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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3399/2020 & CM APPL. 12074-75/2020

JYOTI JAISWAL AND ORS

... Petitioners

Through: Md.Azam Ansari, Mr.Athar Alam
and Mr.Sumbol Athar, Advs. with
petitioner No.1 in person

versus

UNION OF INDIA AND ORS

... Respondents

Through: Mr.Sanjeev Sabharwal, Standing
Counsel for R-1/UOI.
Mr.T.Singhdev and Mr.Abhijit
Chaudhary, Advocates for R-2/
MCI.
Mr.V.S.R.Krishna, Adv. for R-3 &
4/AIIMS.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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09.06.2020

This hearing is conducted through video-conferencing.

CM APPL. No.12074/2020(exemption)

Allowed subject to all just exception.

W.P.(C) 3399/2020 & CM APPL. No.12075/2020(stay)

1. This writ petition is filed by the petitioners seeking following reliefs:

“A. Issue a writ of certiorari or any other appropriate writ, order or direction thereby quashing Annexure P-8 being Important Notice 61/2020 dated 01.06.2020 whereby respondent AIIMS vide said notice, have fixed the date of 11.06.2020 for the PG entrance examination in question i.e. MD/MS/DM(6yrs)/M.Ch(6 yrs)/MDS etc. based on the facts and grounds raised in this writ petition.

B. Issue a writ of mandamus or any other appropriate writ,

order or direction thereby directing the respondents to fix the date for PG entrance examination in question i.e. MD/MS/DM(6yrs)/M.Ch(6 yrs)/MDS either in July 2020 or August 2020 as done by the various other institutions including AIIMS themselves due to Covid-19 outbreak.

C. Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the respondents to keep five seats vacant for all the five petitioners in case, the examination in question is not postponed for any extraordinary reasons and allow the stranded petitioners to appear in the said entrance exam i.e. MD/MS/DM(6yrs)/M.Ch(6 yrs)/MDS subsequently in July or August 2020 after normalization and / or after containment of Covid-19 cases as applicable, and till that time, result thereof of the said examination be not declared and course be not commenced in the interests of justice.”

2. The petitioners all are MBBS Doctors. It is stated that on 13.05.2020, the respondent/All India Institute of Medical Sciences (*hereinafter referred to as the 'AIIMS'*) issued a notice regarding entrance examination for PG Courses. Further on 01.06.2020, the respondent AIIMS revised the date of the examination for PG entrance from 05.06.2020 to 11.06.2020. On 05.06.2020, admit cards were issued to the petitioners to appear in the entrance examination.

3. The grievances of the petitioners are many. Firstly, it is stated that COVID-19 cases are exploding day-to-day and have crossed 2.5 lakhs. In view thereof conducting PG entrance test on 11.06.2020 at this crucial point would be incorrect. Secondly, it is claimed that number of other medical examinations have been postponed by the respondent/AIIMS to July, 2020. On 16.05.2020, the respondent/AIIMS postponed its various other medical examinations from June, 2020 to July, 2020. Reliance is also placed on various such other exams which have been postponed by the National Testing Agency. Hence, it is pleaded that there is no

justification for conducting the PG entrance examination on 11.06.2020. Thirdly, it is stated that there is no need to hold the examination at this point to augment the numbers of doctors available with AIIMS inasmuch as AIIMS can easily appoint non-academic junior residents doctors on contractual basis.

4. I have heard the learned counsel for the parties.

5. Learned counsel has entered appearance for AIIMS, i.e. respondents No.3 and 4 and has pointed out that the notification for conducting of the examination in question was issued on 16.01.2020. He states that the exam is now to be conducted day after at 250 different exam centres. Forty thousand students are participating in the exam. Large amounts of money and resources have been expended by AIIMS for conducting of the examination. The petitioners without any cogent reasons are now seeking to stop the examination at the last minutes. It is further stated that all precautions which are prescribed by the concerned Governments including norms of Social-Distancing etc. would be maintained while carrying out the examination.

6. Learned counsel appearing for respondent No.2/Medical Council of India has pointed out that after the result of this examination the number of doctors available with the AIIMS would get augmented as all the applicants are already qualified MBBS Doctors. They would be working for some time in the hospital while pursuing the course. He states that given the present pandemic conditions prevailing this would augment the medical capacity of AIIMS which is a very important aspect.

7. Learned counsel for the petitioners apart from reiterating the above contentions stated in the writ petition has vehemently relied upon circular/direction issued on 30.05.2020 by the Ministry of Home Affairs,

Government of India, which are directions issued under the Disaster Management Act. He states that large public gatherings congregation are prohibited and hence the holding of the examination would be highly improper and contrary to the guidelines.

8. In my opinion, the present petition has no merits . Firstly, I cannot help noticing that the petition is hit by delay and laches. The petitioners have approached this court at the very last minute. The examination in question was notified on 16.01.2020. On 01.06.2020 a notice was issued rescheduling the entrance examinations from 05.06.2020 which was the earlier date to 11.06.2020. The notification also clearly states that all advisories/guidelines of Government of India regarding Social-Distancing and Sanitization will be followed at the exam centres. Now the petitioners have just two days before the exam sought to approach this court claiming that the same should be postponed in view of the current COVID-19 outbreak. As rightly pointed out by the learned counsel for respondents No.3 and 4, a large amount of resources have been mobilised to hold the exam on 11.06.2020 for 40,000 students. Clearly, after all arrangements have been made and after everything is in order, the petitioners approached this court at the last minute. This would disentitle to the petitioners to any relief. The petition is liable to be dismissed on grounds of delay and laches.

9. Even otherwise, as noted in the notification issued on 01.06.2020 there is a clear stipulation that all advisories/guidelines of Government of India regarding Social-Distance and Sanitization are to be followed at the exam centres. Hence safety measures are being taken.

10. The other argument strongly urged by the petitioners was reliance on several other notifications of the other institutions who have postponed

their normal exams. In my opinion, the same does not help the petitioners in any manner.

11. There is also merit in the submission of the learned counsel for respondent No.2/Medical Council of India that there is a strong need for the respondent/AIIMS to augment its capacity by adding more junior doctors on their rolls in the present scenario.

12. Clearly, there are no cogent reasons to postpone the PG entrance examination as is sought to be urged now at the very last minute. The respondent/AIIMS will be bound by all advisories/guidelines regarding precautions to be taken for these gatherings as prescribed and as per usual medical norms.

13. There is no merit in the present petition. The same is dismissed. All pending applications, if any, are also dismissed.

JAYANT NATH, J.

JUNE 09, 2020/v