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

+ **W.P.(C) 495/2024**

DR. SANJAY MEENA

..... Petitioner

Through: Ms. Rashmi Nandakumar and
Mr. Ravi Sehgal, Advs.

versus

**UNION OF INDIA THROUGH THE DIRECTOR GENERAL
OF HEALTH SERVICES, DIRECTORATE GENERAL OF
HEALTH SERVICES, MINISTRY OF HEALTH AND
FAMILY WELFARE & ORS.**

..... Respondents

Through: Mr. Manish Kumar, SPC and
Mr. Kamaldeep, Govt. Pleader for
Respondents 1 and 5

Mr. Pritish Sabharwal, Addl. Standing
Counsel for Respondent 4

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

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12.01.2024

**W.P.(C) 495/2024, CM APPL. 2180/2024 (Order XXXIX Rules 1
and 2 of the CPC) and CM APPL. 2181/2024 (exemption)**

1. The petitioner was allotted a seat in the M.Ch. Neurosurgery stream in the Vardhman Mahavir Medical College and Safdarjung Hospital ("the College", hereinafter) in the second round of Counselling conducted by the Medical Counselling Committee (MCC).

2. On 8 January 2024, the petitioner wrote to the College stating that he desired to give up the seat allotted to him in the second round



of Counselling. Ms. Rashmi Nandakumar submits that the petitioner has approached this Court because of the clarification by the MCC in response to a query addressed to it as to whether a candidate could resign after joining a seat, in any of the counselling round. MCC answered in the negative.

3. Ms. Nandakumar has drawn my attention to an order dated 13 February 2023, passed by the Supreme Court in WP (C) 106/2023 (*Kevin Joy & Ors. v. The Government of India & Ors.*), which reads thus:

“Mr. Gopal Sankaranarayanan, learned senior counsel appearing for the petitioners, submits that the petitioners are not interested in participating in the mop up round. Their only concern is that if they are not permitted to resign from the seats, they will be debarred from participating in the selection process for the next three years and in addition to that they will have to pay huge penalties.

By way of ad interim order, we permit the petitioners to resign from the seats so that the said seats can be added in the mop up round.

Insofar as issue with regard to the bar of participation for next three years and penalty is concerned, we will consider the issue after hearing the National Medical Commission (NMC), Union of India as well as the respective State Governments.

Leave to implead the National Medical Commission (NMC) and the concerned State Governments as party respondents. Necessary amendment be carried out forthwith.

Issue notice to the newly added parties, returnable in two weeks.

In addition to the usual mode, liberty is granted to the petitioner to serve notice through the Central Agency and Standing Counsel for the respondent/State.”

4. Issue notice to show cause as to why rule *nisi* be not issued.



5. Notice is accepted on behalf of Respondents 1 and 5 by Mr. Manish Kumar and on behalf of Respondent 4 by Pritish Sabharwal.
6. Let notice issue to Respondents 2 and 3 by all modes including *dasti*.
7. Counter affidavit, if any, be filed within four weeks with advance copy to learned Counsel for the petitioner, who may file rejoinder thereto, if any, within a period of four weeks thereof.
8. Following the *prima facie* view that the Supreme Court has taken in similar circumstances, the petitioner is permitted, by way of *ad interim* relief, to resign from the seat allotted to him, which may be then added in the mop up round to be conducted if any.
9. The Supreme Court is already seized with the aspect of the bar to participate for three more years and the penalty which is being sought from such candidate who desired to resign. As such, the Court would take a call on this aspect after the Supreme Court has returned a finding thereon.
10. Nonetheless, as the Supreme Court is seized with the matter, it is obvious that the respondents cannot insist on any penalty being paid by the petitioner for permitting him to resign.
11. Ms. Nandakumar submits that the petitioner was made to submit a bond of ₹ 2 lakhs, for enforcement in the event that the



petitioner did not seek to avail the seat.

12. The respondents shall, therefore, stand restrained till the next date of hearing, from enforcing the said bond.

13. Ms. Nandakumar submits that the original certificates of the petitioner are with the respondents. As the petitioner has been allowed to resign, there is no justification for the certificates continuing to be retained by the respondents. The respondents are, therefore, directed to return, to the petitioner, the original certificates within a week from today.

14. Renotify on 8 April 2024.

C.HARI SHANKAR, J

JANUARY 12, 2024

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Click here to check corrigendum, if any