

ITEM NO.49 Court 8 (Video Conferencing) SECTION XII

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

Petition(s) for Special Leave to Appeal (C) No(s). 12338/2021

(Arising out of impugned final judgment and order dated 28-07-2021 in WP No. 14717/2021 passed by the High Court of Judicature at Madras)

ALL INDIA INSTITUTE OF MEDICAL SCIENCES Petitioner(s)

VERSUS

U. ASHA & ORS. Respondent(s)

(FOR ADMISSION and I.R. and IA No.96187/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.96190/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES....[TO BE TAKEN UP ALONG WITH ITEM NO.44 I.E. W.P.(C) No. 750/2021])

Date : 27-08-2021 This petition was called on for hearing today.

CORAM : HON'BLE MS. JUSTICE INDIRA BANERJEE
 HON'BLE MR. JUSTICE R. SUBHASH REDDY

For Petitioner(s) Mr. Dushyant Parashar, AOR
 Mr. Dinesh Pandey, Adv.
 Mr. Manu Parashar, Adv.

For Respondent(s) Mr. Siddharth Dave, Sr. Adv.
 Mr. Preshit Vilas Surshe, AOR

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

This special leave petition is against an interim order dated 28th July 2021 passed by the Single Bench of Madras High Court in the writ petition being W.P. No.14717 of 2021 filed by the Respondent No.1.

Pursuant to a Notification for admission to the Post Graduate and Post Doctoral courses published by the All India Institute of Medical Sciences (AIIMS), New Delhi, the Respondent No.1, a doctor and a final year student of the M.D. (Pulmonary) Course at the

Institute of Medical Sciences, Kanagachettikulam, Pondicherry, affiliated to the Pondicherry University applied for admission to the Post Doctoral Course in Pulmonary Critical Care and Sleep Medicine of the July 2021 session.

The Respondent No.1 successfully participated in the on-line selection process, and in the Departmental Clinical/Practical/Lab Based Assessment conducted virtually through video conferencing. The Respondent No.1 was duly selected for a seat in the DM course in Pulmonary Critical Care and Sleep Medicine at All India Institute of Medical Sciences (AIIMS), Rishikesh, Uttarakhand.

The Prospectus published by AIIMS requires candidates to acquire the requisite qualification within 31st July, 2021, failing which they would be debarred from taking admission in the institution.

Due to exponential rise in COVID-19 cases in the State of Tamil Nadu and the Union Territory of Pondicherry in April/May 2019 the final year Doctor of Medicine Examination which was scheduled to commence on 3rd May 2021 had to be postponed. The examination has now been held and the results published.

Mr. Siddharth Dave, learned Senior Counsel submitted that the Respondent No.1 had to deposit a Demand Draft of Rupees Three lakhs drawn in favour of Director, AIIMS, New Delhi for her inability to exercise option to join between 1st July 2021 to 15th July 2021.

Being aggrieved by the action of the authorities of AIIMS to grant time to the Respondent No.1 beyond 31st July 2017 to submit the post graduate degree certificate, the Respondent No.1 filed the above writ petition under Article 226 of the Constitution of India in the Madras High Court. By the impugned interim order dated 28th July 2021, the Madras High Court directed that the AIIMS authorities might proceed with counselling/selection process but allot one seat in the D.M. Course for Pulmonary Critical Care and Sleep Medicine to any candidate for a period of 3 weeks.

The issues involved in this special leave petition are identical to the issues involved in writ petition being W.P. (Civil) No. 750 of 2021 which has been disposed of earlier today by the following order:-

"We direct the respondents to permit the petitioner to participate in the counselling scheduled on 31.08.2021 and to allow the petitioner admission in the available vacancy in the DM Cardiology Course at AIIMS Rishikesh, if the petitioner is interested.

It is made clear that this order has been passed in the special facts and circumstances of this case, since examinations could not be held as scheduled by reason of the overwhelming rise in COVID-19 cases, and considering that a seat is still available at AIIMS Rishikesh. It is only fair that the petitioner should get preference over candidates who have ranked below him in the merit list.

This order passed by way of a one time measure for admission to the DM Course in Cardiology for the 2021-22 session, in the special facts and circumstances of this case, is not to be treated as a precedent.

The writ petition is disposed of accordingly."

Mr. Dushyant Parashar, learned counsel for the petitioner submitted on instructions that there is one vacant seat in the Post Doctoral Course in Pulmonary Critical Care and Sleep Medicine in AIIMS, Bhopal, one vacant seat in AIIMS, Patna and one vacant seat in AIIMS Raipur.

We direct the petitioner to permit the Respondent No.1 to participate in the counselling scheduled on 31st August 2021, should counselling be necessary, and to allow the Respondent No.1 admission in the available vacancy in the Post Doctoral Course of Pulmonary Critical Care and Sleep Medicine in AIIMS, Patna or AIIMS, Bhopal or AIIMS, Raipur.

It is made clear that this order has been passed in the special facts and circumstances of this case, since examinations could not be held as scheduled by reason of the overwhelming rise in COVID-19 cases, and considering that there is a vacant seat in the Post Doctoral Course in Pulmonary Critical Care and Sleep Medicine in AIIMS, Patna, AIIMS, Bhopal and AIIMS, Raipur respectively. It is only fair that the Respondent No. 1 should get preference over candidates who have ranked below him in the merit list.

This order passed by way of a one time measure for admission to the Post Doctoral Course in Pulmonary Critical Care and Sleep Medicine for the July 2021-22 session, in the special facts and circumstances of this case, is not to be treated as a precedent.

The Special Leave Petition is disposed of accordingly.

Pending applications, if any, stand disposed of accordingly.

**(MANISH ISSRANI)
COURT MASTER(SH)**

**(MATHEW ABRAHAM)
COURT MASTER (NSH)**