



2026:AHC:173993-DB

AFR

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 31835 of 2026

Rohan Yadav

.....Petitioner(s)

Versus

State of U.P. and Another

.....Respondent(s)

Counsel for Petitioner(s)	:	Arun Kumar Gupta, Prashant Gupta
Counsel for Respondent(s)	:	C.S.C.

Court No. - 29

**HON'BLE ARINDAM SINHA, J.
HON'BLE SATYA VEER SINGH, J.**

(Per Arindam Sinha, J.)

1. Petitioner sat for National Eligibility-cum-Entrance Test (NEET) (UG-2026). On the result published he wanted to participate in following counseling. He came to know there is Government Order (GO) dated 26th June, 2024 providing contingency for candidates being barred from participating in the counseling process. He seeks to challenge said order as unconstitutional, arbitrary and ultra vires articles 14, 19 and 21 of the Constitution. Mr. Prashant Gupta, learned advocate appears on his behalf. Mr. S.C. Upadhyay, learned advocate, Standing Counsel appears for State and Ms. Akanksha Sharma, learned advocate, for respondent no. 2 (the Director General of Medical Education and Training).

2. English translation of text in the offending GO is reproduced below.

"Subject: Regarding the 'Seat Leaving Bond' system implemented by the State for resignation from an allotted seat, keeping in view the mental health of candidates admitted through NEET counseling.

Please kindly refer to your letter number-M.E.-3/Vidhi/2024/292, dated-06.02.2024 and the demi-official letter number-NMC (23) (1) (161/2024/003132 dated 19.01.2024 of the Chairman, Undergraduate Medical Education Board (UGMEB), Government of India, and the related Government Order number-1454/71-2-2011-17/2010 dated 25 April 2011, Government Order number-1375/71-2-2014-103/2011 dated

26 June 2014, Government Order number-1/348793/2023 dated 13 July 2023, Government Order number-612/71-4099/1229/2019 dated 23 September 2022, Government Order number-693/71-4-2022 dated 21 October 2022.

*2-In this regard, I am directed to state that following due consideration of the matter in question, the provision of recovering seat-leaving bond money or penalty from any candidate upon leaving a course prior to its completion across all undergraduate/postgraduate course seats in established Government and Private Sector Medical/Dental Colleges, Institutions, and Medical Universities within the State, is hereby abolished. **Instead, in pursuance of the recommendation made vide Paragraph-5 of the aforementioned referenced letter dated 19.01.2024 of the N.M.C., it has been decided that if a concerned candidate leaves the seat before completing the course, he shall be debarred from the admission process of the subsequent academic session.***

Kindly ensure further necessary action accordingly"

(emphasis supplied)

3. Mr. Gupta relies on views taken by the Orissa and Bombay High Courts. A Division Bench in the High Court of Orissa in **W.P. (C) no. 6923 of 2015 (Dr. Satyabrata Kanungo vs. State of Odisha and others)** by judgment dated 31st March, 2016 said that clause I(6) of the guidelines for candidates to Post Graduate (Medical) courses in the Medical Colleges for academic session 2014-2015 is unreasonable and improper and as such violative of article 14 in the Constitution. The clause considered in the judgment is extracted from it and reproduced below.

*"I(6) **If any candidate does not join or leaves after joining the PG Course, due to which a seat goes lapsed, then the candidate concerned shall not be considered for selection in the next three academic sessions of the PG Course and the stipend/salary already received by him/her will have to be refunded.**"*

(emphasis supplied)

The Division Bench referred to several judgments of the Supreme Court cited in the case and took its view as would appear from paragraph 20 in the judgment. The paragraph is reproduced below.

*"20. **From all the aforesaid prospectus it is found that the candidates***

*have been penalized for their untimed discontinuance of the P.G. course prosecuted by them but that penalty is in the shape of payment of money but not forfeit their future to prosecute the higher study. It is the plea of the opposite parties as pleaded in the counter that these institutions are autonomous and they can take any decision. It is not the question of any principle of autonomous institution or Government institution but it is a question of constitutional right of a person to prosecute higher study to exercise his right and liberty to life. Moreover, it is not pleaded in the counter which Guideline of Medical Council of India (MCI) has been followed by the State Government to retain the impugned Clauses in the respective Guidelines, 2014-2015 and 2015-2016 inasmuch as it is settled that M.C.I. is the apex body and no Medical Colleges in the country can admit students without following its Guidelines. At the same time the interest of public is not involved because more strict view will deter the doctors from joining the services and causing irreparable loss to the general public to get their right to health to be exercised at their option. On the other hand, the medical profession is well connected with the public interest. **Therefore, the prospectus should be reasonable and fair one so as to cater the need of the individual and the society including the people.** We are, therefore, of the considered view that Clause I (6) in the prospectus 2014-2015 and Clause F (5) in the prospectus 2015-2016 are unreasonable and improper and as such violative of Article 14 of the Constitution."*

(emphasis supplied)

4. The Bombay High Court through a Division Bench delivered **judgment dated 29th August, 2017 in Writ Petition no. 7238 of 2017 (Miss Maithilee Tukaram Kadam vs. The State of Maharashtra and others)**. It was in respect of considering clause 10.10.1 in the 'Information Brochure of Preference System' for admission to health science courses in the State Government/Corporation/Private and Minority Colleges, issued by Government of Maharashtra for NEET-UG-2017, published on 19th June, 2017. The clause is extracted from the judgment and reproduced below.

*"10.10.1 :- **The candidate who was allotted a seat in any course under MUHS Nashik in previous year (s) and who vacates/ abandons it after availing the said seat, has completed such a period of course which would result into lapse of the said the seat, will not be eligible for admission for the next two years under State quota.**"*

(emphasis supplied)

View taken by the Division Bench was summed up in paragraph 18 of the judgment, reproduced below.

"18). In the aforesaid facts and circumstances, we are of the firm opinion that Rule 10.10.1 creates a unreasonable restriction on the fundamental right of the petitioner guaranteed under Article 19 (1) (g) and Article 21 of the Constitution of India which includes right of opportunity and the petitioner has availed opportunity in terms of the Rules framed by the CBSE for conducting of NEET-UG-2017 examination and in the light of the said Rules the condition imposed by the State Government in 10.10.1 is not applicable to the petitioner and to be read down to give effect to the eligibility criteria for appearance in the examination of NEET-UG-2017 and accordingly we read down the said provision 10.10.1 to pave way to the petitioner who is found to be eligible as per the NEET-UG-2017 and is qualified on the basis of score of the said examination to secure a seat according to her preference form for MBBS Course. Hence, we allow the writ petition and direct respondent Nos. 1, 2 and 3 to allot M.B.B.S. Seat as per her preference form submitted on 18.8.2017 and permit the petitioner to prosecute her studies in the first year MBBS Course.

Hence, we pass the following order :-

:ORDER:

(1) Writ Petition is allowed;

(2) Respondent Nos. 1, 2 and 3 are directed to allot the M.B.B.S. Seat to the petitioner as per her preference form submitted by her on 18th August, 2017 and permit the petitioner to prosecute her studies in the First Year of M.B.B.S. Course.

(3) No order as to costs."

(emphasis supplied)

5. Mr. Gupta submits, special leave petition filed in respect of the judgment in **Dr. Satyabrata Kanungo** (supra) was dismissed. He also relies on judgment of the Supreme Court reported in **AIR 1983 Supreme Court 130 (D.S. Nakara and others vs. Union of India)**, paragraph 15 reproduced below.

"15. Thus the fundamental principle is that Article 14 forbids class legislation but permits reasonable classification for the purpose of

legislation which classification must satisfy the twin tests of classification being founded on an intelligible differentia which distinguishes persons or things that are grouped together from those that are left out of the group and that differentia must have a rational nexus to the object sought to be achieved by the statute in question."

He submits, there be interference to strike down impugned GO inasmuch as, it impedes his client from seeking to obtain his academic qualification having been successful in NEET-UG-2026. The bar preventing him from participating in the counseling, to obtain allotment of a seat in his preferred choice of Government Medical College deprives him of his constitutional rights. There be interference.

6. Mr. Upadhyay and Ms. Sharma both oppose the writ petition. The submission is that the Government, after due consideration of relevant facts and circumstances, issued the GO. It is in place and adhered to. The writ petition be dismissed.

7. Petitioner having been successful stands restrained from participating in the counseling in view of him having obtained admission in previous academic year in King George Medical University (a Government Medical College), after having succeeded in the selection process on taking NEET-UG-2025. It is obvious, in the time after obtaining admission in King George Medical College petitioner worked very hard to prepare for this year's entrance examination and secured better marks than his last attempt. Hence, he hopes to obtain admission in a more preferred by him Government Medical College.

8. Two consequences of him obtaining admission as he would want are that he would lose a year and the vacated seat will lapse. We have given our anxious consideration to the views taken in **Dr. Satyabrata Kanungo** (supra) and **Miss Maithilee Tukaram Kadam** (supra). Both views proceed on stand point of petitioners before the respective Courts. On perusal of impugned GO our attention is drawn to the second consequence of the lapsed seat. In event petitioner is found to be successful in his challenge to the GO, an aspiring medical student, earlier denied that seat will have had violation of his constitutional rights on the seat rendered vacated and lapsed.

9. Subject of impugned GO states that it was issued keeping in view the mental health of candidates admitted through NEET counseling. This would

necessarily include those candidates, who had taken the examination but did not find allotment, as denied to them by others who were found to be more meritorious in the open category. A candidate, just because he or she does not qualify in the competitive exam cannot be seen to have put in any less effort. As aforesaid, the constitutional rights are applicable to all and article 14 guarantees fairness. We are not inclined to lose sight of the unseen deprived candidate, to uphold constitutional rights of the candidate before us. He, not satisfied with the allotment against his previous attempt, could have waited out the academic year, to make better attempt and thereby have admission in his preferred medical college. Instead, he took admission and now wants to vacate the seat, for it to lapse. In our view, the Government has taken the decision after ascertaining present situation of mental health of candidates taking the competitive examination.

10. We discovered, the **Petition for Special Leave to Appeal (C) no. 7458/2017 (State of Odisha & ors. v. Dr. Satyabrata Kanungo & another)** was dismissed by order dated 11th September, 2023. Text of the order is reproduced below.

"So far as the relief is concerned, the petition has been rendered infructuous. However, in view of the judgment and directions of this Court in "Dar-Us-Slam Educational Trust and Ors. vs. Medical Council of India and Ors." order dated 09.05.2017 [W.P. (C) No. 267 of 2017] and subsequent cases which have followed it. The question of law urged is kept open.

The petition is however, dismissed. All pending applications are disposed of."

(emphasis supplied)

11. Following up we see that by **order dated 9th May, 2017** passed in **Dar-Us-Slam Educational Trust** (supra) the Supreme Court had laid down detailed guidelines for admission. In a later **judgment dated 29th April, 2025** of the Supreme Court in **Special Leave Petition (Civil) no.9298 of 2018 (State of U.P. and another v. Miss Bhavna Tiwari and others)** said Court interpreted **Dar-Us-Slam Educational Trust** (supra) to have given a key directive that, after the second round of counseling, students, who had already taken admission would not be allowed to vacate their seats. This was intended to prevent seat blocking and ensure that maximum number of seats were filled during the first and second rounds of counseling. By said

judgment [**Miss Bhavna Tiwari** (supra)] the Supreme Court laid down further guidelines as would appear from paragraph 16 of the judgment, with regard to counseling and seat blocking. The judgment becomes relevant since, the Supreme Court while dismissing the special leave petition seeking to prefer appeal against view taken in **Dr. Satyabrata Kanungo** (supra), had referred to **Dar-Us-Slam Educational Trust** (supra).

12. In **Miss Maithilee Tukaram Kadam** (supra) State of Maharashtra had filed affidavit. A passage from paragraph 6 in the judgment setting out its justification for existence of the rule by elaboration, is reproduced below.

"6.....The State also has justified the existence of Rule 10.10.1 by elaborating as follows in the affidavit.

1. If candidate pursuing health science course of BAMS appears next years "NEET examination and gets admission to MBBS course, wants to leave the BAMS seat. This will cause wastage of last years' BAMS seat. It is a national wastage. One doctor will be produced less, who would have treated lacks of patients for next 50 years.

2. If this channel is made open, the BDS student will also appear for NEET examination next year and if he gets MBBS seat, then he will waste BDS seat of last year.

3. The candidate from Private Medical College will also appear for NEET examination next year and if gets admission to Government Medical College, will waste last year MBBS seat of Private Medical College."

The Bombay High Court considered the guidelines regulating eligibility to appear for the NEET examination, as in NEET-UG-2017. It found, a candidate could appear maximum of three times. There were upper age limits in respect of candidates to take the examination at that time but to best of our information such limits have since been removed. As such, the number of opportunities as limited did not militate against the bar or restriction, with object of deterrence, to avoid lapsing of seats and thereby wastage. The three opportunities provided to a candidate can be interpreted as opportunities by attempts, in which a candidate could find success to get allotment of a seat.

13. In context of facts and circumstances of this case and the consequence of

a lapsed seat, deterrent against which has been put in place by impugned GO, we are in respectful disagreement with the relied upon views. As aforesaid, candidates taking the competitive examinations, to find admission in their chosen line of course study, achieve different results. It cannot be said, a candidate denied a seat on evaluation of better results achieved by other candidates, if allotted a seat, would not be able to successfully complete the course and obtain the degree. Such a candidate stands denied because there are less seats than the number of candidates. It follows, there has been consistently deterrents sought to be imposed so that a seat allotted does not get vacated subsequently, for it to lapse. Such wastage cannot be seen as fair treatment to the deprived candidates.

14. We do not have reason to interfere. The writ petition is **dismissed**.

August 18, 2026
sailesh

(Arindam Sinha,J.)

(Satya Veer Singh,J.)