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

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+ LPA 121/2021 & CM APPL. 11212/2021

DR RUCHITA GHILORIA & ORS. .... Appellants

Through: Mr. Ehtesham Hashmi, Advocate

versus

MEDICAL SUPERINTENDENT & ORS. .... Respondents

Through: Mrs. Avnish Ahlawat, Standing  
Counsel (GNCTD) with Mrs. Tania Ahlawat,  
Mr. Nitesh Kumar Singh & Ms. Palak Rohemtra,  
Advocates for R-1 & R-3

Mr. Kirtiman Singh, Advocate with Mr. Taha  
Yasin, Ms. Srirupa Nag & Mr. Waize Ali Noor,  
Advocates for NBE

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+ LPA 122/2021 & CM APPL. 11327/2021

DR. NEHA GHILORIA .... Appellant

Through: Mr. Ehtesham Hashmi, Advocate

versus

MEDICAL SUPERINTENDENT & ORS. .... Respondents

Through: Ms. Mini Pushkarna, Advocate with  
Ms. Khushboo Nahar & Ms. Latika Malhotra,  
Advocates for R-1 & R-3

Mr. Kirtiman Singh, Advocate with Mr. Taha  
Yasin, Ms. Srirupa Nag & Mr. Waize Ali Noor,  
Advocates for NBE

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

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**29.09.2021**

1. Present appeals have been filed seeking setting aside the common judgment dated 17.02.2021 passed by the learned Single Judge in W.P.(C) Nos.5987/2020 and 6528/2020.
2. Appellants appeared for the National Eligibility-cum-Entrance Test (NEET) PG 2020 on 05.01.2020. The result was declared on 31.01.2020. On 16.05.2020, Appellants were conveyed that ex-post facto approval i.e. No Objection had been granted for appearing in the NEET examination and that the request for grant of study leave will be processed after selection in the NEET PG 2020. On 10.06.2020, a Notification was issued by Respondent No.2 for Centralised-merit-based counselling and the Notification highlighted the eligibility criteria for admission to the sponsored DNB seats as also the last date for submission of NOCs and undertakings, which was 30.06.2020.
3. The Appellants were working as Medical Officers on regular basis in different hospitals under the aegis of Respondent No.3, being Aruna Asaf Ali Hospital and Baba Saheb Ambedkar Hospital, respectively. Accordingly, the Appellants requested their Departments to provide NOCs and undertakings in the prescribed format. Subsequently the date for submission of the NOCs was extended till 10.07.2020. On 08.07.2020, the Appellants received their respective NOCs / undertakings and the same were forwarded by email to Respondent No.2 / NBE on 09.07.2020. On 14.08.2020, Respondent No.2 notified the dates of counselling from 18.08.2020 to 20.08.2020 and the process of allotment was scheduled on 21.08.2020.
4. Thereafter the Appellants were selected by Respondent No.2 and were allotted the sponsored DNB seats in different specialities at different Hospitals and were asked to join. The Appellants, consequently, applied to

the respective Departments for grant of study leave for a period of three years and also for issuance of a relieving order and submitted the requisite Bonds.

5. However, no action was taken by the concerned Hospitals, which constrained the Appellants to approach this Court and file writ petitions before the learned Single Judge which were dismissed by the impugned judgment.

6. The prime grievance of the Appellants is that the Appellants had appeared for the NEET PG Examination against sponsored DNB seats, as the concerned Hospitals had no objection to their undertaking the PG Course and this is evident from the issuance of 'No Objection Certificates'. The Appellants have cleared the examination and have been allocated respective seats for the PG Courses and it is incumbent upon the Hospitals to grant them study leave to enable them to pursue the course. Learned counsel for the Appellants vehemently argues that the Appellants were assured that upon their clearing the examination, they shall be granted study leave and relieved from the respective hospitals and in this context, attention of the Court is specifically drawn to page 81, which is the 'No Objection Certificate' and more particularly, the following para in the NOC, which is signed by the Head of Office :-

*“...No objection Certificate to participate in the counselling for Sponsored DNB (Post MBBS and Post Diploma) seats has been issued to him / her by the parent organization. The undersigned is fully aware that he / she will be relieved from his / her parent office to join DNB training, in case of his / her selection for DNB training. He / she continues to get the salary from the parent department (Sponsoring Government organization) for the entire period of DNB training.*

*It is further certified that he / she shall be paid the due salary and necessary allowances as per rules, from Sponsoring Government organization, for the entire period of DNB training.*

*(Signature of the Head of the Office)''*

7. Ms. Ahlawat, Standing Counsel and Ms. Pushkarna, Advocate appearing on behalf of Respondents No.1 and 3 submit that in normal course when the No Objection Certificates are granted, study leave is granted to the Doctors to pursue the courses they desire to enrol in. However, study leave was not granted to the Appellants herein on account of the Pandemic COVID-19, as the services of the Doctors were required at the Hospitals and on account of surge in the number of cases, Government could not spare the Doctors for pursuing the PG Courses. It is, however, submitted, on instructions, that the matter was reconsidered and re-examined by the Hon'ble Lieutenant Governor and sanction / approval has now been accorded for grant of study leave to the Appellants herein. It is further submitted that the approval has been duly conveyed to the respective Hospitals where the Appellants are working and it is for the concerned Departments to grant the study leave and relieve the Doctors.

8. Mr. Kirtiman Singh, learned counsel appearing on behalf of Respondent No.2, on the other hand, submits that the last date for admission to the PG Courses in question is 30.09.2021 i.e. tomorrow. He submits that the Appellants would be required to join before the cut-off date, failing which their admissions would be cancelled.

9. We have heard the learned counsels appearing for the parties.

10. We find merit in the contention of the Appellants that the concerned

Hospitals where the Appellants are working as Doctors had granted NOCs to them and therefore, there was approval and sanction for taking admission in the PG Course. In any case, the seats against which the Appellants have been admitted are sponsored seats and the Appellants could only have applied with the approval of the concerned Departments. Having secured admission in the PG Course, the Appellants are unable to join only because the concerned Hospitals have not so far taken action to grant study leave. While we may agree with the submission of Ms. Ahlawat that for a short period the Appellants could not have been relieved on account of COVID-19, but we do not find any justification in the inaction of the Hospitals in granting study leave at this stage, when concededly the Hon'ble Lieutenant Governor has sanctioned the study leave. The last date for admission is 30.09.2021 and if the Appellants are not granted study leave during the course of the day, they will be unable to join the PG Course. If the Appellants join the courses, it shall only inure to the advantage of the Hospitals as the Appellants would be acquiring higher education and qualifications. We see no reason why the concerned Hospitals should further delay the grant of study leave to the Appellants.

11. Learned counsels appearing for Respondents No.1 and 3 have assured the Court that necessary directions shall be issued to the concerned Hospitals wherein the Appellants are working, during the course of the day to grant study leave to the Appellants.

12. We, accordingly, direct Respondent No.3 to ensure that the concerned Hospitals i.e. Aruna Asaf Ali Hospital and Baba Saheb Ambedkar Hospital issue the requisite orders for grant of study leave to the Appellants alongwith the relieving / movement orders, during the course of the day,

without any further delay. Needless to state that once the said orders are made available to Respondent No.2, the said Respondent shall take necessary steps to secure admission to the Appellants, in the concerned PG courses.

13. The above order shall be brought to the notice of the Medical Superintendents of the concerned Hospitals, by the counsels appearing for Respondent No.3 for immediate action.

14. List on 30.09.2021 for reporting compliance.

**CHIEF JUSTICE**

**JYOTI SINGH, J**

**SEPTEMBER 29, 2021**

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