

SUPREME COURT OF INDIA

Association of Managements of Unaided Pvt. Medical & Dental College & Anr.

Vs.

Union of India & Ors.

T.C.(Civil)No.7 of 2013

(Anil R.Dave,J., Shiv Kirti Singh and Adarsh Kumar Goel,JJ.,)

09.05.2016

ORDER

1. These applications have been filed by the private medical colleges and also by some of the States seeking modification of order dated 28th April, 2016 in W.P. (C)No.261 of 2016.

The Medical Council of India (MCI) and the Dental Council of India (DCI) issued notifications dated 21st December, 2010, amending the existing statutory regulations to provide for a single National Eligibility-cum-Entrance Test (NEET) for admission to the MBBS/BDS course.

2. The said notifications were struck down in *Christian Medical College, Vellore Vs. Union of India*¹, The said judgment stands recalled vide order dated 11th April, 2016 in Review Petition (C) Nos.2159-2268 of 2013. On 28th April, 2016, in W.P.(C)No.261/2016 a statement was made by the learned counsel for MCI, CBSE and Union of India that for the academic year 2016-17, NEET would be held. We have heard the learned counsel for the parties.

3. In recent Constitution Bench judgment dated 2nd May, 2016, in *Modern Dental College & Ors. Vs. State of M.P. & Ors. In²* etc., the stand of the private medical colleges (including minorities) that conducting of entrance test by the State violated right of autonomy of the said colleges, has been rejected. The State law providing for conducting of entrance test was upheld, rejecting the contention that the State had no legislative competence on the subject. At the same time, it was held that the admission involved two aspects. First, the adoption of setting up of minimum standards of education and coordination of such standards which aspect was covered exclusively by Entry 66 of List I. The second aspect is with regard to implementation of the said standards which was covered by Entry 25 of List III. On the said aspect, the State could also legislate. The two entries overlap to some extent and to that extent Entry 66 of List I prevailed over the subject covered by Entry 25. Prima facie, we do not find any infirmity in the NEET regulation on the ground that it affects the rights of the States or the private institutions. Special provisions for reservation of any category are not subject matter of the NEET nor rights of minority are in any manner affected by NEET. NEET only provides for conducting entrance test for eligibility for admission to the

MBBS/BDS course. We thus, do not find any merit in the applications seeking modification of order dated 28th April, 2016. Only other contention relates to perceived hardship to the students who have either applied for NEET-I but could not appear or who appeared but could not prepare fully thinking that the preparation was to be only for 15% All India seats and there will be further opportunity to appear in other examinations. To allay any such apprehension, we direct that all such eligible candidates who could not appear in NEET-I and those who had appeared but have apprehension that they had not prepared well, be permitted to appear in NEET-II, subject to seeking an option from the said candidates to give up their candidature for NEET-I. It would be open to the respondents to reschedule the date of holding NEET-II, if necessary. To this extent the earlier orders stand modified. We may also add here that to ensure total credibility of the examination to be held by the CBSE, the Oversight Committee appointed by this Court vide the aforesaid judgment dated 2nd May, 2016 shall also oversee the NEET-II examination to be conducted by the CBSE.

4. In view of the above, it is also clarified that only NEET would enable students to get admission to MBBS or BDS studies.

5. In view of the above order, all the applications and writ petitions seeking modification of order passed on 11th April, 2016, stand disposed of. W.P.(C)261/2016 :

6. In view of the above order, W.P.(C)No.261/2016 also does not survive and that is also disposed of.