/2018, WP (C) 12572/2018, WP (C) 12747/2018 and WP (C) 2777/2019, which were filed on 22 November 2018, 22 November 2018, 24 November 2018 and 20 March 2019 and tagged with ***Yaman Kumar Sharma***, were dismissed.

10. The petitioners in ***Yaman Kumar Sharma***, who had approached the court before the cut-off date of 15 November 2018, were granted relief and permitted to join the MD/MS Ayurveda course.

11. The petitioners in the present writ petition are even worse off than the petitioners in WP (C) 12540/2018, WP (C) 12572/2018, WP (C) 12747/2018 and WP (C) 2777/2019. They have instituted this writ petition after 25 October 2019. Their case is that, as three of the petitioners in ***Yaman Kumar Sharma***, who were permitted to join the MD/MS Ayurveda course, did not do so, the said three vacancies remained unfilled. The petitioners seek to be adjusted against the said vacancies.

12. For the reasons which prevailed this Court in dismissing WP (C) 12540/2018, WP (C) 12572/2018, WP (C) 12747/2018 and WP



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(C) 2777/2019, the present petition would also have to be dismissed.

13. The petitioners have approached this Court much after the cut-off date of 15 November 2018 fixed for making admissions to the MD/MS Ayurveda course on the basis of the AIAPGET-2018 and, in fact, close to the cut-off date for making admission even as per the AIAPGET-2019 which was 31 October 2019.

14. Following the judgment of the Supreme Court in *Maa Vaishno Devi Mahila Mahavidyalaya v. State of Uttar Pradesh*², it is not possible for this Court to direct any relief to be granted to the petitioners who approached the court after the cut-off date by which alone admission pursuant to the AIAPGET-18 could have been made. The following passages from *Maa Vaishno Devi* merit reproduction:

“81. Lastly, the question which is required to be discussed in the light of the facts of the present cases is adherence to the schedule. Once the relevant schedules have been prescribed under the Regulations or under the Judge-made law, none, whosoever it be, is entitled to carve out exceptions to the prescribed schedule. Adherence to the schedule is the essence of granting admission in a fair and transparent manner as well as to maintain the standards of education. The purpose of providing a time schedule is to ensure that all authorities concerned act within the stipulated time. Where, on the one hand, it places an obligation upon the authorities to act according to the schedule, there it also provides complete clarity to other stakeholders as to when their application would either be accepted and/or rejected and what will be the time duration for it to be processed at different quarters. It also gives clear understanding to the students for whose benefit the entire process is set up as to when their examinations would be held, when results would be declared and when they are expected to take admission to different colleges in order of merit obtained by them in the entrance examinations or other processes for the purposes of subject and college preference.



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82. We are constrained to reiterate with emphasis at our command that the prescribed schedules under the Regulations and the judgments must be strictly adhered to without exceptions. None in the hierarchy of the State Government, university, NCTE or any other authority or body involved in this process can breach the schedule for any direct or indirect reason. Anybody who is found to be defaulting in this behalf is bound to render himself or herself liable for initiation of proceedings under the provisions of the Contempt of Courts Act, 1971 as well as for a disciplinary action in accordance with the orders of the Court. In ***Parshavanath Charitable Trust v. All India Council for Technical Education***³ decided on the same date, this Court held as under: (SCC para 26)

"26. ... Time schedule is one such condition specifically prescribed for admission to the colleges. Adherence to admission schedule is again a subject which requires strict conformity by all concerned, without exception. Reference in this regard can be made to ***Rajan Purohit v. Rajasthan University of Health Sciences***⁴ at this stage, in addition to ***Medical Council of India v. Madhu Singh***⁵"

83. Undoubtedly, adherence to the schedule achieves the object of the Act and its various aspects. Disobedience results in unfair admissions, not commencing the courses within the stipulated time and causing serious prejudice to the students of higher merit resulting in defeating the rule of merit"

15. Besides, if one peruses the merit-list of successful candidates following the AIAPGET-2018, as released by the FAU *vide* notice dated 31 October 2018, it is seen that, in the case of Petitioner 1, Dr. Sunil Gautam, there are three general category candidates above him, after Pankaj Sharma, who was the last general category candidate granted admission by the judgment in ***Yaman Kumar Sharma***. These are Anshu Sharma at S. No. 18, Kajal at S. No. 19 and Nisha Agarwal at S. No. 20, whereas Sunil Gautam figures only at S. No. 25. Apart

³ (2013) 3 SCC 385

⁴ (2012) 10 SCC 770

⁵ (2002) 7 SCC 258



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from the fact that these candidates have not even been impleaded in these proceedings, there is no specific averment, in the petition, as to why in preference to the general category candidate the petitioners should be entitled to admission to the MD/MS course. There is only a general mention that in para 4 of the writ petition, which reads thus:

“4. That the Petitioner no.1 is eligible candidate who completed his internship and secured position in the merit of AIAPGET-2018 at Serial No. 25 (General Category) and all candidates above petitioner no.1 in the merit list are pursuing the PG course and the petitioner no.1 is the next eligible candidate in seniority as per merit list.”

16. Between Sunil Gautam and Maha Mritunjay Pandey, who is also a general category candidate, there are, again, Deepti P Unnithan at S. No. 27, Ekta Sharma at S. No. 30, Preeti Jiyal at S. No. 31, Abha Sharma at S. No. 32 and Atul Kumar at S. No. 34 who are all general category candidates.

17. Apropos these candidates, the writ petition states, in para 7, thus:

“7. The status of the petitioners in the above matter is as under:

Name	Percentile marks
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General category

1. Dr. Sunil Gautam S.No.25	77.334
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The last candidate of general category at S.No.20 Dr. Nisha Aggarwal is already pursuing the PG course.

2. Dr. Maha Mritunjay Pandey S.No.36	64.996
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The last candidate of general category at S.No.32 Dr. Abha Sharma is already pursuing the PG course. Dr. Deepti P. Unnithan at S.No.27 is expecting to join her husband at USA has not filed the petition after issuance of joint legal notice and Dr.Preeti Jiyal at S.No.31 is in employment and has confirmed non-interest in

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joining the PG Course

SC Category:

3. Dr. Ms. Leena Gautam S.No.39 62.127

All SC candidates in the merit list are pursuing the PG course and there is no other SC candidate above the petitioner no.3- Dr. Leena Gautam.

18. No material supporting the submissions made with respect to Dr. Abha Sharma, Dr. Deepti P Unnithan Dr. Preeti Jiyal has been placed on record. Nor have they been made parties.

19. For all the aforesaid reasons, it is not possible for this Court to grant relief to the petitioners as sought in the writ petition.

20. This writ petition is accordingly devoid of merit and is dismissed.

21. It is not possible, however, to close this case here.

22. Nonetheless, Mr. Dhingra, learned Counsel for the petitioner has drawn my attention to the attendance sheet as Annexure R-3/2 filed by the All India Institute of Ayurveda, Gautam Puri, Sarita Vihar, New Delhi College with the affidavit dated 11 December 2023 under index dated 2 February 2024. He points out that, in the said attendance register, attendance has been shown even for 25 December 2019. The document is, therefore, according to Mr. Dhingra, fabricated, and the College cannot be allowed to get away with this.



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23. In view of the seriousness of the allegation, I cannot lightly brush it aside.

24. The petitioners had, in response to the affidavit dated 11 December 2023, filed a response, to which a rejoinder was sought, by the Court, from the College, *vide* order dated 30 January 2024. No rejoinder has, till date, been filed.

25. Though the attendance sheet is not of any relevance so far as the disposal of this writ petition is concerned, as the petitioners have not been found entitled to be admitted to the MD/MS Ayurveda course in the first place, this Court cannot blindly refuse to examine the aspect of how an attendance sheet, with attendance shown on 25 December 2019, has come to be filed by Respondent 3.

26. The Respondent 3 is, therefore, directed to place on record an affidavit explaining this fact, within a period of three weeks from today.

27. Solely for the said purpose, re-notify this matter on 1 May 2024.

28. The writ petition nonetheless stands dismissed.

C. HARI SHANKAR, J.

MARCH 19, 2024

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[Click here to check corrigendum, if any](#)

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