

ITEM NO.10

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Miscellaneous Application No.507/2024 in W.P.(C) No. 104/2024

ADITYA DUBEY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and IA No.60773/2024-RESTORATION)

Date : 15-03-2024 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Colin Gonsalves, Sr. Adv.
Mr. Qambar Ali Zaidi, Adv.
Mr. Sumanth Nookala, AOR

For Respondent(s) Mr. Gaurav Sharma, AOR
Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.
Mr. Paranjay Tripathi, Adv.
Mr. Rajesh Raj, Adv.
Ms. Ankita Dogra, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 The Miscellaneous Application has been filed before this Court following the order dated 21 February 2024.
- 2 The petitioners are students who have completed the academic segment of the BDS Course and are pursuing their internship. The NEET-MDS 2024 was notified on 20 January 2024 and is to take place on 18 March 2024.
- 3 During the course of the hearing, the Court was apprised of the fact that 29,128 students have registered for the NEET-MDS which is being conducted on the

ensuing Monday.

- 4 In the petition which was filed before this Court under Article 32 of the Constitution, the petitioners sought an extension of the cut-off date of eligibility with reference to the completion of the internship so as to enable the petitioners to appear for the ensuing NEET-MDS 2024. The cut-off date for completion of internship was originally fixed at 31 March 2024.
- 5 The grievance of the petitioners was that, as regards the NEET-PG 2024, the internship cut-off date has been extended from 31 March 2024 to 15 August 2024 and, as a consequence, the examination has been pushed back from 15 March 2024 to 7 July 2024. The petitioners seek a parity of treatment for students who seek to appear for the NEET-MDS 2024 by an extension of the cut-off date for the completion of internship from 31 March 2024 to 15 August 2024.
- 6 When the petition came up before this Court on 21 February 2024, counsel for the National Dental Commission apprised the Court that the Union of India was seized of the issue. Mr Gaurav Sharma submitted, that the cut-off date for the MDS was fixed so as to bring the examination process and academic schedule back on rails after the disruption which was caused due to the onset of the Covid-19 pandemic.
- 7 Bearing in mind the nature of the grievance, this Court, in its order dated 21 February 2024, observed that the “issue of fixing cut-off dates pertains to the policy domain”. Hence, the Court permitted the petitioners to submit a representation to the Union of India, which was directed to be disposed of expeditiously and preferably within a period of a week from the date of the order. At the same time, the Court clarified that it did not express any opinion on the merits of the claim and would leave it open to the Union Government to take an appropriate view having regard to all the facts and circumstances of the

case.

- 8 The Miscellaneous Application has been filed in order to seek a direction for rescheduling the NEET-MDS 2024 Examination. The petitioners seek an extension of the cut-off for eligibility (i) after ascertaining the internship completion data from Universities offering MDS courses across India; and (ii) so as to bring about parity between the eligibility cut-off for NEET-PG and NEET-MDS 2024.
- 9 We have heard Mr Colin Gonsalves, senior counsel appearing in support of the Miscellaneous Application and Mr Gaurav Sharma, counsel appearing on behalf of the National Dental Commission.
- 10 In support of the application, Mr Gonsalves submitted thus:
- (i) When an earlier order was passed by this Court on 8 February 2022 requiring the authorities to consider the representations of students in a similar situation, the date originally fixed for the examination (6 March 2022) and eligibility for completion of internship (31 March 2022) was pushed back by the authorities to 2 May 2022 for the completion of the examination and 31 July 2022 for the completion of internship. The authorities stated that this was in order to bring parity between the NEET-MDS 2022 and NEET-PG 2022;
 - (ii) For 2024, the National Medical Commission conducted a nationwide online survey in December 2023, after which the date for NEET-PG 2024, was pushed back from 3 March 2024 to 7 July 2024 and the eligibility date was refixed from 31 March 2024 to 15 August 2024;
 - (iii) If the Dental Council of India had similarly carried out an online survey, it

would have obviated the inconvenience which would be faced by about 8,000 BDS students, if the original eligibility date is taken into account, and, even as of date, there are approximately 6,000 students, who would stand excluded if the examination is not postponed; and

- (iv) The High Court of Telangana, in an order dated 15 February 2023, also observed that it is necessary to have a uniform cut-off date for the NEET-PG and NEET-MDS examination.

Based on the above premises, it has been submitted by Mr Gonsalves that unless the examination which is to take place on 18 March 2024 is postponed, BDS students will not complete their internship by the cut-off date and would only be permitted to take the examination next year. Hence, it is submitted that parity between the NEET-PG cut-off and the NEET-MDS cut-off should be maintained.

11 Mr Gaurav Sharma, on the other hand, submits that:

- (i) The examination schedule for the dental courses was affected as a result of the onset of the Covid-19 and a conscious effort has been made by the Commission to bring the schedule back on rails in accordance with the original schedule, as prescribed;
- (ii) 29,128 students have registered for the NEET-MDS examination which is to take place on 18 March 2024 and, hence, at this stage, if the request of the petitioners is requested, this would seriously affect those students who have registered;
- (iii) After the order of this Court dated 21 February 2024, the issue was considered by the Union Government in the Ministry of Health and Family

Welfare and a decision has been taken to extend the cut-off date for the completion of internship from 31 March 2024 to 30 June 2024 for NEET-MDS 2024;

- (iv) As a consequence of the above extension, 568 more students have registered; and
 - (v) As recorded in the previous order of this Court, data was collected by the National Dental Commission from colleges across the country and was supplied to the Union Government in order to enable it to take an appropriate decision.
- 12 First and foremost, while dealing with the rival submissions, the Court must be cognizant of the fact that the petitioners have moved a Miscellaneous Application in a petition under Article 32 which has been disposed of. The relief which was sought in the petition under Article 32 of the Constitution was for the extension of the cut-off for the completion of internship. In its order dated 21 February 2024, this Court noted that the fixation of a cut-off is essentially a matter within the policy domain. Hence, while not granting the relief which was sought in the petition, this Court granted liberty to the petitioners to move the Union Government with a representation so that the authorities could take a considered view of the matter. The Union Government has since decided to extend the cut-off for the completion of internship from 31 March 2024 to 30 June 2024. This Court cannot substitute its own view for the policy determination made.
- 13 The Court has been apprised of the fact that 29,128 students have registered for the examination which is to take place on the ensuing Monday. Mr Gonsalves submits that there would be hardship to the students whom he represents if the eligibility is not extended beyond the cut-off which is now refixed at 30 June

2024. However, the Court has to be cognizant of the interest of 29,128 students who have already registered for the examination and who would be affected if the examination is directed to be postponed, at this stage. The fixation of a cut-off, as the Court has already observed, essentially pertains to the policy domain. We are unable to subscribe to the submission that there must be an invariable parity between the cut-off which has been fixed for the NEET-PG and the NEET-MDS examination. The Court must not impose a requirement of its own creation and which does not find any statutory basis or foundation. An effort has been made by the National Dental Commission to bring back on rails the schedule for the commencement and conclusion of the Post-Graduate Dental courses. This exercise cannot be regarded as arbitrary so as to invite the interference of this Court. The fixation of any cut-off, it must be remembered, causes hardship to persons who are on one side of the dates so fixed. That is not reason enough for the Court to exercise its jurisdiction unless it is found that the cut-off is arbitrary and without any reasonable basis. Such is not the case here.

- 14 Having considered the grievance and based on the settled parameters for the exercise of judicial review, we are of the considered view that it would be inappropriate for this Court to intervene. We accordingly decline to do so. The Miscellaneous Application is accordingly dismissed.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR