

2023 LiveLaw (SC) 275

**IN THE SUPREME COURT OF INDIA
B.R. GAVAI; J., VIKRAM NATH; J.**

Writ Petition(s)(Civil) No(s). 607/2022; 28-03-2023

ARCHITA & ORS. versus NATIONAL MEDICAL COMMISSION & ORS.

Medical Education - Foreign Medical Graduates - Supreme Court allows repatriated medical students from Ukraine, China etc., who are in their penultimate year to clear MBBS exam in two attempt as an extraordinary measure.

For Petitioner(s) Mr. Gopal Sankaranarayanan, Sr. Adv. Ms. Rashmi Nandakumar, AOR Ms. Remya Raj, Adv. Mr. S. Nagamuthu, Sr. Adv. Mr. M.p. Parthiban, AOR Ms. Priyaranjani Nagamuthu, Adv. Mr. A.s.vairawan, Adv. Mr. R. Sudhakaran, Adv. Mr. Amod Bidhuri, Adv. Ms. Shalini Mishra, Adv. Mr. T. Hari Hara Sudhan, Adv. Mr. G.r. Vikash, Adv. Mr. Bilal Mansoor, Adv. Mr. K.deivendran, Adv. Mr. D. Alagendren, Adv. Mr. M.a. Aruneshe, Adv. Mr. R. Basant, Sr. Adv. Mr. Raghenth Basant, Adv. Mr. M.F. Philip, Adv. Ms. Roopali Lakhota, Adv. Mr. Karamveer Singh Yadav, Adv. Ms. Purnima Krishna, AOR Mr. Ashok Kumar Sharma, Sr. Adv. Mr. Ravi Sikri, Sr. Adv. Mr. Vikalp Mudgal, AOR Mr. Kshitij Mudgal, Adv. Mr. Abhinav Garg, Adv. Mr. Ashish Kumar Chaurasiya, Adv. Mr. C. Mohan Rao, Sr. Adv. Mr. Ramesh Allanki, Adv. Mrs. Aruna Gupta, Adv. Mr. Syed Ahmad Naqvi, Adv. Mr. Harsh Anand, Adv. M/S. Ramesh Allanki And Associates, AOR Mr. Anoop Prakash Awasthi, AOR Mr. Vineet Bhagat, AOR Ms. Manju Bhagat, Adv. Mr. Mohit Gulati, Adv. Mr. K. Rajeev, Adv. Mrs. Nivedita R. Menon, Adv. Mr. Shinoj K Narayanan, Adv. Mr. Aditya Verma, Adv. Mr. A. Karthik, AOR Mr. Pramod Kumar Dubey, Adv. Mr. Rahul Shyam Bhandari, Adv. Mrs. Priyadharshni G., Adv. Mr. Rohit Prakash, Adv. Mr. Prateek Mathur, Adv. Mr. Amit Singh Rathore, Adv. Ms. Pinky Dubey, Adv. Mr. Satyam Pathak, Adv. Dr. Ratneswar Chakma, Adv. Mr. Rahul Shyam Bhandari, AOR Ms. Bina Madhavan, Adv. Ms. Sweena Nair, Adv. Ms. Sanjana Nair, Adv. M/S. Lawyer S Knit & Co, AOR Mr. R. Sathish, AOR Mr. Sherry George Cherian, Adv. Mr. Rajesh Kumar, Adv. Mr. Mohan Das Kk, Adv. Mr. Mathen Joseph, Adv. Mrs. S. Geeta, Adv. Mr. A Deb Kumar, Adv. Mrs. A Deepa, Adv. Mr. Subash Ch. Sabat, Adv. Mr. Sudhakar Dwivedi, Adv. Mr. Sudarsh Menon, AOR Mr. Ajit Kumar Sinha, Sr. Adv. Mr. Ashwarya Sinha, AOR Ms. Shubhi Sharma, Adv. Ms. Priyanka Sinha, Adv. Mr. Aditya Malhotra, Adv. Ms. Lubna Naaz, AOR Ms. Aadya Mishra, Adv. Mr. Shivam Singh, Adv. Ms. Shaswati Parhi, Adv. Mr. Gopal Singh, AOR Mr. Manoj V George, Adv. Ms. Shilpa Liza George, AOR Mr. Km Vignesh Ram, Adv. Mr. Nasib Masih, Adv. Ms. Darshna Nair, Adv. Ms. Akshita Agarwal, Adv. Petitioner(s)-in-person Mr. K.v.jagdishvaran, Adv. Mr. Gandeepan, Adv. Mr. Harnaman Singh, Adv. Mr. Ashwini Kumar, Adv. Ms. G. Indira, AOR Mr. Mandeep Kalra, AOR Ms. Radhika Narula, Adv. Ms. Divya Singh Pundir, Adv. Ms. Kanak Malik, Adv. Mr. Rishabh Lekhi, Adv. Ms. Tanya Singh, Adv. Ms. Anushna Satapathy, Adv. Mr. Akbar Siddique, AOR Mr. Malik Javed Ansari, Adv. Mr. Animesh Mishra, Adv. Mr. Hasan Zaidi, Adv. Mr. M Fareed Siddiqui, Adv. Mr. Abhishek Singh, Adv. Ms. Neeha Nagpal, Adv. Mr. Malak Manish Bhatt, AOR Ms. Samridhi, Adv. Ms. Supriya Julka, Adv.

For Respondent(s) Ms. Aishwarya Bhati, A.S.G. Mr. Gurmeet Singh Makker, AOR Ms. Swati Ghildyal, Adv. Mr. Mayank Pandey, Adv. Ms. Bani Dikshit, Adv. Mr. Prashant Singh - I, Adv. Mr. Navanjay Mahapatra, Adv. Mr. Kanu Agrawal, Adv. Mr. Vatsal Joshi, Adv. Mr. Bhuvan Kapoor, Adv. Mr. Ashok Kumar Panda, Sr. Adv. Mr. Chanchal Kumar Ganguli, AOR Mr. Shashwat Panda, Adv. Ms. Simran Singh, Adv. Mr. Aniket Gupta, Adv. Mr. Rahul Verma, A.A.G. Mr. Gaurav Sharma, AOR Mr. Dhawal Mohan, Adv. Mr. Prateek Bhatia, Adv. Mr. Paranjay Thripathi, Adv. Mr. James P. Thomas, AOR Mr. K. K. Vinosh, Adv. Mr. Ravi Sagar, Adv. Mr. Alok Kr Prasad, Adv. Mr. Shubhranshu Padhi, AOR Mr. Vishal Banshal, Adv. Ms. Rajeshwari Shankar, Adv. Mr. Niroop Sukirithy, Adv. Mr. Saurabh Trivedi, AOR Mr. Samar Vijay Singh, AOR Mr. Keshav Mittal, Adv. Ms. Amrita Verma, Adv. Ms. Sabarni Som, Adv. Mr. Nishe Rajen Shonker, AOR Mrs. Anu K Joy, Adv. Mr. Abraham C. Mathew, Adv. Mr. Alim Anvar, Adv. Mr. Amit Anand Tiwari, A.A.G. Dr. Joseph Aristotle S., AOR Mr. Shobhit Dwivedi, Adv. Ms. Devyani Gupta, Adv. Ms. Tanvi Anand, Adv. Ms. Saushriya Havelia, Adv. Ms. Swati Ghildyal, AOR Ms. Devyani Bhatt, Adv. Mr. P. Soma Sundaram, AOR Mr. Navin Prakash, AOR Mr. Satish Pandey, AOR Mr. Manish Vashishtha, AOR Mr. Vivek Kumar Singh, Adv. Mr. Upender Thakur, Adv. Mr. Yasheshvi Vashishtha, Adv. Mr. Prashant Padmanabhan, AOR

ORDER

W.P.(C) No. 25/2023 (ITEM NO.40.10)

1. The only grievance of the petitioners in this petition is that some of the petitioners would be required to undergo one more year of internship so as to enable them to practice in India.
2. Mr. Shivam Singh, learned counsel for the petitioners, submits that some of the petitioners have already undergone one year of internship. The course to be undertaken in the second year of internship is also identical with the first year of internship.

3. We find that the requirement of undergoing one more year of internship cannot be said to be arbitrary or unreasonable.
4. The writ petition is, accordingly, dismissed.
5. Pending application(s), if any, shall stand disposed of.

W.P.(C) No. 667/2022 & W.P.(C) No.679/2022 (ITEM NOS.40.21 & 40.22)

1. The grievance of the petitioners is that they being enrolled in foreign universities in medical courses, are attending online classes. It is submitted that for the first four years there is no requirement of clinical training and that is required only in the fifth and sixth year of the course.
2. Shri Ravi Sikri, learned senior counsel appearing for the petitioners, submits that in the affidavit filed by the Central Government there is no provision for such students.
3. We find that the grievance is totally pre-mature in nature, inasmuch as only after the petitioners complete their MBBS course and have a degree of MBBS from the respective foreign universities, the question whether they are entitled to appear for Foreign Medical Graduates Examination (FMGE) or not would arise.
4. We do not find it necessary to consider the said question at this stage.
5. Insofar as the students who were required to leave the studies in the penultimate year are concerned, the affidavit filed by the Union of India dated 27.03.2023 takes care of such students.
6. With the aforesaid observations, these petitions stand disposed of.
7. Pending application(s), if any, shall stand disposed of.

REST OF THE MATTERS

1. As already observed in our earlier order dated 09.12.2022, in normal circumstances we would not have entertained such petitions. However, taking into consideration a precarious situation, where the career of hundreds of students would have come to a standstill, the present petitions were treated as extraordinary petitions and this Court had passed an order directing the Committee appointed by the Union of India to examine the issue and come with some solutions.
2. An affidavit dated 27.03.2023, on behalf of the Union of India, along with the brief note about the three meetings held by the Committee, as annexure in that affidavit, has been handed over in Court by Ms. Aishwarya Bhati, learned Additional Solicitor General of India, which is taken on record.
3. Though we do not find it appropriate to interfere with the decision of the experts, there is one area of concern, which, in our view, requires consideration. The embargo of having an opportunity to appear only in one attempt, in our view, may in some circumstances appear to be too harsh. There could be certain circumstances beyond the control of the student, which may prevent him/her from appearing in the examination or passing the said examination.
4. Ms. Aishwarya Bhati, learned Additional Solicitor General of India as well as Mr. Gaurav Sharma, learned counsel appearing for the NMC, fairly submit that they are not treating this litigation as an adversarial litigation. They submit that if the Court finds that the said restriction is unreasonable, they leave it to the Court to pass appropriate directions.

5. We, therefore, accept the report of the Committee, subject to a minor modification in paragraph 5(1) of the Compliance Affidavit dated 27.03.2023 by the Union of India. In the said paragraph 5(1), the words “The students may be offered a single chance to clear the MBBS Final, both Part I & Part II Examinations (Both Theory and Practical)” be read as “The students may be offered two chances to clear the MBBS Final, both Part I & Part II Examinations (Both Theory and Practical)”.
6. We clarify that the two chances would be both for Part I as well as Part II examinations, each.
7. With the above observations and directions, these petitions stand disposed of.
8. Pending applications, including applications for impleadment / intervention shall stand disposed of.

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