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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2084/2021

RISHIKESH RAMAPARBAL SINGH & ORS. Petitioners

Through: Mr. A. Selvin Raja, Advocate with
Mr. Rana Sandeep Bussa, Advocate.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Vikram Jetly, CGSC with
Mr. Aakash Meena, GP for R-1/UOI.
Mr. T. Singhdev, Ms. Sumangla
Swami and Ms. Michelle B. Das,
Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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18.02.2021

1. The thirteen petitioners, either pursuing post-graduate (PG) Diploma in various medical courses or already holding a PG Diploma, have filed this petition seeking mandamus directing the National Medical Commission and the Union of India to allow PG Diploma holders in relevant disciplines of medicine to be appointed as Assistant Professor/Associate Professor/Professor, in medical colleges, on merit as well as on the basis of experience gained at the respective posts of Senior Residents.
2. The counsel for respondent National Medical Commission and the counsel for respondent Union of India appear on advance notice.
3. We have heard the counsels.

4. The counsel for the Petitioner has argued, (i) that earlier, those pursuing PG Diploma courses in medicine, were not permitted to become Senior Residents in the hospitals and only those pursuing post-graduation in medicine viz. MD, MS, etc., were permitted to become Senior Residents; (ii) subsequently, vide notification dated 31st October, 2018, those pursuing post-graduation in medicine from the National Board of Examination (NBE) were also permitted to become Senior Residents; (iii) ultimately, vide notification dated 16th August, 2019 at page 255 of the paper book, even those pursuing PG Diploma courses in medicine, were permitted to become Senior Residents; and, (iv) however, vide notification dated 12th February, 2020, while amending the Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998, though for the post of Assistant Professor/Associate Professor/Professor, those with academic qualification of post-graduation MD/MS/DNB in the concerned subject were made eligible, those with the qualification of PG Diploma were still not made eligible for teaching posts in medical colleges.

5. On enquiry as to the difference between a post-graduation Degree and a post-graduation Diploma, both in medicine, it is stated that as per the Postgraduate Medical Education Regulations, 2000, while a post-graduation Diploma course is for two years, a post-graduation Degree course is for a period of three years. On further enquiry, it is informed that the difference between the diploma and the degree course at the level of post-graduation is that in the diploma, no thesis is required to be authored and no research is required to be done, as in the Degree course.

6. The counsel for the respondent National Medical Commission informs that under the said Regulations an option is given to those who have

done a PG Diploma, to do a PG Degree course and in which case the PG Degree course instead of three years, is for two years only.

7. The main argument of the counsel for the petitioner besides of, that PG Diploma students having been permitted to become Senior Residents, are also entitled to teaching posts, is that once DNB qualified post-graduates from private hospitals are made eligible for appointment as Assistant Professor/Associate Professor/Professor, there is no reason why the PG Diploma holders who have worked as senior residents in government hospitals, are not permitted for the teaching posts. Attention is drawn to the parliamentary debates pursuant to the National Medical Commission Bill, 2017 floated in that regard. It is also argued that there is a real dearth of teachers in medical colleges and the PG Diploma holders should be allowed to fulfill the demand.

8. The counsel for the respondent National Medical Commission has contended that the petition is premised on, Senior Residency being a stepping stone for teaching posts. It is stated that it is not so and the minimum requirements have always been of post-graduation Degree in medicine and now of PG DNB, for the teaching posts.

9. We have considered the rival contentions and are of the view that what the petitioners are wanting this Court to do is, to judge the equivalence of PG Degree course and PG DNB course on the one hand with PG Diploma course on the other hand and which is beyond the domain of the Courts and the decision in this regard has to be taken by the experts. This was reiterated recently in *Anand Yadav Vs. State of Uttar Pradesh* AIR 2020 SC 5383. Reference with benefit can also be made to *Zahoor Ahmed Vs. Sheikh Imtiaz Ahmed* (2019) 2 SCC 404 and *The Deputy Director of*

Public Instruction and District Recruitment Authority Vs. Shaik Moula
(2006) 12 SCC 370.

10. Also, merely because there may be shortage of teachers, is no reason to allow those who are not qualified to teach, to teach. The same will result in medical colleges churning out not doctors but quacks.

11. However, since the said aspect appears to have been not considered by the relevant authorities till now, the only direction which can be issued is to direct the present writ petition to be considered as a representation and a reasoned decision be taken thereon by the Ministry of Health and Family Welfare in consultation with the respondent National Medical Commission and National Board of Examination and if required, by giving an opportunity of hearing to the representatives of the PG Diploma holders as well as of the PG Degree holders and also the PG DNB holders. A decision in this regard be taken within six months and be published on the website of the Ministry of Health and Family Welfare as well as on the website of the respondent National Medical Commission.

12. With the aforesaid, the petition is disposed of.

RAJIV SAHAI ENDLAW, J.

SANJEEV NARULA, J.

FEBRUARY 18, 2021

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