

HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:

THE HON'BLE JUSTICE JAY SENGUPTA

WPA 15815 of 2024

Dr. Debopam Mandal

Versus

The National Board of Examinations in Medical Sciences Medical

Enclave & Ors.

For the petitioner

Mr. Subir Sanyal
Mr. Sakti Pada Jana
Mr. Subhajyoti Das
Mr. Sourajit Mukherjee
Ms. Sudipta Pramanik

For the NBEMS

Dr. Debu Chowdhury

**For the National Medical
Commission**

Mr. Sunit Kr. Roy

Heard on

: 07.11.2024

Judgment on

: 07.11.2024

JAY SENGUPTA, J:

This is an application challenging an order dated 03.06.2024 passed by the respondent no.1.

The petitioner had passed his MBBS exam from University of Rajshahi in Bangladesh. Thereafter, he sat in the FMGE of 2022 but secured only 149 marks out of 300 marks. Accordingly, he could not succeed in clearing the examination

as the requirement was to get 150 marks out of 300 marks. He prayed for rounding off of marks, which was denied. By an order dated 30.04.2024 passed by a Co-ordinate Bench of this Court in WPA 9508 of 2024, the petitioner was granted liberty to make a representation within a stipulated time before the National Board of Examination in Medical Sciences, which was to be considered in accordance with law. By an order dated 03.06.2022, the prayer of the petitioner to round off marks obtained in the FMG examinations was turned down, *inter alia*, on the ground that there was no such provision for the same.

Learned senior counsel representing the petitioner submits as follows. The petitioner has secured his MBBS degree from Gazi Medical College under Rajshahi University in Bangladesh. The petitioner scored 149 out of 300 in the FMGE, which is apparently a very tough examination to clear. The marks obtained is equivalent to 49.66 % while the requirement is to get 50 % marks. Naturally it would be fair for the petitioner to pray for rounding off of such marks. In any event, this is not a competitive examination that someone else might suffer for this. Reliance is placed on a decision of the Hon'ble Apex Court passed in Maharashtra State Board of Secondary & Higher Secondary Education –vs- Amit and another reported at (2002) 6 SCC 153.

Learned counsel appearing on behalf of the NMC denies the allegations and submits as follows. The FMGE is not based on percent of marks to be obtained. It is clearly stipulated that unless the petitioner gets 150 out of 300 marks, he would not clear the said examination. On exactly similar facts where students passing such degree from a University in the Philippines obtained 149 marks out of 300 marks, the Delhi High Court by its reasoned order dated 11.05.2012 passed in WP (C) 2785 of 2012 turned down such prayer of the candidate.

Learned counsel appearing on behalf of the NBEMS opposes the application and adopts the submissions advanced on behalf of the NMC.

As per the Information Bulletin of FMGE for December 2022, the passing criteria as containing in Clause 5.5 can be set out as under:

“5.5. A candidate shall be declared as having passed only if he/she obtains a minimum of 150 marks out of 300 in the examination. Results (Pass/fail) for eligible candidates will be displayed on NBEMS website. There is no provision for re-totalling/re-evaluation.”

Therefore, the stipulation is very specific that a minimum of 150 marks out of 300 shall have to be obtained to clear the examination. It has also been categorically stated that there is no provision for re-totalling/re-evaluation.

Thus, it appears that there is neither any provision for rounding off of marks nor for granting any grace marks. The decision relied upon on behalf of the petitioner deals with distinct facts where, among other things, apparently there was a provision for granting grace marks by the Board. On the other hand, the decision relied upon by the NMC deals with exactly similar facts.

As there are no provision for rounding off of marks or for granting of grace marks and, upon inquiry, it has been admitted on behalf of the petitioner that a candidate can get more number of chances to clear such examination, the petitioner's prayers made in the writ petition cannot be granted.

In view of the above, the writ petition is dismissed.

However, there shall be no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Jay Sengupta, J)