



WEB COPY



W.P.Nos.3667 and 3670 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.3667 and 3670 of 2022

Aravinth R.A.

.. Petitioner in
both WPs

Vs

1.The Secretary to the Government of India,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing,
Nirman Bhavan,
New Delhi-110 011.

2.National Medical Commission,
rep. by its Secretary,
Pocket No.14, Sector-8,
Dwarka Phase-I,
New Delhi-110 077.

3.Under Graduate Medical Education Board,
rep. by its Secretary,
Pocket No.14, Sector-8,
Dwarka Phase-I,
New Delhi-110 077.

.. Respondents
in both WPs



W.P.Nos.3667 and 3670 of 2022

WEB COPY

Prayer: W.P.No.3667 of 2022 filed under Article 226 of the Constitution of India praying for a writ of declaration to declare Regulations 4(a)(i), (ii); 4(b) and 4(c) of the National Medical Commission (Foreign Medical Graduate Licentiate) Regulation, 2021 published in the Official Gazette issued by the second respondent in Notification No.UGMEB/NMC/Rules & Regulations/2021 dated 18.11.2021 is arbitrary, illegal, irrational, violative of Article 14, 19(1)(g), 21 and ultra-vires of the Constitution of India.

Prayer: W.P.No.3670 of 2022 filed under Article 226 of the Constitution of India praying for a writ of declaration to declare the Regulations in so far as Schedule II 2(a) and 2(c)(i) of the National Medical Commission (Compulsory Rotating Medical Internship) Regulations 2021 in Notification No.UGMEB/NMC/Rules & Regulations/2021 dated 18.11.2021 issued by the second respondent is arbitrary, illegal, irrational, violative of Article 14, 19(1)(g), 21 and ultra-vires of the Constitution of India.

For the Petitioner : Mr.K.M.Balaji

For the Respondents : Mrs.Shubharanjani Ananth
for respondent No.2



W.P.Nos.3667 and 3670 of 2022

COMMON ORDER

WEB COPY (Order of the Court was made by the Hon'ble Chief Justice)

By these writ petitions challenge is made to Regulations 4(a)(i), (ii), 4(b) and 4(c) of the National Medical Commission (Foreign Medical Graduate Licentiate) Regulations, 2021 [for brevity, "*the FMGL Regulations*"] and Schedule II 2(a) and 2(c)(i) of the National Medical Commission (Compulsory Rotating Medical Internship) Regulations, 2021 [for brevity, "*the CRMI Regulations*"].

2. Learned counsel for the petitioner submitted that the petitioner intends to pursue medical course in a medical college at Mauritius and after completion of the medical course, he wants to practice in India in the medical field. Learned counsel further submitted that the Regulations 4(a)(i), (ii), 4(b) and 4(c) of the FMGL Regulations and Schedule II 2(a) and 2(c)(i) of the CRMI Regulations are affecting his right to practice in the medical field and, therefore, are liable to be struck down, as they are violative of Articles 14, 19(1)(g) and 21 of the Constitution of India in India.



WEB COPY

3. To consider the argument, it would be gainful to quote the relevant provisions of the FMGL Regulations and CRMI Regulations which are under challenge:

FMGL REGULATIONS:

"4. Grant of permanent registration to Foreign Medical Graduate. - No foreign medical graduate shall be granted permanent registration, unless he has -

- (a) (i) undergone a course leading to foreign medical degree with minimum duration of fifty-four months;
- (ii) Undergone an internship for a minimum duration of twelve months in the same foreign medical institution;
- (iii)
- (iv)
- (b) registered with the respective professional regulatory body or otherwise, competent to grant license to practice medicine in their respective jurisdiction of the country in which the medical degree is awarded and at par with the license to practice medicine given to citizen of that country;
- (c) undergone supervised internship in India for a minimum term of twelve months, after applying for the same to the Commission; and
- (d)"



WEB COPY



W.P.Nos.3667 and 3670 of 2022

CRMI REGULATIONS:

"SCHEDULE-II

ELIGIBILITY CRITERIA FOR COMPLETION OF CRMI

1. Indian Medical Graduates

(a)

(b)

(i)

(ii)

(iii)

(c)

(i)

2. Foreign Medical Graduates

(a) All Foreign Medical Graduates, as regulated by the National Medical Commission (Foreign Medical Graduate Licentiate) Regulations, 2021, are required to undergo internship at par with Indian Medical Graduates if they desire to seek Permanent Registration to practice Medicine in India.

(i)

(b)

(c) Foreign Medical Graduates who require to complete a period of Internship shall do so only in medical colleges or institutions approved for providing CRMI to Indian Medical Graduates;

(i) Foreign Medical Graduates may be posted first in colleges which have been newly opened and have yet



WEB COPY



W.P.Nos.3667 and 3670 of 2022

to be recognized.

(ii)

(iii)

(d)"

4. Regulation 4(a)(i) of the FMGL Regulations contemplates that no foreign medical graduate shall be granted permanent registration unless he has undergone a degree with minimum duration of fifty-four months. Learned counsel submitted that the right of the petitioner would be affected by Regulation 4(a)(i), as he would be pursuing thirty six months course at Mauritius.

5. In similar manner, Regulation 4(a)(ii) of the FMGL Regulations, which requires a minimum duration of twelve months internship in the same foreign medical institution, has been challenged as it is offending Articles 14, 19(1)(g) and 21 of the Constitution of India.

6. Likewise, a challenge is made to Regulation 4(b) of the FMGL Regulations, which mandates registration with the respective professional regulatory body or otherwise, competent to grant license



W.P.Nos.3667 and 3670 of 2022

WEB COPY

to practice medicine in their respective jurisdiction of the country in which the medial degree is awarded and at par with the license to practice medicine given to citizen in that country. Learned counsel for the petitioner submitted that Regulation 4(b) of the FMGL Regulations would again affect the petitioner and a prayer is made to struck down the aforesaid provision.

7. Learned counsel also submitted that Regulation 4(c) of the FMGL Regulations is violative of the constitutional provisions, as even a candidate who has taken a medical course of the required duration given under Regulation 4(a)(i) and even completed the internship given under Regulation 4(a)(ii) is still required to undergo supervised internship in India for a minimum term of twelve months after applying for the same to the Commission. There is no purpose to require the candidate to undergo the internship twice and, therefore, Regulation 4(c) of the FMGL Regulations deserves to be struck down.

8. We have considered the submissions made by learned counsel for the parties and perused the materials on record.



W.P.Nos.3667 and 3670 of 2022

WEB COPY

9. To appreciate the arguments, we would be giving judgment in reference to each of the Regulation under challenge.

10. Taking the first issue in reference to Regulation 4(a)(i) of the FMGL Regulations requiring a foreign medical graduate to undergo a minimum duration of 54 months, we do not find the aforesaid Regulation to be offending any of the provisions of the National Medical Commission Act, 2019 or the constitutional provisions. To maintain the minimum standard in the medical field, duration for study has been given under Regulation 4 of the FMGL Regulations. The Regulations have been framed by the respondents keeping in mind the various subjects to be taken by a student during the course of studies, because a medical graduate would be dealing with the patients. It cannot be interfered only for the reason that petitioner intend to take admission in foreign medical college having shorter duration of course. We do not find violation of Articles 14, 19(1)(g) and 21 of the Constitution of India therein. The duration of course in India is of five years. In view of the above, we do not find Regulation 4(a)(i) of the FMGL Regulations to be offending either the statutory provisions or the constitutional provisions.

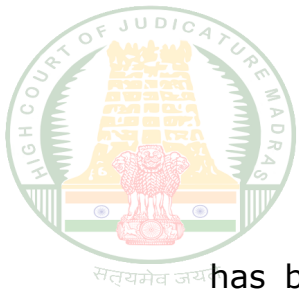


W.P.Nos.3667 and 3670 of 2022

WEB COPY

11. The second challenge is to Regulation 4(a)(ii) of the FMGL Regulations requiring 12 months internship in the same foreign medical institution from where the degree has been obtained. The petitioner is yet to get admission in the medical course at Mauritius. Rather, there is nothing to show that he has made application to foreign medical institution for admission. He has yet chosen to challenge Regulation 4(a)(ii) of the FMGL Regulations which stipulates 12 months internship with the foreign medical institution. It seems that the petitioner is espousing the cause of medical college at Mauritius. Whenever medical course is completed, the internship of one year is to be taken towards the practical training after completion of the course. It is necessitated as the person obtaining qualification would be administering drugs and dealing with the patients. Thus, before starting practice, a practical internship is required. That is the duration of internship for medical course at Under-graduate level in India also. Thus, we do not find any ground even for challenge to Regulation 4(a)(ii) of the FMGL Regulations.

12. So far as the challenge to Regulations 4(b) and (c) of the FMGL Regulations are concerned, again challenge to those Regulations

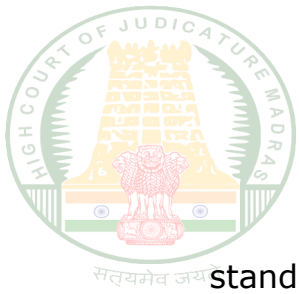


W.P.Nos.3667 and 3670 of 2022

WEB COPY

has been made by the petitioner in anticipation of his admission in Mauritius medical institution. The petitioner has not yet submitted application for admission. However, based on assumption of his admission, a challenge is made to the provisions. It is otherwise stated that the petitioner appeared in NEET and remain at a very low merit position, thus, could not get admission in any of the medical college in India.

13. Schedule-II of the CRMI Regulations is nothing but to reinforce the provisions of Regulation 4(c) of the FMGL Regulations. A challenge to Schedule II 2(a) of CRMI Regulations has been made without an admission in the medical course in foreign country. Similarly, a challenge to Schedule II 2(c)(i) has been made in anticipation and we do not otherwise find the Regulations aforesaid to be offending any of the constitutional provisions. Rather, Schedule II 2(a) and 2(c) of the CMRI Regulations have been enacted for the objects sought to be achieved. For the purpose of permanent registration to practice medicine in India, a medical graduate from foreign is required to undergo internship at par with the Indian medical graduates. The aforesaid prescription is to maintain the minimum



W.P.Nos.3667 and 3670 of 2022

WEB COPY

standards of the course as well as for the purpose of practice, because with the permanent registration, the incumbent would be entitled to practice in India. In similar manner, the stipulation that a foreign medical graduate should complete the period of internship only in medical colleges or institutions approved for providing CRMI to Indian medical graduates and such candidates are ordered to be posted first in colleges which have been newly opened and have yet to be recognized does not warrant interference by a candidate who has not even applied for admission in the medical institution at Mauritius.

14. The Regulations 4(a)(i) (ii); 4(b) and 4(c) of the FMGL Regulations and Schedule II 2(a) and 2(c)(i) of the CRMI Regulations have been enacted for the objects sought to be achieved, i.e., to maintain a standard in medical profession, and are not offending any of the provisions of the Constitution of India. Rather, the way in which the writ petitions have been filed is to be deprecated, as otherwise, it is resultantly wasting the time of the court. The petitions are by a candidate who has not even made an application for admission in any of the medical institution in foreign country.



W.P.Nos.3667 and 3670 of 2022

WEB COPY

15. For the foregoing reasons, while dismissing the writ petitions, cost of Rs.25,000/- is imposed on the petitioner to be paid to the Tamil Nadu State Legal Services Authority within fifteen days. The Registrar (Judicial), High Court, Madras is directed to ensure compliance of payment of cost within the stipulated time and if payment of cost is not made, the disposed of writ petition may be listed again before this court to take appropriate proceedings in the matter. Consequently, W.M.P.Nos.3816 and 3822 of 2022 are closed.

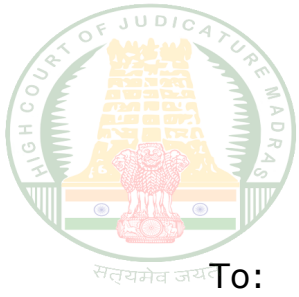
(M.N.B., CJ) (D.B.C., J.)
24.02.2022

Index : Yes/No

Note to Registry:

Mark a copy of this order
to the Registrar (Judicial)
High Court, Madras.

bbr



W.P.Nos.3667 and 3670 of 2022

To:

WEB COPY

- 1.The Secretary to the Government of India,
Ministry of Health and Family Welfare,
Room No.348, 'A' Wing,
Nirman Bhavan,
New Delhi-110 011.
- 2.The Secretary,
National Medical Commission,
Pocket No.14, Sector-8,
Dwarka Phase-I,
New Delhi-110 077.
- 3.The Secretary,
Under Graduate Medical Education Board,
Pocket No.14, Sector-8,
Dwarka Phase-I,
New Delhi-110 077.



WEB COPY



W.P.Nos.3667 and 3670 of 2022

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

bbr

W.P.Nos.3667 and 3670 of 2022

24.02.2022