

SUPREME COURT OF INDIA

Rachit Sinha

Vs.

Union of India

WP(C)No.357 of 2018

(S.A.Bobde and L.Nageswara Rao,JJ.,)

03.05.2018

ORDER

1. By a Notification dated 20.02.2018, the Medical Council of India (MCI) issued the Postgraduate Medical Education (Amendment) Regulations, 2018. The admission schedule for the year 2018-2019 as per the said Regulations is as follows:-

Sr. No.	Schedule Admission	for	Central Counselling	State Counselling
			All India Quota	Deemed + Central Institute
1	Conduct of Exam			By 10th January
2	Declaration of Result			By end of January
3	1 st Round of Counseling		12 th March – 24 th March	12 th March – 24 th March 25 th March – 5 th March
4	Last date of joining		3 rd april	3 rd april 12 th April
5	2 nd round of counseling		6 th April -12 April	6 th April -12 th April 15 th April – 26 th April
6	Last date of Joining		22 nd April	22 nd April 3 rd May
7	Mop up Round			12 th May – 22 nd May 4 th May- 8 th May
8	Late date of joining			26 th May 12 th May
9	Forwarding the list of students in order of merit equalling to ten times the			27 th May 213 th May

	number of vacant seats to the Medical Colleges by the Counselling Authority.			
10	Last date of joining		31th May	18 th May

2. The first round of Counselling of All India Quota was completed on 07.04.2018. We are informed that the first round of Counselling for the State quota was also completed in the first week of April, 2018. The process for the second round of Counselling for the All India Quota commenced on 13.04.2018 and the last date for reporting was 23.04.2018. Admission to Postgraduate Courses, according to the Regulations, is on the basis of the merit of the candidates in the National Eligibility-cum-Entrance Test (NEET-PG) conducted every year. 50 per cent of the seats are earmarked for All India Quota and the remaining 50 per cent for the State Quota.

3. On 05.04.2018, a Notification was issued by the Medical Council of India by which Clause 9A(4) was added to the Postgraduate Medical Education Regulations, 2000 which is in the following terms:-

"9A(4) In order to prevent seat blocking in common Counselling for admission to Postgraduate Courses and permissibility to exercise fresh choice during Counselling, forfeiture of fee shall be in accordance with the matrix contained in appendix-NI."

4. A notice dated 09.04.2018 was issued by Medical Counselling Committee (MCC) which conducts the Counselling for the All India Quota in which it was clarified that a candidate who had participated in the first round of Counselling and was allotted a seat but did not report can participate for the second round of Counselling as per their earlier registered details. It was also mentioned in the said notice that the candidates who reported after the first round of Counselling but resigned from the allotted Institutions were also eligible to participate in the second round of Counselling without any fresh registration/payment. The candidates were further informed that candidates who joined in the allotted seats after the first round of Counselling but could not get up-gradation in the second round of Counselling shall be allowed to resign from the first round seat within two days from the publication of the second round results of the All India Quota with forfeiture of fees.

5. The Petitioners in the above Writ Petitions who participated in the first round of Counselling for the All India Quota seats for admission to the Postgraduate Courses in medicine are aggrieved by the changes that are made in the method of Counselling by the notice dated 09.04.2018. The grievance of the Petitioners is that candidates who were ineligible for the second round of Counselling according to the earlier procedure were made eligible as per the notice dated 09.04.2018. Another complaint of the Petitioners pertains to permission granted to the allottees in the first round of Counselling to retain their seats for two days after the announcement of results of the second round of Counselling. The

Petitioners' complained of their being forced to resign from their allotted seats in the first round of Counselling.

6. By an order dated 20.04.2018, we permitted the Petitioners to retain the seats allotted to them in the first round of Counselling. We also stayed the reversion of the seats from the All India Quota to the State Quota. The procedure followed for admission to Postgraduate Courses is that there will be two rounds of Counselling for the All India Quota. At the end of second round of Counselling, the seats that are unfilled will be reverted to the State Quota. The first round of the All India Quota is conducted on the basis of merit of the candidates in the NEET-PG exam. Doubts are expressed by several candidates regarding the eligibility of candidates to participate in the second round of Counselling for the All India Quota. Such doubts are cleared by the Medical Council of India by providing answers to the frequently asked questions. Candidates who could not secure any seat in the first round as well as those who have secured admission in the first round, reported/joined in the allotted Institutions and submitted their willingness for participating in the second round were eligible for the second round of Counselling. Candidates who did not report at the allotted Institutions after the seat allotment in the first round and those who reported and withdrew (resigned) from Counselling at the allotted Institutions were not eligible for the second round of Counselling. In addition, candidates who did not opt for up-gradation and those who became ineligible due to change of category were also not permitted to participate in the second round of Counselling. This was the practice followed at the time of issuance of the Notification for admission to the Postgraduate Courses for 2018-2019. The change made by the notice dated 09.04.2018 is to the effect that even if a candidate is allotted a seat in the first round but did not report, he would be entitled to participate in the second round of Counselling. A candidate who had reported but resigned was also made eligible to participate in the second round of Counselling, contrary to the position that existed prior to 09.04.2018. According to the Petitioners, the competition for the second round of Counselling would increase as the above two categories of candidates who were not eligible to participate in the second round of Counselling earlier were permitted to compete for admissions in the second round of Counselling. They contend that this change should not have been made after the commencement of admissions for this year.

7. It is clear from the record that the Medical Council of India decided to make certain changes to the method of admissions to the Postgraduate Courses to arrest the blocking of seats by certain candidates which was detrimental to the interest of meritorious candidates in the All India Quota. There is material on record to suggest that devious methods were adopted by certain candidates to block the seats in the All India Quota and resign thereafter from those seats later which resulted in reversion of the All India Quota seats to the State Quota. The Medical Counselling Committee identified about thousand candidates who were indulging in such illegal practice and proposes to take action against them after a thorough inquiry.

8. There is no infringement of any legal right of the Petitioners in the change of the method of Counselling made by the notice dated 09.04.2018. Reduction of chances of admission does not entail in violation of any right. If the change in the method of Counselling was due

to the circumstances mentioned above, we see no reason to interfere. Further, the Petitioners have participated in the second round of Counselling for up-gradation. We are informed that the second round of Counselling for All India Quota is completed. No interference is warranted at this stage in respect of the All India Quota.

9. In view of the completion of the second round of Counselling of the All India Quota, we see no reason to entertain the Writ Petitions. The order dated 20.04.2018, staying the reversion of seats from the All India Quota to the State Quota is vacated. According to the schedule for online Counselling, the second round of Counselling of the State Quota should be completed by 26.04.2018. The second round of State Counselling has to be conducted after taking into account the reverted seats on completion of the second round of the All India Quota. We are informed that some States and Deemed/Central Institutions completed the second round of Counselling without waiting for the reversion of the unfilled seats in the second round of Counselling of the All India Quota. As this could not have been done, we direct that such States and Deemed/Central Institutions shall conduct the second round of Counselling again after reversion of the unfilled seats in the second round of Counselling of the All India Quota. As we have vacated the order dated 20.04.2018, the concerned authority will report the unfilled seats in the second round of the All India Counselling to the respective States by 05.05.2018. The second round of Counselling for the State Quota shall be conducted and completed by 10.05.2018. The Mop-up-round for the State Quota which is scheduled to be completed by 08.05.2018 is extended to 15.05.2018. Writ Petition (C) No.424 of 2018 In I.A. No.62831 of 2018 in W.P. (C) No.357 of 2018, no order is required to be passed in view of fact that some of the Applicants have filed Writ Petition (C) No.424 of 2018 for the same relief. Writ Petition (C) No.424 of 2018 is disposed off in terms of the order in Writ Petition (C) No.357 of 2018.