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

% *Judgment Delivered on:08.09.2025*

+ W.P.(C) 10285/2025

SOHAM RAMESH KUMBHARPetitioner

Through: Mr. Vishal Singh, Adv.

versus

NATIONAL MEDICAL COMMISSION (NMC) AND ORS

.....Respondents

Through: Mr. T.Singhdev, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Ms. Anum Hussain, Ms. Yamini Singh, Mr. Sourabh Kumar, Mr. Tanishq Srivastava, Mr. Vedant Sood and Ms. Ramanpreet Kaur, Adv. for R-1/NMC.
Mr. H.Chandra Sekhar, Adv. for R-2/Rajiv Gandhi University of Health Sciences.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J (ORAL)

1. The present petition has been filed seeking following relief:

“a. Issue a writ of Mandamus or any other appropriate writ, direction, or order directing the Respondents to consider and grant an additional (5th) attempt to the Petitioner to appear in the Phase-I MBBS examination by the reason as stated above;

b. Direct the Respondents to consider such cases of hardship and illness in a just and fair manner with an established mechanism for review;”



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2. The case set out by the petitioner in present petition is that he has not been able to clear Phase I of his MBBS Course within the period of four chances granted to the petitioner in terms of Regulations 7.7 and 11.2.7 of the Regulations on Graduated Medical Education (Amendment, 2019) (hereinafter the Regulations).
3. Mr. Vishal Singh, the learned counsel appearing on behalf of petitioner submits that at the time of 4th attempt, the petitioner was unwell as he had suffered food poisoning. In support of his contention, he has invited attention to the medical prescription of Aditi Multi Speciality Hospital dated 09.12.2024.
4. He submits that the exams were scheduled from 02.12.2024 to 13.12.2024 and one of the exams i.e. Physiology Paper-II was to be held on 09.12.2024. He submits that the petitioner has cleared other two exams but could not clear the said exam of Physiology Paper-II for the reason aforesaid.
5. He, therefore, urges the Court that on sympathetic considerations, necessary directions may be issued to the respondents to grant one additional chance to the petitioner to clear only one remaining paper of Phase I of MBBS Course.
6. *Per contra* Mr. T. Singhdev, learned counsel appearing on behalf of respondent/NMC submits that as per Regulation 7.7 of the Regulations, no more than four attempts are allowed to a candidate to pass the first professional examination i.e. Phase I of MBBS.
7. He further contends that Regulation 7.7 was a subject matter of challenge before the Division Bench in *Sachin & Ors. vs. Union of India and Ors. 2022 SCC OnLine Del 3839*, but the writ petition was dismissed



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by this Court observing that the petitioners therein had failed to dislodge the presumption of constitutionality existing in favour of the impugned Regulations. Further, it was observed that the petitioner does not have a legitimate or a vested right to get a degree or get another attempt.

8. He submits that the said decision of this Court was challenged before the Hon'ble Supreme Court by preferring SLP (C) 22716/2022 titled as ***Sachin & Ors. vs. Union of India & Ors.*** and the same also came to be dismissed *vide* order dated 10.02.2023.

9. He submits that the following the aforesaid decision of the Division Bench of this Court in ***Sachin*** (supra), the Rajasthan High Court has also taken a similar view in its decision dated 28.11.2022 passed in ***Shashi Kanwar vs. Union of India & Ors. 2022 SCC Online Raj 2913***. Reliance has also been placed on the decision of the Bombay High Court in ***Jivan Julalsing Parihar vs. The National Medical Commission, Through its Secretary and others*** [DoD 13.10.2022 in Writ Petition 10294/2022].

10. In rejoinder, Mr. Vishal Singh, has tried to distinguish the aforesaid judgment on the ground that no straight jacket formula can be applied for denying the relaxation.

11. He submits that the facts in the cases relied upon by Mr. Singhdev were different, inasmuch as Regulation had been challenged therein whereas in the present case there is no challenge to the Regulations, but the petitioner has made a prayer only on sympathetic grounds.

12. I have heard Mr. Vishal Singh, learned counsel for the petitioner, as well as, Mr. T. Singhdev, learned counsel for the respondent/NMC.

13. At outset, apt would it be advert to the relevant Regulation 7.7 of the Regulations, which reads as under:



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“7.7 No more than four attempts shall be allowed for a candidate to pass the first Professional examination. The total period for successful completion of first Professional course shall not exceed four (4) years. Partial attendance of examination in any subject shall be counted as an attempt.”

(emphasis supplied)

14. A perusal of above quoted Regulation makes it evident that an outer limit in terms of chances which could be afforded to any candidate to pass first professional examination i.e. Phase I of MBBS, are four attempts. The phraseology in which the provision is couched shows that it is mandatory, therefore, it has to be strictly followed.

15. No provision or Regulation has been pointed out by the learned counsel for the petitioner, and there exists none, which provides for relaxing the said Regulation and afford an additional chance to the candidate to clear Phase I of MBBS, even on sympathetic considerations.

16. It was argued on behalf of the petitioner, that while availing fourth and the last chance, the petitioner suffered from food poisoning during one of the papers i.e. Physiology Paper-II, and for the said reason he could not score passing marks only in said paper. Therefore, it was urged that petitioner's case may be considered on mercy ground. In this behalf, suffice it to say that four chances have been given to a candidate under Regulation 7.7, only to meet the contingencies such as illness, bereavement in the family and other unforeseen circumstances. Thus, an extra chance over and above four chances already provided in the said Regulation cannot be granted, even on mercy ground. The statutory Regulations cannot be tweaked and relaxed by the Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution. Relaxation in the Regulations, if at all



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to be made, has to find place in the Regulations.

17. The vires of the said Regulation 7.7 has not been challenged in the present petition, and rightly so since Division Bench of this Court in *Sachin* (supra) wherein the vires of said Regulation was challenged, had rejected the challenge observing that the petitioners therein had failed to dislodge the presumption of constitutionality existing in favour of the impugned Regulations. Further, it was observed that the petitioners do not have a legitimate or a vested right to get a degree or get another attempt. Furthermore, the Court held that there is no power in the NMC insofar as relaxation of said Regulation is concerned. The relevant paras from the said decision reads thus:

“1. The instant Writ Petitions have been filed under Article 226 read with Article 227, of the Constitution of India by the Petitioner Students seeking inter alia, setting aside of Regulation 7.7 of Regulations on Graduate Medical Education (Amendment), 2019 dated 04.11.2019 issued by Respondent No. 2 Commission (“Impugned Regulation”) as being ultra vires Article 14, 19(1)(g) and 21 of the Constitution of India.

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6. The Petitioners attempted to pass the first professional examination four times by 2022 but could not succeed. Thereafter, in light of Regulation 7.7, the Petitioners have been prohibited from writing these exams again. Aggrieved by the same, between 01.08.2022 and 16.08.2022, some of the Petitioners sent a representation to Respondents, requesting the Respondents to allow them to appear in the examination

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12. Upon a perusal of the material on record, the questions that emerge before this Court are: a) whether the Impugned Regulations are ultra vires of Articles 14, 19 and 21 of the Constitution; and b) whether the Petitioners should be given another opportunity to appear for their 1st year examination in their respective medical colleges.



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13. With regards to the first issue, it is trite law that there exists a strong presumption of constitutionality in favour of any legislation including subordinate legislation.

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23. The Petitioners have failed to dislodge the presumption of constitutionality existing in favour of the Impugned Regulations.

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24. The second issue before this Court is whether the Petitioners should be given another chance to appear for their first year professional examination.

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27. From the foregoing, it is evident that all candidates appearing for the Civil Services Exam were to be treated equally. Further, the Respondent No. 2 did not have the discretion to grant the Petitioners therein another chance, in light of the Rules therein. In a similar vein, in the instant case, if an additional chance is accorded to the Petitioners herein, all attemptees who had also suffered would ask for another chance. More importantly, even in the case at hand, the Respondent No. 2 does not have discretionary power to grant another opportunity to the Petitioners to appear for the exam in light of the Impugned Regulations.

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32. In the present case, the Petitioners did not have an accrued/vested right to be given infinite chances to complete their degree. Even before the Impugned Regulations came into place, the Petitioners were aware that they were supposed to complete their degree in 10 years, which indicates that there existed bar and fetters on the right of the Petitioner to obtain their degree. The legislature was well within its power to apply the impugned regulation even the students had taken admission prior to the enactment of the legislation.

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36. It appears that the Petitioners have failed to dislodge the presumption of constitutionality existing in favour of the Impugned Regulation. Furthermore, the Petitioners do not have any vested right to secure a medical degree, hence, the Impugned Regulation can be applied retrospectively. Lastly, it has also been



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determined that the Petitioners do not have a legitimate expectation to either get a degree or get another attempt. Even if it is determined that such a legitimate expectation exists, which according to this Court does not exist, in the absence of abuse of power, and keeping in line with the policy of the State, this Court finds no reason to interfere with the Impugned Regulation on the basis of this ground.”

(emphasis supplied)

18. The SLP (C) 22716/2022 preferred by the writ petitioner therein against the aforesaid decision in *Sachin* (supra) was also dismissed by the Hon’ble Supreme Court.

19. The reference may also be had to the decision of the Rajasthan High Court in *Shashi Kanwar* (supra) as well as the decision of Hon’ble Bombay High Court in *Jivan Julalsing Parihar* (supra), in which similar view has been taken.

20. In light of the above discussion and legal position expounded in the decisions adverted to hereinabove, this court is of the view that the present case does not have any merit. Accordingly, the same is dismissed.

VIKAS MAHAJAN, J

SEPTEMBER 8, 2025/N.S. ASWAL