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

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***Reserved on: 09.07.2024***  
***Pronounced on: 22.07.2024***

+ **W.P.(C) 8707/2024**

DR. CHINMAY ANKLESHWARIA

.....Petitioner

Through: Mr. Tishampati Sen, Ms. Riddhi Sancheti, Mr. Anurag Anand, Mr. Mukul kulhari and Mr. Dhawal Desai Advocates

versus

UNION OF INDIA THROUGH MINISTRY OF HEALTH  
AND FAMILY WELFARE & ORS. ....Respondents

Through: Mr. Syed Abdul Haseeb, CGSC for R-1/UID  
Mr. Kunal Sabharwal and Mr. Deepak Mahajan, Advocates for R-2  
Mr. Sudarshan Rajan and Mr. Hitain Bajaj, Advocates for R-3

**CORAM:**

**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA**

**JUDGMENT**

**SWARANA KANTA SHARMA, J.**

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner, seeking directions to



Union of India through Ministry of Health and Family Welfare [*MoHFW*] to advertise one new seat for Doctor of Medicine [*DM*] Cardiology Course for the July 2024 Session, at Post Graduate Institute of Medical Education & Research, Chandigarh i.e. respondent no. 3 [*PGIMER, Chandigarh*] in terms of letter dated 27.05.2024 issued by it, and subsequently grant seat to the petitioner either in All India Institute of Medical Sciences, New Delhi i.e. respondent no. 2 [*AIIMS, New Delhi*] or respondent no. 3 institute i.e. PGIMER, Chandigarh.

### **CASE OF THE PETITIONER**

2. **The case set out by the petitioner** is that one Dr. Diego Mario P. Thubru, a Senior Resident doctor, was assigned a position in the Department of Cardiology at PGIMER, Chandigarh, after successfully qualifying the Institute of National Importance Super-Speciality Entrance Test [*INI-SS Entrance Test*] for the January 2024 Session. However, in February 2024, Dr. Thubru had submitted his resignation to PGIMER, Chandigarh. Thereafter, PGIMER, Chandigarh, *vide* an Office Order dated 16.03.2024 had confirmed the acceptance of Dr. Thubru's resignation, and indicated that he was officially relieved of his duties with effect from 14.02.2024. As per the petitioner, this resignation resulted in a vacant seat in the DM Cardiology Course, for January 2024 Session, at PGIMER, Chandigarh. It is further the case of the petitioner that the prospectus, for the July 2024 Session of the INI-SS Entrance Test for DM/M.Ch./MD Hospital Administration courses, was published on



27.03.2024, and thereafter, online registrations had begun. The written examination for the said Entrance Test was conducted on 27.04.2024 and the petitioner herein had qualified the same, and had successfully appeared for the interview on 16.05.2024. The results of the INI-SS Entrance Test were declared on 29.05.2024, wherein the petitioner had secured AIIMS Merit List Rank 6, with 61.667 marks out of 100 total marks.

3. However, the petitioner later learnt that PGIMER, Chandigarh had sent a letter dated 27.05.2024 to AIIMS, New Delhi, requesting the advertisement of an additional seat for the DM Cardiology course for the July 2024 Session, in accordance with the accepted rules and protocols for conducting the examination. Though this letter dated 27.05.2024 was duly received by AIIMS, New Delhi, the petitioner states that AIIMS had failed to act in accordance with the same, thereby causing prejudice to the petitioner and the public at large. Thereafter on 31.05.2024, AIIMS, New Delhi had published a Notice bearing no. 65/2024, detailing the final seat positions for the INI-SS Entrance Test July 2024 Session. However, as per the petitioner, AIIMS, New Delhi had ignored the request from PGIMER, Chandigarh and had failed to advertise the additional seat that had become vacant during the January 2024 Session. Aggrieved by the same, the petitioner had sent a representation *via* e-mail on 31.05.2024 to AIIMS, New Delhi, informing them of the vacancy as well as his candidature.

4. In the meantime, the candidates were required to fill in their institute preferences by 04.06.2024 and complete their choices on the



official website by 11.06.2024. The petitioner had sent a reminder letter on 05.06.2024 to AIIMS, New Delhi, reiterating the factum of existence of one vacancy at PGIMER, Chandigarh and the request made by PGIMER in that regard also. Despite this, AIIMS, New Delhi, did not issue an addendum for the additional seat at PGIMER, Chandigarh.

5. Aggrieved by the actions of the respondents, the petitioner states that he is left with no option but to approach this Court, to protect his interests.

#### **SUBMISSIONS BEFORE THIS COURT**

6. **Learned counsel appearing on behalf of the petitioner** submits that PGIMER, Chandigarh had sent a letter to AIIMS, New Delhi, requesting advertisement of an additional seat for the DM Cardiology course for the July 2024 Session. This letter was duly received by AIIMS, New Delhi, yet they had irrationally omitted the additional seat as requested by PGIMER, Chandigarh. It is fervently argued on behalf of the petitioner that the seats at PGIMER, Chandigarh should have increased from two, to three, in the general category for DM Cardiology Course and the petitioner herein, having secured AML Rank 6 in the INI-SS Entrance Test for July 2024, has been severely prejudiced by this omission on part of the respondents, since as on date, there are five seats in DM Cardiology Course at AIIMS, New Delhi and PGIMER, Chandigarh institute combined. It is submitted that including one additional seat would make the total seats as six, thereby making the petitioner eligible for sixth seat as he



has secured rank 6.

7. It is also argued that AIIMS, New Delhi was bound to follow the terms of the letter dated 27.05.2024 i.e. to carry forward the vacant seat from January 2024 session to July 2024 session, and benefit the institute i.e. PGIMER by filling all the vacant seats. Learned counsel for the petitioner further submits that by ignoring letter dated 27.05.2024, AIIMS, New Delhi has acted in contravention and violation of the Prospectus of INI-SS Entrance Test July 2024 Session and also the prospectus for January 2024 Session. It is submitted that the prospectus clearly provides for seat allocation for vacant seats. Further, as per Clause 8.5(e) sub-rule (vi) of the Prospectus, seat allocation is to be carried out through online mode, and it has to be in order of overall rank in respective merit lists. Further, any seat remaining vacant in respective subgroups (General Seats, Sponsored Seats, and Foreign National Seats) has to be carried forward to the next session. In this regard it is submitted that by not including the additional seat requested by PGIMER, Chandigarh, the AIIMS, New Delhi has failed to adhere to these procedures. It is also stated that it is not the case of the respondents that a seat vacated mid-session would not be carried forward to the next session, and neither the prospectus nor the notice states that a mid-session vacated seat would not be added to the new session. Learned counsel for the petitioner draws attention of this Court to the relevant clause of the Prospectus INI-SS July 2024, which reads as under:

**“3.2 Seat allocation & Admission into any of the**



participating INI will be governed by the rules and regulation of respective Institute as applicable and will be administered by the Head of Institutions of respective INIs (the details are mentioned in Part B of the Prospectus of INI-SS, July 2024).”

8. Learned counsel for the petitioner further argues that obtaining the seat in DM Cardiology at PGIMER, Chandigarh will not only benefit the petitioner personally, but will also have a substantial positive impact on the institute and the public. It is stated that large institutes, like the respondents herein, face significant challenges in patient handling due to the high patient-to-doctor ratio in the Cardiology department. Thus, providing meritorious candidates with positions at such institutes benefits the candidates, the institutes, as well as the public at large. It is further argued that no prejudice would be caused to the respondents if the petitioner is granted a seat for DM Cardiology at PGIMER, Chandigarh for the July 2024 Session, as counselling is still ongoing and at an initial stage and further the petitioner is eligible and meets all criteria to be appointed as a resident in DM Cardiology course at PGIMER, Chandigarh. It is also argued that once the petitioner had secured Rank 6 in the INI-SS Entrance Test for July 2024 Session, the doctrine of legitimate expectation also protects the right of the petitioner to secure position/admission at PGIMER, Chandigarh.

9. Therefore, it is prayed on behalf of the petitioner that the present writ petition be allowed.

10. On the other hand, **learned counsel appearing on behalf of AIIMS, New Delhi** i.e. respondent no. 2 submits that the petitioner



herein has prayed for addition of a seat in PGIMER, Chandigarh, DM Cardiology program, which had become vacant due to a candidate resigning mid-stream after being selected in the January 2024 INI-SS Entrance Test. The fact that the resignation was submitted to PGIMER, Chandigarh on 14.02.2024 and accepted on 16.03.2024 is not disputed by the learned counsel. However, he argues vehemently that AIIMS, New Delhi had sent an email on 23.02.2024, requesting all the participating INIs, including PGIMER, Chandigarh, to report any vacant seats, to be carried over to the July 2024 Session, however, AIIMS had not received any response regarding the vacant seat from PGIMER, Chandigarh, within the stipulated time period. Subsequently, on 20.03.2024, AIIMS, New Delhi had further requested participating INIs to confirm the number of seats for the upcoming July 2024 Session to be advertised. However, PGIMER, Chandigarh had again not informed AIIMS, New Delhi about the vacant seat available in the institute, for reasons unknown to AIIMS, New Delhi.

11. It is further submitted that on 27.03.2024, AIIMS, New Delhi had issued Part-A of the Prospectus inviting applications for entrance tests of DM/M.Ch./MD hospital administration courses at INI for Medical Education. The written examination had taken place on 09.04.2024, and the results had been declared on 04.05.2024. It is further submitted that according to Clause 6.2(d) of Part-A of the Prospectus, candidates who have been called for departmental clinical/practical/lab-based assessments cannot have the number of seats altered, post-result declaration. In this regard, it is submitted



that the rationale behind this clause is to maintain equilibrium in the admission process, and an increase of any seat, after declaration of results, could disrupt this equilibrium, thereby requiring a fresh assessment process. It is argued that this would not only halt ongoing admissions but also delay the entire process, which is impermissible as per various judgments of the Hon'ble Apex Court, which emphasize upon upholding the sanctity and schedule of admissions. Therefore, it is argued that adherence to the specified timelines in the Prospectus is crucial to ensure the conclusion of the admission process within the stipulated period.

12. Learned counsel for AIIMS, New Delhi further submits that the petitioner has approached this Court at a belated stage, as despite being aware of vacancy of a seat in PGIMER, Chandigarh, the petitioner remained silent until 27.05.2024. It was only after this delay that the petitioner had actively emailed AIIMS, New Delhi on 01.06.2024 and 05.06.2024. Given these circumstances, AIIMS, New Delhi could not have reasonably considered adding the vacancy at such a late stage, since doing so would have necessitated restarting the entire assessment process stipulated in Clause 6.2(d) of Part-A of the prospectus, which prohibits such revisions once results are finalized and assessments are initiated. It is also submitted that the Prospectus lacks any provision allowing AIIMS, New Delhi to retrospectively alter admissions processes after the initial assessment.

13. Lastly, it is submitted that allowing the present petition could potentially lead to a situation where candidates from the other 72 courses might also approach this Court seeking similar reliefs. It is



stated that each of these candidates is a qualified doctor pursuing specialized courses but was unable to secure admission due to the lack of available or advertised vacant seats, of which AIIMS, New Delhi was not informed. It is stated that allowing the present petition could undermine the entire admission process for the INI-SS courses, which has already been concluded.

14. Thus, it is prayed that since AIIMS, New Delhi has conducted the entire process lawfully and diligently, without any malice, arbitrariness, or illegality, the present petition is liable to be dismissed.

15. **Learned counsel appearing on behalf of the petitioner rebuts** the argument of learned counsel for AIIMS, New Delhi with respect to clause 6.2 (d) of the Prospectus in question, and argues that the petitioner herein satisfies the conditions in the said clause as the petitioner herein had been called for departmental clinical/practical/lab-based assessment related to sub-speciality/systems /component of the speciality/course, for which the candidate has applied in respective departments in AIIMS New Delhi. Thus, he has fulfilled the requirements of clause 6.2(d) of the INI-SS Exam prospectus.

16. **Learned counsel appearing on behalf of PGIMER, Chandigarh** i.e. respondent no. 3 submits that the resignation of Dr. Diego Mario P. Thubru, from the course of DM Cardiology, had been accepted on 16.03.2023. It is not disputed by the learned counsel that *vide* email dated 23.02.2024, AIIMS, New Delhi had called upon PGIMER Chandigarh to inform if there were any vacant seats, which



were to be carried forward to the July 2024 session. In this regard, it is submitted that though the resignation of the said doctor was tendered on 14.02.2024, the process to accept the resignation of a doctor from a particular course has to go through different channels and thus, there was some delay in accepting the resignation of the said doctor. It is further submitted that PGIMER Chandigarh had sent a letter dated 27.05.2024 to AIIMS New Delhi requesting to advertise one new seat for the DM Cardiology Course for the July 2024 Session as per the accepted rules and protocols for conducting such an examination. This letter was duly received by AIIMS New Delhi, however, no action was taken by AIIMS, New Delhi.

17. Learned counsel appearing for PGIMER Chandigarh further submits that there is a shortage of doctors in the institute, especially in specialised fields like cardiology. Further, it is submitted that no prejudice would be caused to the respondents or any other person if the present petition is allowed since the petitioner had secured 6th rank in the INI-SS Entrance Test.

18. This Court has **heard** arguments on behalf of all the parties and has perused the material placed on record by either side.

### **ANALYSIS & FINDINGS**

19. In the present case, the petitioner, who had secured AIIMS Merit List rank 6, with 61.667 marks in the INI-SS Entrance Test for the July 2024 session, is aggrieved by the failure of AIIMS, New Delhi to advertise an additional seat in the DM Course, Department of Cardiology at PGIMER, Chandigarh, which had become vacant



pursuant to resignation of one resident doctor at PGIMER, Chandigarh. It is the case of petitioner that this omission has caused prejudice to his candidature for the vacant position, and consequently, he has been left with no option but to approach this Court to protect his interests.

20. At the outset, this Court notes that the nodal body designated as the controller for the INI-SS Entrance Test is AIIMS, New Delhi, which is clear from the reading of Clause 3 of the Prospectus.

21. It is pertinent to note that INI-SS Entrance Test was conducted for the January 2024 session by AIIMS, New Delhi, pursuant to which admissions had been granted in the DM/M.Ch./MD Hospital administration courses at various Institutes of National Importance.

22. The factual background, leading to filing of present petition, is the resignation by Dr. Diego Mario P. Thubru, Senior Resident, who had been allotted a seat at PGIMER, Chandigarh in the DM Course, Department of Cardiology, after clearing the January 2024 Examination. As per records, Dr. Thubru had tendered his resignation on 14.02.2024 to PGIMER, Chandigarh. The same was approved by PGIMER, Chandigarh *vide* office order dated 16.03.2024, which reads as under:

“...The notice of resignation tendered by Dr. Diego Mario P Thubru, Senior Resident, Department of Cardiology vide his request dated 14.02.2024 has been accepted and he shall stand relieved from his duty on 14.02.2024 (afternoon)...”

23. At this stage, it will also be relevant to take note of Clause 8.5(e) sub-rule (vi) of the Prospectus of INI-SS July 2024 Session,



relied upon by the learned counsel for the petitioner, which is extracted as under:

“8.5 Phase III - Seat allocation of INI-SS Seat allocation will be done in online based on both merit list (CML/AML) as per following procedure:-

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e) All eligible candidate will be allowed to fill online choices of INI and their order of preferences subject to eligibility as per both merit list after declaration of results and seat will be allocated as per following method:

i. Seat allocation will be in order of overall rank in respective merit list (CML/AML).

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**vi. Any seat remaining vacant in respective sub groups (General Seats, Sponsored Seats & Foreign National Seats) shall be carried forward for next session.”**

(Emphasis supplied)

24. Therefore, as per aforesaid clause, any seat which remains vacant in respective sub-groups is carried forward for the next session.

25. It also emerges from the record that AIIMS New Delhi, *vide* its Notice No. 27/2024, dated 19.02.2024, had requested institutes participating in the INI-SS Entrance Test to conduct a stray vacancy round for the vacant seats. The relevant extract of the said notice is extracted hereunder:

“It is to inform that no further round of online seat allocation for INS-SS January 2024 session. However **individual participating AIIMS and other institutes of National Importance may conduct stray vacancy round for vacant seats (if any).**”

(Emphasis supplied)



26. Therefore, though all the participating institutes of INI-SS Entrance Test could have conducted stray vacancy rounds for the vacant seats, if any, the PGIMER Chandigarh had failed to conduct any such round, even though one seat in DM Cardiology Course had become vacant pursuant to the resignation of one of the doctors, as noted above.

27. Be that as it may, in the meanwhile, AIIMS New Delhi had sent an email dated 23.02.2024 to all the participating institutes to inform them if there were any vacant seats which were to be carried forward to the July 2024 session. This email reads as under:

“Respected Sir/Madam

Kindly provide the latest seat position for commencing session of July-2024 session of INI-SS for admission in DM/M.Ch/MD (Hospital Administration) courses at the earliest preferably by 04th March,

Online registration shall be started from 11th March, 2024.

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Regards  
Examination Section  
AIIMS, New Delhi”

28. Thereafter, another email dated 20.03.2024 was sent by AIIMS New Delhi, calling upon all the participating institutes to verify the number of seats to be published for the upcoming INI-SS Entrance Test, July 2024 Session. This email reads as under:

“Respected Sir/Madam

Please find attached the Seat position for the DM/M.CH Course sent by you for INI-SS July, 2024 Session. You are requested to verify the seat and kindly revert the Email about In order/not in order (21.03.2024 at 11:00



AM). As to upload on the Website.

Regards  
Examination Section  
AIIMS, New Delhi”

29. It is **crucial to note** that PGIMER, Chandigarh had neither informed AIIMS New Delhi, in response to email dated 23.02.2024 that one of the resident doctors had tendered his resignation, nor it had informed about the existence of one more vacant seat to AIIMS, New Delhi in response to email dated 20.03.2024, even though the resignation of Dr. Thubru had already been accepted on 16.03.2024 by PGIMER, Chandigarh.

30. Thus, on the basis of the response received from the participating institutes, AIIMS New Delhi had published the Prospectus for July 2024 session of the INI-SS Entrance Test for DM, M.Ch., and MD Hospital Administration on 27.03.2024, and thereafter, online registrations had begun. The written examination for the INI-SS Entrance Test July 2024 session had been conducted on 27.04.2024 and the petitioner herein had cleared the said exam and successfully appeared in the interview on 16.05.2024. The results of the INI-SS Entrance Test July 2024 session had been declared on 29.05.2024.

31. However, it was only on 27.05.2024, that PGIMER, Chandigarh had informed AIIMS, New Delhi about a vacant seat in DM Cardiology Course for the January 2024 Session. PGIMER, Chandigarh had thus requested AIIMS, New Delhi to increase one seat for the INI-SS Entrance Test for July 2024 Session, considering



one stray vacancy for January 2024 Session, owing to resignation of Dr. Diego Mario P. Thubru. The said letter dated 27.05.2024 reads as under:

“To  
The Assistant Controller (Exam),  
AIIMS, New Delhi

Sub: Advertisement of one more seat under General Category for DM Cardiology Course for July 2024 Session.

Sir,

In continuation to this office letter No. 30011/1Trg/July2024/387 dated 07.03.2024 it is hereby requested to advertise the new seat position for DM Cardiology course for July 2024 session as under:

| NAME OF THE DEPARTMENT/ COURSE | EARLIER SEATS POSITION FOR JULY 2024 (vide letter dated 07.03.2024) |      | NEW SEAT PROPOSED TO BE ADVERTISED FOR JULY 2024 |      |
|--------------------------------|---------------------------------------------------------------------|------|--------------------------------------------------|------|
| D.M Course                     | GEN                                                                 | SPON | GEN                                              | SPON |
| Cardiology                     | 2                                                                   | 3    | 3                                                | 3    |

32. Therefore, it is not in dispute that PGIMER, Chandigarh had requested AIIMS New Delhi to advertise one new seat i.e. three seats, instead of two seats, in the general category for the DM Cardiology Course in July 2024 Session, as per the accepted rules and protocols for conducting such an examination, though, after much delay.

33. However, AIIMS, New Delhi could not include the belated request of PGIMER, Chandigarh and the same was not reflected in the Notice dated 31.05.2024, published by AIIMS, New Delhi *vide* which the details of final seat position of INI-SS admission were clarified . The relevant extracts of the said notice are as under:



**“Subject:-** Final Seat Position of INI-SS for admission in DM/M.Ch & MD(Hosp. Administration) courses for July 2024 session.

In continuation of Notice No. 36/2024 for online registration of INI-SS July-2024 session as well as various communication received from participating INIs regarding seat position and published notice/addendum in this regard on the website, the final seat position of INI-SS July-2024 session is enclosed in Annexure-I & Annexure-II of this notice for seat allocation:-

Please visit the website [www.aiimsexams.ac.in](http://www.aiimsexams.ac.in) as all Important Notices/Corrigendum/Addendum/Updates etc. will only be uploaded on the website”.

34. This Court notes that the contention raised on behalf of AIIMS, New Delhi, *primarily*, is that the resignation in this case was tendered in February 2024 by a doctor, and the same was duly accepted by PGIMER, Chandigarh in March 2024 itself, however, there was an unexplained delay on part of PGIMER, Chandigarh in intimating the same to AIIMS, New Delhi, which was done only *vide* letter dated 27.05.2024, wherein a request was made to advertise one new seat for DM Cardiology Course. However, by the time this letter was received, the advertisements had already been issued by AIIMS, New Delhi as per the deadlines and the protocols followed for conducting such examinations had been completed, and thus, there has been no lapse on part of AIIMS New Delhi.

35. Having taken note of these facts, this Court is in agreement with the aforesaid argument since PGIMER, Chandigarh had delayed sending the request to AIIMS New Delhi, for addition of one more seat in the DM Cardiology Course for PGIMER, Chandigarh, for July 2024 Session. In fact, the same is also not disputed by the learned



counsel who appears on behalf of PGIMER, Chandigarh, who accepts that there was a delay on their part in notifying AIIMS, New Delhi about the additional vacancy for the July 2024 session, despite the fact that resignation of Dr. Thubru was accepted on 16.03.2024, however, the letter requesting the addition of one more seat was sent only on 27.05.2024, i.e. only four days prior to publication of final notice by AIIMS New Delhi, notifying the seats for the respective courses.

36. **Be that as it may**, this Court is also of the opinion that it is an admitted fact by all the parties before this Court that one seat in the DM Cardiology Course, in January 2024 Session, had become vacant in PGIMER, Chandigarh after the resignation of Dr. Diego Mario P. Thubru, thereby increasing the number of seats in the Department of Cardiology at PGIMER, Chandigarh, from two to three. However, the seat which had become vacant in PGIMER, Chandigarh could not be included in the final notice dated 31.05.2024 published by AIIMS New Delhi. Thus, the petitioner, who ranks 6th in the INI-SS Entrance Test for July 2024 Session, was denied a seat in DM Cardiology Course at PGIMER, Chandigarh, which he would have secured otherwise, had the vacant seat been included in the final notice dated 31.05.2024.

37. This Court finds merit in the petitioner's contention and notes that pursuant to resignation of Dr. Thubru, the vacancy should have been carried forward to the July 2024 Session by AIIMS, Delhi, as the same would have allowed the institute in question to fill all its vacancies. However, due to the delayed action on the part of



PGIMER, Chandigarh, the seat could not be advertised in time as the final opportunity to inform AIIMS about vacant seats was given to all the institutes way back in March, 2024. Further, it is undisputed that the five candidates, preceding the petitioner in the merit list, have already joined the DM Cardiology course.

38. This Court while passing this order takes note of the fact that during course of arguments, it was brought to the notice of this Court that there is a shortage of doctors in the Department of Cardiology at PGIMER, Chandigarh, and therefore, filling the vacant seat would significantly benefit the institute and the public at large. Conversely, leaving a seat vacant for an entire session due to the institute's (PGIMER) delay would harm the general public who rely on these hospitals and specialised institutes for treatment, especially in such a critical department.

39. At this juncture, it would be beneficial to take note of the observations of the Hon'ble Supreme Court in case of *Dr. Rohit Kumar v. Secretary Office of Lieutenant Governor of Delhi* (2021) 8 SCC 381, the relevant extracts of which read as under:

“29. In *S. Krishna Sraddha* this Court directed as follows: (SCC pp. 478-79, para 13)

**“13. In light of the discussion/observations made hereinabove, a meritorious candidate/ student who has been denied an admission in MBBS course illegally or irrationally the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under; .....”**

30. The judgment in *S. Krishna Sraddha* was rendered in the context of, admission to the MBBS course and not to a



postgraduate course. However, in a *National Medical Commission v Mothukuru Sriyah Koumudi*, this Court held: (National Medical Commission case, SCC para 15)

“15. As the dispute in *S. Krishna Sradha* pertained to admission to the undergraduate MBBS course, this Court held that they have not dealt with the postgraduate medical courses. Mr Parameshwar argued that there is no reason why the logic behind the judgment in *S. Krishna Sradha* should not be made applicable to postgraduate courses. We find force in the said argument of Mr Parameshwar. This Court was only paling with the admission to the MBBS course for which reason directions given in the said judgment were restricted to the MBBS course. Directions issued. in *S. Krishna Sradha* can be made applicable to admission to postgraduate courses as well.”

31. The proposition of law which emerges from the judgments of this Court in *S. Krishna Sradha* and in *National Medical Commission v. Mothukuru Sriyah Koumudi* is that **in rare and exceptional cases, a meritorious candidate, who has suffered injustice by reason of his/her inability to secure admission in a medical course, whether undergraduate or postgraduate, due to no fault of his/her own, who has taken recourse to law promptly, without delay, might be granted relief of being accommodated in the Same post in the next session.”**

(Emphasis supplied)

40. Thus, the Courts must ensure, through their decisions, that a meritorious candidate does not suffer injustice due to no fault of his or her own.

41. The petitioner, admittedly, in this case had qualified INI-SS Entrance Test, July 2024 Session, by securing an AIIMS Merit List Rank 6. However, he could not secure a seat since only five seats had been advertised, whereas the rank of petitioner was 6th.

42. Thus, directing the respondents to grant a seat/admission to the



petitioner in DM Cardiology course for July 2024 Sessions will not prejudice other candidates, since had the one additional seat for DM Cardiology course been advertised by AIIMS New Delhi for INI-SS Entrance Test July 2024 Session, the petitioner would have directly benefited from the same. As noted in preceding discussion, the exclusion of this additional vacant seat was solely due to the delayed communication from PGIMER, Chandigarh. This Court is further of the opinion that ensuring all available seats are filled is in the best interest of public health and institutional efficiency. Denying the petitioner this opportunity due to administrative inefficiency would be unjust and contrary to the principles of fair competition and merit-based selection.

43. Therefore, AIIMS, New Delhi is directed to promptly add an additional seat and grant the petitioner admission to the DM Cardiology course in PGIMER, Chandigarh, for the July 2024 Session.

44. Accordingly, the present writ petition is disposed of with above directions, alongwith pending applications, if any.

45. The judgment be uploaded on the website forthwith.

**SWARANA KANTA SHARMA, J**

**JULY 22, 2024/at**