

## S.B.CIVIL WRIT PETITION NO.5224/2007

Dr.Vinod Kumar Jain  
V.  
Director General of Health Services, Government of  
India, New Delhi and others.

Date of Order            ::            28<sup>th</sup> September, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Mahesh Bora, for the petitioner.  
Mr. Kuldeep Mathur]  
Mr. B.P.Mathur        ] for the respondents.

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The daughter of the petitioner faced "All India PMT/PDT Entrance Examinations-2007" and qualified in wait list, however, in the second counselling she secured admission in MBBS Course at Medical College, Aurangabad. This petition for writ is preferred with an assertion that the four seat out of fifteen allotted seats under All India Quota at Dr.S.N.Medical College, Jodhpur were lying vacant prior to holding of second counselling but only two seats were notified as vacant seats and remaining two seats were erroneously not filled in and the daughter of the petitioner being a qualified aspirant of the seats relating to All India Quota deserves to be admitted at Dr.S.N.Medical College, Jodhpur against one of two aforesaid seats lying vacant. By filing an additional affidavit it is also stated that 400

additional seats were created for the course of MBBS under All India PMT Quota and the candidature of the petitioner's daughter was not considered even against those increased seats.

Per contra, stand of the respondents is that prior to 23.7.2007 the Director General Health Services did not receive any intimation from the Head of Dr.S.N.Medical College, Jodhpur relating to vacancies existing after last date for joining the course by the candidates in respect of All India Quota of seats, therefore, the vacant seats were surrendered to the State Quota as per the time schedule for completion of admission process for first MBBS Course.

The respondents were having no occasion to meet the averments made in additional affidavit relating to enhanced seat under All India Quota as the same is filed today only.

Heard counsel for the parties.

The Medical Council of India while exercising powers under Section 33 of the Medical Council of India framed "Regulation Graduate Medical Education-2007" and the Appendix-E of the regulations referred above provides a time schedule for completion of admission process for first MBBS Course. The Appendix-E referred above reads as follows:-

## APPENDIX-E

TIME SCHEDULE FOR COMPLETION OF THE ADMISSION PROCESS  
FOR FIRST MBBS COURSE

Schedule for Admission	Seats filled up by Central Govt. through All India Entrance Examination	Seats filled up by the State Govt./Institutions
Conduct of Entrance Examination	Month of May	Month of May
Declaration of Result of Qualifying Exam./ Entrance Exam.	By 5 <sup>th</sup> June	By 15 <sup>th</sup> June
1 <sup>st</sup> round of counselling /admission :	To be over by 30 <sup>th</sup> June	To be over by 25 <sup>th</sup> July
Last date for joining the allotted College and Course :	within 15 days from the date of allotment of seat @@	31 <sup>st</sup> July
2 <sup>nd</sup> round of counselling for allotment of seats from waiting List :	To be over by 8 <sup>th</sup> August	Upto 28 <sup>th</sup> August
Last date for joining for candidates allotted seats in 2 <sup>nd</sup> round of counselling from the waiting List	within 15 days from the date of allotment of seat. ( <u>Seats vacant after 22<sup>nd</sup> August will be surrendered back to the States/Colleges</u> )	
Commencement of academic session :	1 <sup>st</sup> of August	
Last date up to which students can be admitted against vacancies arising due to any reason :	30 <sup>th</sup> September	

NOTE:- @@Head of the Colleges should intimate the vacancies existing after the last date for joining the course by the candidate concerned in respect of the All India Quota of seats to the DGHS within seven days and latest by 23<sup>rd</sup> of July."

The NOTE given with the Appendix-E provides that the Head of the Colleges should intimate the vacancies existing after the last date for joining the course by the candidate concerned in respect of All India Quota of seats to the DGHS within seven days and latest by 23<sup>rd</sup> of July.

In the instant matter no intimation was received by the DGHS regarding existing vacancies at Dr.S.N.Medical College, Jodhpur upto 23<sup>rd</sup> of July, 2007. The vacancies those become available at Dr.S.N.Medical College, Jodhpur after first counselling but prior to second counselling were not intimated to DGHS, thus, stood surrendered to the State Quota as per Appendix-E. Learned counsel for the petitioner has pointed out that as a matter of fact intimation was sent by Head of Dr.S.N.Medical College, Jodhpur on 19.7.2007 to DGHS and, therefore, those two vacancies should have been included in second counselling for the seats relating to All India Quota. I am not impressed with the argument above. It is a specific stand of the respondents that intimation was received by DGHS after 23.7.2007 and, therefore, the two vacancies existing were surrendered to the State Quota. In view of that no direction by this Court as claimed by the petitioner can be given against the statutory time schedule which as a matter of fact was enacted in pursuant to the directions given by Hon'ble

Supreme Court in various cases including in the case of Medical Council of India v. Madhu Singh and others, reported in AIR 2002 SC 3230. Beside that, it is also pertinent to note that even by accepting the argument made by counsel for the petitioner it cannot be said that daughter of the petitioner was entitled to be admitted against those vacancies as those were required to be filled in on basis of merit. For that purpose options were required to be invited from all other eligible candidates also.

Consequent to the discussion above, the writ petition is having no merit and, therefore, the same is dismissed. However, it is made clear that if the petitioner submits any representation to the authorities competent with regard to his daughter's entitlement for admission against enhanced seats under All India Quota at Dr.S.N.Medical College, Jodhpur, the same shall be considered objectively.

No order to costs.

( GOVIND MATHUR ),J.

Kkm/ps.