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

% *Date of Decision: 3rd December, 2025*

\+ W.P.(C) 12392/2021 & CM APPLs. 38975/2021, 50370/2025

DR NEHA PARASHAR .....Petitioner

Through: Mr. Avinash, Advocate.

versus

NATIONAL BOARD OF EXAMINATION AND ANR.

.....Respondents

Through: Mr. Waize Ali Noor, Mr. Mrinal Kumar Sharma, Mr. Varun Rajawat, Mr. Zillur Rahman and Mr. Shashi Suman, Advocates for R-1/NBEMS.
Ms. Rohini Musa, Advocate for R-2.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India laying a challenge to order dated 11.10.2021 passed by Respondent No. 1/National Board of Examination in Medical Sciences ('NBEMS') cancelling the registration of the Petitioner in DNB Plastic Surgery 6-years post-MBBS Course at Apollo First Med Hospital, Chennai and in the alternative, to permit the Petitioner to complete her course from Respondent No. 2/Hospital.

2. To the extent relevant, case of the Petitioner is that Petitioner was enrolled with Respondent No.2 to pursue her post-MBBS Course in Plastic Surgery, a 6-year course and joined on 23.03.2016. As per National Board

of Examination Leave Rules ('Leave Rules'), trainees are entitled to leave of 20 days in a year excluding regular duty off/Gazetted holidays as per hospital/Institute's calendar/policy. However, leave can be granted beyond 20 days on ground of genuine medical reasons. In the first two years i.e., 2016 and 2017, Petitioner did not avail even the entitled leaves and passed with good marks in the examination conducted in December, 2017. In June/July, 2018, Petitioner suffered severe back pain which was diagnosed as case of HLA-B27 Positive Spondyloarthropathy (Ankylosing Spondylitis). Since July, 2018, Petitioner is on Immuno Suppressant (Modulator) Therapy with Adalimumab and Golimumab drugs, which reduced immunity level of a patient and as per Government of India guidelines Petitioner fell in high risk category with Immuno Modulator.

3. It is stated in the petition that Petitioner's clinical situation worsened and she had to undergo two intervention procedures under fluoroscopic guidance-Bilateral Sacroiliac Steroid Joint Injection Block on 27.05.2019 and Right Rhomboideus Fascial Steroid Block on 24.01.2020. In the meantime, Petitioner also underwent Laparoscopic Left Ovarian Dermoid Cystectomy on 24.01.2020. In 2020, there was onset of Pandemic COVID-19 and Petitioner could not join the course due to her low immunity system which was the side-effect of her medication and treatment. All along Petitioner was under treatment at Apollo First Med Hospital and Apollo Hospital, Greams Road, Chennai and due to her worsening medical condition, Petitioner had to take 377 excess medical leaves in addition to 80 permitted leaves from 23.03.2016 i.e., the date of her joining till September, 2020. Since Petitioner was unable to join even at this stage, Petitioner forwarded an e-mail on 30.09.2020 sent by her on 29.09.2020 to Respondent No.2 *inter alia* seeking extension of leave and permission to submit her

thesis and take the final examination. Petitioner wrote to the Head of the Department to extend her DNB training for the period which she had taken leave, however, Respondent No.2 instead wrote to Respondent No.1 questioning the validity of her rejoining the course after availing 457 days leave on medical ground and Respondent No.1 in turn vide letter dated 27.01.2021 informed Respondent No.2 that Petitioner's case was examined and she could rejoin with immediate effect. On receipt of this communication, Respondent No.2 directed Petitioner to join the course with immediate effect overlooking the fact that Petitioner was undergoing a therapy and joining hospital would have put her life at risk without being fully vaccinated in the COVID-19 situation. Petitioner requested the HOD to permit her to join after she was fully vaccinated. Petitioner took her first dose of vaccination on 08.02.2021 followed by the second one in May, 2021, however, her health did not improve and she had to undertake second line of treatment.

4. It is stated that Petitioner attempted to inform about her medical condition directly to Respondent No.1 but she was asked to communicate with her HOD only, which the Petitioner did. *Albeit* Respondent No.2 acknowledged receipt of all e-mails from the Petitioner and was aware of her medical condition, the same was not correctly portrayed to Respondent No.1 and Petitioner received the impugned order dated 11.10.2021 cancelling her registration to the course.

5. Learned counsel for the Petitioner submits that cancellation of Petitioner's registration is illegal and without following principles of natural justice and giving the Petitioner an opportunity of hearing and/or issuing a show cause notice. Respondent No.1 failed to appreciate that Petitioner had taken medical leave on genuine medical grounds, duly supported by medical

documents and all the leave applications were approved by her HOD. Petitioner had been regular in attending the course in 2016 and 2017, when she did not suffer from any medical ailment and the leaves taken in the subsequent period were due to the Petitioner suffering from HLA-B27 Positive Spondyloarthropathy (Ankylosing Spondylitis). The therapy and medication taken by the Petitioner in July, 2018 led to reduced immunity levels and her clinical situation worsened due to two intervention procedures. In 2020, there was onset of COVID-19 and due to low immunity, Petitioner was not in a position to join the course till she was completely vaccinated. All these facts were in the knowledge of Respondent No.2 and the medical leave applications were approved by HOD. In these facts, a sympathetic view ought to have been taken by Respondent No.1 especially when the medical ailments of the Petitioner were never in dispute.

6. It is argued that the impugned order is in violation of Rules 10 and 11(i) of Leave Rules which do not contain any provision enabling Respondent No.1 to cancel the registration and provide that in case of any kind of leave including medical leave exceeding 148 days in 6-years course, shall lead to extension of DNB training. Therefore, the discretion to cancel registration has been exercised without any source of power in the Leave Rules. Petitioner is a gold medalist in MBBS examination and was selected for the 6-years Plastic Surgery DNB Course in 2016 session with high rank and cancellation of registration has adversely affected her career.

7. It is further argued that as per Rule 16 of Leave Rules, Petitioner is entitled to 20 days leave in a year excluding regular duty off/Gazetted holidays in addition to 28 days academic leave. Yet in the first two years, Petitioner did not even avail the entitled leaves and sincerely pursued the course. Petitioner would have attended the course regularly even in the next

4 years but for the medical issues she was suffering from, which were beyond her control. In 2018, Petitioner took 59 days excess medical leaves while in 2019, the leave was 86 days in excess. In 2020, Petitioner took 232 days excess leaves followed by almost 250 days in 2021, all supported by medical evidence and documents. Respondent No.2 was under an obligation as per Rule 10 of the Leave Rules to certify the documentary evidences and send the same to Respondent No.1 and Respondent No.1 ought to have taken the peculiar facts into consideration, which they failed to do. Right from 06.02.2021 to 27.09.2021, Petitioner was continuously updating her medical status with the HOD of Respondent No.2. In fact, Respondent No.1 failed to exercise its power under Rule 16 of Leave Rules which enable Respondent No.1 to grant extension for DNB training and straightaway proceeded to resort to extreme step of cancelling the registration. At this stage, Petitioner is not in a position to join a new fresh course and having completed 4 years in the present course, a direction ought to be issued to the Respondents to permit the Petitioner to complete her course and order dated 11.10.2021 deserves to be quashed.

8. Learned counsel for Respondent No.2 argues that Petitioner enrolled with Respondent No.2 in the post-MBBS Course in Plastic Surgery and joined on 23.03.2016. The course has a total duration of 6 years. In the earlier part of the course, Petitioner was regular with attendance and study work and successfully cleared part-I of the theory examination. Thereafter, Petitioner was diagnosed with Ankylosing Spondylitis and underwent treatment in the hospital at Chennai including surgical procedures. As a result, Petitioner had to take leaves and on 30.09.2020 she forwarded an e-mail seeking extension in the leave period and permission to submit thesis and sit for final examination. Respondent No.2 forwarded the case to

Respondent No.1 highlighting her record including details of 457 days leave she had availed from 2016 to 2020. Respondent No.1 was also requested to look into the fact that she was in the 5th year and due to submit her thesis and appear in the final examination. On 14.10.2020, Respondent No.1 sought medical documents supporting Petitioner's request for leave, which were furnished by Respondent No.2 on 16.10.2020.

9. It is further submitted that on 18.02.2021, Petitioner requested that she was unable to join the course on 15.02.2021 as she was suffering from fever post COVID-19 vaccinations. Respondent No.2 again followed up the matter with Respondent No.1 with Petitioner's leave record. On 27.07.2021, Petitioner wrote to the Respondents that she will be joining on 01.09.2021, however, she failed to do so. On account of her non-joining, Respondent No.2 wrote to Respondent No.1 on 06.09.2021 intimating the status and Respondent No.1 passed the impugned order on 11.10.2021 cancelling the registration. It is urged that the answering Respondent is one of the accredited hospitals of Respondent No.1 and has actively pursued the case of the Petitioner and forwarded her documents as and when called for, however, Respondent No.2 has no role in cancelling the registration.

10. Learned counsel for Respondent No.1 argues that Petitioner joined the DNB course on 23.03.2016. The course duration was 6 years, however, from 2018 onwards Petitioner started availing excess medical leaves, not authorized under the Leave Rules. Since the absence of 457 days was in contravention of the Leave Rules and that too taken without prior approval of NBEMS, clarification was sought from Respondent No.2. While the matter was under examination, vide letter dated 27.01.2021, Petitioner was permitted to join the hospital, however, she did not do so and informed vide letter dated 17.02.2021 that she would rejoin after the symptoms that had

developed due to vaccination subsided. Looking at the unauthorized absence and also the conduct of the Petitioner in not joining the hospital, Respondent No.1 sought leave records from Respondent No.2 which were received and it was noticed that as on 03.04.2021 Petitioner was absent for 641 days.

11. While the matter was pending for taking appropriate decision, Petitioner once again sent a letter dated 27.07.2021 informing that she will be joining the hospital on 01.09.2021 but did not do so. Considering that Petitioner was absent unauthorizedly for 822 days from the date of her joining till 30.09.2021, Respondent No.1 took a decision to cancel the registration and issued the impugned order, which suffers from no infirmity. It is urged that the Petitioner was entitled to maximum 20 days leave in one year in addition to 28 days of academic leaves in the complete tenure while she chose to avail of 822 days of leave and that too without any prior permission or sanction. It is wrong for the Petitioner to contend that registration cannot be cancelled as Leave Rules only permit extension inasmuch as Rules 7 and 9 enables the competent authority to cancel registration, for reasons stated therein.

12. It is further argued that the absence of 822 days has resulted in break in training for two and a half years in total and in any case, a continuous break from 10.03.2020. Indulgence was shown to the Petitioner looking at her circumstances and medical ailments and opportunities were granted on two occasions to rejoin on her request, but Petitioner did not make use of the indulgence granted. Petitioner desires to pursue the 6-year course at her whims and fancies, which is impermissible and has a direct impact on the training schedule as also on the larger public interest. If Respondent No.1 accedes to individual request for extension of training on account of unauthorized absence of a student and that too for a prolonged period, it will

be impossible to conclude any professional course and would run contrary to the very purpose for which a training module is cast. It is also emphasized that academic matters are best left to academicians and Courts should ordinarily not interfere in matters of training schedules at the instance of students, who do not attend the scheduled training and remained unauthorizedly absent. This is particularly important in a training module as in the present case, where continuous hands-on training is crucial and any break is detrimental.

13. Heard learned counsels for the parties and examined their submissions.

14. It is not disputed that Petitioner joined Respondent No.2 on 23.03.2016 in the speciality of Plastic Surgery (DNB) for a 6 years course. Between the date of joining till September, 2020, Petitioner availed 457 days medical leave which included 80 permissible DNB leaves. Her case was forwarded by Respondent No.2 to Respondent No.1 and vide letter dated 27.01.2021, Petitioner was permitted to join the hospital, however, she failed to do so and vide letter dated 17.02.2021 informed that post vaccination she had developed certain symptoms and will rejoin when symptoms subside. The factum of her non-joining was confirmed by Respondent No.2 vide their letter dated 24.02.2021.

15. As the Petitioner did not join the hospital, leave records were sought by Respondent No.1 for taking appropriate action in the matter and it was found that as per record, Petitioner was absent for 641 days till 03.04.2021. While the matter was pending for decision, Petitioner vide letter dated 27.07.2021 informed that she will be joining the hospital on 01.09.2021 but again she did not join. As per the counter affidavit of Respondent No.1, as on 18.09.2021 Petitioner was unauthorizedly absent for 810 days. Again

vide letter dated 28.09.2021, Petitioner informed that she would join the hospital upon improvement of her physical and mental health. Case of the Petitioner was examined by Respondent No.1 under Leave Rules and taking into consideration total absence of 822 days till 30.09.2021, NBEMS cancelled the registration for DNB training vide impugned letter dated 11.10.2021.

16. After this writ petition was filed, the matter was heard at some length on 03.03.2023 and the Court took a *prima facie* view that sufficient time was given to the Petitioner to rejoin, however, taking into consideration the facts shown by the Petitioner, the Court directed NBEMS to examine whether considering the extraordinary circumstances, one more opportunity could be given to the Petitioner since she had undergone 4 years of the course. In light of this direction issued by the Court, NBEMS revisited the matter and passed a speaking order dated 22.05.2023, declining the request of the Petitioner to rejoin. Be it noted here that this order has remained unassailed till date.

17. In sum and substance, the argument of the Petitioner is that she was compelled to take medical leaves owing to her medical ailments, which are duly certified by treating doctors at the concerned hospitals. It is asserted that Petitioner is a gold medalist in MBBS course and a good student and the 822 days unauthorized leaves be condoned and she be permitted to complete the 6-years course in Plastic Surgery (DNB). Much has been argued with respect to the fact that in the earlier two years of the course, Petitioner was regular and did not exhaust even the entitled leaves. Respondent No.2 urges that case of the Petitioner was put up to Respondent No.1 with leave records but the decision to cancel registration is of the said Respondent and Respondent No.2 being an accredited hospital has no role to play in the

decision making process. Respondent No.1 on the other hand takes a position that under the Leave Rules a DNB candidate can avail only a maximum of 20 days of leave in a year excluding weekly off/Gazetted holidays. DNB is a speciality course requiring a candidate to undergo continuous training without any break. Petitioner's absence is of 822 days, without any approval from NBEMS and despite opportunities to join, she did not join the hospital. Therefore, there is a break in service and permitting the Petitioner to rejoin at this stage will not only be against the Leave Rules but hamper the training of other candidates and compromise the training module.

18. On giving a thoughtful consideration, I am of the view that there is no merit in the submissions of the Petitioner. Indisputably, Petitioner has been unauthorizedly absent for 822 days as on 30.09.2021 from the date of her joining the 6-years course i.e. 23.03.2016. As per Leave Rules, candidate is entitled to maximum of 20 days leave in a year in addition to 28 days academic leave in complete tenure of 6 years. Clubbing of leaves of one year with another is permissible only in exceptional cases. Rule 7 clearly provides that leave which is beyond the stated leaves in the Rules is not permissible and shall lead to extension/cancellation of DNB course. Rule 9 further provides that unauthorized absence from DNB training for more than 7 days may lead to cancellation of registration and discontinuation of the DNB training and rejoining shall not be permitted. Therefore, the contention of the Petitioner that Leave Rules do not contain any provision for cancellation of registration is wholly misconceived and not supported by the Rules.

19. Petitioner was unauthorizedly absent for 822 days, which is beyond the 7 days period stipulated in Rule 9 and this has resulted in 'break in the

training' for two and a half years in total and in any case, as per leave records there is a continuous break in her training from 10.03.2020. Petitioner's absence is unauthorized as she neither had prior approval for the leaves nor were they sanctioned subsequently. The huge break in the training period has naturally impacted the entire schedule and module of training.

20. Petitioner cannot make any grievance against Respondent No.1 for the simple reason that opportunities were given to her to join the institute. *Albeit* Respondent No.1 was entitled to cancel the registration much earlier when Petitioner availed 377 excess medical leaves till September, 2020, however, taking a sympathetic view and granting indulgence to the Petitioner, looking at her medical condition, she was permitted to rejoin. Petitioner, however, did not rejoin and failed to take advantage of the opportunities given. Learned counsel for Respondent No.1 is right in his submission that DNB speciality course is a training course which requires a candidate to undergo continuous training without a break and it is with this objective that maximum number of leaves in a year are specified in the Leave Rules. The Rules also stipulate the consequences of unauthorized absence. On the direction of this Court, Respondent No.1 revisited the issue but as rightly pointed out by the learned counsel, in the given facts the rejoining cannot be permitted.

21. Respondent No.1 is the expert body to determine the number of leaves that can be granted in a particular course looking at the training and curriculum required for the 6-years Plastic Surgery Course. It is also in the domain of Respondent No.1 to examine whether Petitioner can be permitted to rejoin after absence of 822 days in the training, looking at the training schedules and the training module as also the nearly two and a half years

break in training. This decision is best left to academic bodies and Courts should show deference to the opinion of the academicians unless a case is made out of manifest arbitrariness or patent perversity, which the Petitioner is unable to establish. In ***Jasmine V.G. v. Kannur University, 2016 SCC OnLine Ker 3221,*** the Kerala High Court held that professional courses insist that the student carries it out in a competent educational agency under a curriculum structured by semesters which involves attendance in lectures, seminars, practicals and so forth and this ensures that the student is equipped to discharge professional duties with high standards and commitment, personal preferences and individual predilection should bow down to larger public interest. In ***Dr. Shelly Jetly v. State of Punjab and Others, 2000 SCC OnLine P&H 1061,*** Punjab and Haryana High Court observed that it cannot be overlooked that the entire study course was training based. It has to be kept in mind that candidate during the course of training has not only to share greater responsibility in the management but has also to acquire expert knowledge during clinical performance and continuous break of 6 months training whether on account of maternity leave or any other reason like ailment etc, does have a direct impact on the schedule of training. When the experts have decided to provide the PG Degree Course training based and the Medical Council of India has chosen to limit the absence from training upto 20%, it does not fall within the domain of any other authority to bypass that requirement. Once this limit is allowed to be tinkered with for one reason or the other, it would lead to defeating the very purpose for which training course was envisaged and direct consequence would be that it will ultimately affect the prescribed standards of the PG Course. In light of the unauthorized absence of the Petitioner for 822 days in the period of four years of training that she underwent; the two and a half years break in

training; Petitioner's refusal to join the training despite opportunities; and the settled law that Courts must show deference to the schedules and modules of training carved out by academic institutions, in the best interest of the students and the public at large, the inevitable conclusion is that the impugned order cancelling the registration of the Petitioner warrants no interference.

22. Indisputably, conduct of the Petitioner has resulted in an irreversible situation where she has missed nearly two and a half years of training. It needs no gain saying that it is not for this Court to substitute the opinion of Respondent No.1 which is an expert body in the field setting out the curriculum and training period. The Supreme Court has repeatedly emphasized that requirements of training, attendance etc., particularly in professional institutes are designed and tailormade to suit the courses and to interfere at this stage and direct the Respondents to permit the Petitioner to rejoin is beyond the remit of this Court. In ***M.P. Mittal v. State of Haryana, (1984) 4 SCC 371***, the Supreme Court held that discretionary remedies under Article 226 are for doing justice and correcting injustice and not the other way round. In ***Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth, (1984) 4 SCC 27***, the Supreme Court held that the Courts should be extremely reluctant to substitute their views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and that it will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from actual realities and grass root problems involved in the working of the system and unmindful of the consequences which

emanate if a purely idealistic view as opposed to a pragmatic one was to be propounded. Relevant part of the judgment is extracted hereunder for ready reference:

> *"29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case."*

23. The Supreme Court in ***All India Council for Technical Education v. Surinder Kumar Dhawan, (2009) 11 SCC 726***, held that Courts' interference in academic/educational matters is not proper as they cannot create or continue courses. Relevant paragraphs of the judgment are as follows:—

> ***"16.*** *The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realising the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.*
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> ***17.*** *The role of statutory expert bodies on education and the role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If*

> *any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in. In* J.P. Kulshrestha (Dr.) *v.* Allahabad University *[(1980) 3 SCC 418 : 1980 SCC (L&S) 436] this Court observed : (SCC pp. 424 & 426, paras 11 & 17)*
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> > *"11. ... Judges must not rush in where even educationists fear to tread. ...*
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> > *17. ... While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."*

24. In this context, I may refer to a judgment of this Court in ***Dr. Manjunath M. v. Guru Gobind Singh Indraprastha University, 2021 SCC OnLine Del 4533***, where in a similar situation resulting out of Pandemic COVID-19, the Court refused to indulge the Petitioner and held that a wide jurisdiction of the writ Court to act upon equitable considerations has to be exercised judiciously and a balance has to be struck between Petitioner's predicament and the assessment of the concerned academic institution and that despite sympathy, the Court in its limitation in a writ jurisdiction cannot come to the aid of the Petitioner.

25. For all the aforesaid reasons, the writ petition is dismissed being bereft of merit. All pending applications are also dismissed.

JYOTI SINGH, J

DECEMBER 3, 2025
S.Sharma