

(2022) 04 BOM CK 0127

Bombay High Court

Case No: Writ Petition(L) No. 12292 Of 2022

Dr. Manish Hansraj
Pandey

APPELLANT

Vs

State Of Maharashtra &
Ors

RESPONDENT

Date of Decision: April 27, 2022

Acts Referred:

Constitution Of India, 1950 " Article 226

Citation: (2022) 04 BOM CK 0127

Hon'ble Judges: A.S.Chandurkar, J; G.A. Sanap, J

Bench: Division Bench

Advocate: Arshad Shaikh, Ranjit Agashe, Krishnan Iyer, Vinsha Acharya, Namrata Ajit
Agashe, P.H. Kantharia, Sameer Khedekar

Final Decision: Dismissed

Judgement

A.S. Chandurkar, J

1. Heard learned Counsel for the parties.

2. The petitioner, an MBBS graduate seeks admission to NEET-PG 2021-22 for pursuing a Post Graduate Course. In the admission process

conducted by the Respondent no.2, the petitioner was granted admission in the MD (Radiology) course on 30th March, 2022 at Dr.V.V Patil

Memorial Hospital & Medical College. He has filed the present writ petition challenging the notices dated 1st April, 2022, 5th April, 2022 and 7th

April, 2022 as a result of which the State Quota Mop Up Round-1 has been cancelled and the admission/allotment done in the Mop up Round-1 of

State PG counselling between 26th March 2022 to 30th March 2022 is deemed to be cancelled. Prayers (a) and (b) in the writ petition read as under:-

(a) That this Hon'ble Court be pleased to issue a writ of mandamus, or writ in the nature of mandamus or any other appropriate writ, Order or

direction in the nature of mandamus, quashing and setting aside notices dated 01/04/2022 (Notice No.10), 05/04/2022 (Notice No.11) and 07/04/2022

(Notice No.12) at Exhibit A, B and C respectively;

(b) That this Hon'ble Court be pleased to issue a writ of mandamus, or writ in the nature of mandamus or any other appropriate writ, Order or

direction in the nature of mandamus, directing the Respondent No.2 to restore and/or confirm admission granted by state through State Counselling

mop-up round for the year NEET-PG 2021 to the Petitioner.

3. The learned Counsel for the Petitioner submitted that the Petitioner having obtained admission in the course of MD (Radiology) in the Mop Up

Round 1 of the State quota, it was not open for the respondent no.2 to have issued the impugned notices and cancelled the State Quota Mop Up

Round-1. As a result of such cancellation, the petitioner has forfeited his admission which was granted on 30th March, 2022. It was submitted there

was no justification on the part of the Respondent no.2 in cancelling the State Quota Mop Up Round-1 merely because the Hon'ble Supreme

Court had directed cancellation of the All India Quota Mop Up Round of counselling.

There was no direction issued by the Hon'ble Supreme

Court in the various orders passed by it to cancel the State Quota Mop Up Round-1 in Writ Petition (Civil) No.174 of 2022 (Anjana Chari S.N. vs.

The Medical Counselling Committee). Inviting the attention to the course followed by the State of Tamil Nadu and Chhattisgarh in proceeding with the

State Mop Up Round in their respective States it was submitted that the impugned notices were issued in an irrational manner without there being any

legal justification for such cancellation. Reference was also made to the notice dated 2nd April, 2022 issued on behalf of the Directorate General of

Health Services in which it was expressed that the State Counselling Authority could take a decision at its own level in the light of the directions issued

by the Hon'ble Supreme Court on 31st March, 2022. By referring to the additional affidavits filed by the Petitioner, it was sought to be

demonstrated that the further process of admission was sought to be hastily completed causing prejudice to the Petitioner. It was thus submitted that

by setting aside the impugned notices dated 1st April, 2022, 5th April, 2022 and 7th April, 2022, the admission granted to the petitioner on 30th March,

2022 be restored.

4. The Respondent No.2 - State CET Cell has filed its affidavit justifying the issuance of impugned notices. It is submitted by its learned Counsel that

the impugned notices had been issued with a view to comply with the various directions issued by the Hon'ble Supreme Court in Anjana Chari

S.N. (supra). Attention was invited to the fact that State counselling for each round was required to be conducted after the All India counselling for

the respective rounds was completed by MCC of DGHS. This was in view of the Advisory issued by the DGHS on 12th February 2022. It was not

permissible to retain the State Mop Up round in view of cancellation of the All India Quota Mop Up Round. There was nothing irrational in the

decision taken by the Respondent No.2 and merely because the Petitioner's admission stood cancelled, the decision would not become arbitrary.

The impugned notices having been issued with a view to comply with the orders passed by the Hon'ble Supreme Court, the same could not be

termed to be irrational or arbitrary. Attention was invited to the order dated 11th April 2022 passed by this Court in Writ Petition (st) No.8818/2022

(Dr. Himanshi Shrimali & Ors. Vs. The State of Maharashtra & anr.) wherein this Court had refused to entertain the writ petition on a similar ground

which was that the Respondent No.2 had taken necessary steps pursuant to the orders passed by the Hon'ble Supreme Court. It was thus

submitted that the writ petition was liable to be dismissed.

5. We have heard the learned Counsel for the parties and we have perused the material on record. It is not in dispute that in view of the order dated

31st March 2022 passed by the Hon'ble Supreme Court in Anjana Chari (supra), the All India Quota Mop Up Round of counselling was

cancelled. For the 146 additional seats that became available after AIQ round 2, a fresh round of counselling was directed to be conducted. In the light

of these directions as well as in view of the subsequent order dated 7th April 2022 also passed by the Hon'ble Supreme Court, the notices dated

1st April 2022, 5th April 2022 and 7th April 2022 came to be issued. By these notices, the State Quota Mop Up round 1 that was conducted between

26th March 2022 and 30th March 2022 stood cancelled. This is for the reason that the Mop Up Round for the All India Quota is to be followed by the

State Mop Up Round. As a consequence of All India Quota Mop Up Round being cancelled, the Respondent No.2 has proceeded to cancel the State

Quota Mop Up Round. In this regard, the respondent no.2 has acted as per the advisory issued by the Directorate General of Health Services dated

12th February, 2022 wherein it has been stated as a principle that the state counselling for each round should be conducted once the All India

Counselling for the respective round is completed by the Medical Counselling Committee of the DGHS. Hence, issuance of the impugned notices on

this basis cannot be said to be so arbitrary or irrational for this Court to interfere under Article 226 of the Constitution of India. It is not the case that it

is only the Petitioner who has lost his admission as a result of cancellation of the allotments/admissions made between 26th March 2022 to 30th March

2022. The same applies to all such admissions made during that period. Therefore, Mop Up Round of State PG counselling was scheduled to be held

for all such candidates. It is true that matter was left to the wisdom of each State to take a decision in that regard. While the States of Tamil Nadu

and Chattisgarh have proceeded to continue with the State Mop Up Round, the State of Maharashtra has sought to cancel the State Quota Mop Up

Round in the light of the directions issued by the Hon'ble Supreme Court with regard to cancellation of All India Quota Mop Up Round. A

somewhat similar challenge raised in the case of Dr. Himanshi Shrimali (supra) was not entertained by this Court for the same reason.

6. In that view of the matter, we are not inclined to interfere in the writ jurisdiction at the instance of the Petitioner. Since it is found that the impugned

notices have been issued in compliance of the directions issued by the Hon'ble Supreme Court in Anjana Chari S.N. (supra), it is open for the

Petitioner to avail his remedies in accordance with law and all points in that regard are kept open. The Writ Petition is, thus, dismissed with no order as

to costs.