

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10707/2019, CM APPL. 44252/2019, CM APPL. 27049/2022**

Date of Decision: 13.03.2023

IN THE MATTER OF:

DR. MANJULA DEVASANI

W/o. Mr. Dodly Goutham,

R/o. Flat No. 404, SVS JM

Residency, Near Select Talkies,

Madhura Enclave, Machabollaram,

Hyderabad, Telangana - 500010.

..... PETITIONER

Through: Mr. B. Shravanth Shankar and Ms.
Monalisa Kosaria, Advocates.

versus

NATIONAL BOARD OF EXAMINATIONS

Rep. by its Director, Medical

Enclave, Ansari Nagar, Mahatma

GandhiMarg, NewDelhi-110029

Email:- neg@natboard.edu.in

..... RESPONDENT

Through: Mr. Waize Ali Noor, Advocate.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner, *vide* the present petition under Article 226 of the Constitution of India has prayed for quashing of the impugned letter dated 02.09.2019 issued by the respondent-National Board of Examinations (NBE), whereby, the appearance of the petitioner in the Diplome of National Board (DNB) Examination, December 2018 has been considered to

be null and void and accordingly, the already declared result of the petitioner in the said examination has been disapproved.

2. The facts leading to the filing of the instant writ petition are that the petitioner after completing her MBBS course, qualified in the DNB Centralised Entrance Test (DNB-CET) and accordingly, was admitted into the said course. The petitioner admittedly commenced her DNB training on 24.06.2016. According to the Information Bulletin for DNB Final Examination, 2018, the concerned programme was for three years followed by the final examination comprising of both theory and practical. The candidates undergoing the programme in question can be granted an extension of more than two months beyond the scheduled completion date of training.

3. The case of the petitioner is that the petitioner was granted 32 days of extension by the competent authority and the extension so granted, is not under dispute.

4. Learned counsel appearing on behalf of the petitioner submits that the three years programme of the petitioner was to be completed on 23.06.2019 and the practical examination was to be held on 26.05.2019 and 27.05.2019. The Information Bulletin stated that the cut-off date for completion of training to be eligible to sit in the said examination was 30.06.2019. The petitioner was allowed to appear in the practical examination subject to the submission of the final completion certificate and she successfully passed the examination in question.

5. By the impugned communication, it has been informed to the petitioner that the DNB training completion certificate (final) was issued to her on 09.08.2019 and the petitioner had completed her training on

25.07.2019 after availing 32 days of extension for her training. The said 32 days of extension takes the petitioner beyond 30.06.2019 and therefore, as on 30.06.2019, i.e. the cut-off date, since the petitioner was not eligible to appear in the said examination, her candidature itself has been cancelled.

6. Learned counsel appearing on behalf of the petitioner has taken this court through Clause 8 of the letter issued by the respondent-NBE dated 11.03.2017 and states that the extension of training is permissible beyond two months, with the approval of the competent authority and in the instant case, the petitioner has only availed an extension of 32 days, therefore, if the examination in question was conducted by the respondent-NBE subject to completion of training by 30.06.2019, no fault can be attributed to the petitioner.

7. Learned counsel for the petitioner has placed reliance on a decision of this court in the case of ***Dr. Divyesh J. Pathak and others vs. National Board of Examinations and Another***¹ and the decision of the High Court of Kerala at Ernakulam in the case of ***Dr. Teena Peter vs. The National Board of Examinations and Ors***².

8. Learned counsel appearing on behalf of the respondent-NBE vehemently opposes the prayer made by the petitioner and he states that on the date of appearance in the examination, the petitioner was not eligible as her training was not complete. He also states that the training of the petitioner of three years, without extension, would have been completed only on 23.06.2019 and if the extension of 32 days is considered, in no case, was the petitioner fulfilling the eligibility criteria on 30.06.2019, and therefore,

¹ 2020 SCC OnLine Del 604

² W.P. (C) No.5011/2016 dated 20.07.2016.

the impugned decision has rightly been taken. He further states that, if the relief so prayed for, is granted to the petitioner, there would be many other candidates who would also be claiming similar relief.

9. I have heard the learned counsel appearing for the parties and perused the record.

10. If the letter dated 11.03.2017 issued by the respondent-NBE is carefully perused, Clause 8 thereof would clearly reveal that any extension of DNB training for more than 2 months beyond the scheduled completion date of training is permissible. The same is, however, to be approved by the NBE.

11. Clause 8 of the aforesaid letter dated 11.03.2017 is extracted as under:-

“Any extension of DNB training for more than 2 months beyond the scheduled completion date of training is permissible only under extra-ordinary circumstances with prior approval of NBE. Such extension is neither automatic nor shall be granted as a matter of routine. NBE shall consider such requests on merit provided the seat is not carried over and compromise with training of existing trainees in the Department.”

12. If the facts of the instant case are perused, the same would indicate that the training of the petitioner started on 24.06.2016 and three years without any extension completed on 23.06.2019. If the extension of 32 days is granted to the petitioner, as has already been approved by the respondent-NBE, it would be seen that the petitioner is not in violation of Clause 8 of the said letter.

13. It is not disputed that an extension of 32 days was granted to the petitioner. However, what is contended by the respondent-NBE is that on

30.06.2019 i.e. the cut-off date for completion of training, the petitioner was not fulfilling the eligibility criteria as the training of the petitioner was continuing which ended only on 25.07.2019.

14. It is to be noted that simply because the cut-off date for completion of the course was 30.06.2019, on this ground alone the petitioner cannot be penalised. The petitioner was justifiably found entitled for an extension of 32 days and on 23.06.2019, the petitioner completed three months of training and if the 32 days of extension, as has been granted to her is considered, the examination in question should have been conducted after the 32 days of extension was over. Since the examination was conducted by the respondent-NBE without keeping in mind the fact that the extension period of some of the students is still ongoing, the result of the petitioner cannot be withheld for the aforesaid reason. After the extension was approved by the respondent-NBE and before the period of extension had ended, an examination was conducted, which makes otiose the already granted extension. The said approach cannot be countenanced, as the same would take away the right accrued by the extension granted to the petitioner.

15. More so, in the instant case the petitioner was allowed to appear in the examination by the respondent-NBE on its own and the result was also declared, therefore, at a belated stage, the respondent is estopped from withholding the result on the ground that as on the date of examination, the training had not concluded.

16. In view of the aforesaid peculiar facts, this court cannot sustain the impugned letter dated 02.09.2019, whereby, the result of the petitioner is withheld. The impugned letter dated 02.09.2019 is, therefore, quashed and set aside.

17. The respondent-NBE is, therefore, directed to declare the result of the petitioner forthwith and in any case, within two months from today.

18. The instant petition is accordingly disposed of along with pending applications.

PURUSHAINDRA KUMAR KAURAV, J

MARCH 13, 2023/nc

