

ITEM NO.12 **OUT TODAY** **COURT NO.3** **SECTION PIL-W**

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). 55/2019

JANHIT ABHIYAN **Petitioner(s)**

VERSUS

UNION OF INDIA **Respondent(s)**

([ONLY I.A.NO.86345/2019 IN WP (c) NO. 596/2019 TO BE LISTED]
IA No. 74236/2019 - EX-PARTE STAY
IA No. 74238/2019 - INTERIM BAIL)

WITH

W.P.(C) No. 596/2019 (X)
(FOR CLARIFICATION/DIRECTION ON IA 86345/2019
IA No. 86345/2019 - CLARIFICATION/DIRECTION)

Date : 31-05-2019 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE A.S. BOPANNA
(VACATION BENCH)

For Petitioner(s) **Mr. Somanatha Padhan, AOR**
Mr. Yadav Narender Singh, AOR

For Respondent(s) **Mr. Nishant Ramakantrao Katneshwarkar, AOR**
Mr. Anoop Kandari, Adv.

Mr. Gaurav Sharma, AOR
Mr. R. C. Kohli, AOR
Mr. K. V. Mohan, AOR

Mr. Sanjay R. Hegde, Sr. Adv.
Mr. Govind Jee, Adv.
Mr. Krishna Kumar Singh, AOR
Intervenor-in-person, AOR

Ms. Liz Mathew, AOR
Mr. V. K. Biju, AOR
Mrs. Anil Katiyar, AOR

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

I.A.NO.86345/2019 IN WP (C) NO. 596/2019

Heard Shri Sanjay R. Hedge learned senior counsel appearing on behalf of the applicants/original intervenors and Shri Nishant R. Katneshwarkar learned counsel appearing on behalf of the State of Maharashtra. A very serious grievance is made by Shri Hegde, learned senior counsel that the subsequent Notice No.41 -NEET-PG/MDS-2019 dated 30th May, 2019 issued by the Commissioner and Competent Authority, State CET Cell, Maharashtra State, Mumbai, more particularly Clause (c), namely, "The admissions of all the candidates (except those admitted under EWS Category) from the previous admission process are not disturbed" is passed in the teeth of the interim order dated 30.05.2019 passed by this Court in Writ Petition (Civil) No.55/2019 etc. and/or virtually over reaching the interim order passed by this Court. It is vehemently submitted by Shri Hegde, learned senior counsel appearing on behalf of the Applicants/original intervenors representing the students belonging to general category, that once by a detailed interim order, this Court, specifically observed and directed that the Notifications dated 12.02.2019 and 07.03.2019 extending the benefit of reservation to the extent of 10% to economically weaker sections, inter alia, in post graduate medical courses, shall not be applicable for the Academic Year 2019-20 unless the number of seats are increased by the MCI, in that case, thereafter, the appropriate authority is bound to reshuffle the list.

It is submitted that in the present case, though in effect, vide Notice No.41 dated 30.05.2019, it is directed that the admission of all candidates allotted seats during the previous rounds under EWS category are cancelled and the category of all EWS candidates are converted into open category and that the seats allotted under the previous rounds under EWS category will now be treated under open category, there is a further rider that the admissions of all the candidates "except those admitted under the EWS category from the previous admission process are not disturbed". It is submitted that in effect clause (c) of the Notice No.41 dated 30.05.2019 would virtually nullify the interim order passed by this Court.

Shri Nishant R. Katneshwarkar learned counsel appearing on behalf of the State of Maharashtra has tried to justify Clause (c) of the Notice No.41 dated 30.05.2019 solely on the ground that there is a little time now as the last date of counselling would be 31.05.2019 and therefore, it will not be possible for the Government to reshuffle the entire admissions. He further submitted that as such there was no other mala fide intention on the part of the State Government providing Clause (c) of Notice No.41 dated 30.05.2019. He has requested that if some further time is granted to the authority to complete the entire admission process on the basis of the interim order passed by this Court including reshuffling, then authority will be in a position to carry out the interim order passed by this Court in its true spirit.

Having heard learned counsel for the respective parties and

considering the reasoned interim order passed by this Court on 30.05.2019 in Writ Petition (Civil) No.55/2019 etc. when this Court specifically directed that the Notifications dated 12.02.2019 and 07.03.2019 extending the benefit of reservation to the extent of 10% to economically weaker sections, inter alia, in post graduate medical courses shall not be applicable for admission for the Academic Year 2019-20 unless the MCI increases the number of seats (which has not taken place) and once the admission of all candidates allotted seats during the previous rounds under EWS category are cancelled and the category of all EWS candidates are converted into open category, necessary consequences of reshuffling must follow. Clause (c) of the Notice No.41 Dated 30.05.2019 therefore, can be said to be in the teeth of the interim order passed by this Court and/or virtually it may tantamount not giving full effect to the interim order passed by this Court. Therefore, Clause (c) of the Notice No.41 dated 30.05.2019 (Annexure P-2) is hereby stayed.

The authorities are hereby directed to complete the process of admission including reshuffling on implementation of Notice No.41 dated 30.05.2019 and considering the interim order passed by this Court on 30.05.2019 in Writ Petition (Civil) No.55/2019 etc.

In the peculiar facts and circumstances of the case, we extend the time to complete the counselling and to complete the admission process in post graduate medical and dental courses for the Academic Year 2019-20 as directed above upto 04th June, 2019 failing which a very serious view shall be taken for not

complying the interim order passed by this Court in its true spirit.

Learned counsel appearing for the State of Maharashtra is directed to communicate this order to the competent authority today itself.

The present application stands disposed of.

(GEETA AHUJA)
COURT MASTER (SH)

(RAJINDER KAUR)
BRANCH OFFICER