CNR No: PHHC011444942024
2026:PHHC:105780-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-28866-2024 (O&M)
Reserved on: 06.05.2026
Pronounced on:04.08.2026
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Whether only the operative part of the judgment is pronounced or whether the full judgment is pronounced: ***Full***

GUNJAN NEHRA AND OTHERS ..PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS ….RESPONDENT(S)

CORAM:- HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ROHIT KAPOOR

Present: Mr. B. S. Rana, Senior Advocate assisted by
Mr. Nayandeep Rana, Advocate for the petitioners.

Mr. Nitin Kaushal, Addl. AG, Haryana and
Mr. Saurabh Mohunta, DAG, Haryana.

Mr. Ravi Sharma, Advocate and
Ms. Megha Sharma, Advocate
for respondent No.5.

Mr. Anil Chawla, Advocate
for respondent No.6-Union of India.

Mr. Aditya Gautam, Advocate
for respondent No.7.

Mr. L. K. Narang, Advocate for respondent Nos.8 & 9.

Mr. Aman Nain, Advocate
for respondent Nos.11, 16, 17, 20 and 21.

Mr. Dhiraj Chawla, Advocate for respondent Nos.22 to 62.

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ASHWANI KUMAR MISHRA, A.C.J.

1. Petitioners are qualified medical professionals having MBBS as their graduate degree. They are duly registered with their respective State Medical Council. Consequently, they are entitled to practice

medicine. They are seeking admission to Postgraduate medical courses i.e. M.D./M.S. etc. in Government/Government aided/Private Medical Institutions in the Academic Sessions 2024-25, in the State of Haryana, against 40% State quota seats, reserved for in-service doctors belonging to Haryana Civil Medical Services (for short, '***HCMS***'), ESIC run Hospitals/Dispensaries/other organizations and autonomous bodies of State government (for short, '***HCDS***'). Prayer is made to issue a *writ of mandamus* commanding the respondents to restrict the admission against the aforesaid 40% seats for in-service candidates, only to those who have already rendered two years' service in the rural/remote/difficult areas in the State of Haryana.

2. The petitioners have also challenged Clause 2(2) of the notification dated 02.09.2024, issued by respondent No.1, insofar as all HCMS/HCDS in-service doctors have been permitted to apply against 40% seats of the Haryana State quota, in all PG Courses, even without rendering of two years' service in the rural/remote areas in the State of Haryana. Petitioners have also sought quashing of Clause 1 of the General Conditions of Notification dated 25.07.2024 as per which, any in-service HCMS/HCDS doctor, who has completed two years of regular satisfactory/qualifying service and has cleared his probation period, is eligible for the grant of No Objection Certificate (*NOC*), so as to pursue post-graduate degree/diploma courses against seats reserved for in-service doctors for admission to PG courses.

3. At the very outset, we may note that though admissions to

PG Medical Courses for the Academic Session 2024-25 have already concluded, yet we propose to adjudicate the cause raised by the petitioners, on merits, as similar policies have been framed in subsequent years as well and therefore, the issues being recurring in nature require appropriate adjudication by this Court.

4. Government of Haryana has issued a notification on 02.09.2024 laying down the procedure for admission to Post Graduate Medical Courses i.e., M.D./M.S. in Government/Government Aided/Private Medical Educational Institutions, including Private Universities namely SGT University, Budhera, Gurugram and Al-Falah University, Faridabad for Academic Session 2024-25. Clause 2 of the aforesaid notification provides for "*Reservations*'. Sub-Clause 2 of Clause 2 of Notification dated 02.09.2024 is relevant for the present purposes and is reproduced hereinafter:-

> ***2****. Up to a ceiling of 40% seats of the State Quota seats in all PG Courses (MD/MS) in all the specialties shall be reserved as in-service category seats (INS seats) for regular Haryana Government in-service candidates (HCMS category), and those serving in ESIC run Hospitals/Dispensaries/other organizations and Autonomous Bodies of the State Government. For such INS seats, candidates having valid NOC issued by the Competent Authority shall only be considered eligible for availing this reservation.*

5. Clause 10 of the aforesaid notification lays down the procedure for admission to State quota seats. Sub-Clause (xvi) of Clause 10 is also relevant for the present purposes and is reproduced hereinafter:-

> ***(xvi) For In-service Candidates:-***
> ***a)*** *All Haryana Government in-service candidates (HCMS category, those serving in ESIC run Hospitals/Dispensaries,*

other organizations and Autonomous Bodies of the State Government etc.) having a valid NOC issued by the Competent Authority shall be eligible for Counselling. Any in-service Candidate without a valid NOC shall NOT be eligible for Counselling to PG courses for the Aademic Session 2024-25. NOC to in-service candidates will also be issued by the concerned employer (Health Department, Haryana/ESIC/Any other Department).

b) *All in-service candidates claiming benefit of reservation will have to submit an NOC (issued by the competent authority) in the prescribed format. Only those candidates shall be considered whose names are received from their Parent Department before the last date prescribed by the Department of Medical Education & Research.*

Candidates who have been issued NOC prior to the start of registration process will be considered as In-Service candidates in that particular round. In case a candidate is issued NOC after the start of registration, he/she shall be considered against In-service seats in the next round of counselling only. Candidates will have the option of uploading the NOC from parent department on the online admission portal for that particular round. Only the NOC that has been uploaded by the candidate which has been issued prior to the start of registration on the online admission portal for that particular round shall be considered valid for the purposes of admission. Any candidate who has been issued NOC after the last date as specified, shall be considered for the next round only.

c) *The benefit of reservation will also be applicable in respect of in-service candidates from Employees State Insurance Corporations/other organizations and Autonomous Bodies of the State Government. NOCs in their case will have to be issued by their Employer.*

6. A further Notification is issued on 25.07.2024, formulating policy for admission to Post Graduation Degree/DNB/Diploma Courses for Doctors (HCMS/HCDS) in the Department of Health. Clause 1 of this Notification dated 25.07.2024 is under challenge in this petition, which reads as under:-

(1) *Any in-service HCMS/HCDS doctor who has completed*

> *2 years of regular satisfactory/qualifying service and has cleared his probation period will be eligible for grant of NOC for pursuing Post Graduation (Degree/Diploma) & NBE (Degree/Diploma) Courses WITHOUT PAY. HCMS/HCDS Doctors whose two years regular satisfactory service has been completed earlier, the proposal regarding probation period should be sent with the proposal for grant of NOC for PG. However, if granted NOC, this period of study will be treated as extraordinary leave without pay. The service will be protected for the purpose of increments, seniority and pension, if entitled. Such persons will also be entitled to stipend whenever available in the institution.*

7. Clause 2 of Notification dated 25.07.2024 states that those in-service doctors, who wish to pursue Postgraduate/Superspeciality medical course before the completion of 2 years of regular satisfactory service, will have to resign from medical services of the State, and are not to be considered as in-service candidates. Clause 3 of the Notification provides the terms on which an in-service candidate having completed 3 years of regular satisfactory service, with at least 2 years rural service or remote and difficult areas service in Health Institutions of Haryana, would be allowed to pursue M.D./M.S. Courses as in-service doctors. These doctors have been held entitled to full pay, subject to the conditions specified in Clause 3, which reads as under:-

> ***(3)*** *Any in-service Doctor (HCMS/HCDS), who wishes to do Post Graduation (Degree/Diploma) & NBE (Degree/Diploma) Course after completion of 3 years of regular satisfactory service with at least 2 years rural service or remote and difficult areas service in Health Institutions of Haryana, will be eligible for NOC WITH FULL PAY subject to the following conditions:-*
> *a) The period spent on the prescribed duration of course will be treated as service period for all intends and purposes.*
> *b) The pay and emoluments including HRA of the doctor shall be claimed from the PG reserve at Head Quarter.*

> *c) The release of pay and other remunerations will be subjected to deposition of stipend received/due on account of PG courses in State Treasury. The candidates will be required to give a certificate/affidavit in this regard duly attested/verified by head of the Institution from where he/she is doing PG to the office of Director General Health Services, Haryana.*
> *d) The concerned Director/Principal of the Institute shall deposit the stipend of all such doctors admitted in his institute, into the receipt head of the State Government. The candidate must ensure that the stipend is being regularly deposited in the Government Treasury.*
> *e) In no case the stipend would be adjusted towards the annual fee especially for private institutes.*

8. Jurisdiction of the State Government to provide for a separate channel of admission as in-service doctors has been a subject matter of controversy for long, which can be better appreciated with reference to the relevant legislation(s) governing the field.

9. Exercising its jurisdiction under Entry 66, List I of the Constitution of India, the Parliament has enacted the Indian Medical Council, Act 1956 (hereinafter referred to as '***Act of 1956'***) which is the umbrella legislation enacted for the impart of medical education. In exercise of powers under Section 33 of the Act of 1956, Regulations have been framed for medical education, known as "Postgraduate Medical Education Regulations, 2000 (for short, '***Regulations of 2000***')". Regulation 9(4), (7) and (8) of Regulations of 2000 shed light on the relevant aspect and are, therefore, reproduced hereinafter:-

> *"**(4)** The reservation of seats in Medical Colleges/Institutions for respective categories shall be as per applicable laws prevailing in States/Union Territories. An all-India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of the marks obtained in National Eligibility-cum-Entrance Test*

and candidates shall be admitted to postgraduate courses from the said merit lists only;

Provided that in determining the merit of candidates who are in-service of government/public authority, weightage in the marks may be given by the government/competent authority as an incentive up to 10% of the marks obtained for each year of service in remote and/or difficult areas or rural areas up to maximum of 30% of the marks obtained in National Eligibility-cum-Entrance Test. The remote and/or difficult areas or rural areas shall be as notified by the State Government/competent authority from time to time.

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(7) *In non-governmental medical colleges/institutions, 50% (fifty per cent) of the total seats shall be filled by State Government or the authority appointed by them, and the remaining 50% (fifty per cent) of the seats shall be filled by the medical colleges/institutions concerned on the basis of the merit list prepared as per the marks obtained in National Eligibility-cum-Entrance Test.*

(8) *50% of the seats in postgraduate diploma courses shall be reserved for medical officers in the government service, who have served for at least three years in remote and/or difficult areas and/or rural areas. After acquiring the postgraduate diploma, the medical officers shall serve for two more years in remote and/or difficult areas and/or rural areas as defined by State Government/competent authority from time to time."*

10. In the context of the above, a controversy arose as to whether the State Government was competent to provide for a separate channel of admission to PG courses for the candidates who were already in employment of the State Government. Source of such power was traced to Article 245 of the Constitution of India, read with Entry 25 of List III of the Seventh Schedule. The issue was as to whether Regulation

9 of the Regulations of 2000 is referable to Entry 66 of List I, or was it referable to Entry 25 of the Concurrent List. In the event, it was found referable to Entry 25 of List III, then the ancillary issue was as to whether the admission quota for in-service doctors stood occupied by MCI Regulations or not?

11. Regulation 9(IV) of the Regulations of 2000 permitted reservation as per the applicable laws of the State or the Union Territory. A three-Judge Bench of the Supreme Court in ***State of UP vs. Dinesh Singh Chauhan, 2016 (9) SCC 749,*** held that reservation referred to in the opening part of Regulation 9(IV) of the Regulations of 2000 is akin to reservation as per constitutional scheme and does not embrace reservation for in-service candidates. Accordingly, the Court held that there could be no separate channel for admission to postgraduate medical course for in-service doctors, since the State lacked jurisdiction for the purpose.

12. The correctness of the judgment in ***Dinesh Singh Chauhan*** (supra) was questioned in ***Tamil Nadu Medical Officers Association vs. Union of India, 2018 (17) SCC 478***, on the premise that allocation of seats for in-service candidates is only a separate or exclusive channel of entry or source of admission, which cannot be equated with reservation provisions contemplated in the constitutional scheme for compensatory discrimination.

13. The Constitution Bench of the Supreme Court of India in ***Tamil Nadu Medical Officers Association vs. Union of India and others, 2021 (6) SCC 568,*** overruled the previous view in ***Dinesh Singh***

Chauhan (supra). The conclusions of the Court in ***Tamil Nadu Medical Officers Association*** (supra) are contained in various sub-paras of para 23 of the judgment, which are reproduced hereinafter:-

> *"**23**. The sum and substance of the above discussion and conjoint reading of the decisions referred to and discussed hereinabove, our conclusions are as under:*
> ***23.1.** That List I Entry 66 is a specific entry having a very limited scope.*
> ***23.2.** It deals with "coordination and determination of standards" in higher education.*
> ***23.3.** The words "coordination and determination of standards would mean laying down the said standards.*
> ***23.4.** The Medical Council of India which has been constituted under the provisions of the Indian Medical Council Act, 1956 is the creature of the statute in exercise of powers under List I Entry 66 and has no power to make any provision for reservation, more particularly, for in-service candidates by the States concerned, in exercise of powers under List III Entry 25.*
> ***23.5.** That Regulation 9 of the MCI Regulations, 2000 does not deal with and/or make provisions for reservation and/or affect the legislative competence and authority of the States concerned to make reservation and/or make special provision like the provision providing for a separate source of entry for in-service candidates seeking admission to postgraduate degree courses and therefore the States concerned to be within their authority and/or legislative competence to provide for a separate source of entry for in-service candidates seeking admission to postgraduate degree courses in exercise of powers under List III Entry 25.*
> ***23.6.** If it is held that Regulation 9, more particularly, Regulation 9(IV) deals with reservation for in-service candidates, in that case, it will be ultra vires of the Indian Medical Council Act, 1956 and it will be beyond the legislative competence under List I Entry 66.*
> ***23.7.** Regulation 9 of the MCI Regulations, 2000 to the extent tinkering with reservation provided by the State for in-service candidates is ultra vires on the ground that it is arbitrary, discriminatory and violative of Articles 14 and 21 of the Constitution of India.*

> ***23.8.*** *That the State has the legislative competence and/or authority to provide for a separate source of entry for in-service candidates seeking admission to postgraduate degree/diploma courses, in exercise of powers under List III Entry 25. However, it is observed that the policy must provide that subsequent to obtaining the postgraduate degree by the in-service doctors concerned obtaining entry in degree courses through such separate channel serve the State in the rural, tribal and hilly areas at least for five years after obtaining the degree/diploma and for that they will execute bonds for such sum the respective States may consider fit and proper.*
>
> ***23.9.*** *It is specifically observed and clarified that the present decision shall operate prospectively and any admissions given earlier taking a contrary view shall not be affected by this judgment."*

14. In a separate but concurring judgment, Hon'ble Mr. Justice Aniruddha Bose referred to previous judgments of the Court to hold that allocation of seats for in-service candidates amounts to separate channel of entry which cannot be equated with reservations for compensatory discrimination provided for in the Constitution. In para 65, 66 and 67 the Court observed as under:-

> *"**65.** In a series of judgments including the cases of D.N. Chanchala v. State of Mysore [D.N. Chanchala v. State of Mysore, (1971) 2 SCC 293 : 1 SCEC 51] , K. Duraisamy v. State of T.N. [K. Duraisamy v. State of T.N., (2001) 2 SCC 538 : (2007) 1 SCC (L&S) 1004 : 5 SCEC 126] , AIIMS Students' Union v. AIIMS [AIIMS Students' Union v. AIIMS, (2002) 1 SCC 428 : 1 SCEC 886] as also State of M.P. v. Gopal D. Tirthani [State of M.P. v. Gopal D. Tirthani, (2003) 7 SCC 83 : 2 SCEC 301], it has been held that allocation of seats for in-service candidates is only a separate or exclusive channel of entry or source of admission and such entry-path cannot be equated with reservation provisions incorporated as compensatory discrimination. But classifying a category of candidates for such distinct or separate channel has been upheld consistently, provided such categorisation is based on intelligible differentia.*

66. *In fact, on the question of such entry channel being based on reasonable classification, it has been held in Gopal D. Tirthani [State of M.P. v. Gopal D. Tirthani, (2003) 7 SCC 83:*

"21. To withstand the test of reasonable classification within the meaning of Article 14 of the Constitution, it is well settled that the classification must satisfy the twin tests : (i) it must be founded on an intelligible differentia which distinguishes persons or things placed in a group from those left out or placed not in the group, and (ii) the differentia must have a rational relation with the object sought to be achieved. It is permissible to use territories or the nature of the objects or occupations or the like as the basis for classification. So long as there is a nexus between the basis of classification and the object sought to be achieved, the classification is valid. We have, in the earlier part of the judgment, noted the relevant statistics as made available to us by the learned Advocate-General under instructions from Dr Ashok Sharma, Director (Medical Services), Madhya Pradesh, present in the Court. The rural health services (if it is an appropriate expression) need to be strengthened. 229 community health centres (CHCs) and 169 first-referral units (FRUs) need to be manned by specialists and block medical officers who must be postgraduates. There is nothing wrong in the State Government setting apart a definite percentage of educational seats at postgraduation level consisting of degree and diploma courses exclusively for the in-service candidates. To the extent of the seats so set apart, there is a separate and exclusive source of entry or channel for admission. It is not reservation. In-service candidates, and the candidates not in the service of the State Government, are two classes based on an intelligible differentia. There is a laudable purpose sought to be achieved. In-service candidates, on attaining higher academic achievements, would be available to be posted in rural areas by the State Government. It is not that an in-service candidate would leave the service merely on account of having secured a postgraduate degree or diploma though secured by virtue of being in the service of the State Government. If there is any misapprehension, the same is allayed by the State Government obtaining a bond from such candidates as a condition precedent to their taking admission that after

> *completing PG degree/diploma course they would serve the State Government for another five years. Additionally, a bank guarantee of rupees three lakhs is required to be submitted along with the bond. There is, thus, clearly a perceptible reasonable nexus between the classification and the object sought to be achieved."*
>
> ***67.*** *The same view stands consistently reflected in a large body of authorities, including the cases of Snehelata Patnaik v. State of Orissa [Snehelata Patnaik v. State of Orissa, (1992) 2 SCC 26 : 1992 SCC (L&S) 401], Pre-PG Medical Sangharsh Committee v. Bajrang Soni [Pre-PG Medical Sangharsh Committee v. Bajrang Soni, (2001) 8 SCC 694 : 5 SCEC 174], and the case of AIIMS Students' Union [AIIMS Students' Union v. AIIMS, (2002) 1 SCC 428 : 1 SCEC 886]. In Satyabrata Sahoo v. State of Orissa [Satyabrata Sahoo v. State of Orissa, (2012) 8 SCC 203 : (2012) 2 SCC (L&S) 570 : 4 SCEC 631] also, there were two entry channels, one for in-service candidates and the other for open-category candidates. Provisions for these two entry paths were not under challenge in that case. The constitutionality of institutional preference in postgraduate courses in favour of in-house candidates was found to be valid, on the basis of reasonable classification in AIIMS [AIIMS Students' Union v. AIIMS, (2002) 1 SCC 428 : 1 SCEC 886]. The case of Yatinkumar Jasubhai Patel [Yatinkumar Jasubhai Patel v. State of Gujarat, (2019) 10 SCC 1] also is based on similar reasoning."*

15. Arguments were advanced before the Constitution Bench to furnish rationale for separate and distinct class of in-service doctors so as to justify appropriation of seats for them. In para 68 and 69 of the concurring view in ***Tamil Nadu Medical Officers Association*** (supra) those submissions have been noticed and are extracted hereinafter:-

> *"**68.** In order to justify the retention of such source of entry into postgraduate medical degree courses, it was argued on behalf of the State of Tamil Nadu and the State of West Bengal by Mr Vaidyanathan and Mr Giri, for the former and Mr Rakesh Dwivedi, learned Senior Advocate for the latter that such reservation was necessary for proper functioning of the public health system as the respective States have*

> *shortage of specialised better qualified doctors to serve the remote areas. This stand has been supported by Mr P.V. Surendranath, learned Senior Advocate appearing for West Bengal University of Health Sciences. The same stand has been taken by Mr Jaideep Gupta, learned Senior Advocate for the State of Kerala and Mr Rahul Chitnis, learned advocate for the State of Maharashtra.*
>
> ***69.*** *The theme of argument on behalf of the in-service doctors has been that they have to discharge arduous duties serving a large number of patients across the respective States and it is always not possible for them to academically update to meet the theoretical standards set by MCI for the entrance examination. Mr Sanjay Hegde and Mr Vijay Hansaria, learned Senior Advocates have appeared before us for the petitioners in WPs (C) Nos. 252, 293 and 295 of 2018. The learned Senior Advocates for these petitioners as also the appellant in-service doctors in the appeals arising out of the judgment [Mohd. Babul Aktar v. Mohd. Nazir Hossain, 2019 SCC OnLine Cal 7104] of the High Court of Calcutta have sought to justify their defence on the same grounds."*

16. In para 71 of the judgment in ***Tamil Nadu Medical Officers Association*** (supra), the court recorded reasons for recognizing in-service doctors as a separate and distinct class for the purposes of admission to postgraduate degree courses, in following words:-

> *"**71.** We are satisfied that the doctors in employment of the States and allied sectors form a separate and distinct class and for the purpose of admission in postgraduate degree courses they can be given certain elements of preference. Holding them to be a distinct group fits in with overall objective of having medical professionals with superior qualification for tending to the needs of the general public. Moreover, the 2000 Regulations by permitting award of incentive marks to them and also providing for 50% reservation in diploma courses indirectly recognise this category of doctors as a separate class. But do the provisions of the 2000 Regulations permit the States to provide quota for such in-service candidates?"*

17. The Court ultimately held that the issue of legislative

competence on the subject fell in shared territory, and the power of the State to provide for separate channel of admission for in-service doctors did not come in conflict with the Parliamentary Legislation. In para 84 to 87 of the judgment, the Court elaborately examined the occupied field of legislation and held that the Regulations of 2000 are not so overwhelming in their scope and extent, so as to exclude the entire field of admission to Postgraduate Medical Courses from the purview of the State such that it is denuded of any jurisdiction to provide for a separate entry channel for in-service doctors. The Court ultimately went on to hold as under in para 90:-

> *"**90.** We are of the opinion that the admission process stipulating a distinct source of entry for in-service candidates by itself would not constitute breach of the provisions of Regulation 9 of the 2000 Regulations, provided that the minimum standards mandated by the said Regulations for being eligible to pursue postgraduate medical degree course are adhered to. A separate source of entry for in-service doctors through the State merit list in our view would come within the legislative power and competence of the State. We also take note of the fact that reservation for in-service doctors has been a long-standing practice and the rationale behind such reservation appears to be reasonable to us. But we refrain from dilating on the necessity of maintaining such practice as in this judgment, we are primarily concerned with the question of competence of State authorities in making rules providing for such reservation."*

18. In view of the authoritative pronouncement of law on the subject in ***Tamil Nadu Medical Officers Association (supra)***, the power of the State to provide for a separate channel of admission for in-service doctors cannot be doubted/questioned.

19. We may, at this stage, note that Section 10-D of the Act of

1956 otherwise mandates a common entrance examination at the postgraduate level. The procedure for selection of a candidate for postgraduate courses is specified in Regulation 9 which is since amended from time to time.

20. By a notification issued on 17.01.2018, the Haryana Government has notified 46 blocks situated in various Districts of Haryana as remote/difficult areas of the State, for the purpose of providing of various benefits/incentives. It is in the above context, that the process of admission to M.D./M.S. Courses was initiated *vide* public notice issued by Director General, Medical Education and Research Department, Haryana *vide* Annexure P-6. A communication was also issued on 24.05.2024, regarding issuance of NOC to HCMS candidates for admission to MD/MS/DNB/Degree/Diploma seats for the Academic Session 2024-25. Subsequent communications have also been issued specifying the manner in which the NOC is to be issued to in-service candidates for admission to M.D./M.S. Courses.

21. It is in the above backdrop that the petitioners state that the justification for separate channel of admission for the in-service doctors is their working in remote/difficult areas and in its absence, such admission would be impermissible.

22. The sheet anchor of the petitioners' case, herein, is the observation contained in para 97 of the Constitution Bench judgment of the Supreme Court of India in ***Tamil Nadu Medical Officers Association*** (supra), wherein the Supreme Court recognized that the State may create

a separate channel/source of entry for in-service doctors in PG medical admissions. According to the petitioners, this separate channel/source of entry for in-service doctors is conditioned by the requirement of such in-service doctors mandatorily working in rural/remote/difficult areas, apart from executing a bond requiring such doctors to render further rural service to the State after completion of PG Course for the required duration. The petitioners submit that though State can create a separate in-service quota, but it must be exclusively for the doctors who satisfy the test of rural/remote/difficult service criteria, as such work rendered alone justifies the policy of the State to create a separate channel/source of entry. Para 97 of the judgment in ***Tamil Nadu Medical Officers Association*** (supra) is reproduced hereinafter:

> *"**97**. We also expect that the statutory instruments of the respective State Governments providing for such separate channel of entry should make a minimum service in rural or remote or difficult areas for a specified period mandatory before a candidate could seek admission through such separate channel and also subsequent to obtaining the degree. On completion of the course, to ensure the successful candidates serve in such areas, the State shall formulate making the in-service doctors who obtain entry in postgraduate medical degree courses through independent in-service channel execute bonds for such sum the respective States may consider fit and proper."*

23. The petitioners also rely upon a judgment delivered by a learned Single Judge of the Calcutta High Court in ***Tania Mukherjee & Others vs. State of West Bengal and Others, WPA No.1582 of 2022***, wherein such contention is stated to have been accepted by the Calcutta High Court.

24. The claim of the petitioners is opposed by the State of

Haryana and the private respondents on the ground that power to create a separate channel for in-service doctors flows from Entry 25, List III of the Constitution of India and is duly recognized by the Supreme Court in ***Tamil Nadu Medical Officers Association (supra).*** It is urged that the State, while formulating its policy for admission of in-service doctors, has clearly provided that such doctors, upon securing admission to M.D./M.S. courses shall be required to execute a bond to serve in rural/remote/difficult areas for a period of five years which would subserve the object of providing separate channel of entry for in-service doctors.

25. According to the respondents, it is not necessary that in-service doctors must work in rural/remote/difficult areas for two years before they qualify for admission as in-service doctors. The respondents further urge that distinct categories are validly created by the State for in-service doctors i.e. *(i)* those who have served in difficult or remote areas for two years, where such in-service doctors will receive full salary while pursuing PG course; and *(ii)* those in-service doctors who have not worked in rural areas to whom salary would not be payable during the continuance of PG course, although other service benefits would enure to them. For both categories, it would be necessary for them to serve rural/difficult area post-acquisition of higher qualification for five years. Submission of the respondents thus is that this distinction carved out by the State has a definite purpose to subserve, and has reasonable nexus with the object sought to be achieved, rendering the classification

reasonable and not open to challenge on the vice of arbitrariness.

26. It is on the strength of above submissions that we are required to determine as to whether working for two years in rural/remote/difficult areas is a condition precedent for grant of admission to PG courses as in-service doctors?

27. As a sequel, it will have to be determined as to whether the distinction drawn by the State in its policy between in-service doctors who have worked in rural/remote/difficult areas for two years and those who have not, for admission as in-service doctors, is valid? The differential treatment meted out to these two categories of in-service doctors also falls for determination before us in the present case.

28. Though it has been held in ***Tamil Nadu Medical Officers Association*** (supra) that providing of separate channel of admission for in-service doctors is valid yet in order to appreciate the scope of jurisdiction with the State to frame its policy, it would be necessary to refer to Entry 66 of List I, Entry 32 of List II and Entry 25 of List III of the Seventh Schedule to the Constitution of India, which reads as under:-

> *"**Entry 66 of List I:-***
> *Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions.*
> ***Entry 32 of List II**:-*
> *Incorporation, regulation and winding up of corporations, other than those specified in List I, and universities; unincorporated trading, literary, scientific, religious and other societies and associations; cooperative societies.*
> ***Entry 25 of List III:-***
> *Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; vocational and technical training of*

labour."

29. In ***Modern Dental College & Research Centre and others vs. State of M.P. and others, (2016) 7 SCC 353***, a Constitution Bench of the Supreme Court of India examined the interplay between the aforesaid three Entries in the context of medical education and observed as under:-

> *"…..Reading in this manner, it would become manifest that when it comes to coordination and laying down of standards in the higher education or research and scientific and technical institutions, power rests with the Union/Parliament to the exclusion of the State Legislatures. However, other facets of education, including technical and medical education, as well as governance of universities is concerned, even State Legislatures are given power by virtue of Entry 25. The field covered by List III Entry 25 is wide enough and as circumscribed to the limited extent of it being subject to List I Entries 63, 64, 65 and 66..."*

30. Once the source of power is recognized to vest in the State to provide for a separate channel of admission to postgraduate courses meant for in-service doctors, the legislative competence of the State in this regard cannot be questioned. Competence of the State to make law or formulate executive policy for admission in PG medical courses for in-service doctors cannot be questioned. This is so as it has already been recognized in ***Tamil Nadu Medical Officers Association*** (supra) that exercise of such jurisdiction does not trench upon the Parliamentary Legislation and the field occupied by it. Thus, it can be safely held that making of policy to regulate admission for in-service doctors would either encroach upon the Parliamentary Legislation or the Regulations framed thereunder, nor exceed the competence of the State in providing for such measures under Entry 25, List III of the Constitution of India.

31. It is well-ssettled law that the executive power of the State

under Article 162 of the Constitution is co-extensive with its legislative power. In the absence of any law to the contrary, the State is competent to exercise its executive power in respect of matters on which the State Legislature is competent to legislate. ***See:- Bishambhar Dayal Chandra Mohan v. State of U.P., (1982) 1 SCC 39, State of Punjab v. Devans Modern Breweries Ltd., (2004) 11 SCC 26***. The State, therefore, would be well within its jurisdiction to issue executive instructions, thereby providing a separate channel of entry for its in-service doctors to the PG medical courses.

32. Providing of health services to the citizenary in the State is one of the important functions assigned to the State Government. The State, therefore, would be well within its jurisdiction to take measures consistent with the object of providing improved medical facilities in the rural areas by posting specialized doctors who have higher qualification.

33. By framing its policy, the State intends to ensure that the MBBS doctors employed by it are provided higher qualification so that such doctors are better equipped to provide improved medical facilities in the rural areas. The policy contemplates furnishing of a bond by such in-service doctors to render minimum five year service in rural/difficult areas and thereby ensure that purpose for which the policy is framed is duly subserved.

34. The wisdom of the State in specifying the manner in which admission is to be offered to in-service doctors cannot be objected to by the petitioners in the present proceedings, unless it is shown that the

impugned policy itself contravenes any constitutional provision, or is manifestly arbitrary or unjust.

35. We have carefully gone through the State policy contained in the Notification dated 02.09.2024, as per which in-service doctors would constitute those doctors working in HCMS/HCDS, who have acquired eligibility for admission to the postgraduate course as in-service doctors, in accordance with the Notification dated 02.09.2024.

36. The thrust of the petitioners' submission is that unless an in-service candidate has worked in rural/remote/difficult areas, he/she cannot be treated as an in-service candidate under the 40% quota for admission to the postgraduate course.

37. The notification issued by the State categorically provides that such in-service doctors would have to execute a bond undertaking to serve the State Government for five years in rural/remote/difficult areas after acquiring such postgraduate qualification. The object of the State policy is to provide better medical facilities to the common masses in the State. Such objective is adequately achieved by the doctors executing the requisite bond to serve in such rural/remote/difficult areas for a period of five years.

38. The State policy also carves out a distinction between those in-service doctors who have completed two years of posting in rural/remote/difficult areas and those who have not done so. For those who have actually worked in rural/remote/difficult areas for two years have been allowed to pursue postgraduate courses as in-service doctors

with full salary along with all other available service benefits. However, those in-service doctors who have not rendered service in rural/remote/difficult areas have been denied salary during the period of their postgraduate study and the benefit to them is restricted to providing of lien and counting of services etc., without any salary to them.

39. The policy of the State, therefore, makes out a valid distinction between the two classes of in-service doctors by providing regular salary to those who have already rendered rural/remote/difficult service for two years and by restricting the benefit of continuity in service alone to other in-service doctors who have not rendered two years' service in rural/remote/difficult areas.

40. The distinction drawn between two sets of in-service doctors is based on *intelligible differentia* and has specific object to achieve i.e., providing of improved medical facilities in rural/difficult areas. The distinction drawn between the two categories of in-service doctors i.e., those who have already rendered two years of rural/difficult area service and those who have not, is thus valid and does not contravene Article 14 of the Constitution of India.

41. We may, moreover, indicate that the observation of the Supreme Court in paragraph 97 of the judgment in ***Tamil Nadu Medical Officers Association*** (supra) was based upon the reading of the Regulations brought before the Court, whereas in the present case what is required to be adjudicated is the policy of the State contained in notification dated 02.09.2024. No such policy was under challenge in

Tamil Nadu Medical Officers Association (supra). Since we have already observed that policy of the State is based on an *intelligible differentia* and is having a definite object to achieve, therefore, the petitioners challenge to the policy of State based upon paragraph 97 of the judgment in ***Tamil Nadu Medical Officers Association*** (supra) cannot be accepted.

42. The Supreme Court has, otherwise, upheld separate source of admission for in-service doctors, and held that such classification is founded on an *intelligible differentia*, having a rational nexus with the object of improving public healthcare in rural and tribal areas. The Court observed that in-service doctors form a distinct class, and can legitimately be treated differently from open-category candidates. ***See:- State of Madhya Pradesh vs. Gopal D. Tirthani, (2003) 7 SCC 83***.

43. When in-service doctors are treated to form a separate and distinct class and the State is held empowered to make law or frame scheme in exercise of its legislative jurisdiction emanating from Entry 25 of List III of Seventh Schedule the challenge to the State policy would be restricted to limited grounds available in law. No such ground of challenge has been made out by the petitioners in the present case.

44. In view of the analysis made above and upon a careful examination of the State policy, we do not find the Notification dated 02.09.2024 to be either beyond the legislative competence of the State, or it to encroach upon the field occupied by the Central legislation. The policy contained in the notification dated 02.09.2024 is held not to violate Article 254 of the Constitution of India.

45. We also do not find the State policy to contravene any provision of the Constitution of India or any applicable statute, or to be manifestly arbitrary so as to justify any interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

46. For the reasons recorded above, the instant writ petition fails and is, accordingly, ***dismissed***.

47. All pending miscellaneous application(s), if any, also stand disposed of.

[ASHWANI KUMAR MISHRA]
ACTING CHIEF JUSTICE

[ROHIT KAPOOR]
JUDGE

AUGUST 04, 2026
Rahul Joshi

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