

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

Writ Petition(s)(Civil) No(s). 607/2022

ARCHITA & ORS.

Petitioner(s)

VERSUS

NATIONAL MEDICAL COMMISSION & ORS.

Respondent(s)

**(IA No. 129608/2022 - INTERVENTION/IMPLEADMENT
IA No. 126974/2022 - INTERVENTION/IMPLEADMENT
IA No. 126953/2022 - INTERVENTION/IMPLEADMENT)**

WITH

**W.P.(C) No. 183/2022 (PIL-W)
(IA No. 41712/2022 - PERMISSION TO APPEAR AND ARGUE IN PERSON)**

**W.P.(C) No. 725/2022 (X)
(FOR ADMISSION)**

**W.P.(C) No. 713/2022 (X)
(IA No. 135049/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)**

**W.P.(C) No. 777/2022 (X)
(IA No. 135763/2022 - EXEMPTION FROM FILING AFFIDAVIT)**

**W.P.(C) No. 171/2022 (PIL-W)
(IA No. 36593/2022 - EXEMPTION FROM FILING AFFIDAVIT
IA No. 38377/2022 - INTERVENTION/IMPLEADMENT)**

W.P.(C) No. 1038/2022 (X)

**W.P.(C) No. 746/2022 (X)
(IA No. 129493/2022 - EXEMPTION FROM FILING O.T.
IA No. 137014/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)**

W.P.(C) No. 879/2022 (X) (FOR ADMISSION)

**W.P.(C) No. 867/2022 (X)
(IA No. 149221/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 172248/2022 - INTERVENTION/IMPLEADMENT
IA No. 179186/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)**

**W.P.(C) No. 25/2023 (X)
(FOR STAY APPLICATION ON IA 4606/2023)**

IA No. 4606/2023 - STAY APPLICATION)

W.P.(C) No. 58/2023 (X) (FOR ADMISSION)

W.P.(C) No. 708/2022 (X) (FOR ADMISSION)

W.P.(C) No. 761/2022 (X) (FOR ADMISSION)

W.P.(C) No. 377/2022 (PIL-W) (FOR ADMISSION)

W.P.(C) No. 618/2022 (X)
(IA No. 136348/2022 - INTERVENTION/IMPLEADMENT
IA No. 127925/2022 - INTERVENTION/IMPLEADMENT)

W.P.(C) No. 620/2022 (X)

W.P.(C) No. 587/2022 (X)
(IA No. 127054/2022 - INTERVENTION APPLICATION)

W.P.(C) No. 631/2022 (X)

W.P.(C) No. 625/2022 (X)
(IA No. 135452/2022 - INTERVENTION APPLICATION)

W.P.(C) No. 630/2022 (X)
(IA No. 119868/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 667/2022 (X)
(IA No. 142073/2022 - APPROPRIATE ORDERS/DIRECTIONS
IA No. 142070/2022 - INTERVENTION/IMPLEADMENT
IA No. 135694/2022 - INTERVENTION/IMPLEADMENT)

W.P.(C) No. 679/2022 (X)

W.P.(C) No. 689/2022 (X)
(IA No. 120707/2022 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

W.P.(C) No. 880/2022 (X)
(FOR ADMISSION and IA No.151124/2022-GRANT OF INTERIM RELIEF and IA
No.172598/2022-PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES)

Date : 28-03-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s)

Mr. Gopal Sankaranarayanan, Sr. Adv.
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Ms. Shalini Mishra, Adv.
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Mr. Satyam Pathak, Adv.
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Mr. Rahul Shyam Bhandari, AOR

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Mr. Sudhakar Dwivedi, Adv.
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Petitioner(s)-in-person

Mr. K.v.jagdishvaran, Adv.
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For Respondent(s)

Ms. Aishwarya Bhati, A.S.G.
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Mr. Vivek Kumar Singh, Adv.
Mr. Upender Thakur, Adv.
Mr. Yasheshvi Vashishtha, Adv.

Mr. Prashant Padmanabhan, AOR

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

W.P.(C) No. 25/2023 (ITEM NO.40.10)

1. The only grievance of the petitioners in this petition is that some of the petitioners would be required to undergo one more year of internship so as to enable them to practice in India.

2. Mr. Shivam Singh, learned counsel for the petitioners, submits that some of the petitioners have already undergone one year of internship. The course to be undertaken in the second year of internship is also identical with the first year of internship.
3. We find that the requirement of undergoing one more year of internship cannot be said to be arbitrary or unreasonable.
4. The writ petition is, accordingly, dismissed.
5. Pending application(s), if any, shall stand disposed of.

W.P.(C) No. 667/2022 & W.P.(C) No.679/2022 (ITEM NOS.40.21 & 40,22)

1. The grievance of the petitioners is that they being enrolled in foreign universities in medical courses, are attending online classes. It is submitted that for the first four years there is no requirement of clinical training and that is required only in the fifth and sixth year of the course.
2. Shri Ravi Sikri, learned senior counsel appearing for the petitioners, submits that in the affidavit filed by the Central Government there is no provision for such students.
3. We find that the grievance is totally pre-mature in nature, inasmuch as only after the petitioners complete their MBBS course and have a degree of MBBS from the respective foreign universities, the question whether they are entitled to appear for Foreign Medical Graduates Examination (FMGE) or not would arise.
4. We do not find it necessary to consider the said question at this stage.
5. Insofar as the students who were required to leave the studies in the penultimate year are concerned, the affidavit filed by the

Union of India dated 27.03.2023 takes care of such students.

6. With the aforesaid observations, these petitions stand disposed of.

7. Pending application(s), if any, shall stand disposed of.

REST OF THE MATTERS

1. As already observed in our earlier order dated 09.12.2022, in normal circumstances we would not have entertained such petitions. However, taking into consideration a precarious situation, where the career of hundreds of students would have come to a standstill, the present petitions were treated as extraordinary petitions and this Court had passed an order directing the Committee appointed by the Union of India to examine the issue and come with some solutions.

2. An affidavit dated 27.03.2023, on behalf of the Union of India, along with the brief note about the three meetings held by the Committee, as annexure in that affidavit, has been handed over in Court by Ms. Aishwarya Bhati, learned Additional Solicitor General of India, which is taken on record.

3. Though we do not find it appropriate to interfere with the decision of the experts, there is one area of concern, which, in our view, requires consideration. The embargo of having an opportunity to appear only in one attempt, in our view, may in some circumstances appear to be too harsh. There could be certain circumstances beyond the control of the student, which may prevent him/her from appearing in the examination or passing the said

examination.

4. Ms. Aishwarya Bhati, learned Additional Solicitor General of India as well as Mr. Gaurav Sharma, learned counsel appearing for the NMC, fairly submit that they are not treating this litigation as an adversarial litigation. They submit that if the Court finds that the said restriction is unreasonable, they leave it to the Court to pass appropriate directions.

5. We, therefore, accept the report of the Committee, subject to a minor modification in paragraph 5(1) of the Compliance Affidavit dated 27.03.2023 by the Union of India. In the said paragraph 5(1), the words "The students may be offered a single chance to clear the MBBS Final, both Part I & Part II Examinations (Both Theory and Practical)" be read as "The students may be offered two chances to clear the MBBS Final, both Part I & Part II Examinations (Both Theory and Practical)".

6. We clarify that the two chances would be both for Part I as well as Part II examinations, each.

7. With the above observations and directions, these petitions stand disposed of.

8. Pending applications, including applications for impleadment/intervention shall stand disposed of.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)