

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

WP No. 37078 of 2024

(DR. ABHISHEK SHUKLA AND OTHERS Vs THE STATE OF MADHYA PRADESH AND OTHERS)

Dated : 22-11-2024

Shri Aditya Sanghi - Advocate for the petitioners.

Smt. Jhanvi Pandit - Additional Advocate General for the respondents/State.

Heard on the question of admission and interim relief.

In this petition, petitioners have challenged the merit list issued by the State for M.P. State Registered Candidates for NEET PG Counselling (MD/MS Course) - 2024.

Learned counsel for the petitioners contended that after All India Result for NEET-PG 2024 which was conducted in two shifts, was prepared utilizing the normalization process as notified vide NBEMS Public Notice dated 10/08/2024, the State i.e. respondent No.2 could not have adopted the normalization process for the second time which has resulted in anomaly in the State merit list. He further pointed out that all the candidates for the aforesaid examination being in-service category candidates have received equal 30% marks for serving in the rural areas. Learned counsel for the petitioners further stated that choice filling and choice locking for the first round had already been commenced w.e.f. 21/11/2024 which will end on 24/11/2024 (12:00 Midnight). Thereafter the first round allotment result would be declared on 26/11/2024. Therefore, in view of the aforesaid anomaly, candidates like the petitioners would be put to a great loss. Under

these circumstances, the result of the first round of counseling be stayed.

Per contra, Smt. Jhanvi Pandit, learned Additional Advocate General vehemently opposed the prayer for interim relief and contended on instructions dated 21/11/2024 that after All India Result for NEET-PG 2024 utilizing the normalization process as per notice dated 10/08/2024 which was based on All India NEET-PG 2024 rank on percentile obtained as per the normalization process. This time the National Board of Examinations in Medical Sciences, New Delhi has prepared the State Merit List and forwarded the same. After the State specific percentile score and State specific rank for a particular state have been freshly prepared after awarding incentivized marks, utilizing the same normalization process for second time. Therefore, the new State specific percentile score and rank of candidates, including their state inter-se merit, cannot be compared with All India NEET-PG 2024 percentile score and rank, including their All India inter-se merit list. In view of the aforesaid, no case for grant of interim relief is made out and the same is liable to be rejected.

Learned counsel for the State has placed reliance on the order dated 19/06/2017 passed by Hon'ble Supreme Court in the case of **Ashish Ranjan and Ors. Vs. Union of India and Ors. in Writ Petition (Civil) No.76/2015** to contend that the process of counseling as well as declaration of result cannot be stayed.

Issue notice to the respondents on payment of process fee by RAD mode within a period of three working days, failing which this petition shall stand dismissed without further reference to the Bench.

Notices be made returnable within three weeks.

So far as grant of interim relief is concerned, we are aware with the order passed by Apex Court in the case of **Dr. Sukrit Nanda M. Vipin Nair Vs. Union of India** in WP(C) No.464/2024 and connected matters, wherein it has been observed that "to stall the declaration of result for PG medical admission is a serious matter, cannot be stayed in between".

The Supreme Court in the case of **Tej Prakash Pathak and Others Vs. Rajasthan High court and others** in Civil Appeal No.2634/2013 has held as under:-

5. In various judicial pronouncements, the law governing recruitment to public services has been colloquially termed as 'the rules of the game'. The 'game' is the process of selection and appointment. Courts have consistently frowned upon tinkering with the rules of the game once the recruitment process commences. This has crystallised into an oft-quoted legal phrase that "the rules of the game must not be changed mid-way, or after the game has been played". Broadly-speaking these rules fall in two categories. One which prescribes the eligibility criteria (i.e., essential qualifications) of the candidates seeking employment; and the other which stipulates the method and manner of making the selection from amongst the eligible candidates.

So far as the second normalization process at the State level is concerned, could not have been carried out by respondent No.2 in view of the judgment of Apex Court in the case of **State of Uttar Pradesh and Ors Vs. Atul Kumar Dwivedi and Ors.** in Civil Appeal No.228/2022, wherein it has

been held as under:-

15. ... e. The expression “marks obtained by each candidate in written examination under clause (b)” as appearing in Sub-rule (e) of Rule 15 must be understood and construed as “normalized score”. In other words, the process of normalization could be applied only for preparing the select list after all stages of examination contemplated under Sub-rules (b), (c) and (d) were over.

f. The Selection Board was not competent to adopt the process of normalization at Rule 15(b) stage and such conduct on part of the Selection Board amounted to re-writing or amending the mandatory rule.

In the light of these conclusions, the directions passed by the Special Division Bench required the concerned authorities to rule out the candidature of those who had failed to obtain 50% “raw marks” in each subject and then to prepare the select list in order of merit using “normalized score”.

In view of the aforesaid, this Court is of *prima facie* opinion that based on the decision rendered by the Apex court in the case of **Atul Kumar Dwivedi (supra)**, normalization process can be undertaken only at one stage at All India Level NEET-PG-2024 and not at the State level.

The Judgement passed by the Apex Court in the case of **Ashish Ranjan (supra)** is distinguishable since in the present case rules of game have been changed in between the process thereby causing prejudice to the petitioners including other candidates.

Therefore, in the meanwhile, respondent No.2 is directed to carry on the first round of counseling till 24/11/2024 (12:00 midnight), but the result of first round of counseling shall not be declared till the next date of hearing.

Learned counsel for the State may file reply within one week.

Learned counsel for the petitioners prays for time to amend the

petition and to also implead National Board of Examinations in Medical Sciences as respondent.

Let necessary application be also filed by the next date.

List this case for hearing on 28/11/2024.

Certified copy today.

(SUSHRUT ARVIND DHARMADHIKARI)
JUDGE

(ANURADHA SHUKLA)
JUDGE

Shbhnr