

SANKALP CHARITABLE TRUST AND ANR.

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v.

UNION OF INDIA AND ORS.

(Writ Petition (C) No. 261 of 2016)

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APRIL 28, 2016

[ANIL R. DAVE, SHIVA KIRTI SINGH AND ADARSH
KUMAR GOEL, JJ.]

Education/Educational Institutions: Admission to MBBS course – National Eligibility cum Entrance Test (NEET) – Academic year 2016-17 – Writ of mandamus or any other relief for directing respondents to conduct NEET for admission to MBBS course throughout the country for academic session 2016-17 – Held: Common Entrance Test i.e. NEET shall be held in pursuance of Notification dated 21.12.2010 issued by Medical Council of India and Dental Council of India – Notwithstanding any order passed by any court earlier with regard to not holding NEET, this order shall operate – Therefore, no further order is required to be passed at this stage.

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Christian Medical College, Vellore & Ors. v. Union of India & Ors. 2013 (7) SCR 908 : (2014) (2) SCC 305 – referred to.

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Case Law Reference

2013 (7) SCR 908 referred to Para 8

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CIVIL ORIGINAL JURISDICTION : Writ Petition (C) No. 261 of 2016.

Amit Kumar, Avijit Mani Tripathi, Ms. Rekha Bakshi, Shaurya Sahay, Advs. for the Petitioners.

Ms. Pinky Anand, ASG, Vikas Singh, Sr. Adv., Ajay Sharma, M. P. Gupta, Ms. Rekha Pandey, R. S. Nagar, R. K. Rathore, (For D. S. Mahra), Tara Chandra Sharma, Ms. Neelam Sharma, Rajeev Sharma, Rupesh Kumar, Ajay Sharma, Prabal Bagchi, Gaurav Sharma, Dhawal Mohan, Ms. Deepika Kalia, Prateek Bhatia, Ms. Vara Gaur, Ms. Amandeep Kaur, Kapeesh Seth, Advs. for the Respondents.

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A The following Order of the Court was delivered

ORDER

1. The following prayer has been made in this petition :

B “a) Issue a Writ of Mandamus or any other writ, order or direciton in the nature of Mandamus directing the Respondents to conduct the National Eligibility cum Entrance Test (NEET) for admission to MBBS Course throughout the country for academic session 2016-17;

C (b) Issue or pass any writ, direction or order, which this Hon’ble Court may deem fit and proper under the facts and circumstances of the case.”

2. When the matter was heard on 27th April, 2016, the following order was passed by this Court :

D “Taken on board.
The learned counsel for the petitioner has assured this Court that he will remove the office objections by tomorrow. At his request, Respondent No.4 is deleted from the array of parties. All the three respondents are represented by their respective counsel and they have assured this Court that they are ready and willing to hold NEET examination for 3 admission to MBBS and BDS courses for the academic year 2016-17.

E As the counsel representing CBSE would like to take necessary instructions, hearing is adjourned for tomorrow. Proposed schedule of the examination to be held, shall be submitted in the Court tomorrow.

F The learned counsel shall also see that a responsible officer of the CBSE, who can take on the spot decision, remains present in the Court.

G List the matter tomorrow, i.e., 28th April, 2016 at 12.00 p.m.”

3. The matter has been thereafter heard today. It has been submitted by the learned counsel appearing for all the respondents that it is proposed to hold the examination in pursuance of Notifications dated 21st December, 2010 issued by the Medical Council of India and the Dental Council of India (‘DCI’ for short).

4. As per the said Notifications, a common entrance test, i.e., National Eligibility cum Entrance Test (NEET) shall be held. A

5. It was further submitted, inter alia, as follows :

“1. AIPMT 2016 to be held on 1st May, 2016 shall be phase I of NEET.

2. Phase II of NEET for the left out candidates shall be held on 24th July, 2016 by inviting applications with fee. B

3. Combined result of both the Tests shall be declared on 17th August, 2016.

4. CBSE will provide All India Rank. Admitting Authorities will invite applications for Counselling and merit list shall be drawn based on All India Rank. C

5. All associated with conduct of Exam including Central Govt., State Govt., institutions, Police etc. will extend all necessary support to CBSE and permit security measures like use of electronic and communication devices Jammers etc. for timely and fair conduct of the NEET. D

6. Any difficulty with regard to implementation of orders of this Court the stake holders may approach this Hon'ble Court.”

6. The learned counsel have also given the details with regard to the time when the result would be declared and counselling would take place. E

7. In view of the submissions made on behalf of the respondents, we record that NEET shall be held as stated by the respondents. We further clarify that notwithstanding any order passed by any Court earlier with regard to not holding NEET, this order shall operate. Therefore, no further order is required to be passed at this stage. F

8. It may be mentioned here that some learned counsel representing those who are not parties to this petition have made submissions that in view of the judgment passed in Christian Medical College, Vellore & Ors. Vs. Union of India & Ors., reported in (2014) 2 SCC 305, it would not be proper to hold NEET and this order should not affect pending matters. G

9. We do not agree with the first submission for the reason that the said judgment has already been recalled on 11th April, 2016 and H

- A therefore, the Notifications dated 21st December, 2010 are in operation as on today.

It may however be clarified that by this order hearing of the petitions which are pending before this Court will not be affected.

- B The petition be now listed in due course.

Devika Gujral

Writ petition pending.