

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL
Writ Petition (M/S) No. 1948 of 2018

Vartika Chauhan & others

... Petitioners

Vs

State of Uttarakhand & others

... Respondents

Mr. Prashant Khanna, Advocate, present for the petitioners.

Mr. S.M.S. Mehta, Brief Holder, Advocate, present for the State/respondent Nos. 1 and 2.

Mr. Shailendra Nauriyal, Advocate, present for respondent No. 3.

Mr. Sandeep Kothari, Advocate, present for respondent No. 4.

Mr. Manish Bhardwaj, Advocate holding brief of Mr. Parikshit Saini, Advocate, present for respondent No. 5.

Hon'ble Manoj K. Tiwari, J.

Heard learned counsels for the parties and perused the record.

All the petitioners participated in NEET UG 2018 for admission to Under Graduate Medical Courses. Based on score of marks of the petitioners, they have been allotted Himalayan Institute of Medical Sciences, Jolly Grant, Dehradun (*in short "Medical Institute"*) - respondent No. 4 in the first round of counselling.

It is the contention of the petitioners that they have deposited the requisite fee, as determined by the Fee Regulatory Committee of the State Government, through bank draft with the State Counselling Board (respondent No. 3), however, the concerned Medical Institute, i.e. respondent No. 4 is not permitting them to join M.B.B.S. Course allotted to them.

Sri Sandeep Kothari, Advocate appearing for Medical Institute (respondent No. 4) submits that the dispute regarding fee structure is pending before this Court in WPMS No. 1705 of 2017 filed by respondent No. 4, where the issue is to be decided whether the fee determined by the Fee Regulatory Committee of the University is payable by the

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students or fee determined by the Fee Regulatory Committee, constituted by the State Government under the Uttarakhand Unaided Private Professional Education Institutions (Regulation of Admission and Fixation of Fee) Act, 2006, is payable by the Students.

Learned counsel for the petitioners has placed reliance upon para 6 of the order dated 09.05.2017 passed in the case of *Dar-Us-Slam Education Trust & others Vs Medical Council of India & others* where Hon'ble Supreme Court has held that "if the demand draft is deposited by the admission/Counselling Committee, then there would be no scope for colleges to refuse admission to any student."

Looking to the totality of the facts and circumstances of the case, this Court is of the *prima facie* opinion that refusal on the part of the concerned Medical Institute to give joining to the students allotted by the State Counselling Board is unjust.

Learned counsels for the respondents pray for and are granted three week's time for filing counter affidavit. Thereafter, one week time is granted to the petitioner for filing rejoinder affidavit thereto.

List this matter after four weeks.


In the meantime, Himalayan Institute of Medical Sciences, Jolly Grant, Dehradun is directed to give joining to all candidates on the strength of allotment letters issued by the State Counselling Board, provided such candidates have deposited requisite fee with the State Counselling Board within time. It is made clear that joining/admission given pursuant to this order shall abide by the final outcome of

WPMS No. 1705 of 2017. The candidates may be required to give separate undertaking that they will be liable to pay higher fees, if WPMS No. 1705 of 2017 is decided in favour of respondent No. 4.

Interim relief application (CLMA No. 9816 of 2018) stands disposed of accordingly.

Mr. Sandeep Kothari, Advocate for respondent No. 4 is directed to communicate this order to the concerned Institute, today itself.

Let certified copy of this order be supplied to learned counsel for the parties today itself on payment of usual charges.


(Mahabj K. Tiwari, J.)

11.07.2018
Aswal

Compared by: [Signature]

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Assistant Registrar (Copying)
High Court of Uttarakhand
NAINITAL