



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO.6698 OF 2024

Rahul Surender Sharma,

Age- 25, Occ:- Medical Student,
Having address at – House No.595,
Sector – 9, Faridabad Sector – 7,
Faridabad, Haryana – 121 006.

..Petitioner

Versus

1. **Dr. D. Y. Patil Medical College, Pune,**
Hospital and Research Centre,
Sant Tukaram Nagar, Pimpri,
Pune – 411 018.
2. **National Medical Commission**
Pocket 14, Sector 8,
Dwarka, New Delhi – 110 007.
3. **Medical Counselling Committee**
Nirwan Vihar, New Delhi – 110 092.
4. **The State of Maharashtra**
(Through the Secretary
Medical Education Department).
Maharashtra State, Mumbai – 400 032.
(copy to be served on Govt. Pleader High
Court of Judicature of Bombay at Mumbai)
5. **Directorate General of Health Services**
Through the Ministry of Health and
Family Welfare, Nirman Bhavan,
New Delhi – 110 011.

..Respondents

Ms. Yugandhara Pawar Jha with Mr. Rohit Pandey, Mr. Swapnil Wagh &
Ms. Vinita Dandekar for the Petitioner.

Mr. Mandar Goswami a/w Mr. Samyak A. Bhatkar for Respondent No.1.

Mr. Ganesh K. Gole a/w Mr. Viraj Shelatkar for Respondent No.2 (NMC).

Mr. B. V. Samant, Addl. G. P. a/w Mr. S. P. Shetye, AGP for Respondent
No.4 (State).

Mr. Rui Rodrigues for Respondent Nos.3 & 5.

CORAM : A. S. CHANDURKAR &
JITENDRA JAIN, JJ.

DATE : 5th MARCH 2024.

Judgment (Per Jitendra Jain, J.) :-

1. **Rule.** Rule made returnable forthwith and heard the learned counsel for the Petitioner and the learned counsel for the Respondents.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner has prayed for following relief :-

“(a) That this Hon’ble Court be pleased to direct the Respondent No.1 to confirm the seat allotted to the Petitioner for MD Radio diagnostics in Dr. D. Y. Patil Medical College, Pune in the special stray round be secured by allotting admission letter to the petitioner”.

Brief facts are as under :

3. The Petitioner has completed his MBBS Course and cleared his National Eligibility-Cum-Entrance Test (NEET) PG Exam for the course of MD Radio Diagnostics. Based on his score, the Petitioner was allotted a seat in Respondent No.1-College on 24th November 2023 on provisional basis. The allotment letter mentioned certain conditions to be fulfilled failing which the allotted seat will be cancelled and security deposit will be forfeited. As per the schedule of special stray vacancy round, the Petitioner was to make the payment of fees by 30th November 2023 upto 5:00 p.m. and furnish all the documents. On 30th November 2023, it is the contention of the Petitioner that the wire transfer of

10,000/- (US Dollars) could not be effected on account of technical glitch. However, by RTGS he made a payment of Rs.9 lakh on 30th November 2023. On the same day, the Petitioner by email requested Respondent No.1-College to consider his application for concession due to his financial constraints to make the payment of the fees and requested Respondent No.1-College to give concession. The Petitioner also requested for extension of the reporting time to resolve the matter. However the Respondent No.1 did not entertain the said request and it is on this backdrop that the Petitioner is before us.

4. The Petitioner submits this this is not a case where the seat is sought to be filled up after the scheduled time prescribed by the Respondents. The Petitioner was allotted provisional allotment letter on 24th November 2023 as per the schedule. However, since the Petitioner's father was suffering from cancer there was a delay on his part to make the payment and furnish all the necessary documents by 30th November 2023. The Petitioner submits that if the prayers sought for are not granted then the seat will be left vacant as there is no other candidate to fill up the seat. The Petitioner further submitted that they are willing to make the full payment and submit all the documents to regularize the admission. The Petitioner further submitted that if the prayers sought for are not granted then the Petitioner would be losing two crucial years

of his career. The Petitioner, therefore, prayed that considering all the circumstances the Petition be allowed.

5. The Respondent No.1-College submitted that as per the schedule, the Petitioner was to make the payment of the fees and submit all the documents by 30th November 2023 by 5:00 p.m. However, the Petitioner could not make the payment of the fees and also could not furnish all the documents. The Petitioner made the payment of Rs.9 lakh at 18:48 hours. The Respondent No.1-College submitted that these facts were communicated to the Respondent No.2-NMC. The Respondent No.1-College further submitted that the Supreme Court in the case of *Medical Council of India vs. Madhu Singh & Ors*¹. and other decisions have held that in medical admission, schedule has to be strictly adhered to and even if the seats goes vacant no admission can be granted after the cut-off date.

6. The Respondent No.2-NMC submitted that the admission was on provisional basis and as per Rules 9 to 11 of “Post Graduate Medical Education Regulations, 2000 no admission can be given after the cut-off date. The Respondent No.2 relied upon the decision in the case of *Medical Council of India vs. Madhu Singh & Ors (supra)*, *Ashish Ranjan & Ors. vs. Union of India & Ors*². and *Education Promotion Society for*

1 (2002) 7 SCC 258

2 (2016) 11 SCC 225

*India & Anr. vs. Union of India & Ors.*³ and prayed that if there is violation of the schedule then no extension can be granted.

7. The Respondent Nos.3 and 5 adopted the arguments of Respondent Nos.1 and 2 and submitted that this Court under Article 226 of the Constitution of India cannot extend the time schedule for medical admission.

8. We have heard the learned counsel for the Petitioner and the learned counsel for the Respondents and with their assistance have perused the documents annexed to the Petition.

9. This Petition was originally filed on the original side of this Court and was numbered as Writ Petition (L) No.2461 of 2024. On 13th February 2024, leave was granted by this Court to file the same on the appellate side. Pursuant thereto the Petitioner has filed present writ petition on the appellate side.

10. The allotment of seat to the Petitioner on 24th November 2023 was provisional and not final. The said provisional allotment was subject to the Petitioner submitting all the documents and making the payment of the fees on or before 30th November 2023. Admittedly, there is no dispute that by 30th November 2023, the Petitioner could not make the

³ (2019) 7 SCC 38

full payment of the fees, but paid only Rs.9 lakh and that too after the time provided in the schedule had expired. The Petitioner in his email requested Respondent No.1-College to consider his prayer for some concession in the fees since the same was very high for him. Admittedly, the Petitioner also did not file all the original documents by 30th November 2023. Therefore, on both these counts i.e. non-furnishing of original documents and non-payment of full fees by 30th November 2023, the Respondents did not confirm the admission of the Petitioner. We do not see any infirmity in the same.

11. The Supreme Court in the case of *Medical Council of India vs. Madhu Singh & Ors (supra)* and in the case of *Supreet Batra & Ors. vs. Union of India & Ors*⁴. have consistently held that the time schedule for admission to the medical courses has to be strictly adhered to and no seats can be allotted after the cut-off period even if the seat goes vacant. In the instant case, by 30th November 2023, the Petitioner failed to make the payment of the fees nor had he filed all the original documents and therefore the Respondents were justified in not confirming the allotment of the seat to the Petitioner. We cannot in exercise of Article 226 of the Constitution of India extend the time schedule fixed by the Respondents in the light of the decisions of the Supreme Court referred hereinabove.

4 (2003) 3 SCC 370

12. In view of above, we are not inclined to interfere in the Writ Petition. It is accordingly dismissed with no order as to costs.

(JITENDRA JAIN, J.)

(A. S. CHANDURKAR, J.)

(This judgment is modified as per speaking order dated 22nd April 2024.)