


उद्दिष्ट: २०७५
दिनांक: २५/११/२२


सहायक निदेशक, प्रशासनिक
विभाग, जिला प्रशासन, जयपुर



HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 1301/2022

1. Ananta Charitable Educational Society, 53, V- Road, New Keshav Nagar, Udaipur (Rajasthan) Through Its Authorized Signatory Shri Nitin Sharma, S/o Late Shri Ganesh Lal Sharma, Aged About 50 Years, Resident Of 53-V Road, New Keshav Nagar, Udaipur Working As Registrar, Ananta Charitable Educational Society.
2. Ananta Institute Of Medical Sciences And Research Centre, N.h.8, Village Kaliwas, Tehsil Nathdwara, District Rajsamand (Rajasthan) Through Its Authorized Signatory Shri Nitin Sharma.

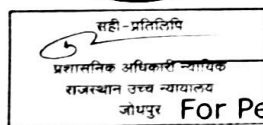
-----Petitioners

Versus

1. The Union Of India, Through Its Secretary, Ministry Of Health And Family Welfare, Nirman Bhawan, New Delhi.
2. National Medical Commission, Through Its President, Pocket 14, Sector 8, Dwarka, Phase-I, New Delhi.
3. Rajasthan University Of Health Sciences, Jaipur Through Its Registrar.

Neet Pg Admission Counseling Board Rajasthan 2021, Through Its Chairman Cum Principal And Controller, Ruhs College Of Dental Science, Jaipur.

-----Respondents



For Petitioner(s)
Through V.C.

: Mr. Vikas Balia, Senior Advocate with
Mr. Hemant Dutt.

For Respondent(s)
Through V.C

: Mr. Manish Vyas, AAG.
Mr. R.S. Saluja.

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JUSTICE DINESH MEHTA

Order

24/01/2022

1. While maintaining that a report was given in petitioners' favour by the assessors on 08.03.2021, Mr. Balia, learned Senior

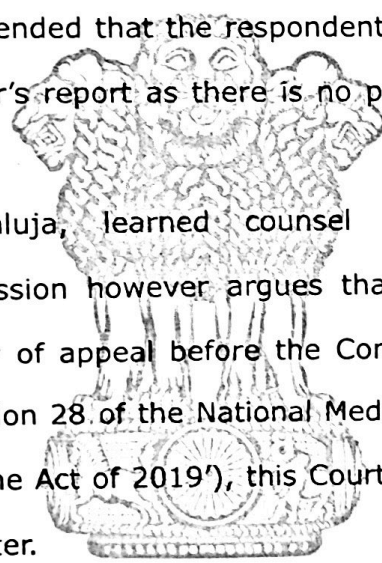
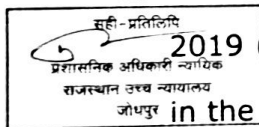


Advocate submits that vide order dated 14.09.2021, respondent-Commission has not only discarded the assessor's report, but has also reviewed the assessor's report, and substituted the finding with regard to petitioner's eligibility while submitting that the reasons given in the order dated 14.09.2021 are factually incorrect

2. Mr. Balia, senior counsel argues that the reasons communicated vide order dated 14.09.2021 are not relevant for the purpose of grant of approval inasmuch as the petitioner institution is not wanting/lacking in any manner so far as infrastructure or faculty is concerned.

3. It is also contended that the respondent Commission cannot review the assessor's report as there is no power or provision of review.

4. Mr. R.S. Saluja, learned counsel appearing for the respondent-Commission however argues that as the petitioners are having remedy of appeal before the Commission under sub-section (5) of Section 28 of the National Medical Commission Act, 2019 (for short, 'the Act of 2019'), this Court should not interfere in the present matter.



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5. So far as the preliminary objection raised by the respondent-Commission is concerned, this Court is of the view that a remedy of appeal would not be efficacious as the appellate authority cannot direct the respondent No.3 & 4 to provisionally allot students to the petitioner Institution.

6. Having heard rival counsel and considering the record, this Court, prima facie, feels that the reasons for which the petitioners' application for approval of the scheme has been rejected are not germane. The number of patients on a particular date may or



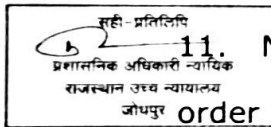
may not be sufficient or on a given day requisite number of surgeries may not be conducted, but for this reason alone, the application of an Institution cannot be rejected as long as requisite infrastructure, including the faculties, lab, library etc. are available.

7. Matter requires consideration.

8. Issue notice. Issue notice of stay application also. Mr. R.S. Saluja accepts notice for the respondents No.1 & 2 and Mr. Manish Vyas, learned Additional Advocate General accepts notice for respondents No.3 & 4.

9. Meanwhile, the respondent No.4 is directed to provide seat matrix to the petitioners and provisionally allot nine students in Post Graduate course to the petitioner institution in the subjects of obstetrics and gynecology.

10. It will be required of the petitioners to reflect the instant order in its website and make it known to the students being admitted that their admission is subject to outcome of the present writ petition.



11. Needless to observe that mere fact that the present interim order has been passed in presence of Mr. R.S. Saluja and Mr.

25 JAN 2022 Manish Vyas, they shall not be precluded from moving an application for vacation of the interim order under Article 226(3) of the Constitution of India.

(DINESH MEHTA),J

25/01/22