

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL No(s). 3952 OF 2018  
(Arising out of SLP (C) No(s). 35683/2016)**

**MEDICAL COUNCIL OF INDIA & ORS.**

**Appellant(s)**

**VERSUS**

**AIMAN KAMAL & ORS.**

**Respondent(s)**

**with**

**CIVIL APPEAL No(s). 3960 OF 2018  
(Arising out of SLP(C) No(s). 24301/2017)**

**O R D E R**

**IN C.A. No.3952/2018 @ SLP (C) No.35683/2016**

Heard learned counsel for the parties.

Leave granted.

The question arises with respect to the eligibility of the candidate for MBBS Course as prescribed by the Medical Council of India Regulations on Graduate Medical Education, 1997 (in short 'the Regulations') as provided in Regulation 4(2) same is extracted hereunder:

"4(2) He/She has passed qualifying examination as under:

(a) The higher secondary examination or the Indian School Certificate Examination which is equivalent to 10+2 Higher Secondary Examination after a period of 12 years study, the last two years of study comprising of physics, Chemistry, Biology and Mathematics or any other elective subjects with English at a level not less than the core

course for English as prescribed by the National Council for Educational Research and Training after the introduction of the 10+2+3 years educational structure as recommended by the National Committee on education.

Note: Where the course content is not as prescribed for 10+2 education structure of the National Committee, the candidates will have to undergo a period of one year pre-professional training before admission to the Medical colleges.

Now the regulation has undergone some change. The Regulations have been amended in the year 2018 by way of Regulations on Graduate Medical Education (Amendment), 2017 notified on 22<sup>nd</sup> January, 2018. In Regulation 4 (2)(a) following proviso has been added:

"In clause 4, under the heading Admission to the Medical Course-eligibility criteria and in sub clause 4(2)(a), the following proviso shall be added:

Provided that two years of regular and continuous study of Physics, Chemistry, Biology/Biotechnology taken together shall be required at 10+2 level for all the candidates. Candidates who have passed 10+2 from Open Schools or as Private candidates shall not be eligible to appear for National Eligibility-cum-Entrance Test. Furthermore, study of Biology/Biotechnology as an Additional Subject at 10+2 level also shall not be permissible."

The High Court of Delhi has interpreted the unamended Regulation vide judgment and order dated 29.09.2006 in WP(C) No. 12487 of 2006 has interpreted the provision in the spirit that by attending the practical course as regular student qualification ought to have been obtained and all the requisite subjects should be cleared together.

The aforesaid opinion expressed by learned Single Judge was affirmed by the Division Bench in LPA No. 2033 of 2006 vide order dated 31.05.2007. Against the said order, special leave petition bearing No. 13571 of 2007 was preferred in this Court and that was also dismissed by this court on 17.08.2007. That is how the order passed by the High Court has attained finality.

However in the instant case, we need not go into various questions as the respondent has done MBBS from National Medical College Birgunj, Nepal which is one of the recognised institution by Tribhuvan University, Kathmandu. She has completed her final examination in the year 2014 from the said college. Thereafter she completed one year course to appear in Biology paper of 2006 as she has not done two years' course with the subject of Biology. As such applying the decision rendered by the Delhi High Court which appears to be appropriate, we have to non suit the respondent. However, at the same time she has done the MBBS -from recognised university and has obtained the requisite degree from Nepal.

In the peculiar facts and circumstances of the case, we are not interfering with the impugned judgment but make it clear that it should not be treated as precedent in any other matter. As qualification obtained by the respondent no.1 is recognised one in India and subject to qualifying the screening test to be conducted as prescribed by the

Medical Council of India (in short 'the MCI'), obviously, she has to be registered.

Accordingly, the appeal stands disposed of.

IN C.A. No.3960/2018 @ SLP (C) No. 24301/2017

Leave granted.

As the instant case is covered by the order passed in C.A. 3952/2018, the instant appeal also stand disposed of on the same terms as stated in the said case.

It was submitted that screening test has already been held, if that be so, let result be declared.

.....J.  
(ARUN MISHRA)

.....J.  
(UDAY UMESH LALIT)

NEW DELHI;  
APRIL 18, 2018

ITEM NO.3

COURT NO.10

SECTION XVI

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Petition(s) for Special Leave to Appeal (C) No(s). 35683/2016  
 (Arising out of impugned final judgment and order dated 23-08-2016  
 in LPA No. 1136/2015 passed by the High Court Of Judicature At  
 Patna)

MEDICAL COUNCIL OF INDIA &amp; ORS.

Petitioner(s)

VERSUS

AIMAN KAMAL & ORS.  
 with

Respondent(s)

SLP (C) No(s). 24301/2017

Date : 18-04-2018 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA  
 HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Petitioner(s) Mr. Vikas Singh, Sr. Adv.  
 Mr. Gaurav Sharma, AOR  
 Mr. Dhawal Mohan, Adv.  
 Mr. Abhishek Shrivastav, Adv.  
 Mr. Prateek Bhatia, Adv.

For Respondent(s) Mr. Jeewesh Prakash, Adv.  
 Mr. Shantanu Sagar, AOR  
  
 Mr. Gopal Singh, AOR  
 Mr. Shivam Singh, Adv.

Ms. Parul Shukla, AOR  
 Mr. Nayar, Adv.  
 Mr. Prashant Singh, Adv.

UPON hearing the counsel the Court made the following  
**O R D E R**

Leave granted.

The appeals are disposed of in terms of the signed  
 order.

Pending application, if any, also stand disposed of.

(NEELAM GULATI)  
 COURT MASTER (SH)

(JAGDISH CHANDER)  
 BRANCH OFFICER

(SIGNED ORDER IS PLACED ON THE FILE)