



2024:DHC:5218-DB



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

+ LPA558/2024 & CM APPLs 37587-88/2024

SAMIKSHA CHAUDHARY & ANR.

...Petitioner

Through: Mr. Ankit Kohli, Mr. Arjun Aggarwal, Advocates alongwith Appellant in person

versus

MAULANA AZAD MEDICAL COLLEGE & ORS ...Respondents

Through: Mr. T.Singhdev, Ms. Bhanu Gulati, Mr. Abhijit Chakravarty, Ms. Anum Hussain, Mr. Aabhaas Sukhramani, Mr. Tanishq Srivastava and Mr. Sourabh Kumar, Advocates for R-3. Mr. Mohinder J.S. Rupal, Mr. Hardik Rupal, Advs. For University of Delhi

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**Date of Decision: 08<sup>th</sup> July, 2024.**

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA**

### **JUDGMENT**

**MANMOHAN, ACJ: (ORAL)**

1. Present appeal has been filed under clause X of the Letters Patent Act, 1866 read with provisions of the Delhi High Court Rules to set aside the order dated 27<sup>th</sup> May, 2024 in W.P.(C) No. 4016/2024 whereby learned Single Judge was pleased to pass an order that none of the appellants are entitled to participate in 3rd Professional Part-II MBBS Examination and

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further held that no error is found in the decision dated 7<sup>th</sup> March, 2024 passed by Maulana Azad Medical College, whereby the appellants were found entitled and eligible to appear in the 3<sup>rd</sup> Professional Part-II MBBS Examination only when it will be held in April, 2025.

2. The appellants are final year MBBS students enrolled in the old scheme of the MBBS degree program at the respondent no. 1 & 2/colleges. The Old Scheme is applicable to all the batches upto the year 2018, while the New Scheme has been implemented starting from the 2019 batch onwards.

3. The issue in controversy is therefore, whether the appellants were or were not entitled to undertake their 3<sup>rd</sup> Professional Part II MBBS Examination which was scheduled to be held on 11<sup>th</sup> March, 2024 and assuming they were, whether the Court can direct the DU to hold the 3<sup>rd</sup> Professional Part II MBBS Examination for the appellants during the current academic year, i.e., 2024-2025, instead of their having to wait till 15<sup>th</sup> April, 2025.

Contentions of the learned counsel for the appellants:-

(a) That the learned Single Judge has erroneously ignored an admitted fact that the appellant no.2 appeared for the 3<sup>rd</sup> Professional Part I MBBS Examinations held from 28<sup>th</sup> April, 2023 alongwith other nine (9) students of same batch of Old Scheme, out of which seven (7) students passed in all subjects, but two (2) of them had deficit attendance, i.e. less than 75% attendance, which are/were compulsory as per Rule 8A of the MBBS Ordinances of the DU, yet aforesaid two (2) students were found eligible



for the 3rd Professional Part II MBBS Examination which commenced from 11<sup>th</sup> March, 2024 but appellants were deprived due to an unfair decision of the respondents *vide* impugned letter dated 7<sup>th</sup> March, 2024. On that basis, he submits that it is a clear cut case of discrimination and arbitrary segregation faced by the appellants at the hands of the respondents.

(b) That the learned Single Judge has failed to appreciate the fact that the appellants have given three papers in the 3<sup>rd</sup> Professional Part II (Supplementary) Examination in terms of the Interim Order dated 20<sup>th</sup> May, 2024 as such, an opportunity of mercy to the appellants (who are the final year MBBS students) is declined. Accordingly, exams are deferred by over a year i.e., total of 1.5 years for no fault of the appellants.

(c) That the learned Single Judge has failed to appreciate the fact that the appellants will have to appear all over again in all the examinations when it will be held in April, 2025, as such the appellants will suffer irreparable loss and also mental agony. The future of the appellants (who are MBBS students) is at stake without their fault, hence mercy be granted and respondents be directed to take their remaining exams as early as possible.

Contentions of learned counsel for DU:-

4. Mr. Rupal, learned counsel appearing for DU advanced two preliminary objections, specifically with respect to the right of the appellants to appear in the 3<sup>rd</sup> Professional Part II Supplementary Examinations which started on 21<sup>st</sup> May, 2024. The first is that this relief is



not encompassed within the reliefs sought in the writ petition, which essentially sought a direction to the DU to conduct the 3<sup>rd</sup> Professional Part II Examinations for the appellants during the 2024-2025 academic year. The second is that Supplementary Examinations are held only to enable the candidate to clear the backlog papers of the Main Examination and, as the appellants have not attempted the 3<sup>rd</sup> Professional Part II Main examination which was held on 11<sup>th</sup> March, 2024, they cannot be allowed to undertake the Supplementary Examination starting 21<sup>st</sup> May, 2024.

5. Apart from this, Mr. Rupal also submits that none of the appellants have undergone twelve (12) months in Part I and twelve (12) months in Part II of Phase III of their MBBS course, and, having not done so, were not entitled to undertake their terminal 3<sup>rd</sup> Professional Part II Examinations.

Contentions of learned counsel for the respondent no.3/NMC:-

6. Mr. T. Singhdev, learned counsel appearing for the respondent no. 3/NMC draws attention of this Court to the fact that the Regulations of Graduate Medical Education, 1997 (hereinafter referred to as “*the GME Regulations*”) were framed in exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956. As per the curriculum, the incumbents in the MBBS course have to undergo a necessary stipulated clinical training period during their course. Regulations 7 and 8 thereof deal with phases, phase distribution and timing of examinations and are reproduced hereunder:-



*“7. Training Period and Time Distribution*

*(1) Every student shall undergo a period of certified study extending over 4 ½ academic years divided into 9 semesters, (i.e. of 6 months each) from the date of commencement of his study for the subjects comprising the medical curriculum to the date of completion of the examination and followed by one year compulsory rotating internship. Each semester will consist of approximately 120 teaching days of 8 hours each college working time including one hour of lunch.*

*(2) The period of 4 ½ years is divided into three phases as follows:-*

*a) **Phase-I** (two semesters) - consisting of Pre-clinical subjects (Human Anatomy, Physiology including Bio-Physics, Bio- chemistry and introduction to Community Medicine including Humanities). Besides 60 hours for introduction to Community Medicine including Humanities, rest of the time shall be somewhat equally divided between Anatomy and Physiology plus Biochemistry combined (Physiology 2/3 & Biochemistry 1/3).*

*b) **Phase-II** (3 semesters) - consisting of para-clinical/ clinical subjects.*

*During this phase teaching of para-clinical and clinical subjects shall be done concurrently.*

*The para-clinical subjects shall consist of Pathology, Pharmacology, Microbiology, Forensic Medicine including Toxicology and part of Community Medicine.*

*The clinical subjects shall consist of all those detailed below in Phase III.*

*Out of the time for Para-clinical teaching approximately equal time be allotted to Pathology, Pharmacology, Microbiology and Forensic Medicine and Community Medicine combined (1/3 Forensic Medicine & 2/3 Community Medicine). See Appendix-C.*

*c) **Phase-III** (Continuation of study of clinical subjects for seven semesters after passing Phase-I)*



*The clinical subjects to be taught during Phase II & III are Medicine and its allied specialties, Surgery and its allied specialties, Obstetrics and Gynaecology and Community Medicine.*

*Besides clinical posting as per schedule mentioned herewith, rest of the teaching hours be divided for didactic lectures, demonstrations, seminars, group discussions etc. in various subjects. The time distribution shall be as per Appendix-C.*

*The Medicine and its allied specialties training will include General Medicine, Pediatrics, Tuberculosis and Chest, Skin and Sexually Transmitted Diseases, Psychiatry, Radio-diagnosis, Infectious diseases etc.*

*The Surgery and its allied specialties training will include General Surgery, Orthopaedic Surgery including Physio-therapy and Rehabilitation, Ophthalmology, Otorhinolaryngology, Anaesthesia, Dentistry, Radio-therapy etc. The Obstetrics & Gynaecology training will include family medicine, family welfare planning etc.*

*(3) The first 2 semester (approximately 240 teaching days) shall be occupied in the Phase I (Pre-clinical) subjects and introduction to a broader understanding of the perspectives of medical education leading to delivery of health care. No student shall be permitted to join the Phase II (Para-clinical/clinical) group of subjects until he has passed in all the Phase I (Pre-clinical subjects) for which he will be permitted not more than four chances (actual examination), provided four chances are completed in three years from the date of enrollment.*

*In the above sub-section 7(3) the words “for which for which he will be permitted not more than four chances (actual examination), provided four chances are completed in three years from the date of enrollment” have been deleted in terms of notification published on 30.09.2003 in the Gazette of India.*

*(4) After passing pre-clinical subjects, 1 ½ year (3 semesters) shall be devoted to para-clinical subjects.*

*Phase II will be devoted to para-clinical & clinical subjects, along with clinical postings. During clinical phase (Phase III) pre-clinical*



*and para-clinical teaching will be integrated into the teaching of clinical subjects where relevant.*

*(5) Didactic lectures should not exceed one third of the time schedule; two third schedule should include practicals, clinicals or/and group discussions. Learning process should include living experiences, problem oriented approach, case studies and community health care activities.*

*(6) The Universities and other authorities concerned shall organize admission process in such a way that teaching in first semester starts by 1<sup>st</sup> of August each year. For this purpose, they shall follow the time schedule indicated in APPENDIX E.*

*(6A) There shall be no admission of students in respect of any academic session beyond 30<sup>th</sup> September under any circumstance. The Universities shall not register any student admitted beyond the said date.*

*(6B) The Medical Council of India may direct, that any student identified as having obtained admission after the last date for closure of admission be discharged from the course of study, or any medical qualification granted to such a student shall not be a recognized qualification for the purpose of the Indian Medical Council Act, 1956.*

*The institution which grants admission to any student after the last date specified from the same shall also be liable to face such action as may be prescribed by MCI including surrender of seats equivalent to the extent of such admission made from its sanctioned intake capacity for the succeeding academic year”.*

*(7) The supplementary examination for 1st Professional MBBS examination may be conducted within 6 months So that the students who pass can join the main batch and the failed students will have to appear in the subsequent year provided that the students who pass the supplementary examination shall be allowed to appear in the second professional MBBS examination only after he/she completes the full course of study of three semesters (i.e. 18 months) for the second professional MBBS examination irrespective of the examination of the main batch.”*

**8. Phase Distribution and Timing of Examinations:-**

| 6 MONTHS | 8 MONTHS | 6 MONTHS |                                                       |
|----------|----------|----------|-------------------------------------------------------|
| 1        | 2        |          | Ist professional examination (during second semester) |
| 3        | 4        | 5        | IInd professional examination (during fifth semester) |
| 6        | 7        |          | IIInd professional Part I (during 7th semester)       |
| 8        | 9        |          | IIInd professional Part II (Final Professional)       |

Note:

- a) A student who fails in the IInd professional examination, should not be allowed to appear IIIrd Professional Part I examination unless he passes all subjects of IInd Professional examination.
- b) Passing in IIIrd Professional (Part I) examination is not compulsory before entering for 8th & 9th semester training, however passing of IIIrd Professional (Part I) is compulsory for being eligible for IIIrd Professional (Part II) examination.
- c) During third to ninth semesters, clinical postings of three hours duration daily as specified in the Table below is suggested for various departments, after Introductory Course in Clinical Methods in Medicine & Surgery of two weeks each for the whole class.

| Total Subject                                                | 3 <sup>rd</sup> Semester (Wks) | 4 <sup>th</sup> Semester (Wks) | 5 <sup>th</sup> Semester (Wks) | 6 <sup>th</sup> Semester (Wks) | 7 <sup>th</sup> Semester (Wks) | 8 <sup>th</sup> Semester (Wks) | 9 <sup>th</sup> Semester (Wks) | Total (Wks) |
|--------------------------------------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|--------------------------------|-------------|
| General Medicine***                                          | 6                              | -                              | 4                              | -                              | 4                              | 6                              | 6                              | 26          |
| Pediatrics                                                   | -                              | 2                              | -                              | 2                              | 2                              | 4                              | -                              | 10          |
| Tuberculosis And chest Diseases                              | 2                              | -                              | -                              | -                              | -                              | -                              | -                              | 02          |
| Skin & STD                                                   | -                              | 2                              | -                              | 2                              | -                              | 2                              | -                              | 06          |
| Psychiatry                                                   | -                              | -                              | 2                              | -                              | -                              | -                              | -                              | 02          |
| Radiology+                                                   | -                              | -                              | -                              | -                              | 2                              | -                              | -                              | 02          |
| General Surgery****                                          | 6                              | -                              | 4                              | -                              | 4                              | 6                              | 6                              | 26          |
| Orthopaedics**                                               | -                              | -                              | 4                              | 4                              | -                              | -                              | 2                              | 10          |
| Ophthalmology                                                | -                              | 4                              | -                              | 4                              | -                              | -                              | 2                              | 10          |
| Ear Nose and Throat                                          | -                              | 4                              | -                              | 4                              | -                              | -                              | 2                              | 10          |
| Obstetrics and Gynaecology Including Family Welfare planning | 2                              | 4                              | 4                              | -                              | 4                              | 4                              | 6                              | 24          |
| Community Medicine                                           | 4                              | 4                              | -                              | 4                              | -                              | -                              | -                              | 12          |
| Causality                                                    | -                              | -                              | -                              | 2                              | -                              | -                              | -                              | 02          |
| Dentistry                                                    | -                              | -                              | -                              | -                              | 2                              | -                              | -                              | 02          |
| Total (in weeks)                                             | 18                             | 22                             | 18                             | 22                             | 18                             | 22                             | 22                             | 142         |



7. According to Mr. T. Singhdev, as of now, there is no outer limit for completion of the MBBS Course, in a particular time. That apart, while referring to page 13 of the impugned judgement which is page 75 of the present paperbook, wherein the entire timeline of the training attended by the appellants is provided, he submits that the present case is a case of truncation of training completion certificate issued to the appellants by their respective colleges as it is actually the admitted case of the appellants that out of the stipulated eighty-four (84) weeks of training, appellants had only attended seventy-three (73) weeks of clinical training. He therefore argues that the reasoning and the directions given in the impugned judgement should not be interfered with since the learned Single Judge was very considerate in allowing those certificates and yet, had maintained the grievance of the appellants while allowing them to sit and also by giving specific direction for completion of the requisite and stipulated training period for the MBBS course as envisaged under the GME Regulations. He submits that the appeal ought to be therefore, dismissed.

8. We have heard the submissions of learned counsel for the appellants as also the respondents and have also perused the impugned judgment passed by the learned Single Judge.

9. At the outset, it is relevant to note that admittedly, the appellants were enrolled as MBBS students in the years 2015 and 2017 and have taken more than nine (9) and seven (7) years respectively to reach the final stages of this course which is ordinarily to be completed in 4.5 years.

10. The other aspect which needs consideration is that they have cleared



their Phase III Part I examination in May, 2023 and their Supplementary Examination only in December, 2023. What the appellants seek is that the training period of 73 weeks that both the appellants have respectively undergone, be treated as qualifying period entitling them to participate in Phase III Part II examinations which were held on 11<sup>th</sup> March, 2024. They predicate this on the training completion certificate issued by the respective colleges. This cannot be countenanced for the following reasons.

- a) As per Regulation 8 of the GME Regulations regarding the “*Phase Distribution and Timing of Examinations*”, the training period for each year has been clearly designed and scheduled. It is not disputed that the training period for part I (7<sup>th</sup> Semester) consists of 6 + 6 months and for 3<sup>rd</sup> Phase Part II (final professional) comprises 6 + 6 months. It is obvious that this distribution has been envisaged by academicians and experts in that line, which wisdom the Courts cannot and should not doubt. It is admitted that none of the appellants have completed this crucial training period after the successful completion of Part I of the 3<sup>rd</sup> Professional MBBS Examination. In fact, undoubtedly both appellants have completed only nine months each and fall short of the stipulated 12 months period.
- b) It is surprising to note how the respective colleges have issued training completion certificates to the appellants when both fall short of the stipulated period as per Regulation 8 of the GME Regulations. The notes below Regulation 8 too, do not stipulate any reduction in



the hours or months of the clinical training that the students have to undergo. We are in complete agreement with the learned Single Judge in respect of these observations made in para nos.29 to 32 of the impugned judgment regarding Regulation 8.

- c) Once the appellants have admitted of not having undergone the stipulated period as per the Regulation, they cannot be held qualified for participating in Phase III Part II examination.

11. Though the learned Single Judge had, in the interregnum, permitted both the appellants to sit for the Supplementary Examination regarding Phase III Part II for three subjects, which the appellants claim to have cleared, however no equities can enure to their benefit. This is for the reason that as per Notes appended to Regulation 8, unless and until the appellants had successfully cleared their Phase III Part I examination completely, the overlapping training period cannot be treated as qualifying training period. In other words, it is only the clinical training that the appellants would undergo after the successful completion of Phase III Part I examination which would be counted as qualifying training period for Phase III Part II examination. However, in the present case, the learned Single Judge has taken a sympathetic view and directed the respondents to permit the completion of remaining clinical training period. We are not inclined to vary the said direction. This would be just in the peculiar facts of the case.

12. For the aforesaid reasons, we find no grounds to interfere with reasoning and the direction given in para nos. 52 & 54 of the detailed



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judgment of the learned Single Judge. Consequently, the appeal is dismissed.

13. Pending applications stand disposed of.

**ACTING CHIEF JUSTICE**

**TUSHAR RAO GEDELA, J**

**July 8<sup>th</sup>, 2024**

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