



2025:DHC:10233-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment reserved on: 12.11.2025

Judgment pronounced on: 21.11.2025

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LPA 787/2013

ALL INDIA INSTITUTE OF MEDICAL SCIENCE

.....Appellant

Through: Mr. Anand Varma, Mr. Ayush Gupta and Mr. Polavarapur Sai Charan, Advocates.

versus

DR. SANJAY KUMAR YADAV & ORSRespondents

Through: Mr. Anupam Srivastava, Senior Advocate with Mr. Nitin K. Gupta, Ms. Ayushi Arya, Ms. Pranjal Vyas and Mr. Vasuh Misra, Advocates.

Mr. T. Singhdev, Mr. Tanishq Srivastava, Ms. Yamini Singh, Mr. Abhijit Chakravarty, Mr. Sourabh Kumar and Mr. Vedant Sood, Advocates.

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LPA 788/2013

ALL INDIA INSTITUTE OF MEDICAL SCIENCE

.....Appellant

Through: Mr. Anand Varma, Mr. Ayush Gupta and Mr. Polavarapur Sai Charan, Advocates.

versus

DR. AJAY KUMAR YADAV & ORSRespondents

Through: Mr. Anupam Srivastava, Senior Advocate with Mr. Nitin K. Gupta, Ms. Ayushi Arya, Ms. Pranjal Vyas and Mr. Vasuh Misra, Advocates.



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Mr. T. Singhdev, Mr. Tanishq Srivastava, Ms. Yamini Singh, Mr. Abhijit Chakravarty, Mr. Sourabh Kumar and Mr. Vedant Sood, Advocates.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR

J U D G M E N T

ANIL KSHETARPAL, J.

CM.APPL. 44079/2016[Seeking impleadment as party respondent nos.15 to 53] in LPA 787/2013

CM.APPL. 64031/2025[Seeking impleadment as party respondent nos.54 to 67] in LPA 787/2013

1. The present applications have been filed by the Applicants/proposed Respondents seeking impleadment as party respondents to LPA 787/2013.

2. A perusal of the applications reflects that in CM.APPL. 44079/2016, the Applicants/proposed Respondents enrolled in different courses under Foreign National Category seats from January 2013 to January 2016, whereas, in CM.APPL. 44079/2016, the Applicants/proposed Respondents enrolled in different courses under Foreign National Category seats from July 2022 to January 2025.

3. This Court is of the considered view that impleading these students who got admitted to different post-graduate courses, at



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AIIMS from January 2013 to January 2016 and from July 2022 to January 2025, would not be in the interest of justice at this stage.

4. However, the Applicants/proposed Respondents have been allowed to intervene and assist the Court. Their counsel have also been heard.

5. In view of the foregoing, the applications are disposed of.

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6. Through the present Letters Patent Appeals, the Appellant assails the correctness of the Judgment dated 16.07.2013 [hereinafter referred to as ‘Impugned Judgment’] passed by the learned Single Judge while adjudicating two Petitions being W.P.(C) 3465/2011 captioned ***Dr. Sanjay Kumar Yadav & Ors. v. All India Institute of Medical Sciences, New Delhi & Anr*** and W.P.(C) 6300/2011 captioned ***Ajay Kumar Yadav & Ors. v. All India Institute of Medical Sciences, New Delhi & Ors.***, wherein the Appellant was directed to pay emoluments to foreign-national postgraduate students at par with Indian Junior Residents, except those candidates who were admittedly under “sponsored” seats, from the date of filing of the writ petitions.

7. The issues which arise for consideration in the present Appeal are:

i. Whether foreign-national medical trainees admitted under the “Foreign” category form a separate and intelligibly distinct class, justifying differential emoluments treatment.



ii. Whether acceptance of prospectus conditions bars the Respondents from challenging the stipulation on constitutional grounds (estoppel).

iii. Whether Article 16 of the Constitution of India [hereinafter referred to as 'COI'] applies to the present case by virtue of employer-employee relationship between the parties.

FACTUAL MATRIX:

8. In order to comprehend the issues involved in the present case, the relevant facts in brief are required to be noticed.

9. The Respondents [Petitioners before the learned Single Judge] comprise a group of foreign national doctors admitted to AIIMS in postgraduate courses including MD/MS/MDS/CTVS under the category titled "Sponsored/Foreign National". Their admissions were made pursuant to the AIIMS Prospectus which, inter alia, contained Clauses 2(c) and 2(f) in Section VIII, expressly stipulating that candidates admitted under the said category shall not be entitled to any emoluments from the Institute.

10. It is not in dispute that the Respondents underwent the same entrance examination, fulfilled identical eligibility requirements, and performed identical clinical, academic and on-call responsibilities as Indian Junior Residents. However, they were not competing with general candidates. Indian students appointed as Junior Residents are paid monthly emoluments by AIIMS, whereas "Sponsored/Foreign National" candidates are not.



11. The Respondents asserted before the learned Single Judge that although they were categorised along with “sponsored candidates”, they were not in fact sponsored by their home governments or any employer and had no source of financial support corresponding to the sponsorship-based category. Their grievance was that the denial of stipend was based solely on nationality, notwithstanding performance of the same duties as Indian counterparts.

12. The Appellant, for its part, relied upon its established policy and communications with the Central Government, contending that seats for foreign nationals and sponsored candidates were created as “no-financial-liability” seats, and that the Prospectus gave due notice of this to all applicants.

13. The learned Single Judge partly allowed the writ petitions, declared Clauses 2(c) and 2(f) unconstitutional to the extent they denied stipend to non-sponsored foreign nationals, and directed the Appellant to pay emoluments at par with Indian Junior Residents, with arrears from the date of filing of the petition, to the Respondents. The Appellant preferred the present LPA, in which an interim stay was granted on 25.10.2013 and made absolute on 04.12.2017.

SUBMISSIONS ON THE BEHALF OF THE APPELLANT

14. Learned counsel for the Appellant submits that the category of “Sponsored/Foreign National” was consciously created based on long-standing administrative policy and inter-ministerial communications involving the Ministry of Health & Family Welfare and the Ministry of External Affairs. The consistent position has been that such seats



shall impose “no financial implications” upon the Institute, and candidates applying under this category do so with full knowledge of the Prospectus conditions.

15. It is urged that Clauses 2(c) and 2(f) of Section VIII explicitly stipulate that no emoluments are payable to sponsored or foreign national candidates. The respondents, having voluntarily accepted admission under these terms, are estopped from challenging the conditions.

16. It further contends that the Foreign National candidates are governed by dedicated Prospectus provisions and benefit from limited competition, as they compete only within the pool of Sponsored/Foreign National applicants. This distinct admission pathway justifies corresponding distinct financial terms.

17. The counsel for the Appellant submits that admission of Foreign Nationals occurs through diplomatic channels pursuant to bilateral arrangements, after scrutiny by the Ministry of Health & Family Welfare. In the present case, the Respondents never challenged the Nepal Government’s NOC requiring them to bear all expenses, nor the Government of India’s communication clarifying that they were not sponsored by India.

18. The Appellant submits that the Respondents, having accepted the conditions of admission, are bound by estoppel. They cannot first avail the benefit of a distinct and less competitive category and thereafter demand parity with Indian citizen-residents for stipend.



19. It is contended that the Respondents' claim is, in substance, a claim to emoluments linked to public employment, which falls within Articles 15, 16 and 19, of the COI, rights available only to citizens of India. It is further submitted that Article 14 of the COI cannot be extended to equate foreign nationals with Indian citizens in matters involving public institutions and State financial obligations. It is further submitted that "emoluments" presuppose an office or employment, attracting the regime of Article 16 of COI and CCS-CCA Rules, both of which apply exclusively to Indian citizens.

20. It is therefore urged by the Appellant that the Impugned Judgment imposes an unintended and substantial financial burden and undermines established administrative policy, and thus accordingly be set aside and the Prospectus conditions be upheld.

SUBMISSIONS ON THE BEHALF OF THE RESPONDENTS

21. The Respondents, supporting the judgment under appeal, submit that the Constitution of India's Article 14 applies to "persons", including foreign nationals, and any differential treatment must satisfy a valid classification. They contend that they fulfil identical academic criteria, duty hours, clinical responsibilities, and service obligations as Indian Junior Residents; hence, denial of stipend solely on nationality fails the test of reasonable classification.

22. It is argued that their categorisation as "sponsored" candidates is factually incorrect, as they are not sponsored and do not receive any remuneration or financial support from their governments or



employers. Equating non-sponsored foreign nationals with sponsored candidates is said to be arbitrary and irrational.

23. The Respondents rely upon the characterisation of residency under PGMER 2000 and 2023 to argue that stipend forms an integral part of training and is not an instance of public employment. Accordingly, Article 16 of the Constitution of India is inapplicable, since a Junior Residency placement is fundamentally educational.

24. It is urged that estoppel cannot operate against the Constitution, and the mere acceptance of prospectus terms does not bar a challenge to unconstitutional conditions. They place reliance on decisions such as *Meeta Sahai v. State of Bihar* (2019) and *Somesh Thapliyal v. HNB Garhwal University* (2021) on the proposition that a student cannot be compelled to waive constitutional rights.

25. The Respondents also cite the practice in other premier institutions such as JIPMER and PGIMER, where similarly placed foreign nationals receive stipends, and argue that AIIMS' practice stands out as arbitrary and discriminatory.

26. It is therefore submitted by the Respondents that the direction of the learned Single Judge, mandating stipend parity to all non-sponsored foreign nationals, is correct and calls for no interference.

ANALYSIS & FINDINGS

27. This court has carefully considered the submissions of both sides, examined the Impugned Judgment, and with the able assistance



of the counsel perused the paperbook. The essential controversy revolves around:

i. *Whether foreign-national medical trainees admitted under the “Foreign” category form a separate and intelligibly distinct class, justifying differential emoluments treatment.*

ii. *Whether acceptance of prospectus conditions bars the Respondents from challenging the stipulation on constitutional grounds (estoppel).*

iii. *Whether Article 16 of the Constitution of India [hereinafter referred to as ‘COI’] applies to the present case by virtue of employer-employee relationship between the parties.*

28. With respect to Issue No. I, the facts of the case reveal that the seats in question were created pursuant to governmental communications under a “no-financial-liability” condition. The distinction therefore flows not merely from nationality, but from the financial architecture of such seats. It is pertinent to note that the concept of equality cannot be applied in a vacuum. Financial implications, source of engagement, and the terms of appointment constitute valid bases for classification.

29. At the outset, it is settled law that Article 14 of the COI does not forbid reasonable classification, provided two conditions are satisfied: (a) the classification must be founded on an *intelligible differentia*, and (b) the differentia must have a *rational nexus* with the object sought to be achieved.



30. Applying this twin tests of Article 14 of the COI, this court is of the considered view that (i) the *intelligible differentia* in the present case are the source of funding and the category of seat, and (ii) the *rational nexus* lies in the object of ensuring that AIIMS does not incur financial liability for seats reserved for foreign nationals pursuant to sovereign arrangements. It is equally well settled that Article 14 of the COI permits differential treatment where it rests on a legitimate policy consideration and does not amount to hostile discrimination.

30.1 A classification satisfies the first limb of the Article 14 test only if there is an *intelligible differentia* that objectively distinguishes the excluded group from others. The differentia must be real, not fanciful, and must be capable of objective identification. The perusal of record reflects that the Prospectus of AIIMS creates a distinct category titled “Sponsored/Foreign National”, admissions to which are managed through diplomatic channels and inter-ministerial communications.

30.2 The record further shows that these seats were deliberately created as “no financial liability” seats, pursuant to communications between AIIMS, the Ministry of Health & Family Welfare, and the Ministry of External Affairs. These seats are filled outside the open and general merit pool, and foreign nationals admitted under this category compete only among similarly placed foreign or sponsored applicants.

30.3 It can be noticed that the term “foreign nationals” is not a purely nominal distinction. It denotes an objective combination of features: (a) nationality, (b) a different mode of selection; i.e. through



diplomatic or ministerial channel rather than open domestic competition, and (c) an express admission term that the Institute will assume no financial liability in respect of these seats.

30.4 Therefore, these factors cumulatively constitute an intelligible differentia, and the objective of ensuring that the State exchequer does not bear financial liability for foreign trainees is both legitimate and constitutionally permissible.

30.5. The following factual features are capable of objective proof on the record and reinforce the conclusion above:

- i. the admission paperwork shows the diplomatic/ministerial route for these category seats;
- ii. the Prospectus contains explicit clauses stating “no emoluments” for the category; and
- iii. inter-ministerial correspondence in the administrative file placed on record corroborates the policy rationale for treating these seats as non-stipendiary.

30.6 Accordingly, the classification constitutes an intelligible differentia and not an arbitrary practice.

30.7 The second limb requires that the differentia must bear a *rational nexus* to the object sought to be achieved. The record shows that the very purpose of creating the “Sponsored/Foreign National” category was to facilitate international academic cooperation, honour foreign-policy commitments, and provide a limited channel for



foreign medical graduates to train in India without financial liability to AIIMS. This policy emerges from long-standing inter-ministerial correspondence between the Ministry of External Affairs and the Ministry of Health & Family Welfare, which specifies that such admissions function as reciprocal or goodwill-based exchange arrangements, distinct from domestic merit seats.

30.8 The Prospectus incorporated these objectives by clearly stating in advance that candidates admitted under this category “*shall not be entitled to emoluments*”. The advance disclosure is not incidental, but is rather, central to the design of the category. In this backdrop, the classification between Indian residents admitted through domestic competition and foreign nationals admitted through a special, diplomatically-governed, low-competition window bears a direct and logical connection to the policy that AIIMS should not incur financial liability for trainees admitted under international cooperation arrangements.

30.9 As a publicly funded institution, AIIMS is obligated to prioritise stipendiary payments for domestic students who are beneficiaries of Indian taxpayer funds and expected to contribute to the national healthcare system. Extending such benefits to foreign/sponsored students who neither contribute to the domestic tax base nor form part of the national service pipeline would defeat the very fiscal rationale underlying their separate categorisation.

30.10 In this context, the differential treatment is both objectively justified and intrinsically tied to the category’s purpose. The nexus is



therefore, clear, proximate and constitutionally sufficient: the State's aim of promoting international academic engagement while safeguarding public funds is directly advanced by maintaining a "no-financial-liability" category for foreign and sponsored candidates.

31. The Respondents' plea of equal pay for equal work, since they are working on same services as other class comprising nationals does not amount to unequal treatment. It is well established law that, Article 14 of the COI protects equality within similar class, and it does not apply to persons belonging to distinct classes. Mode of recruitment is an important parameter and can be deemed to be a valid ground for classification.

32. The Supreme Court in ***State of Bihar v. Bihar Secondary Teachers Struggle Committee***¹ emphatically held:

"An analysis of catena of the Supreme Court decisions indicates that there are limitations or qualifications to the applicability of the doctrine of "equal pay for equal work". The doctrine of "equal pay for equal work" is not an abstract doctrine and has no mechanical application in every case. The very fact that the person has not gone through the recruitment process may itself, in certain cases, make a difference. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. Thus, normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Further, granting pay scales is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities."

33. The Supreme Court in ***State of U.P. v. Ministerial Karamchari Sangh***² observed that:

¹ (2019) 18 SCC 301

² (1998) 1 SCC 422



“even if persons holding the same post are performing similar work but if the mode of recruitment, qualification, promotion, etc. are different it would be sufficient for fixing different pay scale. Where the mode of recruitment, qualification and promotion are totally different in the two categories of posts, there cannot be any application of the principle of equal pay for equal work.”

34. In view of the above discussion, this court finds that the Respondents argument that identical clinical duties performed by them warrant identical stipend/emoluments is untenable in law.

35. With respect to the Issue No. II, it is elementary that estoppel cannot be used to validate a provision that is otherwise unconstitutional. However, where a policy is constitutionally sustainable, this court deems it appropriate to observe that the candidates who consciously participate in the admission process with full knowledge of the governing rules cannot be permitted to approbate and reprobate after taking advantage of the same.

35.1 The Supreme Court also in **Madras Institute of Development Studies v. K. Sivasubramaniyan**³ reiterating the following para of a coordinate bench of the court concluded that once a candidate has participated in a selection process knowing its terms, he cannot turn around and challenge those terms after being unsuccessful or after taking advantage:

*“18. In **Ramesh Chandra Shah v. Anil Joshi** (2013) 11 SCC 309, recently a Bench of this Court following the earlier decisions held as under: (SCC p. 320, para 24)*

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was being made

³ (2016) 1 SCC 454



under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge [Anil Joshi v. State of Uttarakhand, 2012 SCC OnLine Utt 521] and the Division Bench [Ravi Shankar Joshi v. Anil Joshi, 2012 SCC OnLine Utt 766] of the High Court committed grave error by entertaining the grievance made by the respondents.”

35.2 Thus, the doctrine of consent and approbation/reprobation prevents the Respondents from disputing conditions that were expressly disclosed and formed an integral part of the very admission benefit they accepted. In the present case, the Respondents secured admission under the special “Foreign National” category with full knowledge of the Prospectus terms. Having exercised that choice and derived benefit therefrom, they cannot now turn around to assail the very conditions that governed their admission.

35.3 Accepting the special terms of admission, including the explicitly stated “no-emoluments” clause, squarely attracts the bar against seeking parity after availing the benefit of that very category. In a situation where the underlying policy itself withstands constitutional scrutiny, estoppel operates to bar the Respondents’ claim.

35.4 A further and equally significant aspect of estoppel arises from the Respondents’ own conduct. They applied under the “Foreign National” category with full notice of the Prospectus stipulation that no emoluments would be payable and furnished No-Objection Certificates expressly undertaking that all financial liabilities of their training would be borne by them. Having thereafter accepted admission, completed enrolment formalities, and availed the distinct



procedural and competitive advantages of a category characterised by reduced competition and a non-stipendiary framework, the Respondents cannot subsequently seek to reprobate the very conditions they had consciously approbated. The doctrine of election squarely applies: a candidate who knowingly accepts the rules of a special admission channel, acts upon them, and derives benefit therefrom, is barred from challenging those terms at a later stage.

35.5 In simple words, the Constitution does not allow a person to accept the benefits of a special category and later challenge only the parts they dislike. The Respondents chose this special admission route knowing all its terms, including that no stipend would be paid. They cannot now keep the advantages of the category but reject the conditions that came with it. Law does not permit such “picking and choosing.” Since the policy itself is valid, and the Respondents had full notice of the rules, they are estopped from challenging them later. Issue II is therefore decided in favour of the Appellant.

36. With respect to Issue No.3, this Court is of the considered view that the Appellant’s submission with regard to Article 16 of the COI, and thereby non-application upon the Respondents’ who are non-citizens of India, is rightly refuted in view of the fact that the relationship between the Appellant and the Respondents is of an educational institute-student, which cannot be termed as an Employer-Employee relationship. It is contended by the Respondents that as per Clause 5 of the Post Graduate Medical Education Regulation (PGMRER), 2000, the duties performed by the students studying in post-graduate courses are integral to the successful completion of their



post-graduate curriculum. The Respondents have further contended that the recruitment of senior residents to AIIMS is conducted separately by the Appellant, as detailed in its Recruitment Advertisement, which is separate from academic relationship with the Respondents

37. Thus, the contention of the Appellant with regards to the application of Article 16 of the COI to the present matter lacks merit.

CONCLUSION:

38. In view of the foregoing, this Court holds as follows:

- i. The classification “Foreign National” candidates satisfies both limbs of the Article 14 of the COI twin test when examined individually, and is therefore constitutionally sustainable.
- ii. The Prospectus’ stipulation of “no emoluments” for this special category, is neither arbitrary nor discriminatory.
- iii. The Respondents, having voluntarily opted for and taken the benefit of this special admission route with full knowledge of its terms, are estopped from now seeking parity of stipend.
- iv. The Impugned Judgment, in so far as, it directs payment of emoluments to non-sponsored foreign nationals at par with Indian Junior Residents, cannot be sustained.

39. Accordingly, both the present Appeals are allowed. The direction contained in the Impugned Judgment awarding emoluments to foreign-national trainees admitted under the “Foreign National”



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category is set aside. Clauses 2(c) and 2(f) of Section VIII of the Prospectus are upheld as constitutionally valid in their application to this category.

40. Both the present Appeals, with all pending application(s), if any, stands disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 21, 2025

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