

ITEM NO.15+12+13+14+19

COURT NO.4

SECTION X

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition (Civil) No.174/2022

ANJANA CHARI S N

Petitioner(s)

VERSUS

THE MEDICAL COUNSELLING COMMITTEE (MCC) & ORS.

Respondent(s)

(With appln.(s) for I.R. and IA No.36778/2022-GRANT OF INTERIM RELIEF and IA No.36776/2022-EXEMPTION FROM FILING AFFIDAVIT)

WITH W.P.(C) No.216/2022

W.P.(C) No.202/2022

(With appln.(s) for IA No.42260/2022 - EX-PARTE STAY and IA No.42263/2022 - EXEMPTION FROM FILING AFFIDAVIT)

W.P.(C) No.164/2022

(With appln.(s) for IA No.35092/2022 - EXEMPTION FROM FILING AFFIDAVIT)

W.P.(C) No.223/2022

(With appln.(s) for IA No.46510/2022 - STAY)

Date : 30-03-2022 These petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s)

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Mr. Sanjay Kumar Dubey, Adv.

Ms. Ishita Choudhary, Adv.

WP 216/2022

Mr. Roy Abraham, Adv.  
Ms. Reena Roy, Adv.  
Mr. Akhil Abraham, Adv.  
Mr. Aditya Koshy, Adv.  
Mr. Himinder Lal, AOR

WP 202/2022

Mr. Shivendra Singh, AOR

WP 223/2022

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For Respondent(s)

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Mr. Dhawal Mohan, Adv.  
Mr. Prateek Bhatia, Adv.  
Ms. Srirupa Nag, Adv.  
Ms. Manmeet Kaur Sareen, Adv.

Mr. Romy Chacko, Adv.

Mr. Abhay Anil Anturkar, Adv.  
Ms. Bhavya Pande, Adv.  
Mr. Dhruv Tank, Adv.  
Mr. Ranjit Shinde, Adv.

**Dr. R.R. Deshpande & Associates**

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

- 1 By an order of this Court dated 16 December 2021 in ***Nihila P P vs Medical Counseling Committee (MCC) and Others<sup>1</sup>***, certain salient principles of a scheme were recorded by the introduction of four rounds of counseling for Post Graduate seats in the All India Quota<sup>2</sup> from 2021-2022. The salient points of the scheme which were recorded by this Court are summarized below:

- a) There will be 04 rounds of Online counselling i.e. AIQ Round 1, AIQ Round 2, AIQ Mop-up Round and AIQ Stray Vacancy Round.
- b) The seats which were earlier reverted back to 89 the respective States after the completion of Round 2 of AIQ will continue to be filled in the AIQ Mop- Up Round and AIQ Stray Vacancy Round to be conducted by MCC of DGHS, MoHFW in online mode.
- c) The said rounds will only be conducted for the AIQ seats having All India character which are contributed by the States for 15% UG seats and 50% PG seats.
- d) Fresh registration of candidates will be allowed in:
  - AIQ Round 1
  - AIQ Round 2
  - AIQ Mop-Up Round.
- e) There will be no fresh registration for candidates in the AIQ Stray Vacancy Round.

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2"AIQ"

- f) There will be an option for up-gradation and free exit, only in Round 1 of the AIQ counselling.
- g) There will not be an option of up-gradation to Mop-up round from round 2.
- h) Candidates who have joined the allotted seat in Round 2 and further rounds of counselling will not be allowed to resign and will also be ineligible to take part in further rounds of any type of counselling.
- i) Candidates who have not joined the allotted seat in Round 2 will be eligible for further rounds of counselling subject to forfeiture of security deposit and fresh registration in only mop-up round.
- j) The provisions with regard to security deposit, option of participation Notification free will exit be and as eligibility per the for Gazette No.MCI-34(41)/2018-Med./109835 dated 18/05/2018.”

2 As a result of the above scheme, four rounds of counseling have been envisaged for AIQ PG seats, the last two being the mop-up round and the stray vacancy round.

3 The Union government has stated on affidavit that on 25 February 2022 and 15 March 2022, the Directorate General of Health Services<sup>3</sup> received letters regarding the inclusion of new seats in some government medical colleges, as a consequence of which, 146 new seats became available for allocation in the mop-up round. The 146 seats were not available for distribution when the counseling took place either in round I or round 2 for the AIQ seats. As a consequence, students who were allotted seats in round I or round 2 did not have the opportunity to participate in the counseling for these seats. A decision was taken that the new 146 seats would be included in the mop-up round. As a consequence of this decision, these seats have been allocated to students lower in merit than those who were allotted seats in rounds I and 2

3“DGHS”

of counseling for the AIQ.

- 4 The counter affidavit indicates that a decision was taken to allot these seats to those who are lower in merit. In our view, this is the first aspect of the matter which needs to be revisited by DGHS since the consequence of the decision is to prevent students who were higher in merit and who had no opportunity to seek admission to the 146 seats which are in government colleges to apply for those seats. Students lower in merit have been allocated these seats in government colleges, while more meritorious students have been (i) prevented from seeking an upgradation in the mop-up round to preferred courses; and (ii) denied the benefit of seeking government medical seats on lower fees.
- 5 The second aspect of the matter which is of equal importance arises from the advisory which was issued on 16 March 2022, as a consequence of which, candidates who had been allotted seats in round 1 and 2 of the state quota were prevented from participating in the mop-up round of the AIQ. The contention of the candidates is that the scheme which was placed on the record of this Court in ***Nihila's*** case specifically dealt only with the AIQ and there was no prohibition on candidates from the state quota participating in the AIQ mop-up rounds.
- 6 *Prima facie*, it appears that the advisory dated 16 March 2022 has not been uniformly followed, as a consequence of which, some candidates, in spite of the advisory, were permitted to participate in the mop-up round of the AIQ while others, in compliance with the advisory could not participate since they would be debarred from doing so and would run the risk of having to surrender the state quota seats which had been allocated to them. If the advisory dated 16 March 2022 has not been followed uniformly across the country, this would cast serious doubt on whether the allocation of seats in the mop-up round of AIQ has been fair.

- 7 Before this Court decides upon the issue finally, an opportunity should be granted to the Union of India through the DGHS to set right the anomalies on both the above counts and to respond to the Court at the earliest, having regard to the fact that counseling is at a substantially advanced stage at the present point in time.
- 8 The proceedings be listed before this Bench tomorrow (31.3.2022) at 10.30 am.
- 9 In the meantime, in order to obviate any further complications arising in the matter, the Union of India shall ensure that the process for completing the mop-up round is held in the same position as it stands at present till the Court takes up the matter tomorrow.

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

**(SAROJ KUMARI GAUR)**  
**Court Master**