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

**BEFORE**

**HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV**

+ **W.P.(C) 8943/2024, CM APPL. 36529/2024, CM APPL. 40931/2024 and CM APPL. 44013/2024**

Between

**DR. DEEPAK SURESH KUMAR**

S/O DR. K.P. SURESH KUMAR

AGED ABOUT 28 YEARS,

R/O THE SUMMIT, FLAT 502,

1ST AVENUE, SHASTRI NAGAR,

CHENNAI- 600020

.....PETITIONER NO.1

**DR. SHAURYA YADAV**

D/O MR. NARESH SINGH

AGED ABOUT 26 YEARS,

R/O HOUSE NO. 171, VAISHALI PURAM,

FIROZABAD ROAD, TUNDLA, UTTAR PRADESH

.....PETITIONER NO.2

*(Through: Mr. Sameer Parekh, Ms. Sonali Basu Parekh, Mr. E.R. Kumar, Ms. Pratyusha Priyadarshini and Ms. Aditi Advocates.)*

AND

**ALL INDIA INSTITUTE OF MEDICAL SCIENCES**

THROUGH ITS REGISTRAR

DR. GIRIJA PRASAD RATH

ANSARI NAGAR EAST,

NEW DELHI-110029

THROUGH ITS DEAN

DR. KAUSHAL KUMAR VERMA,

ALL INDIA INSTITUTE OF MEDICAL SCIENCES

NEW DELHI-11 0029

THROUGH ITS ASSISTANT CONTROLLER OF  
EXAMINATIONS  
SH. MANOJ KR. SINGH  
EXAMINATION SECTION,  
1ST FLOOR, CONVERGENCE BLOCK,  
ALL INDIA INSTITUTE OF MEDICAL SCIENCES  
NEW DELHI, 10029

.....RESPONDENT NO.1

**DIRECTOR, AIIMS**  
DR. M SRINIVAS  
ALL INDIA INSTITUTE OF MEDICAL SCIENCES  
ANSARI NAGAR EAST  
NEW DELHI, 110029

.....RESPONDENT NO.2

**UNION OF INDIA**  
THROUGH ITS SECRETARY  
MINISTRY OF HEALTH AND FAMILY AFFAIRS

.....RESPONDENT NO.3

**POSTGRADUATE INSTITUTE OF MEDICAL EDUCATION  
AND RESEARCH,  
CHANDIGARH (PGIMER-CHANDIGARH)**  
THROUGH ITS REGISTRAR  
SH. UMMED MATHUR  
KAIRON BLOCK, CHANDIGARH  
PIN: 160012

.....RESPONDENT NO.4

*(Through: Mr. Anand Varma, Ms. Apoorva Pandey and Mr. Ayush  
Gupta, Advocates. for AIIMS.*

*Mr. Umang Chopra, SPC with Mr.Karan Malhotra and Mr.Aditya  
Malhotra, G.P. for R-3/UoI.*

*Mr. Sudarshan Rajan, Mr. Hitain Bajaj, Mr.Atyan Ahmed, Mr.Mahesh  
Kumar and Mr.Ramesh Rawat, Advocates for R-4.)*

+ **W.P.(C) 9642/2024, CM APPL. 39630/2024, CM APPL.  
39631/2024, CM APPL. 44790/2024 and CM APPL.  
49709/2024**

Between

**DR. JAY MEHTA**

S/O SHRI SANJAY MEHTA  
AGED ABOUT 27 YEARS,  
R/O - 40, MAHASHWETA NAGAR,  
UJJAIN - 456010, M.P.

.....PETITIONER

*Through: Mr. Sameer Parekh, Ms. Sonali Basu Parekh, Mr. E.R. Kumar, Ms. Pratyusha Priyadarshini and Ms. Aditi Advocates.)*

AND

**ALL INDIA INSTITUTE OF MEDICAL SCIENCES**  
THROUGH ITS REGISTRAR  
DR. GIRIJA PRASAD RATH  
ANSARI NAGAR EAST,  
NEW DELHI-110029

THROUGH ITS DEAN  
DR. KAUSHAL KUMAR VERMA,  
ALL INDIA INSTITUTE OF MEDICAL SCIENCES  
NEW DELHI-110029  
EMAIL: DEAN.ACAD@AIIMS.GOV.IN  
PHONE-01126594833

THROUGH ITS ASSISTANT CONTROLLER OF  
EXAMINATIONS  
SH. MANOJ KR. SINGH  
EXAMINATION SECTION,  
1ST FLOOR, CONVERGENCE BLOCK,  
ALL INDIA INSTITUTE OF MEDICAL SCIENCES  
NEW DELHI, 10029

.....RESPONDENT NO.1

**DIRECTOR, AIIMS**  
DR. M SRINIVAS  
ALL INDIA INSTITUTE OF MEDICAL SCIENCES  
ANSARI NAGAR EAST  
NEW DELHI, 110029

.....RESPONDENT NO.2

**UNION OF INDIA**  
THROUGH ITS SECRETARY  
MINISTRY OF HEALTH AND FAMILY AFFAIRS

.....RESPONDENT NO.3

**POSTGRADUATE INSTITUTE OF MEDICAL EDUCATION  
AND RESEARCH,**

**CHANDIGARH (PGIMER-CHANDIGARH)**

THROUGH ITS DIRECTOR

PROF. VIVEK LAL

KAIRON BLOCK, CHANDIGARH PIN:

160012

.....RESPONDENT NO.4

*(Through: Mr. Anand Varma, Ms. Apoorva Pandey and Mr. Ayush Gupta, Advocates for AIIMS.*

*Mr. Syed Abdul Haseeb, CGSC with Mr. Chetan Jadaun, G.P. for R-3/UoI.*

*Mr. Sudarshan Rajan, Mr. Hitain Bajaj, Mr. Atyan Ahmed, Mr. Mahesh Kumar and Mr. Ramesh Rawat, Advocates for R-4.)*

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Reserved on: 03.12.2024

Pronounced on: 16.12.2024  
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**J U D G M E N T**

**W.P.(C) 8943/2024**

By way of the captioned petition, two young doctors have knocked on the doors of this Court being aggrieved by the Office Memorandum dated 26.06.2024 as also the notice dated 29.06.2024, whereby, they have been declared ineligible for admission in the super speciality program in Cardiothoracic and Vascular Surgery and in Gastrointestinal Surgery, respectively, in All India Institute of Medical Sciences (hereinafter referred to as "AIIMS") for the session commencing from July, 2024.

2. The brief facts that are pertinent to decide the controversy at hand would indicate that the petitioners have completed their MBBS degree from the CMC Vellore, Tamil Nadu and Vardhaman Mahavir Medical College and Safdarjung Hospital, New Delhi in the year 2018

and 2019, respectively. Being desirous of pursuing post-graduation in MS (General Surgery), they made an application for appearing in the Institute of National Importance-Combined Entrance Test (hereinafter referred to as “INI-CET examination”) for the July, 2021 session, which was being conducted by AIIMS. However, due to the then prevailing COVID-19 pandemic, on 18.07.2021, AIIMS issued a notification, whereby, the INI-CET examination was rescheduled to 22.07.2021 and accordingly, the petitioners participated in the said examination as per the revised schedule. Thereafter, on 26.07.2021, the results of the INI-CET examination were declared and the petitioners were allotted seats at PGIMER-Chandigarh for the MS (General Surgery) program for the academic session 2021-2024. However, the pandemic also delayed the process of counselling and the petitioners eventually got admission at PGIMER-Chandigarh on 18.08.2021 and 21.08.2021 i.e., after a delay of 48 days and 51 days, respectively. While granting admission to the petitioners in the said course, PGIMER-Chandigarh issued an authorisation slip indicating that the delay in joining shall be adjusted against the sanctioned due leaves in the 1<sup>st</sup> year and 2<sup>nd</sup> year of the Course. The petitioners, on the pretext of such assurance on the part of PGIMER-Chandigarh, diligently continued their course and undertook all the required examinations.

3. On 26.03.2024, AIIMS issued a notification for online registration for the Institute of National Importance-Super Speciality Entrance Test (hereinafter referred to as “INI-SS examination”) for admission into DM/M.Ch./MD Hospital Administration Courses at Institutes of National Importance for July, 2024 session.

4. In order to pursue a super speciality course, the petitioners registered for the INI-SS examination on 31.03.2024, indicating their

date of completion of MS (General Surgery) degree at PGIMER-Chandigarh as 30.06.2024. On 27.04.2024, the INI-SS examination was conducted and the results of Stage-I examination were declared on 04.05.2024, wherein, the petitioners succeeded in qualifying for the Stage II interview. Subsequently, on 15.05.2024 and 16.05.2024, AIIMS conducted Stage II interviews of petitioner nos.1 and 2, respectively. Thereafter, on 19.05.2024, the petitioners were intimated by AIIMS to upload their tenure/*bonafide* certificates in case their MD/MS exam results were awaited and in pursuance of the same, the said certificate was uploaded by the petitioners on 20.05.2024 indicating the date of completion of the course as 30.06.2024.

5. Subsequently, on 27.05.2024, AIIMS published the list of ineligible candidates, however, the names of the petitioners did not find mention in the said list. In furtherance of the same, on 29.05.2024, the results of INI-SS examination were declared and the petitioners passed the said examination with flying colours, securing rank 1 and rank 2 in their respective specializations.

6. The AIIMS, thereafter, conducted counselling and the petitioners were allotted seats at AIIMS, New Delhi *vide* offer letter dated 19.06.2024. Consequently, they completed all the requisite formalities and on 21.06.2024, after verification of all the documents and deposition of security amount of Rs. 3,00,000/-, they were issued an acknowledgement slip confirming their admission. Medical examination was also scheduled to be taken before the commencement of the session on 15.07.2024.

7. However, to the utter surprise of the petitioners, on 26.06.2024, AIIMS issued an Office Memorandum of the even date and subsequently, a notice dated 29.06.2024, declaring that the petitioners were ineligible to take admission in the postgraduate program in

Cardiothoracic and Vascular Surgery and in Gastrointestinal Surgery in AIIMS, as they had not completed their 3 year course as on cut-off date of 31.07.2024 i.e., within 3 calendar years.

8. Aggrieved by the aforesaid action, the petitioners have preferred the instant petition.

9. The matter was first taken up for consideration on 03.07.2024, whereby, the Court directed the parties to complete the pleadings. Thereafter, the case was put up for hearing on 08.07.2024, whereby, the Court, while reserving the matter for judgment, found that the petitioners have made out a *prima facie* case for grant of interim relief and accordingly, the AIIMS, Delhi was directed to keep two seats reserved, one in M.Ch. in Cardiothoracic and Vascular Surgery and another in M.Ch. in Gastrointestinal Surgery, for the present petitioners.

10. However, on 22.07.2024, the matter appears to have been taken out from the category of reserved matters and accordingly, it was listed for re-consideration and re-arguments on the subsequent dates. In the aforesaid background, the matter reached before this Bench. Thereafter, when the matter came up for hearing on 08.10.2024, the arguments were heard at length and a further prayer for a provisional admission was also made by the petitioners. After substantially hearing the arguments advanced by the parties and looking at the nature of the interim order passed on 08.07.2024, this Court deemed it appropriate to direct for the provisional admission of the petitioners, without prejudice to the rights and contentions of the parties and the said interim order being subject to the final outcome of the petition.

**Submissions on behalf of the petitioners**

11. Mr. Sameer Parekh, learned counsel appearing on behalf of the petitioners, at the outset, submits that while denying admission to the meritorious candidates on account of administrative deficiencies and vagueness in the guidelines issued by AIIMS, the future of ambitious students aspiring for quality medical education cannot be put at stake.

12. Learned counsel, while taking this Court through various documents annexed with the writ petition, stresses on the fact that in the instant case, the petitioners are the toppers of the INI-SS examination in their respective courses. He submits that despite three rounds of scrutiny of documents on three separate occasions i.e., at the time of registration of INI-SS examination, after the Stage I round and after the Stage II round, the names of the petitioners were not reflected in the list of ineligible candidates.

13. He further contends that PGIMER-Chandigarh, which is an autonomous statutory body under the aegis of the Ministry of Health and Family Welfare and designated as an Institute of National Importance, has duly certified that the petitioners have completed their three-year course on 18.07.2024 and 21.07.2024, respectively. He then submits that when the institution from where the petitioners have pursued their MS Course has declared that they have successfully completed their Course, then the AIIMS cannot object to the said declaration on the pretext of non-completion of a three year tenure.

14. Learned counsel, while relying on Section 37(1) of the National Medical Commission Act, 2019 (hereinafter referred to as “NMC Act”), submits that the provision explicitly states that the medical qualifications granted by any statutory body, including PGIMER Chandigarh, as listed in the schedules to the NMC Act, are recognized as valid medical qualifications under the NMC Act. Based on this statutory recognition, learned counsel argues that the authority to



determine the tenure of the petitioners rests solely with PGIMER Chandigarh. It is further submitted that the petitioners have successfully completed their examinations at PGIMER-Chandigarh and the final results were declared on 29.06.2024. Therefore, according to learned counsel, the petitioners have duly complied with all the regulatory requirements regarding the eligibility and qualifications. Furthermore, the late joining of the petitioners has been appropriately adjusted against the leaves that the petitioners did not avail, as per the memorandum dated 12.09.1983 issued by PGIMER-Chandigarh.

15. The second prong of the petitioners' submission rests on the fulcrum of ambiguity in the information bulletin issued by the AIIMS. Learned counsel for the petitioner contends that AIIMS being an Institute of National Importance, which is at the helm of affairs in conducting numerous examinations and imparting quality medical education, should have stipulated in clear and unambiguous terms the eligibility criteria in their information bulletin itself. He vehemently emphasizes that the term "calendar year" is conspicuously missing from the relevant rules, regulations and information bulletin and therefore, there exists no scope of presumption of any non-textual stipulation which may jeopardize the interests of the petitioners.

16. He further submits that the entire controversy has arisen solely due to the dispute between AIIMS and PGIMER-Chandigarh, which appear to be adopting conflicting positions on various issues. Learned counsel asserts that administrative inefficiencies and conflicts should not serve as grounds for denying admission to candidates who have otherwise been selected through fair competition and merit-based criteria. To substantiate this contention, learned counsel places reliance on the decision of this Court in the case of *Dr. Chinmay*

*Ankleshwaria v. Union of India Through Ministry of Health and Family Welfare & Ors*<sup>1</sup>.

*Submissions on behalf of the AIIMS*

17. Mr. Anand Varma, learned counsel appearing on behalf of AIIMS, has vehemently denied the contentions advanced by the learned counsel for the petitioners. He primarily assails the *bonafides* of the petitioners by asserting that they have suppressed the Office Order dated 29.06.2024. He contends that, despite the petitioners' insistence on the issuance of the said Office Order, they failed to present it before this Court at the time of filing the writ petition on 02.07.2024, and even at the time of filing their rejoinder affidavit on 07.07.2024. He, therefore, submits that the petitioners are not entitled to seek any relief, bearing in mind the material suppression as stated above.

18. While drawing the attention of the Court to the filing of CM APPL. No. 40931/2024 by AIIMS on 19.07.2024, he submits that it is only upon the filing of the said application that the said Office Order was brought on record. According to the learned counsel, such conduct on the part of the petitioners, which has remained bereft of any cogent explanation, warrants the dismissal of their claims and therefore, he urges that the petitioners' request for any relief does not merit consideration and should be outrightly rejected. He placed reliance on a decision of the Supreme Court in the case of *K. Jayaram v. BDA*<sup>2</sup> to substantiate his contention that one must resort to the writ jurisdiction with clean hands and put forth all the relevant and material facts before the Constitutional Courts.

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<sup>1</sup> 2024 SCC Online Del 4983.

<sup>2</sup> (2022) 12 SCC 815

19. He further submits that PGIMER-Chandigarh has issued several certificates and office orders which notify the dates of completion for the courses of the petitioners. However, learned counsel asserts that these certificates were issued in violation of the applicable PGIMER Regulations, 2000/2023, which stipulate that the period of training for the award of MD/MS degree must consist of “three completed years”.

20. He contends that the term “3 years”, as referenced in the INI-SS examination information bulletin, should be interpreted as a total duration of 36 months or 1,095 days, rather than three academic years. According to this interpretation, the petitioners commenced their courses on 18.08.2021 and 21.08.2021, respectively, and thus, their completion dates should logically fall on 17.08.2024 and 20.08.2024, respectively. As per his submission, this position can be corroborated by the NMC through their email dated 05.07.2024 and the Frequently Asked Questions (hereinafter referred to as “FAQ”) published by the NMC on 10.04.2024.

21. He emphasizes that the date of completion of the petitioners’ courses, which was mentioned as 30.06.2024, and later adjusted to 18.07.2024 and 21.07.2024, constitutes a clear contravention of the PGIMER Regulations, as the petitioners’ courses would thus be deemed incomplete, lasting only 35 months instead of the required 3 years, or 36 months/1,095 days.

22. Learned counsel further submits that in the event of any ambiguity concerning the interpretation of instructions, terms, rules, or criteria related to eligibility determination, examination conduct, candidate registration, or information contained in the information bulletin, such matters ought to be resolved at the discretion of the Director of AIIMS, New Delhi, with the decision taken by him being final and binding.

23. He also contends that the petitioners have not challenged the terms of the information bulletin. Consequently, he asserts that having participated in the admission process and thereafter, being declared ineligible, the petitioners cannot now seek to impugn the procedure that has been duly notified. Furthermore, he submits that the Courts should not readily interfere in academic matters, particularly concerning professional education.

24. Additionally, without prejudice to the above submissions, learned counsel contends that the petitioners' candidature has always been provisional and remained subject to confirmation, even after the grant of admission. He substantiates this assertion with reference to the result notification dated 04.05.2024. He further places reliance on the provisional offer letters issued to the petitioners which explicitly state that *"the claim to the allocated Institute is subject to the production of the Offer Letter, online Institute Allocation Letter, and verification of documents for eligibility as applicable and identity of the candidate."*

25. Learned counsel, therefore, submits that the entire admission procedure is found to be in compliance with the relevant regulations and there does not lie any infirmity in the impugned notices which may require any interdiction by this Court.

**Submissions on behalf of the PGIMER Chandigarh**

26. Mr. Sudarshan Rajan, learned counsel appearing on behalf of PGIMER Chandigarh submits that the petitioners were the students of PGIMER Chandigarh and have pursued their MS (General Surgery) program during the academic session 2021-2024. He contends that upon successful completion of the said course, they have been duly issued *bonafide* certificates, specifically bearing Nos. 2Trg/2024/6882

dated 20.05.2024 and PGI/2Trg/8122 dated 24.06.2024 indicating the date of completion of their residency program to be 30.06.2024. It was submitted that the determination of completion was premised on the adjustment of leaves in accordance with the provisions outlined in the INI-CET examination information bulletin released by PGIMER-Chandigarh, which reads as under-

*“Late joining will be allowed on the condition that candidate will make up the deficiency caused in his/her academic term due to late joining, by forfeiting his/her leave, during the first two years of his/her admission, to which he/she will be entitled on joining the Institute, by the same number of days.”*

27. According to learned counsel, subsequent Office Order bearing No. Endst No. 2Trg/Leaves Adjustment/2024/7966-65, issued on 21.06.2024, encapsulates this arrangement indicating the date of completion to be 30.06.2024.

28. Learned counsel further draws the Court’s attention to Memo No. A95011/1Trg/83/42727-69 dated 12.09.1983, which indicates that the residents (senior and junior) and trainees of all other courses conducted by PGIMER-Chandigarh who join the course with some delay can have their unavailed leave, to which they are entitled during the period of their residency/course, adjusted towards their late joining up to a maximum period of one month.

29. On the strength of the aforesaid notification, learned counsel submits that 30 days of leave could be duly adjusted from the first and second years of the residency. In light of this, the aforementioned Office Order dated 21.06.2024 was cancelled and a new Office Order (No. 2Trg/Leaves Adjustment/July21/8939-50) was issued on 29.06.2024, which revised the completion dates for petitioners nos. 1 and 2 to 18.07.2024 and 21.07.2024, respectively.

30. Learned counsel, therefore contends that irrespective of whether the completion date is recorded as 30.06.2024, 18.07.2024, or 21.07.2024, the petitioners are still eligible for selection to their respective courses, as they would have completed their residencies prior to the cut-off date of 31.07.2024.

31. I have perused the record and have given thoughtful consideration to the rival submissions advanced at the Bar.

*Analysis*

32. The issue which stands posed before this Court and which merits consideration is whether the petitioners, who are otherwise meritorious candidates, are entitled for admission which has been denied on the pretext of alleged non-fulfilment of eligibility criteria i.e., completion of the masters' degree program within three 'calendar' years by the prescribed cut-off date of 31.07.2024.

33. Before embarking on testing the feasibility of the said contention, it is pertinent to examine the contours of the Courts in academic matters, particularly in professional education.

*Delineating the contours of Constitutional Courts in academic matters*

34. The Constitutional Courts, though tasked with the constitutional mandate to safeguard fundamental rights, including the right to education and equality, are equally saddled with a duty to weigh the fundamental rights against the expertise of academic institutions so as to reach a nuanced approach in striking a balance between judicial oversight and academic autonomy. As a rule of prudence, the Courts, while exercising writ jurisdiction for upholding the constitutional principles and fundamental rights, have endeavoured to carefully navigate the underlying separation of powers to avoid subrogation in

the areas reserved for domain experts or policymakers. In essence, unless the educational policy suffers from arbitrariness or exhibits a violation of rights or statutory provisions, the judicial intervention has been generally limited to ensuring procedural fairness and adherence to law in academic matters. Put otherwise, a greater amount of deference has been extended towards pure policy decisions and it is not for the Court to substitute its own policy in the place of the policy adopted by the department, except in the circumstances broadly indicated above.

35. Reference can be made to the decision of the Supreme Court in the case of *All India Council for Technical Education v. Surinder Kumar Dhawan*<sup>3</sup>, wherein, it was held that Courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and make decisions in academic matters involving standards and quality of technical education. The relevant extract of the said decision reads as under:-

*“16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.”*

36. Furthermore, the Supreme Court in the case of *NIMS v. Union of India*<sup>4</sup> observed that technical courses like super speciality courses are not like ordinary postgraduate courses, wherein, the reduction of

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<sup>3</sup> (2009) 11 SCC 726

<sup>4</sup> 2022 SCC Online SC 644.

the eligibility percentile condition can be claimed as a matter of right.

The Court in the said decision held as under:-

*“9. The question as to whether the percentile should be reduced is a matter of academic policy. The reasons which have weighed with the Ministry of Health and Family Welfare in declining to reduce the percentile cannot be regarded as extraneous or arbitrary. Super specialty courses cannot be equated with post graduate courses or for that matter with the percentile fixed for under graduate admission. In the circumstances, it is not possible for this Court to entertain the request of the petitioner by directing a reduction in the percentile. The Court cannot be unmindful of the fact that Super Specialty courses are at the apex of the academic spectrum. If a considered decision is taken not to lower standards by reducing the percentile fixed for eligibility, such a decision cannot be faulted. The reasons furnished are not extraneous or arbitrary.”*

37. The horizon of interference by the Courts in academic matters is well settled and the Courts generally restrain themselves from expressing opinions on academic matters, especially on technical aspects of the educational courses which are based on policy decisions, which ought to be best left to the wisdom of the policymakers or the field experts. The Supreme Court in the case of ***Basavaiah (Dr.) v. Dr. H.L. Ramesh***<sup>5</sup>, held as under:-

*“38. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations in academic matters.”*

38. The Supreme Court in another judgment reported as ***University Grants Commission v. Neha Anil Bobde***<sup>6</sup>, has held that in case of

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<sup>5</sup> (2010) 8 SCC 372.

<sup>6</sup> (2013) 10 SCC 519.



academic matters, unless and until there is a clear violation of statutory provisions, the regulations or the notification issued, the Courts shall keep their hands off since those issues fall within the domain of the experts. The relevant paragraph of the said decision reads as under:-

*“31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the regulations or the notification issued, the courts shall keep their hands off since those issues fall within the domain of the experts. This Court in University of Mysore v. C.D. Govinda Rao AIR 1965 SC 491; Tariq Islam v. Aligarh Muslim University (2001) 8 SCC 546; and, Rajbir Singh Dalal v. Chaudhary Devi Lal University (2008) 9 SCC 284, has taken the view that the court shall not generally sit in appeal over the opinion expressed by the expert academic bodies and normally it is wise and safe for the courts to leave the decision of the academic experts who are more familiar with the problem they face, than the courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the university. For attaining the said standards, it is open to UGC to lay down any “qualifying criteria”, which has a rational nexus to the object to be achieved, that is, for maintenance of standards of teaching, examination and research. The candidates declared eligible for Lectureship may be considered for appointment as Assistant Professors in universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India.”*

39. Reliance may be placed on the decision in the case of ***Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupesh Kumar Sheth***<sup>7</sup>, wherein, the Supreme Court has held as under:

*“Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal*

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<sup>7</sup> (1984) 4 SCC 27.

*position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.”*

40. This Court in the case of ***Sanskriti Sharma v. Jawaharlal Nehru University and Ors.***<sup>8</sup>, while deciding a similar issue, wherein the petitioner had applied for admission in the Ph.D. course without having the NET-JRF certificate, it was held that the conditions mentioned in the prospectus were binding. The relevant paragraphs are reproduced as under:

*“10. It appears from the above that a candidate was entitled to apply in the NETJRF category only if he/she had the requisite qualification, or had appeared in the examination but the results were awaited. Even in the latter case, the interview was subject to having qualified/been awarded the NET-JRF certificate, at the time of interview. The petitioner admittedly does not fall within this class and was, therefore, ineligible to apply in the NET-JRF category.*

*11. The eligibility conditions mentioned in the prospectus are binding. The petitioner, having applied under the prospectus, cannot now seek an exemption from the eligibility conditions mentioned therein. This will cause severe prejudice not just to the administration of JNU, but also to other qualified candidates who have applied under the NET-JRF category, and also to candidates similarly placed as the petitioner who may not have applied for want of the requisite qualifications. 12. Mr. Pushkar*

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<sup>8</sup> 2021 SCC OnLine Del 5505

*submits that the difficulty arises out of the fact that JNU has not invited any applications for Ph.D. in Hindi course through JNUEE. That is also, unfortunately, not a matter which can invite the interference of the writ court. The categories and qualifications in which an academic institution seeks to attract students for various courses is a matter for the institution to decide, and the interference of the writ court in such matters is only upon a finding of manifest arbitrariness or perversity. No such case is made out in the present petition.”*

41. A bare perusal of the aforementioned judicial precedents would lead to an inexorable conclusion that Courts are not the domain experts to deal with academic matters, rather the powers vest in the expert body to ascertain the *bonafide* requirements of any course, more importantly, professional courses. It cannot be gainsaid that the dilution of academic standards, particularly in the case of professional education, is at all impermissible and there exists a self-imposed fetter on Courts to not interfere in the decisions concerning the academic matters.

42. On the touchstone of the judicial pronouncements discussed above and sailing through the contours as delineated above, this Court shall now analyse whether, under the facts and circumstances of the present case, denial of admission to the petitioners has any nexus to the dilution of the academic standards in professional medical education and whether the decision of AIIMS passes the litmus test of restricted judicial scrutiny in academic matters.

43. The facts as expounded above indicate that the petitioners have pursued their postgraduate course from PGIMER Chandigarh. After completion of the said course, they wish to pursue a super speciality course at AIIMS and thus, participated in the INI-SS examination. The bone of contention in this entire controversy is the ascertainment of the period of training undertaken by the petitioners by PGIMER Chandigarh and AIIMS. In the forthcoming analysis, the Court shall

first separately examine the understanding of each of the institutions regarding the three-year tenure, the conclusion arrived at by each institute's understanding and thereafter, the conduct of AIIMS and PGIMER Chandigarh while dealing with the cases of the petitioners.

**AIIMS' understanding of three year tenure**

44. The understanding of AIIMS to ascertain the period of training for postgraduate courses rests on the bedrock of the information bulletin which was issued as a guideline for the candidates desiring for admission through INI-SS examination for pursuing super speciality courses.

45. To begin with, it is expedient to sail through the relevant terms and conditions of the information bulletin which has been strenuously relied upon by the rival parties. The relevant excerpt of the same is reproduced as under:-

**"4.3.2. The candidates must have completed the requisite qualification, degree and tenure by 31.07.2024. The candidates who are likely to complete their 3 years requisite qualification, degree and tenure after 31.07.2024 will not be eligible to appear in this examination."**

46. Clause 4.3.2 of the said bulletin stipulates that the candidates who were desirous of admission in DM/M.Ch. and MD through the INI-SS examination must have completed the required qualification, degree and tenure by 31.07.2024. It is further envisaged that the candidates who shall be completing their three years requisite qualification, degree and tenure beyond 31.07.2024 shall not be eligible for appearing in the said examination.

47. At this juncture, it is pertinent to point out that the information bulletin issued by AIIMS nowhere reflects any stipulation that the three years tenure is deemed to be 1095 days. Moreover, the impugned

orders also do not reflect the same that the three years tenure was deemed to be 1095 days.

48. The prescribed understanding that the three years tenure is deemed to be 1095 days for postgraduate courses is brought to the fore for the first time in the counter affidavit filed by AIIMS. Before filing of the counter affidavit by AIIMS, this understanding of AIIMS is neither manifested in the information bulletin nor in the impugned orders.

49. Moreover, during the pendency of the litigation, AIIMS wrote an email to NMC seeking clarification regarding the term three years. The NMC *vide* an email dated 05.07.2024, replied that the three years tenure means 36 months i.e., 1095 days.

50. Thus, the AIIMS' understanding of three years tenure to be equivalent to 1095 days is rooted in the NMC's email clarifying the said position. The logical fallacy of such understanding, particularly in the case of the petitioners, shall be discussed in the later part of this judgment.

**PGIMER Chandigarh's understanding of three years tenure**

51. After perusing the AIIMS' interpretation of three years tenure for postgraduate courses, it is pertinent to now look at the PGIMER Chandigarh's understanding regarding the same.

52. At the outset, it is crucial to glance through the salient clauses of PGMER Regulations, 2000 dated 22.08.2000 promulgated by NMC, whereby, Clause 2(I) stipulates that postgraduate medical education in broad specialities shall be of three years duration in the case of the degree course and two years in the case of diploma course after MBBS. Clause 10 of the aforementioned Regulations i.e., wherein the period of training is mentioned, envisages that the period of training

for obtaining the Doctor of Medicine (M.D.) / Master of Surgery (M.S.) degree shall be three complete years including the period of examination. For the sake of clarity, the relevant extracts of the aforementioned clauses of the PGMER Regulations, 2000 are reproduced as under:-

*“2. GENERAL CONDITIONS TO BE OBSERVED BY POSTGRADUATE TEACHING INSTITUTIONS:*

***1. Postgraduate Medical Education in broad specialities shall be of three years duration in the case of degree course** and two years in the case of Diploma course after MBBS and in the case of super specialities the duration shall be of three years after MD/MS with the exceptions wherever indicated.*

\*\*\*

*10. PERIOD OF TRAINING*

*The period of training for the award of various postgraduate degrees or diplomas shall be as follows:*

*(1) Doctor of Medicine (M.D.) / Master of Surgery (M.S.)*

*The period of training for obtaining these degrees shall **be three completed years including the period of examination.***

*Provided that in the case of students having a recognised two year postgraduate diploma course in the same subject, the period of training, including the period of examination, shall be two year.*

*In the above clause 10(1) the word “having” is substituted by the word “possessing” in terms of Notification published in the Gazette of India on 20.10.2008.*

*(2) Doctor of Medicine (D.M.) / Master Chirurgiae (M.Ch.)*

*The period of training for obtaining these degrees shall be three completed years (including the examination period) after obtaining M.D./M.S. degrees, or equivalent recognised qualification in the required subject;*

*The above clause has been substituted in terms of Notification published in the Gazette of India on 20.10.2008 .*

***“The period of training for obtaining these Degrees shall be three completed years including the examination period.”***

53. Additionally, the PGMER Regulations, 2023 dated 23.12.2023 as promulgated by the NMC, also clarifies that the period of training for obtaining the postgraduate broad speciality qualifications shall be

three years, including the period of examination. For reference, the relevant extracts of the PGMER Regulations, 2023 read as under:-

Sr. No.	Name of Qualification Duration of Course (including period of examination)	Duration of Course (including period of examination)
i.	Post-graduate broad-speciality Qualifications ( <b>Annexure-1</b> )	3 Years/ 2 years*
ii.	Post-graduate super-speciality Courses ( <b>Annexure-2</b> )	3 Years
iii.	Post-graduate diploma Courses ( <b>Annexure-3</b> )	2 Years
iv.	Post-Doctoral Certificate Courses (PDCC) ( <b>Annexure-4</b> )	1 year
v.	Post-Doctoral Fellowship (PDF) Courses ( <b>Annexure-5</b> )	2 years
vi.	D.M./M.Ch. (6 years Course) ( <b>Annexure-6</b> )	6 years

54. A conjoint reading of the aforementioned information bulletin and the relevant clauses of the PGMER Regulations would clearly evince that *firstly*, postgraduate medical education in broad specialities shall be of three years duration in the case of a degree course, and *secondly*, the period of training shall include examination period.

55. Thus, so far as these Regulations are concerned, PGIMER Chandigarh's understanding is that the postgraduate medical education in broad specialities shall be of three years duration in the case of a degree course. The stipulation that the three years is deemed to be 1095 days is nowhere reflected in the aforementioned PGMER Regulations.

56. It is also apposite to now refer to the clarification dated 10.04.2024 issued by the NMC Post Graduate Medical Examination

Board clarifying certain salient features of the PGMER Regulations, 2023. FAQ no. 1 clarifies the total number of leaves allowed for postgraduate students and FAQ no. 2 clarifies the completion of courses for three years tenure. For the sake of convenience, the relevant excerpts of the said FAQ are reproduced as under:-

*PUBLIC NOTICE*

*Subject: Clarification on Post Graduate (Medical Education Regulations-2023(PGMER-23)*

**National Medical Commission (NMC) had notified the Post Graduate Medical Education Regulations-2023 (PGMER-23), which was published in official Gazette on 01.01.2024.** Post Graduate Medical Education Board, NMC has received request from stakeholders seeking clarifications on some of the provisions of PGMER-23. Accordingly, the doubts/ queries raised by the various stakeholders have been duly examined & point-wise clarifications is enclosed as Frequently Asked Questions (FAQs).

2. All concerned are requested to take action accordingly.

***Frequently Asked Questions (FAQs) on Post-Graduate Medical Education Regulation-2023(PGMER-2023)***

1. *How much leave is allowed for Post-graduate students?*

*Weekly one-day off (subject to exigencies of work). In addition, they are eligible for twenty days Paid Casual Leave. Five days Academic Leave per year, if availed by a student will be counted as duty. Thus, a student is entitled to 52 weekly offs and 20 Paid Casual Leave per year.*



*Female post-graduate students shall be allowed maternity leave as per existing government rules and regulations. Male post-graduate students shall be allowed paternity leave as per existing government rules and regulations. However, period of training will be extended by the same number of days for which maternity/paternity leave have been availed.*

2. *If a post-graduate student avails long leave, when can they complete the course? When can they appear in the examination?*

**For Three-Year Course: Total days in a three-year course will be 1095 days. So the total working days will be 939 days after deducting weekly offs (52 x 3 years = 156 days). A student will require 80 per cent attendance of working days (i.e. 751 days of 939 days) for appearing in the examination. However, period of training will be extended by the same number of days for which maternity/paternity leave and total excess casual leave have been availed in three years.**

57. It is discernible from the aforementioned FAQ that these clarifications were issued by the NMC Post Graduate Medical Examination Board to dispel any doubt or confusion regarding the PGMER Regulations, 2023. However, surprisingly, the FAQ created more anomalies than it strived to ultimately resolve. It would illustrate from a plain reading of the concerned FAQ that the postgraduate students are entitled to weekly one day off i.e., 52 weekly offs per year and 20 days paid casual leaves per year. Additionally, the students are also entitled to maternity and paternity leave as per the extant government rules and regulations.

58. The FAQ 2A is of prime relevance in light of the controversy raised in the instant petition. As per FAQ 2A, the total working days for a three-year course would be 939 days. The said calculation is arrived after the deduction of weekly offs from a total of 1095 days (365 x 3) i.e.,  $1095 - 156 = 939$  days. Furthermore, in order to appear

in the postgraduate examination, the eligibility is not the stringent requirement of 939 days, rather it is 80 percent attendance of total working days i.e., 751 days. Thus, the attendance of 751 days out of the total tenure of 939 days would make any postgraduate student eligible to appear in the postgraduate examination.

59. Moreover, this is not the only deduction which can be ascertained from FAQ 2A. The second limb of FAQ 2A also elucidates that for the candidates who took maternity/paternity leave and excess casual leave, the period of training shall be extended for the number of days for which they took said leaves. However, this FAQ as well, instead of putting quietus to all the contentions regarding the tenure of course, created more anomalies. On one hand, this FAQ clarifies that the total working days in three years tenure shall be 939 days after the deduction of weekly offs, however, on the other hand, it does not give any clarity regarding the “period of training”.

60. It is pertinent to point out that the requirement of 80% attendance is mandatory only for sitting in the postgraduate examination and in no manner does it clarify or give impetus to an assertion that the 80% requirement is tantamount to the total “period of training”. This Court believes that the entire dispute could have been resolved had this FAQ issued by the NMC, in clear and unequivocal terms, stipulated the total working days of the course, total attendance requirement for appearing in the postgraduate examination and total number of days regarding the period of training.

61. Thus, a conspectus of the aforementioned analysis of the PGMER Regulations and FAQ issued by NMC would reveal that the tenure of a post-graduate course according to PGIMER is three years. The stringent requirement of completion of 1095 days is not reflected in

either of the PGMER Regulations, rather the FAQ relaxes the requirement of 1095 days and puts it to only 939 working days after deducting weekly offs and paid leaves.

**Circumstances leading to the Court's intervention**

62. Considering the case in hand, the petitioners joined the concerned course at PGIMER Chandigarh on 18.08.2021 and 21.08.2021 i.e., after a delay of 48 days and 51 days, respectively. At the inception only i.e., before the starting of the course, PGIMER Chandigarh issued an authorization slip indicating that the delay of 48 and 51 days shall be adjusted from the unavailed leave. Thereafter, on 20.05.2024, an internal note was circulated by the PGIMER Chandigarh indicating the total number of unavailed leaves in the case of the petitioners. The said tabulation indicated that at the end of the first and second year, the petitioners have total unavailed leave of 61 and 49 days respectively. For the sake of clarity, the internal note is reproduced as under:-

Sr. No.	Name of JR/SR (Academic)	Department	Unavailed Leave	
			I year	II year
1.	Dr. Shaurya Yadav	General Surgery	30	31
***				
5.	Dr. Deepak Suresh Kumar	General Surgery	19	30

63. Thereafter, on 20.05.2024, the PGIMER Chandigarh issued a *bonafide* certificate indicating that the date of completion in the petitioners' case would be 30.06.2024, after the adjustment of delay of 48 and 51 days, respectively. The notification dated 20.05.2024 reads as under:-

*Bonafide Certificate*

*The following candidates have joined as junior residents in MS (Surgery) course and complete their academic term mention against their names.*

<i>Sr. No.</i>	<i>Name of Doctor</i>	<i>DOJ</i>	<i>DOC</i>
1.	<i>Deepak Suresh Kumar</i>	<i>18.08.2021</i>	<i>30.06.2024</i>
2.	<i>Shaurya Yadav</i>	<i>21.08.2021</i>	<i>30.06.2024</i>
3.	<i>Jay Mehta</i>	<i>01.09.2021</i>	<i>12.07.2024</i>
4.	<i>Vipendra Singh Rajpoot</i>	<i>01.09.2021</i>	<i>12.07.2024</i>

*Above candidates will appear in the final examination of this Institute w.e.f. 24.4.2024. Results will be declared on 30.6.2024.*

*This certificate is issued on their request for applying various INI SS/Senior Resident entrance examinations.*

64. It is the said *bonafide* certificate that the petitioners have uploaded on the portal provided by AIIMS, thereby, clearly indicating the date of completion of the course as 30.06.2024. Subsequently, on 27.05.2024, AIIMS published the list of ineligible candidates and evidently, despite a clear indication of the date of completion of the course as 30.06.2024, AIIMS did not include the names of the petitioners in the list of ineligible candidates. If AIIMS strictly construed the period of tenure to be three completed years, AIIMS ought to have reflected the names of the petitioners in the list of ineligible candidates, which AIIMS admittedly failed to do at the first instance.

65. Thereafter, on 21.06.2024, an Office Order was issued by PGIMER Chandigarh calculating the date of completion for junior residents in courses like Medicine, General Surgery, Anaesthesia, and Pathology. In the said Office Order as well, in the General Surgery

course list, the date of completion in the petitioners' case was reflected as 30.06.2024. The relevant extracts of the said order read as under:-

*Office Order*

*The saved leaves of the following Junior Residents in the I & II Years of their residency are hereby adjusted against their late joining in accordance with the decision of the Government Body of the Institute taken in its meeting held on 26.08.1983 and circulated vide this office memo No.A95011/11rg/83/42727-69 dated 12.09.1983. Accordingly, the terms of the following Junior Residents will finish on dates as mentioned in the table below against their names:-*

Sr. No.	Name of Jr. Resident	D.O.C
General Surgery		
1.	Deepak Suresh Kumar	30.6.2024
2.	Shaurya Yadav	30.6.2024
3.	Jay Mehta	12.7.2024
4.	Vipendra Singh Rajpoot	12.7.2024

66. Subsequently, on 29.06.2024, PGIMER Chandigarh cancelled the aforementioned Office Order dated 21.06.2024 and after taking into account the earlier notification dated 12.09.1983, which only mandates the adjustment of leaves upto a maximum period of 30 days, passed the revised order. As per the said order, after the adjustment of leaves upto 30 days, the date of completion of the said course in the petitioners' case eventually came to be 18.07.2024 and 21.07.2024, respectively. For the sake of clarity, the Office Order dated 29.06.2024 is reproduced as under:-

*Office Order*

*In cancellation to our previous Office Order bearing Endst. No.2Trg/Leave Adjustment/2024/7966-65 dated 21.06.2024 and in pursuance to the request of the Junior Residents of the Department of Internal Medicine to withdraw the application of leaves adjustment, the saved leaves of the following Junior Residents in the first two years (maximum 30) of their residency are hereby adjusted against their late joining. Accordingly, the term of the following Junior*

*Residents will finish on dates as mentioned in the table below against their names:-*

Sr. No.	Name of Jr. Resident	Department	Date of Completion
1.	Deepak Suresh Kumar	General Surgery	18.07.2024
2.	Shaurya Yadav	General Surgery	21.07.2024
3.	Jay Mehta	General Surgery	01.08.2024
4.	Vipendra Singh Rajpoot	General Surgery	01.08.2024
5.	Avichal Rajpal	Internal Medicine	01.09.2024
6.	Dharmana Syamala Naidu	Internal Medicine	02.09.2024
7.	Aakash Dhondi Kobbani	Internal Medicine	19.08.2024
8.	Snehvarsha Bhagar	Pathology	21.08.2024
9.	Ankit Goyal	Anaesthesia & IC	19.07.2024

67. Notably, the aforementioned Office Orders and notification dated 12.09.1983 evidently manifest that PGIMER Chandigarh earlier adjusted the unavailed leaves of 48 and 51 days, respectively, in light of the authorization slip issued by it at the beginning of the course. However, subsequently, a notification dated 12.09.1983 came to light and PGIMER Chandigarh realised that the adjustment of unavailed leave on account of late joining is only permissible up to a maximum period of 30 days and eventually, it adjusted the date of completion as 18.07.2024 and 21.07.2024, respectively. In any event, whether the date of completion is construed to be 30.06.2024, 18.07.2024 or 21.07.2024, the same would still fall within the prescribed cut-off limit of 31.07.2024.

**Conduct of AIIMS and logical inconsistencies in its position**

68. During the course of proceedings and by virtue of its affidavits, AIIMS stresses upon the academic standards of its education

pedagogy and according to it, the stringent requirement of 1095 days is paramount to adhere to these standards. However, it is noted with dismay that this understanding was only reflected, deliberated and perused during the litigation proceedings before the Court instead of the information bulletin and their conduct.

69. At the first instance, if AIIMS was aware about the mandatory prescription of 1095 days' period of training, the same ought to have been reflected in clear and unequivocal terms in the information bulletin itself.

70. Furthermore, the AIIMS had another opportunity to mention its prescription of 1095 days of period of training when it published the list of ineligible candidates on 27.05.2024. However, at the said juncture as well, they failed to do so, thereby, giving assurances to the petitioners that the completion certificate uploaded by them adhered to the prescribed AIIMS guidelines.

71. Thereafter, AIIMS had another opportunity to clarify if there was any discrepancy at all when they conducted counselling and the petitioners were allotted seats at AIIMS, *vide* offer letter dated 19.06.2024. At this point as well, AIIMS did not object to the candidature of the petitioners. AIIMS was very well within its right to examine the petitioners' completion certificates as provided by PGIMER Chandigarh and to ascertain whether those certificates complied with the mandatory prescription of 1095 days. Instead of allotting the seats to the petitioners, AIIMS could have withheld the results of the petitioners, examined the records, sought clarifications from the petitioners and then, eventually declared the results.

72. However, AIIMS not only allowed them to participate in the counselling process but also allotted them seats and eventually, they were issued an acknowledgement slip confirming their admission.

73. The entire castle of mandatory nature of 1095 days of the period of training was built brick by brick only through affidavits tendered by AIIMS and the arguments advanced during the Court proceedings. The Court appreciates the arduous efforts taken by AIIMS during the Court proceedings to justify their unflinching stance on 1095 days of period of training, however, even if an iota of this careful exercise had been done during the conduction of examination, right from the framing of information bulletin to the declaration of results and endeavours were made to clear the ambiguity, the entire conflict would not have even arisen at the first instance.

74. The foregoing discussion clearly leads to an indefeasible conclusion that AIIMS has failed to scrupulously follow the utmost professional standards while handling the case of the petitioners or even conducting the INI-SS examination, which otherwise it was reasonably expected to do. Being an Institute of National Importance, a *bonafide* duty is cast on AIIMS to not only adhere to the extant regulations but to also reflect a clear understanding in the brochures/prospectus/bulletin issued by it. An act on the part of the institution which takes the candidates by surprise at the sheer end of the selection process does not meet the judicial scrutiny, specifically because of the fact that the institution had ample opportunities of course correction in the facts of the case.

**Conduct of PGIMER Chandigarh**

75. In the same vein, the conduct of PGIMER Chandigarh also reeks of logical inconsistencies and unprofessional standards which is not expected from an Institute of National Importance and therefore, deserves to be rebuked.

76. At the outset, when PGIMER Chandigarh gave the admission to the petitioners, they gave an assurance that the delay in joining



would be compensated from the unavailed leaves, however, such assurance was given without realising as to from where the power flew in the hands of PGIMER Chandigarh to adjust the unavailed leaves against the deficiency in the period of training.

77. After the completion of the course, PGIMER Chandigarh issued a circular dated 20.05.2024 indicating that the petitioners have completed their postgraduate course and the date of completion in the petitioners' case falls on 30.06.2024.

78. Thereafter, the PGIMER Chandigarh got to know about the circular dated 12.09.1983 and as a sequitur, after deducting the delay of 48 days and 61 days, respectively, issued another Office Order dated 21.06.2024 indicating that the date of completion in the petitioners' case would be 30.06.2024.

79. Till this point, though PGIMER Chandigarh noted the circular dated 12.09.1983 in its office order dated 21.06.2024 but it was not even aware about the fetters imposed *via* said circular of 1983 for the adjustment of unavailed leaves.

80. Thereafter, PGIMER Chandigarh issued another office order dated 24.06.2024 certifying that the petitioners have completed their postgraduate course from PGIMER Chandigarh and the date of completion was 30.06.2024.

81. It is also evinced from the PGIMER Chandigarh's affidavit that prior to the issuance of these three circulars, PGIMER Chandigarh was completely unaware about the true nature of powers and obligations conferred upon it *vide* circular dated 12.09.1983.

82. Thereafter, after finally acting on the powers as well as the fetters imposed *vide* that circular, PGIMER Chandigarh issued another office order dated 29.06.2024 and accordingly, adjusted only 30 days in the period of training from the unavailed leaves, thereby, declaring

that the petitioners' postgraduate course would be completed on 18.07.2024 and 21.07.2024 respectively.

83. Thus, an even-handed assessment of PGIMER Chandigarh's actions in handling the case of the petitioners highlights a pattern of lethargy, unprofessionalism and dilettante conduct. The mishandling on the part of PGIMER Chandigarh not only reflects poorly on its procedural and administrative efficiency but also demonstrates a lack of due diligence, accountability and high professional standards reasonably expected from an institution of its stature. At times, such conduct also erodes the public trust reposed in such institutions and significantly undermines its credibility. In fact, the entire gamut of controversy could have been averted had PGIMER Chandigarh issued a clear *bonafide* certificate indicating the date of admission, the total number of days of the period of training, the total number of adjustment of unavailed leaves and the date of completion of the course, with due regard to its own circular dated 12.09.1983.

84. It is ultimately due to these errors committed by the institutes noted hereinabove that dragged this controversy leading to chaos, confusion and ultimately denial of petitioners' right to pursue medical education.

**Addressing the elephant in the room- three academic years or 1095 days**

85. The information bulletin, as already noted above, issued by AIIMS, particularly Clause 4.3.2 therein, clearly reflects an understanding that eligibility to participate in INI-SS examination is the completion of the course within 3 years. According to AIIMS, this three years tenure should strictly be construed to be 1095 days.

86. Furthermore, the NMC *vide* email dated 05.07.2024 clarified the position in the said regard and in a way, the said clarification does

not leave any scope to tinker with the rigor of three years training period. The relevant portion of the said communication reads as under:-

*“Dear Registrar AIIMS , Delhi*

*With regards to the query " To clarify the meaning of the term “three years” within the PG Regulations and whether it means three complete years (36 months) or three academic year.*

***It is clarified that the The DM/Mch Student should be able to achieve competencies and skills required to be able to handle the patients on his own and take appropriate clinical decision-making skills , it would be mandatory to complete his 3 years tenure(36 Months) as per the Regulations.”***

87. Undeniably, the NMC was established with the aim to improve access to quality and affordable medical education, ensuring the availability of adequate and high-quality medical professionals in all parts of the country while promoting equitable and universal healthcare that encourages community health perspective and making services of medical professionals accessible to all the citizens. The NMC Act, 2019 further puts an overarching responsibility on NMC to promote, co-ordinate and assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting such requirements. Therefore, it would not be prudent in any circumstances to brush aside or dilute any qualification envisaged by the NMC without giving due consideration, which otherwise appears to be in line with the broader objective of creating a just, fair and equitable opportunity for all to pursue medical education.

88. Considering the discussion in the foregoing paragraphs, it is apparent that both the AIIMS as well as the NMC align in their understanding regarding the period of training to be construed as three

years. However, it is also made clear in no unambiguous terms that this understanding ought to have been explicitly reflected in the brochure, FAQ or through a general notification clearing all the air regarding any controversy that has arisen or could have arisen in the future. Undisputedly, a failure to adhere to a minimal standard of careful exercise by the authorities that are at the pinnacle of regulating and imparting medical education in India may result in detrimental effects which are profound and multifaceted.

89. The entire dispute can also be looked at from another lens i.e., in view of the scope of the notification dated 12.09.1983 coupled with PGIMER Chandigarh's understanding as well as NMC's clarification. The rigour of the notification dated 12.09.1983 and any subsequent decision of PGIMER Chandigarh, to an extent, grants benefit towards adjustment of unavailed leaves; however, the net effect of such an exercise can, at best, only have a bearing in the determination of the eligibility criteria to appear in the postgraduate examination conducted by PGIMER Chandigarh. This aspect further gets strengthened from a bare reading of notification dated 12.09.1983, which *inter-alia* states that residents (senior and junior) and trainees of all other courses conducted by PGIMER Chandigarh, who join the courses with some delay can have their unavailed leaves, to which they are entitled during the period of residency/course, adjusted upto a maximum period of one month. Moreover, even the answers to the FAQ, as noted hereinabove, will have to be perused, analysed and understood in the context of the very question they sought to answer therein.

90. It is seen that FAQ no. 1 essentially relates to leaves allowed for postgraduate students under PGIMER Regulations, 2023, whereas FAQ no. 2 relates to eligibility to appear in the postgraduate examination if a student avails long leaves. Thus, a simultaneous

reading of the FAQ and the notification dated 12.09.1983 would only shed light on the issue of entitlement to appear in the postgraduate examination conducted by PGIMER Chandigarh. Even the PGIMER Regulation, 2000 also includes the period of examination within three completed years.

91. It appears that there are two spheres, one relates to the postgraduate course and its examination while the other relates to the eligibility criteria to take part in the INI-SS examination. At the outset, no doubt, both these spheres appear to be deeply integrated, however, in no uncertain terms, it can be concluded that the PGIMER Chandigarh shall not be governed by the eligibility criteria set by AIIMS.

92. Thus, the very factum of the internal adjustment for availment or non-availment of leaves etc. and consequences thereto cannot be construed as attempting to dilute the stipulation of three completed years of the period of training, as required by AIIMS. Rather, it only focuses on the eligibility or pre-condition to appear in the postgraduate examination. If three completed years are sought to be interpreted by AIIMS to mean 36 months (1095 days), this interpretation cannot be faulted merely on the ground that certain relaxations are provided by PGIMER Chandigarh as per its notification or under leave rules etc. to appear in the examination.

93. What logically flows from the aforesaid analysis is that for a postgraduate student to be eligible to undergo a super speciality course, one may have to complete three years period of training imparted during the postgraduate course by the cut-off date prescribed by AIIMS. As can be seen that the period of examination is a part of three completed years and therefore, even after the examination is over, postgraduate students can continue to undergo the requisite

training so as to correct the deficiency, if any, to meet the requirement of three completed years. Thus, the sacrosanct condition which emerges is that the 36 months (1095 days) training is to be undertaken by the postgraduate students. Moreover, it is pertinent to bear in mind that the concerned course is not just academic in nature rather the course is skill based, wherein, the aspect of practical training is a quintessential concomitant of the course. Any interpretation to relax or tinker with the requisite prescription of training period in a skill based course would ultimately defeat the objective that the course strives to achieve. Though certain internal benefits may be given by the concerned institute within these 36 months to enable the students to appear in internal examinations etc., however, these benefits in no way intend to dilute the mandatory prescription of three completed years of the period of training. Any other interpretation based on the institute-specific applicable norms would result in diluting the mandatory prescription of three completed years of the period of training.

94. In a given case, if any institute imparting postgraduate course decides to take into consideration the weekly offs and other holidays to be working days and thus, extends the option to the students to attend the training during the weekly offs and other holidays, the 36 months of training would then be squeezed in a smaller period, which perhaps is a preposterous proposition and may lead to bizarre conclusions. This conclusion, if accepted, would open the pandora's box as then the entire medical education of this country would be virtually left at the sole discretion of the specific institutes which may devise their own conditions and any objective of coherence between the institutes could never be fulfilled, further leading to inherent inconsistencies and chaos. Furthermore, the affidavit tendered by AIIMS also states that it does not appear that any other institute is

granting any benefits of such nature to shorten the mandatory prescription of 1095 days.

95. This institute-specific understanding of the mandatory prescription of three years period would also certainly impact the academic calendar, thereby, create anomalies in the conduction of other competitive examinations. The elephantine burden of this futile exercise would ultimately be borne by the students who will again have to traverse through the procedural maze of technicalities and institutional norms, thereby, ultimately knocking on the doors of Constitutional Courts to materialize their dreams in getting a quality education. Such an interpretation cannot be countenanced and must be thwarted.

96. Hence, without diluting the 36 months of training of postgraduate students, internal adjustment to appear in the examination and to avail leaves etc. can be said to be permissible and thus, it is this harmonious understanding of AIIMS and PGIMER Chandigarh which would better serve the larger public interest.

97. The aforesaid view also gets strengthened from the position of law regarding the interference of writ courts in policy decisions, which is well settled and expounded through a catena of judgments, as already discussed in the preceding paragraphs, which succinctly affirm that the writ courts should keep their hands off, unless the concerned policy is grossly arbitrary or *malafide* or suffers from patent illegality.

98. However, an information bulletin, in all fairness, should not give any leeway for misinterpretation and leave candidates in precarious situations as it plays a coveted role in maintaining utmost transparency, which is the cornerstone of any just and fair examination. If the said document contains any vague terms or leaves scope for multiple interpretations, it immensely undermines the trust

of the public in academic institutions. In fact, a need to uphold clarity and eliminate any form of ambiguity gains even more significance when the case relates to Institutes of National Importance, which are nothing but instrumentalities of the State, established in the national interest for catering to the public at large and are at the helm of imparting quality professional education in this Country.

99. The Constitution Bench of the Supreme Court in the case of *Saurabh Chaudhari v. Union of India*<sup>9</sup>, has held that the meritorious students have a fundamental and human right to take admission in their desired course and the same needs to be safeguarded. The relevant observations of the Supreme Court in the said decision read as under:-

*“8. Right of a meritorious student to get admission in a post graduate course is a fundamental and human right, which is required to be protected. Such valuable right cannot be permitted to be whittled down at the instance of less meritorious students”*

100. In essence, it would be a travesty of merit as also a blot on the unflinching faith reposed by the common man in the State, if such doctors brimming with brilliance are meted out with a treatment which endeavours to test their calibre not on merit but, unfortunately, on their ability to interpret unsaid terms and to navigate through bureaucratic mazes. It is disheartening to note that the deserving candidates who have gained the highest echelons in a gruelling examination process are made to suffer on account of overly convoluted procedural interpretations and also due to a lack of organisational coherence between the institutions of the same cluster. As a natural corollary, the selection process, which should otherwise be grounded on merit, has been overshadowed by mechanical

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<sup>9</sup> (2003) 11 SCC 146.



considerations. While the Court does not dispute the authority of the respondents to define eligibility criteria, which is undeniably their exclusive domain, but what needs to be ensured at the very least is that the same must be clear and certain so as to weed out any form of arbitrariness or negate any chances of fostering inequality.

101. On a jurisprudential plane, since the right to equal and fair treatment is an inevitable component of Article 14 of the Constitution of India, it is the utmost duty of the State to ensure that such right is not jeopardized by any of the actions of its instrumentalities. In the case at hand, the repudiation of the claim of admission by the meritorious candidates and consequently, leaving them in the lurch cannot merely be ascribed to an administrative failure, rather the same amounts to an infraction of their rights.

102. In the case of *S. Krishna Shradha v. The State of Andhra Pradesh & Ors.*<sup>10</sup>, wherein, the issue arose regarding the grant of admission beyond the cutoff date to the MBBS candidates, the Supreme Court has held that the action of arbitrarily denying admission to the meritorious candidates for no fault of theirs would tantamount to a violation of the fundamental rights of the candidates. It was also observed that the primary relief in such cases should be restitution as for a student, seeking admission in a medical course is an important event in his/her life and not granting any just and equitable relief would be a denial of justice. The Supreme Court also took a view that in rare and exceptional circumstances, the Court can grant admission to such students in the same academic year even after the last date prescribed for admission is over. The relevant paragraphs of the said decision are reproduced herein for reference:-

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<sup>10</sup> AIR 2020 SC 47.

*“13. In light of the discussion/observations made hereinabove, a meritorious candidate/student who has been denied an admission in MBBS course illegally or irrationally by the authorities for no fault of his/her and who has approached the Court in time and so as to see that such a meritorious candidate may not have to suffer for no fault of his/her, we answer the reference as under:*

*13.1. That in a case where candidate/student has approached the court at the earliest and without any delay and that the question is with respect to the admission in medical course all the efforts shall be made by the court concerned to dispose of the proceedings by giving priority and at the earliest.*

*13.2. Under exceptional circumstances, if the court finds that there is no fault attributable to the candidate and the candidate has pursued his/her legal right expeditiously without any delay and there is fault only on the part of the authorities and/or there is apparent breach of rules and regulations as well as related principles in the process of grant of admission which would violate the right of equality and equal treatment to the competing candidates and if the time schedule prescribed — 30th September, is over, to do the complete justice, the Court under exceptional circumstances and in rarest of rare cases direct the admission in the same year by directing to increase the seats, however, it should not be more than one or two seats and such admissions can be ordered within reasonable time i.e. within one month from 30th September i.e. cut-off date and under no circumstances, the Court shall order any admission in the same year beyond 30th October. However, it is observed that such relief can be granted only in exceptional circumstances and in the rarest of rare cases. In case of such an eventuality, the Court may also pass an order cancelling the admission given to a candidate who is at the bottom of the merit list of the category who, if the admission would have been given to a more meritorious candidate who has been denied admission illegally, would not have got the admission, if the Court deems it fit and proper, however, after giving an opportunity of hearing to a student whose admission is sought to be cancelled.*

*13.3. In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to*

*increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.*

*13.4. Grant of the compensation could be an additional remedy but not a substitute for restitutorial remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.*

*13.5. It is clarified that the aforesaid directions pertain to admission in MBBS course only and we have not dealt with postgraduate medical course.”*

103. In the case of **Abha George v. AIIMS**,<sup>11</sup> as well, the petitioners therein were granted admission, however, the respondent-AIIMS therein, afterwards cancelled the admission on the ground that since the results of the undergraduate course were declared after the cut-off date, therefore, the petitioners therein were ineligible. The Court, while rejecting the said contention, held that academic institutions are not permitted to cancel the candidature once the course has commenced and that too when the candidates were not at fault. The relevant observations of this Court in the aforesaid case reads as under:-

*“20. Applying these authorities in the present case, it appears that the petitioners' documents were accepted by the respective centres of Aiims, despite the fact that their qualifying examination results were declared one week later than stipulated in the prospectus. The petitioners have prosecuted their studies for almost two months prior to issuance of the impugned OM dated 18-10-2021. There is no allegation that the petitioners had misrepresented or concealed any information from Aiims — indeed, there cannot be, as the qualifying*

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<sup>11</sup> (2022) 1 HCC (Del) 774.

*examination was conducted by Aiims itself. Applying the observations of the Supreme Court in Rajendra Prasad Mathur case [Rajendra Prasad Mathur v. Karnataka University, 1986 Supp SCC 740] , in the present case also, the blame lies more upon the institution than the petitioners. The candidates applied; their results were declared by Aiims, New Delhi; those results were submitted to the regional centres to which they have been assigned, and they were granted admission. Their admissions were cancelled after they had spent almost two months on the course. The judgment of this Court in Javed Akhtar case [Javed Akhtar v. Jamia Hamdard, 2006 SCC OnLine Del 1504] , in fact, goes further to hold that an academic institution cannot be permitted to cancel admissions after the course had started, at any time during the year, due to prejudice that would be caused to the candidates who were admitted as they would by then be unable to take admission in any other university to which they may have been admitted.*

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*24. The conditions of the prospectus, cited by Mr Parashar, and the judgment of this Court in Varun Kumar Agarwal case [Varun Kumar Agarwal v. Union of India, 2011 SCC OnLine Del 1133] , also do not lead me to a contrary conclusion. Clause 9 in Section 13 of the prospectus concerns admission “to the entrance examination”. In my view, the clause, as it stands, provides for cancellation of the candidature for the admission examination. In any event, even on the assumption that Aiims was vested with the power to cancel the petitioners' admissions, for the reasons aforesaid, I have come to the conclusion that the power ought not to have been exercised in the present case. The judgment in Varun Kumar Agarwal case [Varun Kumar Agarwal v. Union of India, 2011 SCC OnLine Del 1133] , provides that the conditions of the brochure are mandatory. That proposition is well settled. However, the question in the present case is not of applying the eligibility conditions to deny admission to a particular candidate, but of cancellation of an admission after it has been granted, and the candidate has taken his/her place in the university/institution. There may be cases where the ineligibility is such as to militate against the grant of equitable relief even to an admitted candidate. The present situation is, however, covered by the decisions of the Supreme Court and this Court as stated above, and I see no reason, in law or equity, to differ from the conclusions reached therein.”*

104. While relying upon the enunciation of law in the case of *S. Krishna Shradha*, the Division Bench of this Court in the case of

*AIIMS & Ors. v. Ashutosh Kumar & Ors.*<sup>12</sup>, took a view that denial of admission to a meritorious candidate where he/she is not at fault would amount to injustice and in such a situation, the Courts cannot be expected to remain mute spectators. Furthermore, in light of the authoritative pronouncement of the Constitution Bench of Supreme Court in the case *Saurabh Chaudhari*, wherein, it has been established that meritorious students have the fundamental and human right to take admission in their desired course upon qualifying the prescribed criteria, this Court shall now examine consideration of the claims of the petitioner on the touchstone of the doctrine of legitimate expectation, more particularly the substantive aspect attached therein, which is rooted in the principle of fairness in administrative decision making.

105. The pith and substance of the substantive aspect of the said doctrine can be traced back to the authoritative pronouncement in the seminal case of *R v. North and East Devon Health Authority, ex p*<sup>13</sup>, whereby, the Court of Appeal of England and Wales pointed out that if a promise or a practice had induced a legitimate expectation of a benefit which was substantive and not merely procedural, the Courts can, in proper cases, decide whether frustration of such expectation is so unfair that it amounted to an abuse of power.

106. The Supreme Court in the case of *Union of India v. Hindustan Development Corporation*<sup>14</sup> enunciated that the doctrine of legitimate expectation is distinguishable from a mere wish or hope, and is based on the sanction of law or custom or established procedure followed in regular or natural course. It held thus:-

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<sup>12</sup> 2023 SCC OnLine Del 7031

<sup>13</sup> (2000) 2 WLR 622 (CA)

<sup>14</sup> (1993) 3 SCC 499.

*“Time is a three-fold present : the present as we experience it, the past as a present memory and future as a present expectation. For legal purposes, the expectation cannot be the same as anticipation. It is different from a wish, a desire or a hope nor can it amount to a claim or demand on the ground of a right. However earnest and sincere a wish, a desire or a hope may be and however confidently one may look to them to be fulfilled, they by themselves cannot amount to an assertable expectation and a mere disappointment does not attract legal consequences. A pious hope even leading to a moral obligation cannot amount to a legitimate expectation. The legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in regular and natural sequence. Again, it is distinguishable from a genuine expectation. Such expectation should be justifiably legitimate and protectable. Every such legitimate expectation does not by itself fructify into a right and therefore it does not amount to a right in the conventional sense.”*

107. A reference can be made to the decision of **Ram Pravesh Singh v. State of Bihar**,<sup>15</sup> wherein, the Supreme Court explained the doctrine of legitimate expectation as an expectation of a benefit, relief or remedy, that may ordinarily flow from a promise or established practice. It observed as follows:—

*“What is legitimate expectation? Obviously, it is not a legal right. It is an expectation of a benefit, relief or remedy, that may ordinarily flow from a promise or established practice. The term “established practice” refers to a regular, consistent, predictable and certain conduct, process or activity of the decision-making authority. The expectation should be legitimate, that is, reasonable, logical and valid. Any expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be a legitimate expectation. Not being a right, it is not enforceable as such. It is a concept fashioned by the courts, for judicial review of administrative action. It is procedural in character based on the requirement of a higher degree of fairness in administrative action, as a consequence of the promise made, or practice established. In short, a person can be said to have a “legitimate expectation” of a particular treatment, if any representation or promise is made by an authority, either expressly or impliedly, or if the regular and consistent past practice of the authority gives room for such expectation in the normal course. As a*

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<sup>15</sup> (2006) 8 SCC 381.

*ground for relief, the efficacy of the doctrine is rather weak as its slot is just above “fairness in action” but far below “promissory estoppel”. It may only entitle an expectant : (a) to an opportunity to show cause before the expectation is dashed; or (b) to an explanation as to the cause for denial. In appropriate cases, the courts may grant a direction requiring the authority to follow the promised procedure or established practice. A legitimate expectation, even when made out, does not always entitle the expectant to a relief. Public interest, change in policy, conduct of the expectant or any other valid or bona fide reason given by the decision-maker, may be sufficient to negative the “legitimate expectation”. The doctrine of legitimate expectation based on established practice (as contrasted from legitimate expectation based on a promise), can be invoked only by someone who has dealings or transactions or negotiations with an authority, on which such established practice has a bearing, or by someone who has a recognised legal relationship with the authority. A total stranger unconnected with the authority or a person who had no previous dealings with the authority and who has not entered into any transaction or negotiations with the authority, cannot invoke the doctrine of legitimate expectation, merely on the ground that the authority has a general obligation to act fairly.”*

108. Furthermore, it is apropos to lend credence to the observations of the Constitution Bench of the Supreme Court in the case of ***Sivanandan C.T. v. High Court of Kerala***<sup>16</sup>, wherein, while relying on a series of judgments underpinning the existence of substantive legitimate expectation in the Indian jurisprudence and extensively dealing with the law laid down in those cases, the Court has reached the following conclusion:-

*“46. From the above discussion, it is evident that the doctrine of substantive legitimate expectation is entrenched in Indian administrative law subject to the limitations on its applicability in given factual situations. The development of Indian jurisprudence is keeping in line with the developments in the common law. **The doctrine of substantive legitimate expectation can be successfully invoked by individuals to claim substantive benefits or entitlements based on an existing promise or practice of a public authority.** However, it is important to clarify that the doctrine of legitimate expectation cannot serve as an independent basis for judicial review of*

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<sup>16</sup> (2024) 3 SCC 799.

*decisions taken by public authorities. Such a limitation is now well recognised in Indian jurisprudence considering the fact that a legitimate expectation is not a legal right. [Union of India v. Hindustan Development Corpn., (1993) 3 SCC 499; Bannari Amman Sugars Ltd. v. CTO, (2005) 1 SCC 625; Monnet Ispat & Energy Ltd. v. Union of India, (2012) 11 SCC 1; Union of India v. P.K. Choudhary, (2016) 4 SCC 236 : (2016) 1 SCC (L&S) 640; State of Jharkhand v. Brahmputra Metalics Ltd., (2023) 10 SCC 634.] It is merely an expectation to avail a benefit or relief based on an existing promise or practice. Although the decision by a public authority to deny legitimate expectation may be termed as arbitrary, unfair, or abuse of power, the validity of the decision itself can only be questioned on established principles of equality and non-arbitrariness under Article 14. **In a nutshell, an individual who claims a benefit or entitlement based on the doctrine of legitimate expectation has to establish : (i) the legitimacy of the expectation; and (ii) that the denial of the legitimate expectation led to the violation of Article 14.**”*

109. In *Javed Akhtar & Anr. v. Jamia Hamdard & Anr.*,<sup>17</sup> a Co-ordinate Bench of this Court considered a case where the petitioners’ candidature was accepted for appearing in the entrance examinations, and they were admitted to the concerned institution. Their admissions were cancelled after they had attended the classes for one month. The Court ultimately held that while granting the admission if the academic body has acted inattentively and mechanically, then they cannot be allowed to take the plea that the admission was never valid and that the petitioners were ineligible from the very inception and despite knowing the ineligibility, they applied for admission. The relevant observations of this Court in the said case read as under:-

*“38. Therefore, while granting the admission if the academic body has acted inattentively and mechanically, then they cannot be allowed to take the plea that the admission was never valid and that the petitioners’ were ineligible from the very inception and knowing the ineligibility they applied for admission. The respondents cannot be allowed to cancel the admission at their*

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<sup>17</sup> 2006 SCC OnLine Del 1504.



*own convenience at any time of the year without considering the fact that if they cancel the admission after the session has started then the entire year of the petitioners will be spoiled as the petitioners would not be in a position to take admission in any other college/University. If this fact of their ineligibility for admission was conveyed to them at the very start they would have taken admission in some other college/University.*

*39. In such situation, in view of the decision in Sangeeta's case(Supra), the petitioners cannot be penalized for the negligence of authorities. It is important to appreciate that the petitioners in the facts and circumstances cannot be accused of making any false statement or suppressing any relevant fact before anybody. They clearly mentioned their Date of Birth in the application form for admission, and are not guilty of any fraud or misrepresentation. It was the duty of the University to have scrutinized the application form and the certificates thoroughly before granting admission to the petitioners and permitting them to attend the classes and not having done so they cannot cancel the admission thereafter. By accepting the application form and subsequently granting admission representation was made by the respondents that the petitioners' were eligible for admission and the petitioners' acting upon the same took admission and thus the petitioners' suffered a detriment. Had the respondents not made the representation that the application had been approved and granted admission the petitioners' would have applied and taken admission else-where. Therefore the respondents are estopped from pleading that the petitioners were not entitled to a seat from the inception and that the admission is void ab initio and that the admission without fulfilment of the eligibility criteria is a nullity.*

*40. In the facts and circumstances of the case the respondents cannot be allowed to take advantage of their own wrong and cannot be permitted to take the plea that under the prospectus they had the power to cancel the admission of ineligible student and the principle of estoppel will operate against them. The respondents are estopped from cancelling the admission of the petitioners' and further from preventing them from pursuing the 'Pre Tib' course in the present facts and circumstances."*

110. Therefore, the Court does not deem it appropriate to interfere in the understanding of the AIIMS regarding the interpretation of three years tenure as it is supported by the prospectus as well as the NMC's understanding.

111. However, as already stated above, if the AIIMS intended the said stipulation in Clause 4.3.2 to signify ‘calendar’ years, it was highly desirable and rather, uncompromisable that the same ought to have been precisely mentioned in no uncertain terms in the information bulletin itself. After all, the information bulletin serves not only as an elementary source of communication between the institutions and the candidates desirous of admission, but it also has an inherent nature of a quasi-contractual document outlining the binding terms and conditions, thereby, creating legal obligations between the relevant stakeholders. In addition to legal obligations, it sets certain reasonable expectations for the future course of action and on the basis of the terms stipulated therein, the candidates may chart their future course.

112. Needless to state that in academic matters and particularly of professional courses, the Courts should generally exercise judicious restraint and keep their hands off in intervening in policy decisions; however, in the exceptional circumstances where the facts and context warrant interdiction, the Constitutional Courts cannot remain tacit spectators. Allowing the bureaucratic conflicts to jeopardize the future of talented students would amount to endorsing a grave injustice as the same touches upon the very foundation of meritocracy, especially when no fault appears to have been committed by the students. This Court, as a note of caution to AIIMS, NMC and other Institutes of National Importance, underscores the need for these esteemed institutions/bodies to maintain the highest standards befitting their professional stature. It is imperative for such authorities to ensure that they have unblemished and unambiguous brochures, which are precise, clear and free from any inconsistencies. The said condition

carries with itself an onerous expectation, especially in cases of crucial nature like admissions, which opens the door of opportunities for deserving students and therefore, these bodies must endeavour to meet such reasonable expectations with alacrity.

**Weighing down the scales of equity**

113. It is pertinent to point out that the need for interference in the present case is predicated on the peculiar facts and circumstances canvassed before this Court.

114. In the present case, the AIIMS had an opportunity to reflect the prescription of 1095 days of period of training, when it published the list of ineligible candidates on 27.05.2024. But admittedly, AIIMS failed to do so and did not include the names of the petitioners in the list of ineligible candidates.

115. Thereafter, AIIMS had another occasion to clarify the situation when they conducted counselling and the petitioners were allotted seats at AIIMS, *vide* an offer letter dated 19.06.2024. At this point as well, AIIMS did not object to the candidature of the petitioners. In fact, the AIIMS not only allowed them to participate in the counselling process but also allotted them seats and eventually, they were issued an acknowledgement slip confirming their admission.

116. As a result of the actions of AIIMS, they completed all the requisite formalities and on 21.06.2024, after verification of all the documents and upon deposition of security amount of Rs. 3,00,000/-, they were issued an acknowledgement slip confirming their admission.

117. It is only at the last stage when the medical examination was scheduled that the AIIMS issued the impugned orders indicating that the petitioners are ineligible to take admission in the postgraduate

program in Cardiothoracic and Vascular Surgery and in Gastrointestinal Surgery in AIIMS as they have not completed their three years course as on cut-off date of 31.07.2024 i.e., within three calendar years.

118. At no point of time did the petitioners furnish any wrong information or suppress material information. It is clear that in their first *bonafide* certificate submitted by the petitioners, the date of completion is clearly reflected as 30.06.2024, and if AIIMS was of the view that the same relaxes the eligibility criteria, their candidature ought to have been rejected at the very inception.

119. At this juncture, it is pertinent to peruse the affidavit furnished by PGIMER Chandigarh in W.P.(C). 9642/2024 which states that as on the prescribed cut-off date i.e., 31.07.2024, the petitioner therein has completed 1035 days period of training. However, the affidavit tendered by AIIMS in the said case clearly and unequivocally states that as per Clause 4.3.2 of the prospectus, the petitioner therein would be considered eligible to appear in the INI-SS examination for January, 2025 session. The relevant extracts of the said affidavit read as under:-

*“2. The present affidavit is being filed on behalf of Respondent Nos.1 & 2 / All India Institute of Medical Sciences, New Delhi (“AIIMS” or “Answering Respondent”) pursuant to the hearing of the captioned matter before this Hon’ble Court on 01.10.2024.*

*3. The Petitioner joined his MS (surgery) course with PGIMER / R-4 on 01.09.2021 and as per the extant rules and regulations, the 3-year PG degree undergo by the Petitioner would complete on 31.08.2024. As such, he shall be eligible for the ensuing INI-SS examination (January, 25 session) in terms of Clause 4.3.2 of the prospectus which is already issued:*

*4.3.2. The candidates must have completed the requisite qualification, degree and tenure by 31.01.2025. The candidates who are likely to complete their 3 years*

*requisite qualification, degree and tenure after 31.01.2025 will not be eligible to appear in this examination.”*

*[emphasis supplied]*

4. *As such, it is submitted that the Petitioner shall be treated as having completed his 3-year PG course and shall not be rendered ineligible in this INI-SS examination for the January, 2025 session, on this account.”*

120. Thus, by virtue of the said affidavit, it appears that AIIMS stipulated that since the petitioner therein is meeting the requirement of three complete years from 01.09.2021 to 31.08.2024, therefore, it agreed to allow the petitioner therein to appear in the INI-SS examination for the January, 2025 session.

121. Also, the order sheets in W.P.(C.) 8943/2024 would reflect that on 08.07.2024, AIIMS, Delhi was directed to keep two seats reserved, one in M.Ch. in Cardiothoracic and Vascular Surgery and one in M.Ch. in Gastrointestinal Surgery, for the present petitioners. Moreover, *vide* order dated 08.10.2024, this Court, directed for the provisional admission to the petitioners, *albeit* without prejudice to the rights and contentions of the parties.

122. The Court cannot be oblivious to the fact that on 08.10.2024, when the provisional admission was granted to the petitioners, by that time, the petitioners had completed the tenure of three complete years of the period of training as the date of completion of three complete years falls on 17.08.2024 and 20.08.2024, respectively. Therefore, considering the affidavit furnished by AIIMS in W.P.(C). 9642/2024 and the provisional admission which was granted to the petitioners on 08.10.2024, the confirmation of admission to the petitioners in the present case, considering the overall facts, would not lead to dilution in the academic standards of AIIMS or the NMC. It is also not the case of AIIMS that due to the admission of the petitioners, any other

deserving candidate's future was put at stake or at this stage, these seats could be allotted to other candidates.

123. More importantly, the confirmation of admission is also needed because of the fact that there is no *malafide* intention or fraud played upon by the petitioners in the instant case. In no circumstances, the petitioners can be said to be at fault in the peculiar facts of the present case. Also, there is no question on the competence or academic brilliance of the petitioners as they have not only cleared the examination but also topped the same.

124. Unfortunately, the present matter is a classic case where the petitioners instead of focussing on their studies and contributing to the process of nation-building, have been made to run from pillar to post due to the tussle between the two Institutes of National Importance. In the given circumstances, the petitioners cannot be said to be at fault, rather the dispute appears to have arisen due to non-coordination between PGIMER Chandigarh, AIIMS and NMC as well as due to inaction and lack of clarity on the part of the institutions. Institutes of National Importance, such as AIIMS, play a crucial role in delivering quality education and producing skilled professionals who will ultimately serve the nation.

125. Therefore, in view of the judicial pronouncements and the legal position discussed above as well as balancing the scales of equity, the Court confirms the provisional admission granted to the petitioners *vide* interim order dated 08.10.2024.

126. Accordingly, the petition stands disposed of in the aforesaid terms. All pending applications are also disposed of.

**W.P.(C). 9642/2024**

127. At the outset, it is pertinent to point out that as per the affidavit dated 13.11.2024 filed by PGIMER Chandigarh, the petitioner in the present case as on the prescribed cut-off date i.e., 31.07.2024 has completed 1035 days period of training. As per the said affidavit, the petitioner had attended the institute for studies and residency in the Hospital on those days.

128. Furthermore, the affidavit dated 04.10.2024 filed by AIIMS clearly and unequivocally states that as per Clause 4.3.2 of the prospectus, the petitioner would be considered eligible to appear in the INI-SS examination for January, 2025 session.

129. In the present case, unlike the case in W.P.(C.) 8943/2024, there is no interim order for the reservation of seats or provisional admission in favour of the petitioner. That apart, *vide* order dated 08.10.2024, this Court has granted an interim order in favour of the petitioner to appear in the INI-SS examination for January, 2025 session which was scheduled in October, 2024 in view of the affidavit submitted by AIIMS.

130. Therefore, in the given circumstances and considering the fact that much water has already flown and also, in light of the affidavit submitted by AIIMS, whereby, AIIMS itself has stated that the petitioner has completed the prescribed three-year tenure for the January, 2025 session, this Court confirms the liberty granted to the petitioner *vide* order dated 08.10.2024.

131. It goes without saying that while considering the candidature of the petitioner, AIIMS shall bear in mind all other extant rules and regulations.

132. It has also been brought to the notice of this Court that subsequently, AIIMS has written a letter to PGIMER Chandigarh to call the candidates back to complete the deficiency in training period. However, the reply of PGIMER Chandigarh regarding the same was not brought on record.

133. Be that as it may, bearing in mind the controversies which may arise for non-completion of due training period, this Court also grants liberty to PGIMER Chandigarh to call the petitioner back to complete the deficiency in the training period so that the petitioner could not face any other controversy in future due to non-completion of training period.

134. In view of the aforesaid, the petition stands disposed of alongwith the pending applications.

**PURUSHAINDR KUMAR KAURAV, J**

**DECEMBER 16, 2024**

**p/am**