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

+ W.P.(C) 6933/2024, CM APPL. 28865/2024 & CM APPL. 28867/2024

DR. BHARATHI PRIYA. A.M.

.....Petitioner

Through: Mr. Sanjeev Kumar Dubey, Sr. Adv.
with Ms. Trisha Chandran, Ms.
Jhanvi Dubey and Mr. Zeeshan
Ahmed, Advs.

versus

NATIONAL BOARD OF EXAMINATIONS IN MEDICAL
SCIENCES & ANR.

.....Respondents

Through: Mr. Ashok Kashyap, SPC for UOI.
With Mr. Kabir Hazarika, GP.

37

+ W.P.(C) 7751/2024 & CM APPL. 32148/2024

MS. HEMLATA SHARMA,

.....Petitioner

Through: Mr. Sunil Kumar Ojha, Adv.

versus

UNION OF INDIA & ANR.

.....Respondents

Through: Mr. Arunima Dwivedi, CGSC with
Mr. Aakash Pathak, G.P. for UoI.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **26.11.2024**

1. The instant writ petitions seek to challenge communication dated 23.04.2024 declaring petitioners ineligible to take Fellow of National Board



[FNB] Exit Examination 2023 on account of their training period being extended beyond the cut-off date and to set aside certain leave rules relating to the National Board of Examination in Medical Sciences [NBEMS].

2. As in both the cases, the issue involved is similar, therefore, the same is being decided by the common order.

3. Learned counsel appearing for the petitioners contends that the impugned decision is in gross violation of NBE Leave Guidelines. He further submits that the petitioner has not exceeded her legitimate leave as she availed only 138 days, out of 150 days available to her and out of those availed leaves, 78 days formed the part of maternity leave.

4. *Per contra*, learned counsel appearing on behalf of the respondent contends that leave rules were notified *vide* notice dated 20.03.2018 with further clarification on 04.09.2018 on its official website. As per the said rules, a candidate is entitled to a maximum of 30 days of leave in a year excluding gazetted and institute holidays.

5. He further submits that the leave rules categorically state that any leave availed by a candidate shall lead to an extension of the training period. Furthermore, it is submitted that the leave rules *inter-alia* provide for completion of training by a fixed cut-off date for being eligible for FNB Exit Examination which shall be determined strictly in accordance with respective Information Bulletin. According to the leaves availed by the petitioner, an extension of 78 days was granted to the petitioner allowing her to complete her training by 21.07.2024 and since, she has not been able to complete the training period therefore, she is not eligible to appear in the examination.

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



materials placed on record.

7. This Court *vide* order dated 16.05.2024 allowed an ad interim relief to the petitioners directing that in the event, FNB Exit Examination takes place prior to the date fixed for the hearing of the matter, the petitioners should be provisionally permitted to appear in the examination, subject to the outcome of the writ petition on the grounds of balance of convenience and considering the fact that no prejudice will be caused to either side through the interim relief.

8. It is also to be noted that the interim order passed by this Court was challenged by the respondent herein in LPA No.478/2024 which came to be decided *vide* order dated 01.06.2024.

9. The Division Bench keeping in mind the nature of direction, relegated the parties to this court leaving all the issues open to be adjudicated on their own merits without being influenced by the observations made in the interim orders.

10. The facts would further indicate that the petitioners, post filing of the petition and in pursuance of the interim relief granted by the Court, have now completed the training period, although after the expiry of the cutoff date. Therefore, considering the overall conspectus of the factual scenario canvassed before this Court and in view of the fact that the primary relief as prayed by the petitioners to appear in the examination had already been granted as an ad-interim relief, there are no legal impediments that hold the disposal of the present petitions. It is also undisputed that the petitioners in terms of the interim order, appeared in the examination and participated in the entire examination process. Thus, on the fulcrum of the factual matrix as exposited above, the NBEMS is directed to declare the result of the



petitioners.

11. Needless to state that the decision of this Court rests on the premise of peculiar factual circumstances of the present case and without prejudice to the rights and contention of the parties, the questions of law involved herein, however, are left open.

12. The petitions stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

NOVEMBER 26, 2024/p