

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1813/2018

ANSHUL AGGARWAL

..... Petitioner

Through: Mr. K.K. Rai, Senior Advocate with
Mr. S.K. Pandey, Mr. J.P.N. Shahi,
Mr. Awanish Kumar & Mr. Anshul
Rai, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. Sanjeev Uniyal, & Mr. Dhawal
Uniyal, Advocates for respondent
No.1
Mr. S. Rajappa, Advocate for
respondent No.2
Mr. Vikas Singh, Senior Advocate
with Mr. T.S. Singhdev, Ms.
Amandeep Kaur, Ms. Puja Sarkar &
Mr. Abhijit Chakraborty, Advocates
for respondent No.3/MCI
Mr. Atul Kumar & Mr. Y.R. Sharma,
Advocates for respondent No.4/CBSE**CORAM:****HON'BLE MR. JUSTICE SANJIV KHANNA****HON'BLE MR. JUSTICE CHANDER SHEKHAR****ORDER**% **26.02.2018****CM No.7433/2018**

Allowed, subject to all just exceptions.

The application is disposed of.

WP(C) No.1813/2018 & CM No.7432/2018Notice, Mr. Sanjeev Uniyal Advocate accepts notice on behalf
of UOI/respondent No.1, Mr. S. Rajappa, Advocate accepts notice on
behalf of respondent No.2, Mr. T.S. Singhdev Advocate accepts

notice on behalf of respondent No.3/MCI and Mr. Atul Kumar, Advocate accepts notice on behalf of for respondent No.4/CBSE.

Learned counsel for the petitioner submits that prior to enactment of the impugned Regulation dated 22.1.2018, students from National Institute of Open Schooling ('NIOS') were permitted and allowed to appear in the qualifying examination. Learned counsel for NIOS, who is present in Court on advance notice, states that, last year, about 4000 students, registered with the NIOS, had appeared in the qualifying examination and about 1100 students had qualified.

Learned Senior Counsel for the Medical Council of India ('MCI'), has drawn our attention to decision in *Raghukul Tilak v. Union of India, 2006(92) DRJ 356*, which was affirmed by the Division Bench in *Raghukul Tilak v. Union of India, 2008 (1) ILR(Del) 29*. Learned Senior Counsel for the MCI has also referred to a decision of a Division Bench of the Madras High Court in *Ms. Sneha Manimurugan v. The Secretary, Medical Council of India & Ors., 2016 SCC Online Mad 17468*. Our attention was drawn to the Prospectus issued by the NIOS for the Academic Year 2017-2018.

Learned counsel for the petitioner submits that in *Raghukul* (supra), constitutional validity on the ground of discrimination and principle of equality under Article 14 of the Constitution of India was not challenged and, therefore, not examined. The decision in *Ms. Sneha Manimurugan*(supra) also did not examine the said issue and question. These decisions are prior to enactment of the impugned Regulation.


Court Master
High Court of Delhi
New Delhi


On the question of the Prospectus issued by the NIOS for the Academic Year 2017-2018, the petitioner submits that disclaimer has been made. Note of disclaimer cannot be read as if NIOS accepts that their students are not eligible to appear in the medical entrance examination.


Counter-affidavits would be filed within four weeks. Rejoinder-affidavit, if any, be filed within two weeks after service of the counter-affidavits.

List on 16.4.2018.

An early date is being fixed, as the examinations are due to be held on 6.5.2018. An early resolution of this controversy is necessary and required. As an interim measure, however, we would direct that the respondents would not reject the applications submitted by the petitioner or other similarly situated applicants on the basis of impugned Regulation dated 22.1.2018. We have not permitted or passed any order that the petitioner or other similarly situated applicants will be permitted to sit in the examination. The said aspect would be examined.

Dasti under signature of Court Master.


SANJIV KHANNA, J


CHANDER SHEKHAR, J

FEBRUARY 26, 2018/tp


Court Master 28/2/18
High Court of Delhi
New Delhi