

ITEM NO.23

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

Writ Petition (Civil) No.730/2022

ABHISHEK YADAV & ORS.

Petitioner(s)

VERSUS

ARMY COLLEGE OF MEDICAL SCIENCES & ORS.

Respondent(s)

(With IA No.127063/2022 - EXEMPTION FROM FILING AFFIDAVIT)

Date : 15-09-2023 These matters were 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)

Ms. Charu Mathur, AOR
Mr. Vaibhav Gaggar, Adv.
Ms. Kokila Kumar, Adv.
Mr. Somdev Tiwari, Adv.
Ms. Shefali Munde, Adv.
Mr. Pulkit Agarwal, AOR
Mr. Aashutosh Kumar, Adv.

For Respondent(s)

Mr. R. Balasubramanian, Sr. Adv.
Mr. Santosh Kumar Pandey, AOR
Mr. Harsh Kaushik, AOR
Mr. Gaurav Sharma, AOR

Mr. Dhawal Mohan, Adv.
Mr. Prateek Bhatia, Adv.
Mr. Paranjay Tripathi, Adv.

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

- 1 The National Medical Commission (Compulsory Rotating Medical Internship) Regulations 2021 have been notified on 18 November 2021 in exercise of powers conferred by Section 57 read with Section 24(1) of the National Medical Commission Act 2019.
- 2 Clause 3 of Schedule IV of the Regulations provides as follows:

“3. Stipend

 - (a) All interns shall be paid stipend as fixed by the appropriate authority applicable to the institution/ University or State.
 - (b) Stipend may not be paid during any period of extension except in the case of maternity leave or medical leave, as may be recommended and approved by the Medical Board. Total stipend paid for the entire internship may be for fifty-two weeks (Twelve months) only.”
- 3 The Army College of Medical Sciences is conducted by the Army Welfare Education Society, a society registered under the Societies’ Registration Act 1860. The college is affiliated to the Guru Govind Singh Indraprastha University. The petitioners completed their internship as part of the five-year MBBS degree course in 2023.
- 4 The Army College of Medical Sciences engages 100 interns in one batch. None of them is paid any stipend. Clause 3 of Schedule IV of the Regulations which has been extracted above requires that a stipend should be paid as fixed by the appropriate authority applicable to the institution/University or State. The college is situated in Delhi.

- 5 The submission which has been urged on behalf of the college by Mr R Balasubramanian, senior counsel is that the fees for medical education are fixed by the State Fee Regulatory Committee. As a result, the college is not in a position to unilaterally increase the fees and, as a matter of fact, the fee has been reduced for the current year from Rs 4,32,000 to 3,20,500.
- 6 The interns are required to be paid a stipend during the period of internship. The mandate of the Regulations adopted by the National Medical Commission cannot be breached. At the same time, we bear in mind the circumstance that the Army College of Medical Sciences is being run as a welfare measure for children of serving or retired members of the Armed Forces and is, strictly speaking, not a commercial institution run for profit.
- 7 We accordingly pass the following interim order:
 - (i) Commencing from 1 October 2023, the first respondent shall pay a stipend of Rs 25,000 per month to each of the present batch of interns and continue to do so on a monthly basis. The amount has been fixed having due regard to the fact that an amount of Rs 27,000 is paid as stipend at the Vardhman Mahavir Medical College (Safdarjung Hospital), Rs 25,000 per month at the Babasaheb Ambedkar Medical College (Babasaheb Ambedkar Medical Hospital) and an amount of Rs 24,000 per month at the NDMC Medical College (Hindu Rao Hospital); and
 - (ii) The first respondent is granted permission to move the State Fee Regulatory Committee with a statement of likely financial impact consequent upon the payment of stipend as directed. The State Fee Regulatory Committee shall within a period of one month make a determination on whether any enhancement in the fees would be necessary to meet the additional outgoing on the above head bearing in mind that the facilities which are provided to the students are stated to

be substantially subsidized.

- 8 Insofar as the earlier batch is concerned, this Court may be inclined after giving a hearing to all the concerned stakeholders to fix a lump sum payment for the immediately previous batch which has moved these proceedings under Article 32 of the Constitution. The College may factor in the likely payment on this account by taking suitable directions from the State Fee Regulatory Committee in that regard.
- 9 During the course of the hearing, it has been pointed out by Mr Vaibhav Gaggar, counsel for the petitioners that almost 70% of the medical colleges in the country do not pay any stipend to interns or pay an amount which is less than the stipend fixed.
- 10 Mr Gaurav Sharma, counsel appearing for the National Medical Commission shall file a tabulated chart and explain (i) whether the statement which has been made to the above effect is correct; and (ii) what steps the National Medical Commission is taking to ensure compliance with the norms for payment of internship stipends.
- 11 List the Petition on 16 October 2023.

(CHETAN KUMAR)
A.R. - cum - P.S.

(RENU BALA GAMBHIR)
COURT MASTER