



\$~J

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 18.03.2026

Judgment pronounced on: 20.03.2026

+ **W.P.(C) 2957/2026 & CM APPL. 14218/2026**

REMIKA DEVI

.....Petitioner

Through: Dr. Alakh Alok Srivastava and
Mr. Arpit Dangi, Advocates

versus

NATIONAL BOARD OF EXAMINATION IN MEDICAL
SCIENCES AND OTHERS

.....Respondents

Through: Ms. Ruchira Gupta, Ms. Sumriddhi
Agrawal, Ms. Yashika Sharma, Mr.
Mohtisham Ali, Advocates for R1
Mr. Vikrant Nilesh Goyal, Ms.
Laavanya Kaushik, Ms. Khyaati
Bansal, Advocates for R2-4

+ **W.P.(C) 3194/2026 & CM APPL. 15332/2026**

SHUBHAM

.....Petitioner

Through: Dr. Alakh Alok Srivastava and
Mr. Arpit Dangi, Advocates

versus

NATIONAL BOARD OF EXAMINATION IN MEDICAL



SCIENCES AND OTHERS

.....Respondents

Through: Ms Ruchira Gupta, Ms Sumriddhi
Agrawal, Ms Yashika Sharma, Mr.
Mohtisham Ali, Advocates for R1
Mr. Vikrant Nilesh Goyal, Ms.
Laavanya Kaushik, Ms. Khyaati
Bansal, Advocates for R2-4

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

1. The present writ petitions have been filed by the petitioners under Article 226 of the Constitution of India seeking to declare the petitioners eligible for Sponsored Post MBBS Diplomat National Board (“*SPMD*”) Seats Counselling for 2025 admission session and allot Sponsored Post MBBS DNB Seats commensurate to the ranks of the petitioners.

FACTUAL BACKGROUND

2. The petitioners, Ms. Remika Devi (“*petitioner No. 1*”) and Mr. Shubham (“*petitioner No. 2*”), are medical practitioners and have completed their MBBS in the year 2022.
3. The petitioner No. 1 joined the Government of Meghalaya as a Medical Health Officer, on 07.12.2022. The petitioner No. 2 joined Bharat Coking Coal Limited as a Senior Medical Officer on 06.01.2025 and both the petitioners continue to serve in such capacity.
4. With the intention of pursuing post graduate medical courses, the petitioners appeared in NEET- PG 2025 examination bearing Roll Number 256611466887 and 25661162465 respectively. The petitioners secured All India Rank of 33,017 and 58,970 respectively.



5. Thereafter, the Counselling for NEET PG was to be conducted in accordance with the Information Bulletin and Counselling Scheme issued by the respondent No. 2, namely, Medical Counselling Committee. In the similar manner, a centralised merit based online counselling for admission to the SPMD Seats for Academic Session 2025 was conducted in terms of the Handbook issued by the respondent No.1.
6. In the first round of Counselling, the petitioner No.1 was allotted seat under Diplomat National Board quota for National Board of Examination in Medical Sciences (“NBEMS”) Anaesthesiology Programme in Imambara District Hospital, Hoogly, West Bengal, *vide* Provisional Allotment Letter dated 21.11.2025. The petitioner No. 1 reported at the allotted institution and deposited the requisite fee and completed the admission formalities. As per the extant rules the petitioner No. 1 opted for upgradation to participate in the second round of Counselling and was allotted a seat in NBEMS-Diploma in Anaesthesiology Programme in Jagjivan Ram Railway Hospital, Mumbai, Maharashtra *vide* Provisional Allotment Letter dated 16.12.2025.
7. The petitioner No. 1 did not report to the seat allotted in the second round of the Counselling process and participated in the third round of Counselling. However, no seat was allotted to the petitioner No. 1 in the third round of Counselling. Thereafter, the petitioner No. 1 participated in the Stray Vacancy Round (“SVR”).
8. The petitioner No. 2 did not participate in the Counselling conducted by the respondent No. 2 in the first three rounds. However, owing to the delay in process related to SPMD Seats the petitioner No. 2 submitted his preferences for participation in the SVR.



9. On 20.02.2026 the respondent No. 1 published a provisional list of candidates eligible to participate in the Counselling process for SPMD Seats for the Academic Session, 2025. In the said list, the petitioner No. 1 secured rank 16 and the petitioner No. 2 secured rank 60 thereby rendering both the candidates eligible for participation. In the interregnum, *vide* Allotment Letter dated 23.02.2026, the petitioners were granted a seat in SVR. Both the petitioners did not join the seats allocated to them.
10. It is the case of the petitioners, that in terms of the rules, the only consequence for non-reporting to the allotted seat in SVR is forfeiture of the security deposit. Proceeding on the said understanding, the petitioners did not report at the allotted institution at the SVR.
11. The petitioners, thereafter duly participated in the Counselling process conducted by the respondent No. 1 for the SPMD seats for the session 2025 and locked their choices.
12. However, *vide* communication dated 05.03.2026 the petitioners were declared ineligible to participate in the SPMD Seats Counselling on the purported ground that the petitioners were already been allotted a seat during All India Quota NEET PG 2025 (“*AIQ*”). Consequently, the names of the petitioners did not find a place in the first round of counselling. The petitioner No. 1 submitted its grievance in this regard to which the respondent No. 1 responded by stating that the candidates already pursuing a post graduate course are not eligible for admission to SPMD Seats.
13. Thereafter, *vide* email dated 06.03.2026 the respondent No.1 again declared the petitioners to be ineligible for participation in the SPMD



Seat Counselling in 2025 reiterating that the petitioners currently possess a Post Graduate Seat assigned through AIQ NEET PG 2025 Counselling conducted by the respondent No. 2. Hence, the present petitions.

SUBMISSIONS ON BEHALF OF THE PETITIONERS

14. Mr. Alakh Alok Srivastava, learned counsel for the petitioners, argues that declaration that the petitioners as ineligible *vide* communications dated 05.03.2026 and 06.03.2026 is arbitrary, unreasonable, and contrary to the governing rules, and is liable to be set aside.
15. He states that the aforesaid issue stands settled by the judgment of the Hon'ble Supreme Court in *State of U.P. & Another v. Bhavna Tiwari & Others, 2025 SCC OnLine SC 1357*, wherein it has been held that a candidate who is allotted a seat in the SVR but does not join the same suffers the consequence of forfeiture of fees. Any additional consequence for non-joining of the allotted seat is contingent upon implementation of National Exit Test ("**NExT**"). The NExT has not yet been implemented as of today. Thus, as on date, the only operative consequence of non-joining of a seat allotted in the SVR is forfeiture of the security deposit. It necessarily follows that mere allotment, without joining, does not amount to "pursuing" the said seat.
16. He further states that the eligibility criteria contained in Clause No. 2.3 of the respondent No.1 Handbook, bars only those candidates who are already "pursuing" a post graduate course. The use of the expressions "resignation" and "discontinuation" therein clearly presupposes prior joining of a course. A candidate who has not joined any course cannot, in law, be said to be "pursuing" the same. The rules governing SPMD Seats Counselling, more specifically Clause No. 12.3 further reinforce this



position. In the present case, the petitioners admittedly did not report to or join the seats allotted to them in the SVR. In the absence of such joining, the petitioners cannot be treated as candidates “pursuing” a postgraduate course and, consequently, cannot be declared ineligible for participation in the SPMD Seats Counselling.

17. It is further submitted that neither the Information Bulletin issued by the respondent No. 2 nor the Handbook issued by the respondent No. 1 prescribes “wastage of a seat” as a ground of ineligibility. The respondents cannot, by way of administrative interpretation, introduce an additional disqualification not contemplated under the governing rules.
18. He states that the stand of the respondent No. 1 is further contradicted by its own conduct. In its additional affidavit dated 18.03.2026, it has admitted that a candidate, despite being allotted a post graduate seat in a stray/special stray round, was subsequently permitted to participate in the SPMD Seats Counselling and was even allotted a seat. This demonstrates that mere allotment has not been consistently treated as a disqualification. The attempt of the respondent No. 1 to distinguish between candidates under the AIQ and the State Quota is wholly untenable. Clause No. 2.3 makes no such distinction. Selective application of the rule on the petitioners, without even verifying the status of candidates under the State Quota, is manifestly arbitrary and violative of Article 14 of the Constitution of India.
19. He opposes the contention of the respondents as raised in the counter affidavit that the petitioners ought to have “given up” the allotted seats is equally misconceived. He states that no provision in the applicable rules provides for such a mechanism. In the absence of any such option, the



only course available to the petitioners was to not report to the allotted institutions, which they duly followed.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO. 1

20. Ms. Ruchira Gupta, learned counsel for the respondent No. 1 vehemently opposes the present petition and states that the reliefs as prayed for, are untenable in law.
21. It is submitted that prior to the declaration of the results of the SVR, the respondent No. 1 had, on 20.02.2026, published the provisional list of candidates eligible for participation in the Counselling process for SPMD Seats for the Academic Session 2025, wherein the petitioners were placed at Rank 16 and 60 respectively. The Handbook governing the said counselling process clearly provided that candidates already pursuing a postgraduate course would be ineligible for admission, and further reserved to the respondent No. 1 the right to cancel candidature at any stage upon detection of ineligibility.
22. She further states that the petitioners were fully aware of the applicable eligibility conditions, including the consequences flowing from participation in multiple counselling processes. Despite such knowledge, the petitioners continued their participation in the SVR conducted by the respondent No. 2. It is submitted that, if the petitioners intended to participate in the SPMD Seats Counselling, they ought to have withdrawn their candidature from the SVR at the appropriate stage, thereby enabling the seats to be allocated to another eligible candidates. Having failed to do so, the petitioners cannot now be permitted to approbate and reprobate to the prejudice of the counselling process.
23. It is also pointed out that the petitioners were duly allotted seats in the



SVR and communicated their joining dates. However, the petitioners chose to block the seat allotted in the SVR and simultaneously participated in the SPMD Seats Counselling and locked multiple choices.

24. It is further submitted that prior to the declaration of the 1st round results for the SPMD Seats on 06.03.2026, the respondent No. 1 undertook a process of cross-verification of the status of candidates with reference to the official admitted list published by the respondent No. 2, covering all rounds of NEET-PG 2025 Counselling up to and including the SVR. Upon such verification, it was revealed that the petitioners had already been allotted a seat. In light of the aforesaid, and in accordance with the applicable eligibility conditions, the respondent No. 1 issued communications dated 05.03.2026 and 06.03.2026, declaring the petitioners to be ineligible to participate in the SPMD Seats Counselling. During the process, it was found that there were 8 others similarly placed candidates and the candidature of those candidates was also cancelled. In this regard she places reliance on *Ms. Bhavna Tiwari & Ors. (Supra)*.
25. She also states that the petitioners' contention that mere allotment does not amount to "pursuing" a postgraduate course under Clause No. 2.3 is misconceived. A plain and purposive reading of the clause, particularly the expression "irrespective of resignation or discontinuation," indicates that the embargo is not confined only to candidates who have formally joined a course, but extends to those who have already secured a seat in the counselling process. The forfeiture of the security deposit for non-joining of a seat in the SVR is merely a financial consequence and does not negate the effect of such allotment for the purposes of determining ineligibility. The provision must be construed in a manner so as to



prevent seat blocking and ensure the integrity of the counselling process. The Counselling process for SPMD Seats commenced on 26.02.2026, at which stage the results of the SVR had not been declared. If the petitioners intended to participate in the SPMD Seats Counselling, they ought to have withdrawn her candidature from the SVR. Instead, they chose to keep both options open and failed to communicate their intention of not joining the same.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NOS. 2 TO 4

26. Ms. Lavanya Kaushik, learned counsel for the respondent Nos. 2 to 4, vociferously opposes the present writ petition as being devoid of merit and argues that the petition is liable to be dismissed.
27. She further states that the NEET-PG 2025 Counselling was conducted on an All India basis in accordance with the Information Bulletin and Counselling Scheme framed pursuant to the directions of the Hon'ble Supreme Court in *Anand S. Biji v. State of Kerala & Ors., (1993) 3 SCC 80*. The Counselling process was conducted in a time-bound manner in four rounds, namely Round 1, Round 2, Round 3 and the SVR, culminating on 23.02.2026. The Counselling framework clearly delineates the obligations of candidates at each stage. While limited exit options are available in the initial rounds and the exit becomes strict with the subsequent rounds. In the SVR, being the final round, a candidate is mandatorily required to join the allotted seat, failing which penalties, including forfeiture of fees and disqualification from further participation, are attracted.
28. She points out that in the present case, the petitioner No. 1 participated in



the counselling process and was initially allotted a seat in Round 1, which she joined. Thereafter, she continued to participate in subsequent rounds and was ultimately allotted a seat in the SVR. However, the petitioner No. 1 failed to report to the said institution and did not take admission. The petitioner No. 2 although did not participate in the regular rounds of Counselling, but was also allotted a seat in the SVR and failed to report to the said institution and did not take admission. Both the petitioners indulged in seat blocking.

29. It is stated that the Counselling scheme and guidelines have been framed in compliance with the directions of the Hon'ble Supreme Court in *Nihila P.P. v. Medical Counselling Committee & Ors.*, SLP(C) 10487/2021 and *Subhankar Pattnayak v. K. Ramesh Reddy & Ors.*, W.P. (C) 223/2022 which mandate strict adherence to timelines and prohibit deviations, including upgradation beyond prescribed conditions. Strict measures against seat blocking are also integral to maintaining the sanctity of the Counselling process. In this regard, reliance is placed *Miss Bhavna Tiwari & Ors. (Supra)* wherein the Hon'ble Supreme Court has emphasized the need for stringent consequences, including forfeiture and other penalties, to deter such practices.
30. In compliance with the directions of the Hon'ble Supreme Court, all four rounds of Counselling have already been concluded. As on 18.03.2026, no directions have been received from any competent authority for conducting any Special SVR. The last date for reporting pursuant to the SVR was 28.02.2026, which was duly notified. The petitioners, having failed to report within the stipulated time, cannot now seek any indulgence contrary to the prescribed schedule. It is clarified that no



separate list, as alleged by the petitioners, has been published by the respondent No.2. The list of joined candidates is published upon completion of the Counselling process, and the consolidated list is in the process of being uploaded. In the absence of any Special SVR, all remaining vacant seats are liable to remain unfilled for the current academic session.

ANALYSIS AND FINDINGS

31. The principle question that arises for consideration in the present petition is whether a candidate who has been allotted a seat in the SVR of NEET PG 2025 Counselling but has not admittedly joined, can be said to be pursuing a post graduate seat so as to fall under the disqualification under Clause No. 2.3 of the handbook governing such Counselling.
32. The factual position is not in dispute. The petitioners were allotted seats in the SVR; however, they did not report to the respective institutions and did not complete admission formalities. The petitioners thereafter sought to participate in the SPMD Seats Counselling, but were declared ineligible on the ground that they had already been allotted seats under the AIQ NEET PG 2025 Counselling.
33. The controversy, therefore, turns on the interpretation of the expression “already pursuing a Post Graduate course” as contained in Clause No. 2.3 of the Handbook. Before adverting to the rival submissions, it would be apposite to reproduce the relevant condition issued by the respondent No. 1:

“2.3. Candidates already pursuing a Post Graduate course (MD/ MS/ DNB/ PG Diploma/ NBEMS Diploma) are not eligible for admission to Sponsored Post MBBS DNB seats



of 2025 admission session for the entire duration prescribed for the course already joined by them earlier. This shall be irrespective of their resignation or discontinuation from the said course due to any reason.”

(emphasis supplied)

- 34.** The said clause, on a plain reading, disqualifies only those candidates who are already pursuing a postgraduate course. The provision further employs the expressions “resignation” and “discontinuation”, which, in my considered view, necessarily presupposes that the candidate has first joined the course. A person who has not joined a course cannot, in law or in common parlance, be said to be either resigning from or discontinuing the same.
- 35.** The respondents have sought to contend that the term “pursuing” ought to be interpreted broadly so as to include even cases of mere allotment of a seat. This submission is based on erroneous interpretation of the said clause and thus, liable to be rejected. It is well settled that while a purposive interpretation may be adopted to further the object of a provision, the same cannot be stretched to rewrite the rule or introduce a disqualification which the rule making authority has consciously not incorporated. If the intent was to treat even allotment as a ground of ineligibility, the same should have been explicitly provided.
- 36.** The same is also evident from the clause Nos. 5 and 6 of the Allotment Letter of the SVR wherein it is in clear words stated that the effect of joining would be such that the candidate will not be able to resign from said seat and the only consequence of non-reporting to the allotted college would be forfeiture of security deposit. The said rules as



prescribed by the allotment letter are reproduced as under:

Dear Candidate,

Based on your merit and choices of Institutions & Programs exercised by you during online Counselling, you have been provisionally allotted a seat in the above mentioned Institute and Program. **Kindly report to allotted Medical College/ Institute within the stipulated period, as mentioned in the counselling schedule, failing which the allotted seat will be cancelled and Security Deposit will be forfeited.**

1. Candidates are required to produce all original documents at the time of reporting at the Allotted Institute as mentioned in the Information Bulletin of NEET PG 2025.
 2. The candidate will be required to undergo a medical examination at their own cost on a notified date(s) by the allotted college.
 3. **The candidate is advised to report and join the allotted Medical College/Institute as early as possible. In some of the allotted Colleges /Universities, 3-4 days time is required to complete admission formalities. Please also take into consideration holiday(s)/ local holiday(s). The candidates are further advised to contact the allotted college authorities for details before proceeding.**
 4. **The candidate is requested to ensure that the Admission Letter issued by the Allotted college should be generated through online submission of his/ her details by the allotted college through the portal provided by Medical Counselling Committee (MCC). Any offline admission which is not generated through the portal by the allotted institute will be treated as Null & Void.**
 5. **Once Stray Vacancy Round Seat is joined the candidate will not be able to resign the seat.**
 6. **Candidate who are allotted seat in Stray Vacancy Round but does not report to allotted college, will forfeit his security deposit.**
 7. **Candidate will be required to produce concerned certificate(Caste/PwD/EWS) at the time of admission.**
- 37.** The above clauses clearly demonstrate that the rules treat joining as a distinct and consequential step, separate from allotment. It clear that allotment and joining are distinct stages of Counselling process and are governed by different provisions. While joining leads to a binding admission with no option of resignation, non-joining, i.e. mere allotment, attracts only forfeiture of the security deposit. No further disability, much less ineligibility for a separate Counselling process, is contemplated. In such a scenario, the rules governing allotment and joining stages are different and cannot be commingled.
- 38.** Reliance has been placed on *Bhavna Tiwari &Ors. (Supra)* by all the



parties. The petitioners, by placing reliance, contend that factual matrix is similar as to that of the petitioners' case and thus, should also be allowed the same whereas the respondents have placed reliance contending that the as per Hon'ble Supreme Court there should be severe consequences for seat blocking. The relevant paragraph relied upon by the petitioners reads as under:

“14.3. Furthermore, in the Stray Vacancy Round, candidates who are allotted and join a seat are not permitted to resign thereafter. Those, who are allotted a seat but fail to join will forfeit their fee and be debarred from appearing in the National Exit Test (NExT) for one year, once NExT is implemented.”

- 39.** On perusal of the judgment, one thing that is clear is that the judgment clearly recognises the distinction between allotment and joining and prescribes consequences for both. While the consequences for allotment and joining of SVR would be that no resignation would be permitted, the consequences for allotment and subsequent failure of joining would only be forfeiture of deposit. Once NExT is implemented, the candidate upon non-joining, would be debarred for 1 year from NExT. It is an admitted position that NExT has not been implemented as of yet.
- 40.** The contention of the respondents that such an interpretation of the extant rules should not only include the candidates who have joined but also the candidates who have been allotted as it is necessary to curb seat blocking, also does not merit acceptance. I am cognizant of the fact that seat blocking is a matter of serious concern. However, the measures to address such concerns must emanate from the regulatory framework. Where the



rules itself prescribe the consequence of non-joining as forfeiture of the security deposit, the respondents cannot, by administrative interpretation, impose an additional penalty of ineligibility for participation in a SPMD Seats Counselling process. Eligibility and non-eligibility conditions must be applied in a strict sense. Expansion of such conditions should not be made so as to curtail the right of the candidate which is otherwise available on literal interpretation of the eligibility conditions and extant rules. In the absence of NExT, in my considered view the candidate cannot be any debarred from participating in the SPMD Seats Counselling.

41. The argument sought to be advanced by the respondents that a stricter interpretation is warranted in the interest of maintaining discipline in the Counselling process is, no doubt, a matter of policy. However, such an interpretation must flow clearly from the defined provisions.
42. The judgment of *Nihila P.P. (Supra)* referred by the learned counsel for respondent No. 2 to 4 to buttress her argument that upgradation beyond prescribed limit is not permissible as the said judgment also notes that the candidate shall not be permitted to resign after he/she has “joined” the particular seat allotted to it. In case the candidate fails to join the allotted seat, the judgment clearly stipulates that the penalty would be forfeiture of the security deposit. The said judgment does not contemplate any consequences with regard to ineligibility for SPMD Seats Counselling upon non-joining of the seat allotted in SVR.
43. This Court cannot also lose sight of the fact that the respondents themselves have, in certain instances, permitted candidates who were allotted seats in state quota to participate in SPMD Seats Counselling and



have further allotted seats in the first round of said Counselling. While I do not rest my conclusion solely on such instances, they do indicate that the interpretation now sought to be advanced is not supported by any consistent or uniform practice. In my considered view, no distinction can be drawn between candidates allotted seats under the State Quota and the present petitioners so as to justify the denial of seats to the latter.

44. The reliance placed on *Shubhankar Pattanayak (Supra)* by learned counsel for respondent Nos. 2 to 4 is inapplicable. The said judgment, while referring to instances where candidates had “joined” seats under the State Quota and thereafter resigned to claim the status of “non-joined” candidates, in fact reinforces the crucial distinction between “allotment” and “joining.”
45. At the same time, it is also necessary to again underscore the concern regarding seat blocking. There is a necessity for robust framework and clear rules and regulations to prevent seat blocking. In the absence of the aforesaid, additional disqualifications cannot be contemplated under the existing rules and would be contrary to the settled rules.
46. For the said reasons, the petitions are allowed and the communications dated 05.03.2026 and 06.03.2026 declaring the petitioners as ineligible for SPMD Seats Counselling are hereby set aside. Consequently, the petitioners are permitted to participate in the SPMD Seats Counselling while forfeiting their security deposit for the SVR.
47. The documents handed over in the Court are taken on record.

JASMEET SINGH, J.

MARCH 20, 2026/(MU)