

A DR R. DINESH KUMAR REDDY & ORS.

v.

MEDICAL COUNSELLING COMMITTEE (MCC) & ORS.

(Writ Petition (Civil) No. 341 of 2022)

B MAY 13, 2022

**[DR DHANANJAYA Y CHANDRACHUD AND
SURYA KANT, JJ.]**

- Education – Examination – NEET-PG 2022 – Petitioners sought postponement of Examination – Exam was scheduled on May 21, 2022 – Petitioners sought the issuance of direction for the postponement of the NEET-PG 2022 examination till the issue of counselling for the NEET-PG 2021 examination gets resolved – Petitioners further prayed to permit students who have participated in the counselling for the NEET-PG 2021 examination to register for the NEET-PG 2022 examination by extending last date for registration – Held: Petitioners and other similarly placed doctors have participated in the counseling process for NEET-PG 2021 – They were not barred from registering for NEET-PG 2022 – Over 2 lakh doctors have registered for the examination – Their schedule would be seriously affected if a further postponement is granted – During Covid waves, postponements were granted, since there was an unprecedented human crisis – However, same should not become the norm – Doing so will disturb the sanctity of medical education – Any delay in conducting the examination will lead to a fewer number of resident doctors in hospitals – Further, these matters essentially pertain to policy domain – Unless the Court is satisfied that the decision was taken by the authorities is without application of mind to relevant circumstances or was manifestly arbitrary, there would be no reason for the Court to interfere – The request for a further postponement cannot be entertained for the reason that this would seriously impact the availability of patient care and qualified post-graduate doctors – Therefore, reliefs sought cannot be granted – Accordingly, the petition is dismissed.*

CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 341 of 2022.

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Under Article 32 of The Constitution of India A

Rakesh Khanna, Anand Grover, P. Wilson, Sr. Advs., Ashutosh Dubey, Adv. for the Petitioners.

Ms. Aishwarya Bhati, ASG, Ms. Ruchi Kohli, Aman Sharma, G. S. Makker, Advs. for the Respondents.

The Judgment of the Court was delivered by B

DR DHANANJAYA Y CHANDRACHUD, J.

1. The jurisdiction of this Court under Article 32 of the Constitution has been invoked by MBBS graduate doctors who have appeared for the NEET – PG 2021 and have participated in the ongoing counselling process for 2021-2022. Their grievance pertains to the schedule which has been prescribed by the National Board of Examinations¹ for holding the NEET-PG 2022 examination. The NBE issued a notification on 4 February 2022 by which it scheduled the NEET-PG 2022 examination on 21 May 2022. The petitioners seek the issuance of a direction for : C

- (i) Quashing the notification dated 4 February 2022 issued by the NBE;
- (ii) Postponement of the NEET-PG 2022 examination;
- (iii) Notification of a fresh date for the examination after a period of eight weeks so that in the meantime the issue of counselling for the NEET-PG 2021 examination gets resolved and there is no overlap of the former with the NEET-PG 2022 examination; and
- (iv) A direction to the respondents to permit students who have participated in the counselling for the NEET-PG 2021 examination to register for the NEET-PG 2022 examination by extending the last date for registration which was 25 March 2022.

2. We have heard Mr Rakesh Khanna, Mr Anand Grover and Mr P Wilson, senior counsel appearing on behalf of the petitioners. Ms Aishwarya Bhati, Additional Solicitor General has appeared on behalf of the respondents.

¹ “NBE” H

A 3. In view of the urgency of the issue, it has been taken up for final disposal on the basis of the submissions which have been placed on the record by counsel appearing on either side.

B 4. The NEET-PG examination for 2022-2023 is due to be held on 21 May 2022. Registration for the ensuing examination was closed on 25 March 2022. The grievance of the petitioners is that they have not been allowed a fair opportunity to participate, which violates their fundamental rights particularly under Articles 14 and 21 of the Constitution. The following tabulation has been placed on the record to highlight the nature of the grievance:

C	NEET PG 2021 ORIGINAL SCHEDULE	NEET PG 2021 ACTUAL COURSE OF EVENTS	NEET PG 2022 SCHEDULE
D	Exam Date 11 th September 2021 Counselling as per schedule – 24 th October to 25 th November 2021 Counselling was on hold owing to Court's Order	First Round 12.01.22 to 22.01.22 Second Round 03.02.22 to 12.02.22, extended up to 18.02.22, last date for reporting for Round 2 – 24.02.22 Mop up/Stray – 2 nd to 12 th March extended up to 23 rd March Mop up on hold by Court's order dated 31.03.2022 New mop up/Stray - 14 th April to 7 th May	1 st notification Exam Date – 12 th March 2022, however postponed due to Counselling clash. 25 th March 2022: Last date of registration New Date for exams – 21.05.2022 Expected date of Result 20.06.22.
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G 5. The second column of the above chart indicates the course of events in the NEET-PG 2021 entrance examination. The first round of counselling took place between 12 and 22 January 2022. The second round took place between 3 February to 12 February 2022 and was extended up to 18 February 2022. Thereafter, mop up/stray rounds have taken place up to 7 May 2022. The States are holding their counselling sessions till 12 May 2022. The NEET-PG 2022 examination was originally scheduled for 12 March 2022 but was postponed due to a clash with the

counselling dates for NEET-PG 2021. This was noticed in a judgment of this Court in *Shivam Satyarthee and Others vs Union of India and Others*². In paragraph 4 of the judgment, this Court observed:

“One of the grounds on which the petition under Article 32 of the Constitution was instituted was that there was a likely clash between the schedule of counselling for NEET-PG 2021-22 and the NEET-PG examination for the ensuing academic year. This aspect of the matter has now been resolved as a result of the postponement of the NEET-PG examination.”

6. The new date for NEET-PG 2022 has been fixed as 21 May 2022. The results for the examination are expected on 20 June 2022.

Senior counsel appearing on behalf of the petitioners urged that the petitioners are doctors who have rendered COVID duties in the past two years and were participating in the counselling process following the NEET-PG 2021 entrance examination and that process was to end on 12 May 2022. However, the stray round of counselling is yet to take place. It has been submitted that an extension of about two months may be granted for conducting the NEET-PG 2022 for the ensuing academic year. Counsel submitted that representations have been made by the doctors similarly circumstanced and if an extension is granted, this would cause no prejudice to the Union Government while at the same time would provide the petitioners and similarly placed candidates as well as those doctors who have registered, additional time to study for the ensuing examination.

7. Mr P Wilson, senior counsel has placed reliance on a public notice dated 5 May 2022 issued by the National Medical Commission³ which intimated all medical colleges and institutes that the last date for filling information relating to admissions made for Post Graduate (Broad and Super Specialty courses) for 2021-2022 on the NMC portal was extended to 9 May 2022.

8. Ms Aishwarya Bhati, Additional Solicitor General has while opposing the submissions urged that:

(i) The issue as to whether the NEET-PG 2022 entrance examination was to be postponed was a matter of serious deliberation in the Ministry of Health and Family Welfare. A

² 2022 SCS Online SC 492

³ “NMC”

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A conscious decision was taken on 10 May 2021 against postponing the examination for reasons bearing on public interest and the needs of medical education;

(ii) Any delay in conducting the NEET-PG 2022 examination would impact the patient care since this would lead to a fewer number of resident doctors in hospitals.

B There are supposed to be three batches of doctors who are studying for PG courses and are available for patient care and treatment in medical college hospitals. However, only two batches are currently available because of the delay in conducting the examination and any further postponement will have a cascading effect on patient care, treatment and other ancillary matters;

C (iii) The number of doctors who have registered for NEET-PG between the period 2019-2020 and 2022-2023 is indicated in the following table:

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Academic Year	No. of Registered Doctors
2019-20	148713
2020-21	167102
2021-22	177415
2022-23	206541

E (iv) The NEET-PG 2022-2023 examination is scheduled to be held in January 2023. Adhering to the current schedule for the NEET-PG 2022 will allow the Union Government to put the schedule back on track which was disturbed thus far due to the onset of the Covid-19 pandemic.

F (v) The schedule has to be consistent with the order of this Court in *Dr Ashish Ranjan and Others vs Union of India and Others*⁴. In *Dr Ashish Ranjan (supra)*, the National Medical Commission⁵ moved this Court for its approval of the time

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schedule for NEET-PG, which was granted on 9 May 2022; and

H ⁴ Writ Petition (Civil) No 76 of 2015 dated 18.01.2016

⁵ “NMC”

(vi) The Public Notice of the NMC dated 5 May 2022 did not extend the time for completing admissions and as a matter of fact, admissions have been closed on 7 May 2022.

9. While considering the rival submissions, it must be noted at the outset that the academic session has been delayed by a period of four months when compared with the schedule which has been prescribed by this Court by its order dated 18 January 2016 in *Dr Ashish Ranjan (supra)*. The schedule which has been prescribed by the order of this Court is tabulated below:

**“Time Schedule for completion of Admission Process
for PG (Broad Specialty) Medical Courses for All
India Quota and State Quota**

S. No.	Schedule for admission	Broad Specialty	
		All India quota	State quota
1	Conduct of Entrance Examination	Month of December	Month of January
2	Declaration of result of the qualifying Exam/Entrance Exam	By 15 th of January	By 15 th of February
3	1 st round of counselling/admission	Between 12 th March to 24 th March	Between 4 th April to 15 th April
4	Last date for joining/reporting the allotted college and the course	By 3 rd April	By 22 nd April
5	2 nd round of counselling/admission for vacancies	Between 23 rd April to 30 th April	Between 11 th May to 20 th May
6	Last date of joining for the 2 nd round of counselling/admission	By 10 th May	By 27 th May
7	Commencement of the academic session/terms	1 st May	1 st May
8	Last date up to which students can be admitted/joined against vacancies arising due to any reason	-	By 31 st May

10. The original schedule for NEET-PG 2022-2023 was in the following terms:

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	Processes	Timelines
A	Availability of the Information Bulletin	15 th January 2022 onwards
	Online submission of application	15 th January 2022 (3 PM onwards) to 4 th February 2022 (Till 11:55 PM)
B	Edit window for all the candidates	8 th February 2022 to 11 th February 2022
	Final edit window to rectify deficient/incorrect images 1. Photograph 2. Signature 3. Thumb Impression	24 th February 2022 to 27 th February 2022
C	Issue of Admit Card	7 th March 2022
	Examination Date	12 th March 2022
	Declaration of Result	By 31 March 2022

D 11. The above schedule had to be revised due to the exigencies caused by the Covid-19 pandemic during 2020-2021. The revised schedule for NEET-PG 2022-2023 is set out below:

E	Revised dates for online submission of the application form	15 th January 2022 (3 PM onwards) to 25 th March 2022 (Till 11:55 PM)
	Edit window for all the candidates	29 th March 2022 to 7 th April 2022
	Final edit window to rectify deficient/incorrect images	26 th April 2022 to 30 th April 2022
	Date of issuance of Admit Cards	16 th May 2022
F	Date of Examination	21 st May 2022
	Declaration of Result	By 20 th June 2022

G 12. The petitioners and other similarly placed doctors have participated in the counseling process for NEET-PG 2021. They were not barred from registering for NEET-PG 2022. The registration for NEET-PG 2022 for the ensuing year had closed on 25 March 2022. As many as 2,06,541 doctors have registered for the ensuing examination. The submission of the petitioners that a postponement of the examination will cause no prejudice to the Union Ministry of Health and Family Welfare is specious. It must be borne in mind is that there is a large number of student - doctors who have registered for the entrance test. Over two lakh students have registered for the ensuing examination and their

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schedule would be seriously affected if a further postponement is granted under a direction of this Court. Postponement of exams results in chaos and uncertainty. During the onslaught of the Covid waves, postponements may have been granted by the administering authorities since we were confronted with an unprecedented human crisis. This should not become the norm. Doing so will disturb the sanctity of medical education. As the country gets back on the rails after the dislocation which was caused due to the Covid-19 pandemic, it is necessary that the decision which has been taken by the Union Ministry of Health and Family Welfare of adhering to the time schedule must be accepted. An important consideration which has weighed in the decision not to postpone the NEET-PG 2022 examination is that any delay in conducting the examination will lead to a fewer number of resident doctors in hospitals. Currently, only two batches of resident doctors are available because of the delay in holding the NEET-PG examination, resulting in serious deficiency in the required strength of doctors in hospitals. This impacts patient care and results in back-breaking loads of work for the existing doctors. Their quality of life, dignity and well-being are also of concern.

13. In this backdrop, while the request which has been made by the petitioners for a further postponement of the NEET-PG examination may seem innocuous from their perspective, it cannot be entertained for the reason that this would seriously impact the availability of patient care and qualified post-graduate doctors. It is likely to have a cascading effect on patient care and on the careers of those doctors who have already registered in large numbers for the ensuing examination.

14. The concern of the petitioners who have participated in the counselling process for NEET-PG 2021-22 and will now have to immediately undertake the exam for NEET-PG 2022-23 is understandable. However, these matters essentially pertain to the policy domain. Unless the Court is satisfied that the decision which has been taken by the authorities is without application of mind to relevant circumstances or was manifestly arbitrary, there would no reason for the Court to interfere. Postponement of any examination is replete with serious consequences. While one body of the students may be interested in seeking a postponement, there will be a large number of other students who have registered for the examination. Above all, the needs of patient care and treatment must be paramount in the clash of rival interests between those doctors who have registered for the ensuing examination

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A and those who have not registered. Balancing of priorities in administration is a difficult task. The task is entrusted to the executive and not to courts. Hence, in our considered view, the reliefs which have been sought in these proceedings cannot be granted.

15. The petition shall accordingly stand dismissed.

Ankit Gyan
(Assisted by : Rahul Rathi, LCRA)

Writ Petition dismissed.