

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8495/2018 & CM APPLs 32653/2018, 8254/2019**

Date of Decision: 10.02.2023

IN THE MATTER OF:

SQN. LDR (DR.) MANJITPAL SINGH (RETD.)
R/O H. NO. B204, SF, HARI NAGAR,
NEW DELHI - 110064 PETITIONER

Through: Mr. Anshumaan Sahni, Advocate.

Versus

UNION OF INDIA
THROUGH
SECRETARY (HEALTH & FAMILY WELFARE)
MINISTRY OF HEALTH & FAMILY WELFARE (MOH&FW)
ROOM NO. 156-A, NIRMAN BHAWAN,
RAJPATH AREA, CENTRAL SECRETARIAT,
NEW DELHI - 110001 RESPONDENT NO.1

DIRECTORATE GENERAL HEALTH SERVICES
THROUGH
DIRECTOR GENERAL
MINISTRY OF HEALTH & FAMILY WELFARE (MOH&FW)
ROOM NO. 446-A, NIRMAN BHAWAN,
RAJPATH AREA, CENTRAL SECRETARIAT,
NEW DELHI - 110001 RESPONDENT NO.2

MEDICAL COUNSELLING COMMITTEE (MCC)
THROUGH CHAIRMAN
SPECIAL DIRECTOR GENERAL (MEDIAL) & PRINCIPAL
CONSULTANT,
DIRECTORATE GENERAL HEALTH SERVICES,
MINISTRY OF HEALTH & FAMILY WELFARE (MOH&FW)
ROOM NO. 439-A-II, NIRMAN BHAWAN,
RAJPATH AREA, CENTRAL SECRETARIAT,

NEW DELHI - 110001

..... RESPONDENT NO.3

MEDICAL COUNSELLING COMMITTEE (MCC)
THROUGH MEMBER SECRETARY
ADDITIONAL DIRECTOR GENERAL MEDICAL EDUCATION
[ADG(ME)],
DIRECTORATE GENERAL HEALTH SERVICES,
MINISTRY OF HEALTH & FAMILY WELFARE (MOH&FW)
ROOM NO. 352-A, NIRMAN BHAWAN,
RAJPATH AREA, CENTRAL SECRETARIAT,
NEW DELHI - 110001

..... RESPONDENT NO.4

M.S. RAMAIAH MEDICAL COLLEGE & TEACHING HOSPITAL
THROUGH
DR. MEDHA Y. RAO,
PRINCIPAL & DEAN
MSR NAGAR, MSRIT POST,

..... RESPONDENT NO.5

Through: Ms. Monika Arora (CGSC) with
Mr. Yash Tyagi, Advocates for R-1 to 4/UOI.
Mr. D.P. Chaturvedi, Advocate for R-5.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

CM APPL. _____/2023 (TO BE NUMBERED)

1. Heard.
2. For the reasons stated in the application, the same is allowed and Shri D.P. Chaturvedi, learned counsel appearing on behalf of respondent No.5 stands discharged from the present petition.
3. Accordingly, the application is disposed of.

W.P.(C) 8495/2018 & CM APPLs 32653/2018, 8254/2019

1. The petitioner has filed the instant petition for various reliefs however, he confines his relief to prayer (B) i.e., to consider refund of

the security deposit of Rs.2 lakhs, paid by the petitioner during round-1 of the counselling.

2. The case of the petitioner is that after completion of M.D. in General Medicine from Army Hospital Research & Referral Delhi, Cantonment in 2018, the petitioner applied under National Eligibility cum Entrance Test (Special Specialisation)-2018 for Nephrology (in short 'NEET SS-2018').

3. The petitioner paid a sum of Rs.2 lakhs for the purpose of participating in the counselling. While filing up the choice, the petitioner visited various websites of the colleges where he could get admission and realising that the fee of respondent No.5-College is 'Zero', he opted for respondent No.5-College for admission. According to him, he even made a call to the college and it was confirmed to him that the fee is 'Zero'.

4. The petitioner, on the basis of his merit position, was awarded a seat in respondent No.5-College in the first round of counselling. When the petitioner went to respondent No.5-College on 10.08.2018, he was asked to deposit a sum of Rs.40 lakhs to secure admission in the concerned course.

5. The petitioner, immediately on 11.08.2018, sent an e-mail to the Medical Counseling Committee (in short 'MCC'), informing them of the aforesaid fact, indicating that despite the fees being shown 'Zero', the petitioner was demanded a sum of Rs.40 lakhs. There was no reply from the MCC and therefore, the petitioner approached this court by way of this instant petition.

6. This court *vide* interim order dated 14.08.2018, directed the petitioner to deposit a sum of Rs.2 lakhs as a security deposit and he was also allowed to participate in the second round of counselling. The

petitioner, however, could not secure a seat of his choice in the second round of counselling; and the fee deposited towards security for the second round of counselling was refunded to him.

7. Learned counsel appearing on behalf of the petitioner submits that if the information uploaded by the respondent No.5-College is compared with the information uploaded by various other colleges, the same would clearly indicate that the entire anomaly has been created on account of incorrect disclosure by respondent No.5-College on its portal. He states that if the relevant information is perused, the same would indicate that the annual fee for NEET Super Speciality Candidate and admission amount to be paid by a concerned student, is shown to be 'Zero'. If the same is seen in contrast with the information provided by the other colleges, it is evident that the other colleges have clearly mentioned the fees to be deposited by the concerned student. It is, therefore, prayed that the petitioner is entitled for a refund of the security deposit amount which he had deposited for participation in the first round of counselling. According to him, had the correct information been uploaded on the information portal, the petitioner would not have opted to participate in the counselling nor would have deposited the security fee of Rs.2 lakhs.

8. Learned counsel appearing on behalf of respondent No.1-Union of India (UOI) submits that in compliance with the directions given by this court, a comprehensive note has been submitted by the UOI. According to her, as per the 'refund policy' for NEET SS-2018 counselling, which was also uploaded on MCC portal, it was very specifically mentioned that the security fees deposited by the candidates would not be refunded. She further states that if the student fails to report to his allotted college, then the fees deposited by any candidate would be forfeited. Since the

petitioner was allotted a seat and the petitioner did not report to the concerned college, the security amount has rightly been forfeited. According to her, the access to intra-MCC portal is provided to all the participating colleges, wherein, participating colleges fill in all the data as mentioned in the *pro-forma* themselves. MCC has no role to play in the information filled up by the participating colleges. She further explains that MCC is only a facilitator in the entire process of allotment of seats during counselling and is not liable for any information, which is uploaded by the concerned colleges.

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

10. It would be relevant to reproduce the uploaded information by respondent No.5-College against different columns. The same is reproduced as under: -

PROFORMA FOR COLLEGE – INFORMATION REGARDING FEE, BOND- CONDITIONS ETC.	
College Code/ College	KA07 M. S. Ramaiah Medical College, Bangalore
State	Karnataka
GENERAL DETAILS	
Name of College	M. S. Ramaiah Medical College
Full Address of College	MSR Nagar, MSRIT Post, Mathikere, Bangalore
State/ Pin	Karnataka/ 560054
Affiliating University	Rajiv Gandhi University of Health Sciences
Session Start Date	01/09/2018
Annual Fee for NEET SS Candidate (Rs.)	0
Admission Amount to be paid (Rs.)	0
Stipend 1 st Year 2 nd Year 3 rd Year (Rs.)	40000 45000 50000
Non Stipendary against the subject in Ann. 1	NIL
Hostel facility for	MALE AND FEMALE
Monthly hostel dues (Rs.)	10000
Bond, if any	N
The amount of fee to be reimbursed (Rs.)	0
Time period of reimbursed (Rs.)	10
College website address	www.msrmc.ac.in
Other Information	Card, End, Gastr, Nephro – 40 L/ Yr; MedOnc, Neuro, NeuroSurg, VascSurg – 20L/ Yr; Uro- 50 L/ Yr; PlastSurg, PaedSurg- 10 L/ Yr, Miscellaneous Fee 43,400/ Yr. Fee Detail on www.msrmc.ac.in

11. After perusal of the extracted information which was uploaded by respondent No.5-College, it is seen that in the column meant to show the fee i.e. the annual fee for NEET SS Candidate reflects 'Zero'. The admission amount is also shown to be 'Zero'. The only information about the fees of Rs.40 lakhs is mentioned in the 'other information' column. It is thus, seen that the petitioner might not have perused the relevant column and had opted for admission in respondent No.5-College. However, the fact remains as to whether the fee which has been deposited with the MCC, is liable to be refunded to the petitioner? The perusal of the fact clearly indicates that the MCC has specifically uploaded in its questionnaire, with respect to forfeiture of the fee, in case the candidate does not report to the concerned college. It is also not disputed that the MCC had allotted the seat to the petitioner in respondent No.5-College. There is no fault on the part of the MCC, either in the process of counselling or with the forfeiture of the said security fee. The forfeiture clause is applied by the MCC, uniformly to all students who participated in the counselling.

12. So far as the claim of the petitioner with respect to respondent No.5-College is concerned, the same cannot be gone in the instant case. The information with respect to Rs.40 lakhs, i.e., the fee to be charged from the students, is provided in the 'other information' column; whether this 'other information' column, which provides the fee to be deposited by the students, is sufficient disclosure in accordance with law or some other information was required to have been mentioned in different columns, are all issues which need to be gone into after adducing sufficient evidence, including considerations of relevant guidelines etc.

13. It is for this reason; this court is not inclined to entertain the instant petition. Accordingly, the petition stands dismissed, however; liberty is granted to the petitioner to take appropriate recourse in accordance with the law.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

FEBRUARY 10, 2023/MJ

