

Dr.Vipul Pandey & Ors vs Union Of India & Anr on 23 August, 2021

Author: Jayant Nath

Bench: Jayant Nath

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P. (C) 7260/2020 and CM No. 24499/2020

DR.VIPUL PANDEY & ORS. Petitioners
Through Mr.Rajeev Goyal, Adv.

versus

UNION OF INDIA & ANR. Respondents
Through Ms.Nidhi Raman, CGSC with
Mr.Zubin Singh, Adv. for R-1.
Mr.Kirtiman Singh, Mr.Waize Ali Noor and
Mr.Taha Yasin, Advs. for R-2/NBE
Mrs.Avnish Ahlawat, Standing Counsel, GNCTD
with Mrs. Tania Ahlawat, Mr. Nitesh Kumar S
and Ms.Palak Rohemetra, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% 23.08.2021 This hearing is conducted through video-conferencing.

1. This writ petition is filed seeking the following reliefs:-

"(a) Issue A Writ of Certiorari calling for the records of the case and peruse the same;

(b) Quash and set aside the impugned order No. NBE /Sponsored/ 2020 / DNB -CET / 3118411 / 2066113938 / th 1730 dated 07.09.2020 and letter dated 12 September 2020 issued by National Board of Examinations in respect of Petitioner No. 1, Order No. NBE / Sponsored /2020 /DNBCET / 2611311 / 2066066069 / 1783 dated 08.09.2020 in respect of Petitioner No 2, Order No.NBE/Sponsored/2020/DNBCET/2610211/2066121014/ 1871 dated 10.09.2020 in respect of Petitioner No 3 and letter dated 12th September 2020 issued by National Board of Examinations in respect of Petitioners, only to the extent that the last date of physical joining is 30th September 2020, which is unreasonable, arbitrary and practically not feasible on account of various limitations and restrictions due to Covid-19, and

(c) Issue a writ of Mandamus thereby directing the Respondent No.2 to grant the extension for physical joining of the post graduate seat by the Petitioners and not to allot the seat to any other person till the time the Petitioners are relieved from the parent department with grant of study leave, and"

2. On 30.09.2020, this court noted that the petitioners were facing problems inasmuch as they were not being relieved by Government of NCT of Delhi with whom they were working. The court noted that the petitioners were required to obtain study leave and relieving letter from the said parent department which was still awaited. Accordingly, on the oral request of the learned counsel for the petitioners, Government of NCT of Delhi was impleaded as respondent No. 3.

3. On 05.10.2020, this court noted that petitioners No. 1 and 2 had been relieved by respondent No. 3/Government of NCT of Delhi. This court also noted that the last date for physical joining had been extended up to 15.10.2020. Submission of the learned counsel for the petitioners was also noted that petitioners No. 1 and 2 would be joining before the said date and hence, the petition to that extent, vis-a-vis petitioners No. 1 and 2, is infructuous.

4. However, in the case of petitioner No. 3, respondent No.3- Government of NCT of Delhi had declined to grant leave/permission to the said petitioner on account of COVID 19 Pandemic.

5. My attention has now been drawn to the judgment of the Supreme Court in the case of Dr.Rohit Kumar vs. Secretary Office of Lt. Governor of Delhi & Ors. being Civil appeal No. 2739/2021 dated 15.07.2021. The Supreme court in that judgment held as follows:-

"43. Since the seat in the Post Graduate Course in PGI Chandigarh which remained unfilled due to the inability of the Appellant to join has been carried over to the July 2021 session which is yet to commence, and re-advertised, this Court deems it appropriate to direct the PGI, Chandigarh, being the Respondent No. 3 to admit the Appellant to the post graduate course scheduled to commence in July 2021, on the basis of INICET 2020, which he has successfully cleared. The Respondent No. 1 shall re-consider the application of the Appellant for Study Leave, taking into consideration the decline in COVID-19 cases in NCT of Delhi, and take a reasonable decision in favour of the Appellant. Unless there is a substantial rise in COVID-19 cases, the leave application of the Appellant shall not be declined.

44. These directions are being passed in exercise of the power of this Court under Article 142 of the Constitution of India, in the facts and circumstances of this case, having regard to the fact that the Appellant had cleared INICET 2020 held in November 2020 and had been offered admission to PGI, Chandigarh, but could not join as he was not released on Study Leave in view of the serious COVID-19 situation prevailing in NCT of Delhi at the material time, and this order will not be treated as a precedent."

6. At this stage, learned counsel for respondent No. 3 states that one similar matter is coming on 10.09.2021 before the roster bench and the present matter may be adjourned accordingly.

7. I may note that a Coordinate Bench of this court in Dr.Deepika Veerwal vs. UOI & Anr., W.P.(C) 2429/2021 dated 30.07.2021 has in similar facts and circumstances passed the following directions:-

"4. In the light of the aforesaid, the petition is allowed by directing the respondent no. 2 to re-consider the petitioner's application for study leave within a period of 10 days from today. Needless to state, the application will be re-considered by taking into account the observation of the Supreme Court in Dr. Rohit Kumar (supra)."

8. In view of the above, it would be appropriate for this court to follow the directions of the Coordinate Bench. This writ petition is also disposed of with the same directions as noted above in W.P.(C) 2429/2021 dated 30.07.2021.

9. I may note that vide interim order of this court dated 30.09.2020, respondent No. 2 was directed not to release/allot the seat allotted to petitioner no. 3 to some other candidate. I am told that the said seat is still lying vacant.

10. The writ petition and pending application stand disposed of.

JAYANT NATH, J AUGUST 23, 2021 rb