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

Judgment reserved on: 14.01.2026

% Judgment delivered on: 04.02.2026

\+ **W.P.(C) 1712/2025**

SAHIL ARSH .....Petitioner

Through: Ms.Aditi Gupta, Adv. (DHCLSC) with Ms.Lavanya Bhardwaj, Adv.

versus

NATIONAL MEDICAL COMMISSION & ORS. .....Respondents

Through: Mr. T. Singhdev, Adv. with Mr.Abhijit Chakravarty, Mr.Tanishq Srivastava, Ms.Yamini Singh, Mr.Vedant Sood, Ms.Ramanpreet Kaur and Mr.Bhanu Gulati, Advs. for R-1.
Mr. Mohinder J.S. Rupal, Adv. with Mr.Hardik Rupal, Ms.Aishwarya Malhotra and Ms.Tripta Sharma, Advs. for University of Delhi.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

J U D G M E N T

DEVENDRA KUMAR UPADHYAYA, C.J.

PRELUDE

1. Persons with Disabilities (hereinafter referred to as '**PwD'**) have historically faced marginalisation and exclusion, and have often been denied their fundamental rights and dignity. Despite laws and Government policies

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aimed at promoting inclusivity and reasonable accommodation being in place, many continue to experience social, economic and cultural barriers that hinder their full participation and growth in the society. Denial of rights and reasonable accommodation for PwD not only affect individuals but also undermines the principles of equality and justice.

1.1 Facts of this case depict as to how the petitioner, who is a person suffering with 40% disability of vision impairment, has been denied his right to reasonable accommodation by the respondent on the basis of a Regulation that puts a blanket ban on a student pursuing under graduate course in Medicine to seek migration from one medical college to the other even though, he may be most deserving to seek such migration.

FACTS

2. The petitioner suffers from low vision/ blindness, and his disability has been assessed at 40% by the competent authority, namely, the Chief Medical Officer, Muzaffarnagar, Uttar Pradesh. He took National Eligibility-cum-Entrance Test – UG – 2023 (NEET–2023) and was successful in the said examination in the category of Other Backward Class – PwD, however, when the counselling on the basis of NEET–2023 started, he was not permitted to participate in the counselling in this category which compelled him to institute *W.P.(C) 782/2023* before the Hon'ble Supreme Court that was allowed by the Hon'ble Supreme Court by means of an order dated 22.09.2023 whereby, a direction was issued to the respondent no.1– National Medical Commission (a statutory body constituted under Section 3 of the National Medical Commission Act, 2019) (hereinafter referred to as '**the NMC Act, 2019'**) to ensure that counselling authorities are

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appropriately instructed to treat the petitioner as a person with disability and consider his application for admission in accordance with other parameters as a person with disability. The operative portion of the said order dated 22.09.2023, passed by the Hon'ble Supreme Court in respect of the petition filed by the petitioner is extracted herein below:

"O R D E R

W.P.(C) No. 788/2023 & W.P.(C) No. 782/2023:-

1. *The Reports in respect of the petitioners, i.e., Rohit Kumar Singh (in Writ Petition (C) No.788/2023) and Sahil Arsh (Writ Petition (C) No.782/2023) issued by the Medical Board constituted by the All India Institute of Medical Sciences, New Delhi both dated 02-09-2023, have upheld their claim for treated as persons with disability. It was argued on behalf of the respondents that lack of clarity in regard to the certificate or evaluation of Sahil Arsh should be taken into account and further clarification may be sought. This Court is of the opinion that no such further clarification is necessary having regard to the range indicated by the Expert Board or Committee.*

2. *Having regard to these facts, both the petitioners' claim to be treated as persons with disabilities in Writ Petition (C) No.788/2023 (Rohit Kumar Singh vs. Union of India & Ors.) and Writ Petition(C) No.782/2023 (Sahil Arsh vs. Union of India & Ors.) are upheld. A direction is issued to the respondents to ensure that the counseling authorities are appropriately instructed to treat them as persons with disability and consider their applications for admission in accordance with other parameters, as persons with disability.*

3. *The Writ Petitions are allowed to the above extent in the above-terms."*

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3. The petitioner was, thus, denied initially his claim of being treated as a candidate in the category of PwD, and it is only on the order passed by the Hon'ble Supreme Court on 22.09.2023 that he was permitted to participate in the counselling. To his misfortune, by the time the petitioner could be permitted to participate in the counselling for choosing/selecting a medical college, all rounds of counselling had completed and he was able to participate in the Stray Vacancy Round which was held in late September, 2023 and by that time only limited colleges were available to be opted, and none were in Delhi. This unfortunate situation compelled the petitioner to opt for Government Medical College, Barmer, Rajasthan, which is affiliated to Rajasthan University of Health Sciences.

4. It is the case set up by the petitioner that the harsh climate of Barmer does not suit him, and his disability relating to vision impairment started deteriorating, as he started developing ulcers in his eyes on account of high temperatures in Barmer. This also hampered his day-to-day capabilities and his treatment. It is further stated by the petitioner that on a reference by the medical doctor attending him, he is taking his treatment at All India Institute of Medical Sciences, New Delhi. This condition of the petitioner compelled him to seek his migration from Government Medical College, Barmer to any college in Delhi, and accordingly, he obtained certain information under the Right to Information Act, 2005, wherein, it was revealed that University College of Medical Sciences, New Delhi, Dilshad Garden has one seat available under the PwD reservation category in the MBBS Course.

5. The petitioner, thereafter, sought no objection certificate from Rajasthan University of Health Sciences – respondent no.3 and University of

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Delhi – respondent no. 2, however, no response was received from these authorities. In his endeavor to seek migration to Delhi, he also represented to the National Medical Commission (hereinafter referred to as the '**Commission'**) – respondent no.1 stating his grievances and seeking his transfer from his present college to another college near his home and also to the treating hospital. Since nothing was heard from either of these authorities, the petitioner filed *W.P.(C) 17306/2024* before this Court with the prayer seeking a direction to the Commission to take a decision on the request made by the petitioner for his transfer. The said writ petition was disposed of by a learned Single Judge of this Court by means of an order dated 16.12.2024, whereby the Commission was directed to decide the pending representation made by the petitioner dated 29.11.2024 with due expedition.

6. In compliance of the said order passed by this Court, the Commission took a decision and rejected the request of the petitioner *vide* order dated 30.12.2024 by stating that after commencement of Graduate Medical Education Regulation, 2023 (hereinafter referred to as the '**Regulations 2023**'), the provision of migration/transfer has been removed and, therefore, no application for migration is being entertained after the year 2023 in any eventuality. The Commission also gave another reason for rejecting the request of the petitioner stating stated that sufficient time was granted to the MBBS qualified candidates at the time of admission for opting desired medical college, so that at a later stage the student should not face any inconvenience. It was also stated in the said order dated 30.12.2024 that at the time of opting the seat at Government Medical College, Barmer,

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Rajasthan, the petitioner was fully aware of his vision impairment and the difficulties he would face in Rajasthan, and therefore, the petitioner would have opted for any college in Delhi at the time of admission. The reasons given in the order dated 30.12.2024, passed by the Commission rejecting the prayer of the petitioner, are extracted herein below:

> *"1. ….. ….. …..*
>
> *a. After the commencement of Graduate Medical Education Regulation, 2023 published on 02.06.2023, the provision of migration/transfer was removed. Therefore no application for migration is being entertained after year 2023 in any eventuality.*
>
> *b. A sufficient time is granted to the MBBS qualified candidates at the time of admission for opting desired medical college so that at later stage the student should not face any inconvenience.*
>
> *c. In present case, the petitioner at the time of opting the seat at GMC Barmer, Rajasthan was fully aware of his visual impairment and the difficulties that he would have to face in the State of Rajasthan. The petitioner would have opted for any college in Delhi at the time of admission.*
>
> *2. Considering above factors, the commission has come to a conclusion that, the request of the petitioner cannot be entertained."*

7. The petitioner, thereafter, instituted the proceedings of *W.P.(C) 213/2025* before this Court challenging the order dated 30.12.2024 passed by the Commission, however, in view of the statement made on behalf of the Commission in the proceedings of the said writ petition that Regulations, 2023 are in force, the petitioner withdrew the said writ petition seeking liberty to file a fresh writ petition challenging the Regulations, 2023. The learned Single Judge, thus, dismissed the said writ petition as withdrawn,

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granting the liberty as was prayed for. It is in these circumstances that the proceedings of the instant writ petition have been instituted with the prayer to declare Regulation 18 of the Regulations 2023 as invalid and accordingly to strike it down. The petitioner has also sought a prayer for quashing the order dated 30.12.2024 passed by the Commission, whereby the prayer of migration from respondent no. 3 to a college affiliated with respondent no.2 has been rejected by the Commission. A direction has also been sought to permit the migration of the petitioner from the respondent no. 3 to respondent no.2.

SUBMISSIONS ON BEHALF OF THE PETITIONER

8. The learned counsel representing the petitioner has vehemently argued that impugned Regulation 18 of the Regulations 2023 which puts a complete ban on seeking migration from one medical institution to the other is completely illegal, being manifestly arbitrary, and thus, violative of Article 14 of the Constitution of India.

9. Learned counsel, while impeaching the impugned Regulation, has submitted that putting a complete ban on transfer/migration of a student does not serve any purpose which can be said to be in public interest; rather, such a ban denies even the most deserving student to seek migration, and therefore, a total ban cannot be justified on any ground. In her submission, it has further been argued by learned counsel for the petitioner that such a complete ban does not have any nexus with the object sought to be achieved under the Regulations that have been framed, which is primarily to maintain the standard and quality of education in medicine.

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10. It is further submitted by learned counsel for the petitioner that it is a case where on account of the resistance on the part of the counseling authorities, the petitioner was denied his right to participate in the counselling in the category of PwD candidates and it is only on the intervention of the Hon'ble Supreme Court that he could participate in the counselling and make his choice of the College available in the Stray Vacancy Round of Counselling. The submission is that had the right of the petitioner to participate in the counselling in the category of PwD candidates been recognised at the commencement of the counselling, he would have been in a position to exercise his choice of a college where he would not have faced the conditions adverse to his medical condition relating to vision impairment. In substance, the submission is that since for the present situation where the petitioner is compelled to pursue his studies in an adverse and harsh climate at Barmer, petitioner cannot be said to be responsible rather, it is the counseling authorities because of whose inaction in not recognising the petitioner's candidature in the PwD category that has landed him in such a situation and that it is a most deserving case where transfer ought to be permitted. The submission is that putting a blanket ban on migration/transfer leads to a situation where even a most deserving student, like the petitioner, is prohibited from seeking migration, and therefore, Regulation 18 is violative of Article 14 of the Constitution of India, as the same suffers from the vice of manifest unreasonableness and arbitrariness.

11. Drawing our attention to the order dated 30.12.2024 passed by the Commission denying the petitioner his request for migration, it has been

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submitted by the learned counsel for the petitioner that the said order has been passed by the Commission with the presumption that sufficient time was granted to him at the time of admission for opting desired medical college, so that at a later stage the petitioner should not face any inconvenience. It has, however, been argued that in the facts of the case it cannot be said that the petitioner was ever granted any time, much less sufficient time, at time of admission for opting the desired medical college. She has further argued that as a matter of fact, on account of inaction on the part of the counseling authorities by not permitting the petitioner to participate in the counselling as a candidate belonging to PwD category, no opportunity was granted to the petitioner at the time of admission for opting desired medical college for the reason that at the time the petitioner could participate in the counselling under the directions of the Hon'ble Supreme Court *vide* order dated 22.09.2023, it is only the seats available in the Stray Vacancy Round of counselling which the petitioner could opt.

12. Learned counsel for the petitioner has also pleaded strongly that such a complete ban on migration of a student belonging to PwD category, even to a most deserving candidate, infringes the right of equality and non-discrimination and reasonable accommodation for PwD in terms of Sections 3(2) and 5 of the PwD Act, 2016.

13. Learned counsel representing the petitioner has also drawn our attention to the Draft Regulations on the basis of which Regulations, 2023 have been finalized and promulgated. According to Clause 20 of the said Draft Regulation, it was not proposed to provide for complete ban on migration, rather, migration was permitted in exceptional cases to the most

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deserving applicants for good and sufficient reasons and not on routine grounds. It has, thus, been submitted that there was no reason for Commission not to have provided a window for migration of even most deserving applicants for good and sufficient reasons to seek transfer from one medical institution to another while finalising the Regulations. Clause 20 of the Draft Regulations is extracted herein below:

> *"**20. Student migration –** No student designated to a medical institution, notwithstanding anything stated in these Regulations, shall seek migration to any other medical institution after the first academic year of admission. Migration of students from one medical college to another medical college shall be granted as per the guidelines of UGMEB of NMC, only in exceptional cases to the most deserving among the applicants for good and sufficient reasons and not on routine grounds. Migration shall be from a government medical college to a government medical college and from a non-government medical college to a non-government medical college only. No mutual exchange shall be permitted."*

14. On behalf of the petitioner, our attention has been drawn to the Graduate Medical Education Regulation, 1997 (hereinafter referred to as '**GMER 1997**'), which were framed by the then existing Medical Council of India, and which are the predecessor of the Regulations, 2023, which permitted migration.

15. Regulation 6 of GMER, 1997, provided that migration from one medical college to another is not a right of a student; however, it permitted migration of students, which was to be considered by the Medical Council of India in exceptional circumstances and on extreme compassionate grounds. Regulation 6 of the GMER, 1997 is extracted here under:

> *"**6. Migration***

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(1) Migration from one medical college to other is not a right of a student. However, migration of students from one medical college to another medical college in India may be considered by the Medical Council of India only in exceptional cases on extreme compassionate grounds, provided following criteria are fulfilled. Routine migrations on other grounds shall not be allowed.*

(2) Both the colleges, i.e. one at which the student is studying at present and one to which migration is sought, are recognised by the Medical Council of India.

(3) The applicant candidate should have passed first professional MBBS examination.

(4) The applicant candidate submits his application for migration, complete in all respects, to all authorities concerned within a period of one month of passing (declaration of results) the first professional Bachelor of Medicine and Bachelor of Surgery (MBBS) examination.

(5) The applicant candidate must submit an affidavit stating that he/she will pursue 18 months of prescribed study before appearing at IInd professional Bachelor of Medicine and Bachelor of Surgery (MBBS) examination at the transferee medical college, which should be duly certified by the Registrar of the concerned University in which he/she is seeking transfer. The transfer will be applicable only after receipt of the affidavit."

16. It is also the submission on behalf of the petitioner that merely because any provision permitting migration of a student from one medical institution to another is prone to misuse, it cannot be a ground for putting a blanket ban on migration, which results in prohibition on transfer in a suitable and most deserving case as well. The submission is that such a ban on migration, thus, is manifestly arbitrary and unreasonable, which, thus, violates Article 14 of the Constitution of India.

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SUBMISSIONS ON BEHALF OF RESPONDENT NO.1/COMMISSION

17. Opposing the writ petition it has been argued by learned counsel representing respondent no.1 that impugned Regulations have been framed by the Commission in exercise of its statutory powers available to it under Section 57 of the NMC Act, 2019, and therefore, impugned Regulations had validly been made and no challenge is available to the petitioner for the reason that it has been framed by the competent authority. He has also argued that the Commission, thus, does not lack the competence to frame the impugned Regulations and the Regulations having been framed within the framework of the NMC Act, 2019, thus, do not suffer from any illegality or invalidity. It has further been argued that it is not the case set up by the petitioner that the impugned Regulations in any manner is ultra vires the NMC Act, 2019 and therefore, in absence of the two legally recognised grounds of challenge to a subordinate piece of legislation, namely, absence of legislative competence and the impugned Regulation not exceeding the scope and ambit of the NMC Act, 2019, no challenge as put forth to the impugned Regulation in this petition is sustainable.

18. It is also argued that Regulations holding the field prior to enforcement of Regulations, 2013, namely, GMER 1997 permitted migration, however, to uphold merit as the sole criteria for admission, the Commission discontinued the provision relating to migration under the Regulations, 2023 and that this change was prompted by misuse of migration facility, which allowed candidates to circumvent the merit system by citing personal reasons for transfer, thereby, undermining the integrity of

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the admission process. These averments have been made in paragraph 12 of the reply affidavit filed by the Commission which is extracted herein below:

> *"**12.** It is submitted that with the implementation of the National Eligibility-cum-Entrance Test (NEET) as the single-window competitive examination for M888 admissions nationwide, issues of backdoor entries and arbitrary counselling have been addressed. Counselling is now strictly merit-based, conducted by the Medical Counselling Committee at the national level and by respective State/UT authorities at the local level. To uphold merit as the sole criterion for admission, the National Medical Commission discontinued the migration provision under the Graduate Medical Education Regulations, 2023 (notified on 02.06.2023), replacing the earlier 1997 regulations. This change was prompted by misuse of the migration facility, which allowed candidates to circumvent the merit system by citing personal reasons for transfer, thereby undermining the integrity of the admission process."*

19. Drawing our attention to the averments made in paragraph 25 of the reply affidavit filed by the Commission, learned counsel for respondent no.1 has stated that one of the reasons for removing the provision for migration is to ensure uniformity and standardisation in medical education across the institutions and that the candidates who complete their MBBS course at one college are expected to have adopted to the environment and for consistency it is required that the students should complete the entire course, including the internship, in the same institution. Paragraph 25 of the reply affidavit filed by respondent no.1 is extracted herein below:

> *"**25.** It is submitted that one of the primary reasons for removing provisions for migration is to ensure uniformity and standardization in medical education across institutions. It is further submitted that candidates who complete their MBBS course at one college are expected to have adapted to the environment, and for consistency, it is now required that they*

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complete the entire course, including the internship within the same institution. This allows for continuity as students work with the same faculty which in turn facilitates their academic and clinical progress."

20. It has also been argued on behalf of respondent no.1 that at the time of counselling the candidates are given full opportunity to make an informed decision regarding their choice of institution and that allocation of medical college is made strictly based on a transparent system which is based on the merit, stated preference, category and the availability of seats and, therefore, once a candidate accepts the allotment and takes admission, it shall be presumed that the decision was made with full awareness and the consent of the candidate concerned.

21. The submission, thus, is that in view of the ban as provided for in Regulation 18 of Regulations, 2023, for any student seeking migration and there being no valid ground to challenge the impugned Regulation, the instant writ petition is misconceived which is liable to be dismissed.

DISUCSSION AND ANALYSIS

22. Before adverting to the rival submissions made by learned counsel for the respective parties certain statutory provisions which shall be referred in our judgment, need to be noticed, which are as under:

(A) "Regulation 18 of Under Graduate Medical Education Board, 2023

*"**18. Student migration** -No student designated to a Medical Institution, notwithstanding anything stating in these regulations, shall seek migration to any other Medical Institution."*

(B) The National Medical Commission Act, 2019

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*"**2. Definitions.—**In this Act, unless the context otherwise requires,—*

…. …. ….

***(c) "Commission"** means the National Medical Commission constituted under Section 3;*

…. …. ….

***(w) "Undergraduate Medical Education Board"** means the Board constituted under Section 16;"*

*"**24. Powers and functions of Undergraduate Medical Education Board.—**(1) The Undergraduate Medical Education Board shall perform the following functions, namely:—*

(a) determine standards of medical education at undergraduate level and oversee all aspects relating thereto;

(b) develop competency based dynamic curriculum at undergraduate level in accordance with the regulations made under this Act;

(c) develop competency based dynamic curriculum for addressing the needs of primary health services, community medicine and family medicine to ensure healthcare in such areas, in accordance with the provisions of the regulations made under this Act;

(d) frame guidelines for setting up of medical institutions for imparting undergraduate courses, having regard to the needs of the country and the global norms, in accordance with the provisions of the regulations made under this Act;

(e) determine the minimum requirements and standards for conducting courses and examinations for undergraduates in medical institutions, having regard to the needs of creativity at local levels, including designing of some courses by individual institutions, in accordance with the provisions of the regulations made under this Act;

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(f) determine standards and norms for infrastructure, faculty and quality of education in medical institutions providing undergraduate medical education in accordance with the provisions of the regulations made under this Act;

(g) facilitate development and training of faculty members teaching undergraduate courses;

(h) facilitate research and the international student and faculty exchange programmes relating to undergraduate medical education;

(i) specify norms for compulsory annual disclosures, electronically or otherwise, by medical institutions, in respect of their functions that has a bearing on the interest of all stakeholders including students, faculty, the Commission and the Central Government;

(j) grant recognition to a medical qualification at the undergraduate level.

(2) The Undergraduate Medical Education Board may, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary."

Section 57 (2) – (h), (i), (j), (k), (o), (p), (p), (q), (r), (s)

"***57. Power to make regulations.—****(1) …… …*

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

…. …. ….

(h) the other languages in which and the manner in which the National Eligibility-cum-Entrance Test shall be conducted under sub-section (2) of Section 14;

(i) the manner of conducting common counselling by the designated authority for admission to the undergraduate

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and postgraduate super-speciality medical education under sub-section (3) of Section 14;

(j) the designated authority, and the manner for conducting the National Exit Test under sub-section (2) of Section 15;

(k) the manner in which a person with foreign medical qualification shall qualify National Exit Test under sub-section (4) of Section 15;

(l) the manner in which admission to the postgraduate broad-speciality medical education shall be made on the basis of National Exit Test under sub-section (5) of Section 15;

(m) the manner of conducting common counselling by the designated authority for admission to the postgraduate broad-speciality medical education under sub-section (6) of Section 15;

(n) the number of, and the manner in which, the experts, professionals, officers and other employees shall be made available by the Commission to the Autonomous Boards under Section 21;

(o) the curriculum at undergraduate level under clause (b) of sub-section (1) of Section 24;

(p) the curriculum for primary medicine, community medicine and family medicine under clause (c) of sub-section (1) of Section 24;

(q) the manner of imparting undergraduate courses by medical institutions under clause (d) of sub-section (1) of Section 24;

(r) the minimum requirements and standards for conducting courses and examinations for undergraduates in medical institutions under clause (e) of sub-section (1) of Section 24;

(s) the standards and norms for infrastructure, faculty and quality of education at undergraduate level in medical institutions under clause (f) of sub-section (1) of Section 24;

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(C) Provisions of Rights of Persons with Disabilities Act, 2016

*"**2. Definitions.—**In this Act, unless the context otherwise requires,—*

***(y) "reasonable accommodation"** means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;"*

Section 3

"CHAPTER II

RIGHTS AND ENTITLEMENTS

***3. Equality and non-discrimination.—**(1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.*

(2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.

(3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.

(4) No person shall be deprived of his or her personal liberty only on the ground of disability.

(5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities."

Section 16

*"**16. Duty of educational institutions.—**The appropriate Government and the local authorities shall endeavour that all*

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educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall—

(i) …. …. ….

(ii) …. …. ….

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) ***provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;***

(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;

(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;

(vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;

(viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs.”

23. Challenge in this petition is to Regulation 18 of the Regulations, 2023 which have been framed by the Commission in exercise of its powers vested in it under Sections 24 and 57(2)(h),(i),(j),(k),(o),(p),(q),(r),(s) of the NMC Act, 2019. Section 24 of the NMC Act, 2019, as extracted above, defines the powers and functions of the Undergraduate Medical Education Board, which

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in terms of Section 2(w) of the NMC Act, 2019, is a statutory Board constituted under Section 16 of the NMC Act, 2019.

24. Section 24 entrusts the Board to perform certain functions, such as to determine standards of medical education at the undergraduate level and oversee all aspects relating thereto, to determine the minimum requirement and standards for conducting courses and examinations for undergraduates and also to determine standards and norms for infrastructure, faculty and quality of education in medical institutions. Section 57 of the NMC Act, 2019 vests with the Commission, the power to make regulations consistent with the Act and the Rules made under the Act for the purposes of carrying out the provisions of the Act. Sub-section (2) of Section 57 enlists certain matters in relation to which Regulations may be framed by the Commission, which power, however, is without prejudice to the generality of the power to make Regulations available to the Commission under Section 57(1). The preamble to Regulations, 2023 states that said Regulations have been made in exercise of powers conferred under Section 24 and various sub-clauses of Section 57(2) of the NMC Act, 2019. The Regulations, 2023 provide for various matters relating to implementing curriculum, providing for training, encouraging students to self-directed learning, encouraging students to take up skill training, achieving and maintaining the highest ethical standards, etc.

25. Regulations, 2023 also provide for various provisions concerning admission, counselling and migration under Chapter III, where the impugned Regulation 18 falls.

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26. Having noticed the broad scheme of Regulations, 2023, we now proceed to consider the submissions of the respective parties so far as the challenge to Regulation 18 of Regulations, 2023 is concerned. We, thus, need to take into consideration the test to be applied by the Court while determining the validity of a subordinate legislation, in exercise of our jurisdiction of judicial review under Article 226 of the Constitution of India.

27. In ***Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, (1985) 1 SCC 641,*** Hon'ble Supreme Court has held that a piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a plenary legislation. It has further been held that subordinate legislation may be challenged on any of the grounds on which a statute made by a legislature can be challenged, and in addition thereto, the subordinate legislation can also be questioned on the ground that it does not conform to the statute under which it is made. Further, Hon'ble Supreme Court holds in the said case that a subordinate piece of legislation is also assailable on the ground of the same being unreasonable, not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary.

28. Hon'ble Supreme Court has further observed in ***Indian Express Newspapers (supra)*** that arbitrariness comes within the embargo of Article 14 of the Constitution of India and any inquiry into the *vires* of subordinate legislation in India must be confined on the grounds on which plenary legislation may be questioned and also on the ground that it is contrary to the statute under which it is made and further on the ground that it is contrary to other statutory provisions or that it is so arbitrary that it could not be said to be in conformity with the statute or that it offends Article 14 of

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the Constitution of India. Paragraphs 75 and 77 of the judgment in ***Indian Express Newspapers (supra)*** are relevant to be quoted here which read as under:

> *"**75.** A piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent Legislature. Subordinate legislation may be questioned on any of the grounds on which plenary legislation is questioned. In addition it may also be questioned on the ground that it does not conform to the statute under which it is made. It may further be questioned on the ground that it is contrary to some other statute. That is because subordinate legislation must yield to plenary legislation. It may also be questioned on the ground that it is unreasonable, unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary. In England, the Judges would say "Parliament never intended authority to make such rules. They are unreasonable and ultra vires". The present position of law bearing on the above point is stated by Diplock, L.J. in Mixnam's Properties Ltd. v. Chertsey Urban District Council [(1964) 1 QB 214 : (1963) 2 All ER 787 : (1963) 3 WLR 38 (CA)] thus:*
>
> > *"The various special grounds on which subordinate legislation has sometimes been said to be void … can, I think, today be properly regarded as being particular applications of the general rule that subordinate legislation, to be valid, must be shown to be within the powers conferred by the statute. Thus, the kind of unreasonableness which invalidates a bye-law is not the antonym of 'reasonableness' in the sense in which that expression is used in the common law, but such manifest arbitrariness, injustice or partiality that a court would say: 'Parliament never intended to give authority to make such rules; they are unreasonable and ultra vires'...if the courts can declare subordinate legislation to be invalid for 'uncertainty' as distinct from unenforceable...this must be because Parliament is to be*

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presumed not to have intended to authorise the subordinate legislative authority to make changes in the existing law which are uncertain."

…. …. ….

***77.** In India arbitrariness is not a separate ground since it will come within the embargo of Article 14 of the Constitution. In India any enquiry into the vires of delegated legislation must be confined to the grounds on which plenary legislation may be questioned, to the ground that it is contrary to the statute under which it is made, to the ground that it is contrary to other statutory provisions or that it is so arbitrary that it could not be said to be in conformity with the statute or that it offends Article 14 of the Constitution."*

29. Referring to ***State of T.N. v. P. Krishnamurthy, (2006) 4 SCC 517,*** Hon'ble Supreme Court in ***Cellular Operators Assn. of India v. TRAI, (2016) 7 SCC 703,*** has reiterated the tests laid down for judicially reviewing a subordinate legislation in ***Indian Express Newspapers (supra)***.

30. In ***Cellular Operators Assn. of India (supra)*** Hon'ble Supreme Court has noticed the test of 'manifest arbitrariness' as explained in ***Khoday Distilleries Ltd. v. State of Karnataka, (1996) 10 SCC 304***, as also in ***Sharma Transport v. State of A.P., (2002) 2 SCC 188***. Dealing with the challenge to the validity of the relevant provisions of telecom consumers protection Regulations that provided that every originating service provider who provides cellular telephone mobile services is made liable to credit only the calling consumer and not the receiving consumer with one rupee for each call drop which takes place within its network. Hon'ble Supreme Court declared the Regulations impugned therein as *ultra vires* not only the act under which the same were made but also being violative of fundamental rights under Article 14 and 19(1)(g) of the Constitution of India.

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31. While considering the submissions Hon'ble Supreme Court in ***Cellular Operators Assn. of India (supra)*** also considered the submissions which were made in defence of the regulation regarding the purpose and motive for which the Regulation was made, however, the Court observed that the motive for the Regulation may be valid but that does not make the Regulation immune from Article 14 of the Constitution of India. Paragraphs 35, 43, 44 and 56 of ***Cellular Operators Assn. of India (supra)*** are extracted here in below:

> "***Parameters of judicial review of subordinate legislation***
>
> ***34.*** *In State of T.N. v. P. Krishnamurthy [State of T.N. v. P. Krishnamurthy, (2006) 4 SCC 517] , this Court after adverting to the relevant case law on the subject, laid down the parameters of judicial review of subordinate legislation generally thus : (SCC pp. 528-29, paras 15-16)*
>
> > *"15. There is a presumption in favour of constitutionality or validity of a subordinate legislation and the burden is upon him who attacks it to show that it is invalid. It is also well recognised that a subordinate legislation can be challenged under any of the following grounds:*
> >
> > *(a) Lack of legislative competence to make the subordinate legislation.*
> >
> > *(b) Violation of fundamental rights guaranteed under the Constitution of India.*
> >
> > *(c) Violation of any provision of the Constitution of India.*
> >
> > *(d) Failure to conform to the statute under which it is made or exceeding the limits of authority conferred by the enabling Act.*

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(e) Repugnancy to the laws of the land, that is, any enactment.

(f) Manifest arbitrariness/unreasonableness (to an extent where the court might well say that the legislature never intended to give authority to make such rules).

16. The court considering the validity of a subordinate legislation, will have to consider the nature, object and scheme of the enabling Act, and also the area over which power has been delegated under the Act and then decide whether the subordinate legislation conforms to the parent statute. Where a rule is directly inconsistent with a mandatory provision of the statute, then, of course, the task of the court is simple and easy. But where the contention is that the inconsistency or non-conformity of the rule is not with reference to any specific provision of the enabling Act, but with the object and scheme of the parent Act, the court should proceed with caution before declaring invalidity."

…. …. …..

43. *The test of "manifest arbitrariness" is well explained in two judgments of this Court. In Khoday Distilleries Ltd. v. State of Karnataka [Khoday Distilleries Ltd. v. State of Karnataka, (1996) 10 SCC 304] , this Court held : (SCC p. 314, para 13)*

"13. It is next submitted before us that the amended Rules are arbitrary, unreasonable and cause undue hardship and, therefore, violate Article 14 of the Constitution. Although the protection of Article 19(1)(g) may not be available to the appellants, the Rules must, undoubtedly, satisfy the test of Article 14, which is a guarantee against arbitrary action. However, one must bear in mind that what is being challenged here under Article 14 is not executive action but delegated legislation. The tests of arbitrary action which apply to executive actions do not necessarily apply to delegated legislation. In order that

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delegated legislation can be struck down, such legislation must be manifestly arbitrary; a law which could not be reasonably expected to emanate from an authority delegated with the law-making power. In Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India [Indian Express Newspapers (Bombay) (P) Ltd. v. Union of India, (1985) 1 SCC 641 : 1985 SCC (Tax) 121] , this Court said that a piece of subordinate legislation does not carry the same degree of immunity which is enjoyed by a statute passed by a competent legislature. A subordinate legislation may be questioned under Article 14 on the ground that it is unreasonable; 'unreasonable not in the sense of not being reasonable, but in the sense that it is manifestly arbitrary'. Drawing a comparison between the law in England and in India, the Court further observed that in England the Judges would say, 'Parliament never intended the authority to make such Rules; they are unreasonable and ultra vires'. In India, arbitrariness is not a separate ground since it will come within the embargo of Article 14 of the Constitution. But subordinate legislation must be so arbitrary that it could not be said to be in conformity with the statute or that it offends Article 14 of the Constitution."

(emphasis supplied)

44. *Also, in Sharma Transport v. State of A.P. [Sharma Transport v. State of A.P., (2002) 2 SCC 188] , this Court held : (SCC pp. 203-04, para 25)*

"25. … The tests of arbitrary action applicable to executive action do not necessarily apply to delegated legislation. In order to strike down a delegated legislation as arbitrary it has to be established that there is manifest arbitrariness. In order to be described as arbitrary, it must be shown that it was not reasonable and manifestly arbitrary. The expression "arbitrarily" means : in an unreasonable manner, as fixed or done capriciously or at pleasure, without

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> *adequate determining principle, not founded in the nature of things, non-rational, not done or acting according to reason or judgment, depending on the will alone."*
>
> …. …. …..
>
> ***56.*** *We were then told that the impugned Regulation was framed keeping in mind the small consumer, that is, a person who has a pre-paid SIM card with an average balance of Rs 10 at a time, and that the Regulation goes a long way to compensate such person. The motive for the Regulation may well be what the Attorney General says it is, but that does not make it immune from Article 14 and the twin tests of Article 19(6). The Authority framing the regulation must ensure that its means are as pure as its ends — only then will regulations made by it pass constitutional muster."*

32. For appropriately deciding the issue which has emerged in this case, reference may be had to the law laid down in ***Jigya Yadav v. CBSE, (2021) 7 SCC 535***. As per the facts noted in the said judgment, one of the appellants therein intended to carry out correction of her parents' name in the marksheet issued by the Central Board of Secondary Education; however, CBSE refused the desired corrections/changes, and such decision of the CBSE was based on Bye-Law 69.1 of the Examination Bye-Laws.

33. In ***Jigya Yadav*** *(supra)* Hon'ble Supreme Court noticed the periodical amendments in the Examination Bye-Laws of the CBSE and analysed the same in detail and found that the change of name would simply be impermissible after publication of the result of the candidate, even if the same is permitted by a Court of Law and is published in the official gazette. The Apex Court further noticed that, in other words, once the examination result of a candidate had been published, the CBSE would permit certain

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corrections in the name mentioned in the certificate; however, changing the name out of free will was simply ruled out. Summing up various situations where correction in the CBSE documents pertaining to a student was sought by a student, Hon'ble Supreme Court observed that the CBSE cannot impose a pre-condition of applying for correction consistent with the school records only before publication of results. It was held that such a condition would be unreasonable and excessive.

34. Hon'ble Supreme Court further observed that if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE, the candidate would be entitled to apply for recording such a change, of course, within the reasonable limitation period prescribed by CBSE. Hon'ble Supreme Court, accordingly, issued appropriate directions to the CBSE permitting change in the certificates or marksheets, even when the application for recording correction was based on changed school records, may be in terms of a Court order or based on any other public document, even post publication of results and issue of certificates by CBSE.

35. We may note at this juncture that the relevant Examination Bye-Law of the CBSE did not permit any application to be moved seeking correction or change in the certificate or marksheet issued by the CBSE post declaration of result, and thus, the blanket ban put by the CBSE for entertaining application for correction post declaration of result was held to be unreasonable and, accordingly, it was directed that such a provision in the Examination Bye-Laws shall not be acted upon denying any student an

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opportunity to make application even in such circumstances, which may arise post declaration of result.

36. The conclusions drawn by ***Jigya Yadav*** *(supra)* has to be read in the facts of the case; however, the conclusion arrived at in para 193.2 of the report is relevant for the purposes of resolving the issue involved in this case, which reads as under:-

> *"**193.2.** At the same time, the CBSE cannot impose precondition of applying for correction consistent with the school records only before publication of results. Such a condition, as we have held, would be unreasonable and excessive. We repeat that if the application for recording correction is based on the school records as it obtained at the time of publication of results and issue of certificate by the CBSE, it will be open to CBSE to provide for reasonable limitation period within which the application for recording correction in certificate issued by it may be entertained by it. However, if the request for recording change is based on changed school records post the publication of results and issue of certificate by the CBSE, the candidate would be entitled to apply for recording such a change within the reasonable limitation period prescribed by the CBSE. In this situation, the candidate cannot claim that she had no knowledge about the change recorded in the school records because such a change would occur obviously at her instance. If she makes such application for correction of the school records, she is expected to apply to the CBSE immediately after the school records are modified and which ought to be done within a reasonable time."*

37. The Apex Court found the embargo on any change of name without prior permission before publication of the result, to be problematic. The Court observed that such an embargo fails to take into account the possibility of the need for a change of name after publication of the result. The Court further noticed that the administrative efficiency though is a

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crucial concern, however the same cannot be elevated to a level that it is used to justify non-performance of essential functions by the authority concerned and further that to use administrative efficiency to make it practically impossible for a student to alter her identity in the CBSE certificates, no matter how urgent and important it is, would be highly disproportionate and can in no manner be termed as a reasonable restriction. The Court further observed that to say that post publication of examination results and issuance of certificates, there can be no way to alter the record, would be a case of total prohibition and not a reasonable restraint. Paragraphs 134 and 135 of ***Jigya Yadav*** *(supra)* where such observations have been made, are reproduced hereunder:-

> *"**134.** As noted above, the Bye-laws permit change of name only if permission from the Court has been obtained prior to the publication of result. It puts a clear embargo on any change of name sans prior permission before the publication. The provision is problematic on certain counts. Firstly, it is not a mere restriction on the right, it is a complete embargo on the right post publication of result of the candidate. It fails to take into account the possibility of need for change of name after the publication of result including the uncertainty of timeline required to obtain such declaration from the court of law due to law's delay and upon which the candidate has no control whatsoever. Whereas, while amending the Bye-laws in 2007, the CBSE itself had noted that children are not of mature age while passing school examinations and they may not be in a position to decide conclusively on issues concerning their identity. The Bye-laws completely overlook this possibility when it ordains seeking declaration from the court prior to the publication of results of the examination concerned conducted by it.*
>
> ***135.** The overriding State interest, as per the Board, to retain this stringency is nothing but efficiency of administration. Administrative efficiency, despite being a crucial concern, has not*

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been and cannot be elevated to a standard that it is used to justify non-performance of essential functions by an instrumentality of the State. To use administrative efficiency to make it practically impossible for a student to alter her identity in the Board certificates, no matter how urgent and important it is, would be highly disproportionate and can in no manner be termed as a reasonable restriction. Reasonableness would demand a proper balance between a student's right to be identified in the official (public) records in manner of her choice and the Board's argument of administrative efficiency. To sustain this balance, it would be open to the Board to limit the number of times such alterations could be permitted including subject to availability of the old records preserved by it as per the extant regulations. But to say that post the publication of examination results and issuance of certificates, there can be no way to alter the record would be a case of total prohibition and not a reasonable restraint."

38. In the instant case as well, what we find is that in the name of maintaining the uniformity, standard and integrity in the matter of medical education across the institutions, total prohibition on transfer or migration of a student, need of which may occur in various situations including the one which has arisen in this case, cannot be said to be reasonable, rather in our opinion, such prohibition is manifestly unreasonable and arbitrary.

39. The stand taken by the respondent – Commission for imposing a complete embargo on migration of a student from one medical institution to the other, is also that such a provision permitting migration is prone to misuse, however as already held in ***Jigya Yadav*** *(supra)*, possibility of abuse cannot be used to deny legitimate rights to a citizen. Hon'ble Supreme Court in ***Jigya Yadav*** *(supra)* also observed that the course of law cannot choose to change its stream merely because there are apprehension

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of abuse on the way. In the context of the Examination Bye-Laws of the CBSE, which contained a complete embargo on a student seeking a change in his name and seeking certain other corrections in the mark-sheets or certificates issued by the CBSE, if need of such a change occurred by virtue of a Court's decision delivered post declaration of result, Hon'ble Supreme Court held such embargo to be absolutely unreasonable. The Hon'ble Supreme Court also did not accept the argument based on probable misuse of such a provision. The observations made in this regard in paragraph 139 in ***Jigya Yadav*** *(supra)* are apposite to be quoted, which is as under:-

> *"**139.** As regards the argument of misuse, no doubt, there are instances of misuse of provisions that permit change of identity in criminal matters. However, mere possibility of abuse cannot deter the Board from fulfilling their essential functions. A possibility of abuse cannot be used to deny legitimate rights to citizens. The balance simply does not tilt in favour of such a proposition. The course of law cannot choose to change its stream merely because there are apprehensions of abuse on the way. The Board's concern is only to regulate and maintain efficient educational standards. It is not a penal authority. If any of the provisions of bye-laws are subjected to misuse or abuse by anyone, the Board would be well within its rights to approach the appropriate body for necessary penal or civil action. As a nodal agency made for a specific public purpose, CBSE can only use its means and resources to put proper safeguards in place while performing its functions. More so, when it is not even the job of the Board to verify anything, as changes are made after grant of permission by a court of law. There is involvement of judicial application of mind. The Board only has to give effect to the court order granting permission, as and when it is so pronounced irrespective of publication of examination results in earlier point of time."*

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40. The Apex Court also noticed that the Examination Bye-Laws of the CBSE, which were the subject matter of consideration, were framed on the assumption that there can be no situation wherein a legitimate need for change of name could arise for a student after publication of result. The Hon'ble Supreme Court held that such a presumption is erroneous, absurd and distances itself from social realities. The Court further observed that there can be numerous circumstances wherein change of name could be a legitimate requirement, and therefore, the CBSE must provide for a reasonable opportunity for effecting such changes.

41. Citing the example of a juvenile accused of being in conflict with law or a victim of sexual abuse whose identity got compromised due to lapses by media or the Investigating Agency despite their being complete legal protection for the same, the Apex Court observed that such persons may consider changing the name to seek rehabilitation in the society in exercise of their right to be forgotten. Hon'ble Supreme Court, therefore, observed that if CBSE even in such cases refused to change the name, such a student would be compelled to live with scars of the past. The Court found that such an embargo would, thus, be a grave and sustained violation of the fundamental rights of such a student. The Court also observed that it would be against the human dignity of the student, the protection whereof is the highest duty of all concerned. The relevant observations to the said effect have been made by Hon'ble Supreme Court in paragraphs 142 and 143 of the report in ***Jigya Yadav*** *(supra)*, which are extracted herein below:-

> ***142.*** *The bye-law concerned has been framed on the assumption that there can be no situation wherein a legitimate need for change of name could arise for a student after publication of*

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results. It is presumed that only typographical/factual errors could come in the certificates and they can be corrected using the provision for corrections. The presumption, we must note, is erroneous, absurd and distances itself from the social realities. There can be numerous circumstances wherein change of name could be a legitimate requirement and keeping the ultimate goal of preserving the standard of education in mind, the Board must provide for a reasonable opportunity to effect such changes.

143. *It would not be out of place to note that the two parties here — the Board and students — are not in an equal position of impact. In other words, the balance of convenience would tilt in favour of students. For, they stand to lose more due to inaccuracies in their certificates than the Board whose sole worry is increasing administrative burden. The obligation of Board to take additional administrative burden is no doubt onerous but the propensity of a student losing career opportunities due to inaccurate certificate is unparalleled. Illustratively, a juvenile accused of being in conflict with the law or a victim of sexual abuse whose identity gets compromised due to lapses by media or the investigative body, despite there being complete legal protection for the same, may consider changing the name to seek rehabilitation in the society in exercise of her right to be forgotten. If the Board, in such a case, refuses to change the name, the student would be compelled to live with the scars of the past. We are compelled to wonder how it would not be a grave and sustained violation of fundamental rights of the student. In such circumstances, the avowed public interest in securing rehabilitation of affected persons would overwhelm the Board's interest in securing administrative efficiency. In fact, it would be against the human dignity of the student, the protection whereof is the highest duty of all concerned. A Board dealing with maintenance of educational standards cannot arrogate to itself the power to impact identity of students who enrol with it. The right to control one's identity must remain with the individual, subject, of course, to reasonable restrictions as observed above and as further discussed later."*

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42. The Court finally, in no uncertain terms, held that the provisions of the Examination Bye-Laws of the CBSE regarding change of name post publication of examination results were excessively restrictive which imposed unreasonable restrictions on the exercise of rights under Article 19 of the Constitution of India. Such observations are contained in paragraph 155 of the judgment in ***Jigya Yadav*** *(supra)*, which reads as under:-

> *"**155.** We, thus, hold that the provision regarding change of name "post publication of examination results" is excessively restrictive and imposes unreasonable restrictions on the exercise of rights under Article 19. We make it clear that the provision for change of name is clearly severable from those for corrections in name/date of birth and therefore, our determination shall not affect them except as regards the condition of limitation period, in terms of the aforesaid discussion and guidelines stated later."*

43. The facts on the basis of which ***Jigya Yadav*** *(supra)* has been decided are analogous to the facts of the instant case in the sense that in ***Jigya Yadav*** *(supra)* a complete prohibition was put in place by CBSE for a student seeking change of name in the documents post publication of results which was clearly held to be unreasonable and excessive, and similarly the impugned Regulation 18 of the Regulation 2023 also puts a complete embargo on a student seeking his migration from one medical college to the other even if such a student is most deserving and there arises an extreme need for such a transfer. In the instant case, in our opinion, the need of the petitioner seeking his migration from Government Medical College Barmer, Rajasthan to a Medical College in Delhi cannot be denied for two reasons.

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44. Firstly, that he, admittedly, is a person with disability suffering from vision disability to the extent of 40% as certified by the competent authority, and on account of harsh climate at Barmer his medical condition has deteriorated hampering not only his health, but also his capabilities. Secondly, as already noticed above, the petitioner was denied his right to participate in the initial rounds of counseling in his category by the counseling authorities though he was entitled to the same and it is only after the intervention of the Supreme Court in the writ petition filed by him that he was permitted to participate in the counseling and at the time he could participate in the stray round of counseling he was left with limited choice. The situation where the petitioner was left with a limited choice of medical institutions is clearly attributable to the counseling authorities and not to the petitioner in any manner.

45. We may at this juncture note that the Commission, while rejecting the prayer of the petitioner *vide* order dated 30.12.2024, has noticed that sufficient time was granted to MBBS candidates at the time of admission for opting desired medical college so that at a later stage the student could not face any inconvenience. However, the situation which emerges in the facts of the present case is that the petitioner was not granted any time where he could exercise his option of choosing a desired medical college so that he would not have to face any inconvenience on account of the venue of the medical college and the climate in which it is situated, considering his disability. The other reason indicated in the order dated 30.12.2024 is that the petitioner at the time of opting the seat at Government Medical College, Barmer, Rajasthan was fully aware of his physical impairment and

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the difficulty he would have to face in the State of Rajasthan and therefore, he could have opted for any college in Delhi at the time of admission. In our opinion, this is nothing but short of rubbing salt in the wounds of the petitioner. We are constraint to make such observation for the reason that the petitioner had no option but to opt a seat at Government Medical College, Barmer, Rajasthan, not on account of his lower merit but because of the fact that he was denied his right to participate in the counseling in its initial rounds and it is only on the intervention of the Court that he could participate at the fag end of counseling i.e. in the stray round, where many choices were not available. In such a situation, holding the petitioner responsible by observing that he was fully aware of his vision impairment and difficulty at the time of opting the seat at Government Medical College, Barmer. Rajasthan and therefore, he could have opted for any college in Delhi, in our opinion, is against all the canons of reasonableness.

46. We also find it apposite, for arriving at appropriate adjudication of the issue herein, to discuss certain provisions of the PwD Act, 2016. The legislative policy as embodied in the PwD Act, 2016 mandates every public body to ensure that PwD enjoy the right to equality and to live with dignity and respect for their integrity equally with others. Section 3(2) of the PwD Act, 2016, as quoted above, clearly mandates that every appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing "**appropriate environment**". Sub-section (5) of Section 3 mandates that the appropriate government shall take necessary steps to ensure "**reasonable accommodation**" for the PwD. We may also refer to Section 16 of the PwD Act, 2016, which imposes certain duties on

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all educational institutions, including the duty to provide "**reasonable accommodation according to the individual's requirement**".

(emphasis supplied)

47. Such provisions enacted by the Parliament cannot remain only a decorative and admirable piece of literature kept in a bookshelf, rather they are statutory legislative mandates to be followed by the Government, government authorities, instrumentalities of the State, statutory bodies and all other public bodies, which will encompass in its fold the Commission as well.

48. In view of the aforesaid provisions of the PwD Act, 2016, if we examine the complete ban on migration, we find that the same is manifestly unreasonable and arbitrary, as it does not permit even a most deserving student, a PwD, like the petitioner to seek transfer, keeping in view the statutory mandate as per the PwD Act, 2016.

49. We may also note that the regulations which were in vogue prior to the enforcement of Regulations 2023 permitted migration of students from one Medical College to other; however, the only justification which comes forth from the respondent to remove such a provision is its probable misuse. As already laid down by Hon'ble Supreme Court in ***Jigya Yadav*** *(supra)* probable misuse of a provision, which is otherwise in public interest, cannot be a reason to justify its absence.

50. Accordingly, the argument advanced by learned counsel for the respondent that provision for migration of a medical student from one medical college to the other medical college is prone to misuse and,

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therefore, Regulations 2023 do not provide for the same, in our opinion merits rejection. As we have already observed, complete prohibition/ban on transfer may result in denial of rights of certain most deserving students, as is the case in the facts of the instant case, which is only one such instance meriting migration and there may be various other instances as well. Thus, complete prohibition or embargo on transfer, in our opinion, cannot be justified on any count.

51. Our finding as above that Regulation 18 of Regulations 2023 is manifestly unreasonable is based on the test of reasonableness as propounded by Hon'ble Supreme Court in ***Jigya Yadav*** *(supra)* according to which the test of reasonableness requires that the law is intelligently crafted in such a manner that it is able to justify the ultimate impact of the law on its citizens and further that if such a law restricts, it must restrict on the basis of reason and if it permits, it must permit on the basis of reason. Such observations can be found embodied in paragraph 131 of the report in ***Jigya Yadav*** *(supra)*, which is extracted herein above:-

> *"**131.** The test of reasonableness requires that the impugned law is intelligently crafted in such a manner that it is able to justify the ultimate impact of the law on its subjects. If it restricts, it must restrict on the basis of reason and if it permits, it must permit on the basis of reason. Similarly, if a law draws a classification, it must classify intelligently i.e. backed by reason. Reason is the foundation of all laws and their validity is immensely dependent on the availability of sound reason. Equally crucial is the availability of a legitimate object. It is important to note that reasonableness is adjudged in the specific context of the case and is not confined to the words of a definition."*

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52. If we apply the said test of reasonableness to adjudge the reasonability of Regulation 18 of Regulations 2023, what we find is that it creates a complete restriction on the student seeking migration and as already recorded above, there may be situations where such complete restrictions may defeat the legitimate right of individual students as is the case in the instant matter. Accordingly, there does not appear to be any reason why there should be a complete ban on transfer. If the submission of learned counsel for the respondent Commission to the effect that such complete restriction has been imposed for the reason that permitting the transfer or migration would be prone to misuse, is considered, what we find is that putting a complete prohibition on transfer would not be a solution for meeting such apprehension; rather such migration or transfer could be made subject to fulfillment of certain conditions and it could be permitted only in extremely exceptional circumstances and only in most deserving cases. Putting appropriate conditions on migration/transfer from one medical college to the other can be one of the measures, apart from many others, to check the misuse of such a provision.

53. Reasonableness is a facet of equality, therefore, every action of State or its instrumentality or public authority should be informed of reasonableness. The impugned Regulation 18 of Regulations 2023, for the discussions made above, in our opinion, does not pass the constitutional muster as per Article 14 of the Constitution of India and, accordingly, the same being manifestly unreasonable and arbitrary, is held to be *ultra vires*. Regulation 18 of the Graduate Medical Education Regulation, 2023 is, thus, declared *ultra vires* and, therefore, invalid.

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54. The decision of the respondent – Commission rejecting the prayer of the petitioner seeking his transfer from respondent no.3 to respondent no.2 based on Regulation 18 is also not justified and sustainable, which is hereby quashed.

55. We direct the respondent – Commission to take decision afresh on the prayer made by the petitioner seeking his transfer from Government Medical College, Barmer, Rajasthan to University College of Medical Sciences, South Campus, South Moti Bagh, New Delhi, within a period of three weeks from today, keeping in mind the observations made herein above.

56. The National Medical Commission is also directed to formulate a proper policy by way of making/amending the regulations permitting migration of a medical student from one medical institution to the other, of course, putting the requisite and desirable conditions for such transfers.

57. The writ petition stands allowed in the aforesaid terms.

58. There will be no orders as to costs.

(DEVENDRA KUMAR UPADHYAYA)
CHIEF JUSTICE

(TEJAS KARIA)
JUDGE

FEBRUARY 04, 2026
MJ/S.Rawat

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