



**254 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

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**CWP-16913-2023 (O&M)**  
**Date of Decision: 17.09.2025**

DR. NISHA GAHLAWAT

...PETITIONER

STATE OF HARYANA AND OTHERS

...RESPONDENTS

**CWP-19338-2023**

RAJENDER KUMAR AND ANOTHER

...PETITIONERS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

**CORAM:- HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA  
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present:- Mr. Karan Bhardwaj, Advocate  
for the petitioner in CWP-16913-2023.

Mr. L. K. Narang, Advocate  
for the petitioners in CWP-19338-2023.

Mr. Raman B. Garg, Standing Counsel with  
Mr. Mayank Garg and Mr. Karandeep, Advs.  
for respondent No.2 (in both writs).

Mr. Aman Chawariya, Advocate and  
Mr. Harmanjot Singh Gill, Advocate  
for respondents No.3 and 4 in CWP-19338-2023.

Mr. Saurabh Singla, Advocate for  
Mr. Sehaj Sandhawalia, Advocate  
for respondents No.3 and 4 in CWP-16913-2023.

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**ASHWANI KUMAR MISHRA, J. (ORAL)**

1. These two writ petitions raise similar questions of law and

facts and are being disposed of by this common order.

2. In writ petition No.19338-2023, the first petitioner-Dr. Rajender Kumar has not joined the Course and in view of the statement made by the learned counsel for the petitioner(s), this petition insofar as first petitioner-Dr. Rajender Kumar is concerned is rendered infructuous.

3. The writ petition being CWP-19338-2023 survives only at the instance of second petitioner-Dr. Azad Singh.

4. The writ petitioners, in the above-noted petitions, were appointed as Medical Officer in Maharaja Agrasen Medical College, Agroha, Hisar (*for short*, 'College') after having passed M.B.B.S. They have passed the NEET PG Entrance Examination-2023 and have applied for admission in Post-Graduation (PG) Course as in-service Doctor and have been offered admission, as such, in different Colleges affiliated to Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak (*for short*, 'University'). The petitioners applied for grant of 'No Objection Certificate' (NOC) from the second respondent-College so as to pursue PG Course as in-service candidate. The permission sought by the petitioners was denied by the second respondent-College by stating that it is open for the petitioners to pursue such Course but they shall have to resign from the post presently occupied by them. It is at this stage, that the petitioners approached this Court and pursuant to interim orders passed by this Court, they have been allowed to continue as in-service candidates pursuing PG Course in the College affiliated to third respondent-University.

5. The prayer in the writ petition(s) is to quash the order of the second respondent-College dated 07.07.2023, refusing to grant NOC and requiring the petitioners to resign for pursuing the PG Course. A further prayer is made to command the respondent No.2-College to issue NOC. The basis of petitioners' claim is the policy of State of Haryana contained in Notification dated 04.10.2022.

6. The second respondent-College as well as the State has contested the claim of the petitioners on the ground that the petitioners are not in-service candidates and therefore, the protection of Notification No.16/10/2022-6HBIV dated 04.10.2022 issued by the Medical Education and Research Department, Haryana (*for short, 'Notification dated 04.10.2022'*) cannot be extended to them.

7. According to respondents, the second respondent-College is a Government-aided Private College and therefore, the Notification dated 04.10.2022 would not be applicable upon it. In order to appreciate the controversy raised, it would be appropriate to refer to Notification dated 04.10.2022 which is issued by the Government of Haryana. The relevant portion of the said Notification reads as under:-

***“Subject:- Policy regarding incentivization for Post-Graduation in Medical Colleges/Dental Colleges in the State of Haryana for In-service (INS) Doctors serving with Government of Haryana.***

***The Department of Medical Education & Research with a vision to promote and enhance the skills of In-service Doctors and train them as Specialist Doctors to serve in Public Health Institutions/Government and Government sided***

***Medical/Dental Colleges in the State of Haryana and to further bridges the gap between the availability of specialist doctors in Government sector viz-a-viz the Private sector, hereby notifies the Policy regarding incentivization for Post-Graduation of In-service (INS) Doctors in Medical Colleges in the State of Haryana under Department of Medical Education & Research -***

*The policy shall cover all Regular In-service doctors serving with any Department/Board/Corporation etc of Government of Haryana.*

*The policy shall come into force from the Academic Session 2022-23. In-service candidates, who were admitted in Postgraduation prior to Academic Session 2022-23 shall not be covered under this policy.*

*The Policy shall cover all Government/Government-aided/Private Medical/Dental Colleges affiliated to Government Universities.”*

8. General Conditions have also been specified in the Notification dated 04.10.2022. Relevant Clauses of the said Notification in that regard are reproduced:-

***“1. Up-to 40% of the State Quota seats in all PG Courses (MD/MS/MDS) in all specialties shall be reserved in the above mentioned Institutes for in-service candidates. This Reservation will be provided as horizontal reservation ie Horizontally within each Constitutional Reservation category.***

a. To explain further, up to 40% of

*Unreserved seats/SC/SC-D/BC-A/BC-B etc. shall be designated as INS seats of that constitutional category: INS (UR), INS(SC), INS(SCD), INS(BCA), INS(BCB) etc.*

*b. Since, apart from In-service seats there are other categories of Horizontal Reservation seats also (Ex- servicemen (ESM)/ Freedom Fighter(FF)/ Institutional Preference (IP), PWBD seats etc.), so some INS seats shall also be further designated in the aforementioned category eg., URINS- IP, BCB INS-IP, URINS- PWBD etc.*

*c. After exhaustion of merit list of In-service candidates, vacant seats (if any) shall be reverted to their original category of seats and if still there is a vacancy, the same shall be converted to unreserved category seats and filled up in the "Mop-Up" round itself.*

*2. The benefit of reservation shall be available to only those in-service candidates who have been issued a valid NOC by their Parent Department Further, the list of candidates who have been issued NOC will be sent by Department concerned to Department of Medical Education and Research in a prescribed format (Annexure-A) within one month of conduct of NEET-PG/NEET-MDS examination by National Board of Examination, Govt. of India.*

*In-service candidates having valid NOC issued by the competent authority/ employer shall only be eligible for benefit of reservation for admission in PG Courses. Further, only those candidates shall be considered whose information is received prior to the last date prescribed i.e. 30 days from the conduct of NEET-PG/NEET-MDS examination.*

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*4. The in-service (INS) doctors shall continue to be regulated as per Haryana Civil Services Rules, 2016 and entitled for all leaves etc. as per rules. However, any extraordinary leaves/child care leave etc shall not be counted towards the period of service rendered and the service period shall be extended accordingly.”*

9. With reference to the policy contained in the Notification dated 04.10.2022, the respondents submit that the policy of incentivization of Post-Graduation in Medical Colleges/Dental Colleges in the State of Haryana is only for in-service Doctors, serving the Government of Haryana or its agencies and is not intended to be made applicable to the Doctors working in the Government-aided Private Medical Colleges.

10. On behalf of the respondents, various Clauses of the Notification dated 04.10.2022 are highlighted in order to submit that the Scheme is intended only for the Doctors working with the Government of Haryana and not otherwise.

11. Learned counsel for the respondent No.2-College also submits that the policy of incentivization in the form of higher scale of pay during the Course of higher studies and thereafter in-service cannot be claimed by the petitioners from the College concerned when the Notification itself is not applicable. Reliance is also placed on subsequent Notification dated 09.08.2023 to submit that the applicability of the Notification only on in-service Doctors of State of Haryana has been

clarified therein.

12. We have heard learned counsel for the parties and have perused the Notification dated 04.10.2022.

13. It is undisputed that the second respondent-College is established by a Society and is a private body. It is, however, not in dispute that this College is receiving 99% aid from the State Government for payment of salary to its Teachers etc. The question that falls for our determination is as to whether the Medical Officers appointed in second respondent-College would be treated as in-service Doctors serving with the Government of Haryana so as to extend the benefit of Notification dated 04.10.2022 upon them?

14. The Notification dated 04.10.2022 clearly specifies its applicability upon the in-service Doctors serving with the Government of Haryana. The subject of the Notification dated 04.10.2022 itself makes it apparent. We have, otherwise, been taken through the provisions of the Notification dated 04.10.2022 which would clearly show that the policy was to cover all regular in-service Doctors with any Department/Board/Corporation etc., of the Government of Haryana. The General Conditions of the Notification dated 04.10.2022 also provides that benefit of reservation shall be available only to those in-service candidates who have been issued a valid NOC by their parent Department. The list of candidates who have been issued the NOC is required to be send by the Department concerned to the Department of Medical Education and Research and only thereafter, the benefit of the

policy is required to be extended to the candidates concerned. Undisputedly, such NOC has not been issued to the petitioners.

15. Learned counsel for the petitioners has argued that the Government-aided Colleges would also be included within the ambit and scope of the policy notified on 04.10.2022 and there is no reason as to why such Doctors be excluded from the benefit admissible under such policy.

16. We have examined such contentions of the petitioners and we find that the argument raised in this regard is not well-founded. Apart from the specification of Doctors in the Subject Clause of the Notification dated 04.10.2022 as in-service Doctors serving with Government of Haryana, we have examined other provisions also which would clearly go to show that such policy is intended to be applicable only upon in-service Doctors who are working with the Government of Haryana. Clause-3 of the Notification dated 04.10.2022 provides that all in-service Doctors who have pursued PG by availing the benefit of reservation shall have to mandatorily serve the Medical/Dental Institutions established by the Department of Medical Education and Research for a period of three years. Clause 3(a) of the Notification dated 04.10.2022 is reproduced hereinafter:-

*“a. All in-service doctors who have pursued Postgraduation by availing the benefit of reservation Medical/Dental Colleges in the State of Haryana shall have to mandatorily serve in the Medical/Dental Institutions established by Department of Medical Education and Research for a period of 03 year.”*

17. Clause 4 of the Notification dated 04.10.2022 also makes it explicit that in-service Doctors shall continue to be regulated as per Haryana Civil Services Rules, 2016 (*for short, 'Rules of 2016'*) and would be entitled to all leaves etc., as per Rules.

18. In case, we accept the contention of the petitioners that all Government-aided Colleges including Government-aided Private Colleges would be covered by the policy then the requirement of such Doctors being regulated by the Rules of 2016 would be impermissible. Similarly, such Doctors otherwise cannot be required to mandatorily serve in the Medical/Dental Institutions established by the Department of Medical Education and Research.

19. When the Scheme contained in the Notification dated 04.10.2022 is analyzed in its entirety, we have no doubt that it is intended only to be applicable upon the in-service Doctors working with the Government of Haryana or its agencies and instrumentalities. However, in the facts of the present case, we find that under the interim orders, the petitioners have been allowed the benefit of Notification dated 04.10.2022 and they have not only been admitted in the Academic Session 2023-2024 but have by now completed more than 2-3<sup>rd</sup> of the Course itself. In such circumstances, we are called upon to adjust the equities inasmuch as though we are of the considered view that the Notification dated 04.10.2022 cannot be made applicable upon the petitioners, but as these petitioners have been allowed such benefit under the interim orders of this Court and they have already completed 2-3<sup>rd</sup>

Course, we are of the view that some equitable adjustment is required to be made to protect the petitioners as they have completed 2/3<sup>rd</sup> of the Course and trained medical professional with Post-Graduate Degrees would be in the larger public interest.

20. At this stage, learned counsel for the petitioners comes up with a prayer to be allowed to continue the Course on the condition that they shall forego any salary which they were to receive as Medical Officer(s) during the PG Course, provided this period is treated as period of Extraordinary Leave. He also submits that the petitioners would forego their right of incentivisation available under the Notification dated 04.10.2022 and shall continue to work as Medical Officer in the same scale of pay which was admissible to them on the basis of their original qualification of M.B.B.S without any benefit of their PG Degree.

21. Learned counsel for respondent No.2-College, on the basis of instructions obtained from his clients, submits that in view of the proposal submitted by the petitioners to this Court, they have no objection in allowing the petitioners' to continue their PG Course.

22. In that view of the matter and with the consent of the parties, we dispose of these writ petitions with the following directions:-

- (i) Petitioners shall be allowed to complete their PG Course.
- (ii) The period of PG Course will be treated as Extraordinary Leave.
- (iii) Petitioners will not be entitled to any benefit of incentivisation and shall continue to work as Medical Officers on same scale of pay as was admissible to

them earlier. However, the benefits which would accrue to the petitioners on account of their initial appointment as Medical Officer shall be extended to them. Petitioners would only be entitled to stipend, which is otherwise admissible to PG candidate(s), for the period of PG Course.

23. This order is being passed in the peculiar facts and circumstances of the present case and shall not be treated as a binding precedent in any other matter.
24. Pending application(s), if any, also stand(s) disposed of.
25. Photocopy of this order be placed on the file of connected case.

**[ASHWANI KUMAR MISHRA]**  
**JUDGE**

**[ROHIT KAPOOR]**  
**JUDGE**

**SEPTEMBER 17<sup>th</sup>, 2025**  
*Rahul Joshi*

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|------------------------------|--------|
| 1. Whether Speaking/reasoned | Yes/No |
| 2. Whether Reportable        | Yes/No |