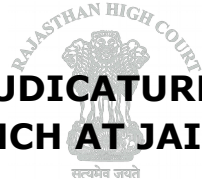




[2024:RJ-JP:46833]

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 17069/2024

Kanchan Kumawat Daughter of Shri Krishan Gopal Kumawat,
Aged About 18 Years, Resident of Palsana, District Sikar (Raj.)

----Petitioner

Versus

1. Union of India, Department of Higher Education, Ministry of Education, Govt. Secretariat, New Delhi, Through Its Secretary.
2. Senior Director (Exams), National Testing Agency, First Floor, NSIC-MDBP Building, Okhla Industrial Estate, New Delhi, Delhi 110020
3. Additional Chief Secretary, Medical Education Department, Government Secretariat, Main Building, Jaipur (Raj.)
4. Chairman, Neet UG Medical And Dental Admission / Counseling Board, 2024, SMS Medical College, J.L.N. Marg, Jaipur.
5. Neetu Swami Daughter of Shri Chhoturam, State Registration ID RM106409, Neet Roll No. 923210405, College Allotment GMC Dholpur, Through Neet UG Medical And Dental Admission / Counseling Board, 2024, SMS Medical College, J.L.N. Marg, Jaipur.
6. Jatin Son of Shri Jitendra Singh, State Registration Id Rm5630, Neet Roll No. 923220472, College Allotment GMC Banswara, Through Neet UG Medical And Dental Admission / Counseling Board, 2024, SMS Medical College, J.L.N. Marg, Jaipur.

----Respondents

Connected with

S.B. Civil Writ Petition No. 17208/2024

Rohit Choudhary S/o Shri Khema Ram, Aged About 19 Years,
Resident of Ghoslya Ki Dhani, Village Nangal Govind, Tehsil-
Chomu, Dist-Jaipur-303602 (Raj).

----Petitioner

Versus

1. State of Rajasthan, Through The Principal Secretary,





Medical Education Department, Government Secretariat,
Jaipur.

2. Rajasthan Neet UG Medical And Dental Admission/counseling Board-2024, Through Its Chairman Having Its Office At SMS Medical College, JLN Marg, Jaipur- 302004.
3. National Medical Commission, Through Its Chairman, Pocket-14, Sector-8, Dwarka Phase-1, New Delhi- 110077
4. Akash Sahu Teli S/o Babu Lal Teli, (Allotted Government Medical College, Banswara on Government Seat) Through The Chairman, Rajasthan Neet UG Medical And Dental Admission/counseling Board-2024 having Its Office at SMS Medical College, JLN Marg, Jaipur-302004.

----Respondents

S.B. Civil Writ Petition No. 17037/2024

Rahul Gupta S/o Shri Jyoti Prakash Gupta, Aged About 20 Years, Resident of Laxminagar Officers Colony, Barmer- 344001 (Raj.)

----Petitioner

Versus

1. State of Rajasthan, Through The Principal Secretary, Medical Education Department, Government Secretariat, Jaipur.
2. Rajasthan Neet UG Medical And Dental Admission/ Counseling Board-2024, Through Its Chairman Having Its Office At SMS Medical College, JLN Marg, Jaipur- 302004.
3. National Medical Commission Through Its Chairman, Pocket-14, Sector-8, Dwarka Phase-I, New Delhi- 110077.
4. Madhav Sharma S/o Hemant Kumar Sharma, (Allotted Government Medical College, Dausa on Management Seat) Through The Chairman, Rajasthan Neet UG Medical And Dental Admission/ Counseling Board- 2024 Having Its Office At SMS Medical College, JLN Marg, Jaipur- 302004.



----Respondents

S.B. Civil Writ Petition No. 17029/2024

Yashpreet Dhruv S/o Shri Kailash Chand Sejwal, Aged About
18 Years, R/o Village And Post Januthar, Tehsil Januthar,
District Deeg (Rajasthan)

----Petitioner

Versus

1. The Chairman, National Medical Council, Dwarika Sector-8, Delhi.
2. The Director, Medical Education, Pink Square Mall, Opposite SMS Hospital, Jaipur.
3. The Chairman, Neet UG Medical And Dental Admission/ Counselling Board-2024, SMS Medical College, JLN Marg, Jaipur.
4. Daksha D/o Prakash Kumar, Through Director, Medical Education, Pink Square Mall, Opposite SMS Hospital, Jaipur.

----Respondents

For Petitioner(s)	:	Mr. Vivek Joshi Mr. Tanveer Ahamad Mr. Vikash Ghosalya with Mr. Prithvi Pal Mr. Jeetendra Kumar Sharma
For Respondent(s)	:	Mr. Vigyan Shah, AAG with Mr. Yash Joshi Mr. Devesh Yadav, CGC Mr. M.S. Rghav for NTA with Mr. Vishvas Saini Mr. Sanjay Khadar for respondent No.5 Mr. Angad Mirdha for NMC Mr. Abhinav Srivastava for Mr. Raghunandan Sharma, for respondent No.6

HON'BLE MR. JUSTICE SAMEER JAIN**Judgment****REPORTABLE**



Reserved on : **12/11/2024**

Pronounced on : **14/11/2024**

1. Considering the identical issue of facts and law involved, the instant petitions were clubbed together and **S.B. Civil Writ Petition No. 17069 of 2024** titled as **Kanchan Kumawat Vs. Union of India and ors.** was taken as the lead file. For the sake of expediency and handiness the instant petitions are adjudicated by way of this judgment and the same shall be made applicable *mutatis mutandis* upon the petitions.

2. The germane facts for consideration of the instant matter is that the respondent-NTA had issued a public notice dated 09.02.2024 (Annexure-1) inviting applications from PAN India candidates, for NEET-UG, Examination, 2024. The petitioners with high aspirations and upon attaining/possessing requisite eligibility appeared in the said examination. Successively, after conducting the general counseling, vide notification dated 23.10.2024, the respondents issued information (in continuation of the erstwhile notification) for a Stray Vacancy Round allotment process for MBBS and BDS courses (Annexure-7). Consequentially, the petitioners were called for document verification process which was scheduled to be conducted on 28.10.2024, 09.00 AM to 12.00 Noon.

3. In this backdrop, learned counsel appearing for the petitioners have averred that it is undisputed that the petitioners are higher in merit than the respondent nos. 5 and 6. It was further contended that at the time of document verification in the Stray Vacancy Round, the petitioners appeared before the officials/subordinate employees of the respondents and have



furnished the documents (Class X and XII mark-sheets, Domicile Certificate, Transfer Certificate and Caste Certificate etc.). Nonetheless, a subordinate employee of the respondents during the said document verification session had asked the petitioner-candidates, to furnish an affidavit, as the subject 'Biology' was not mentioned in the XI Class mark-sheets submitted by the petitioners. Howsoever, the petitioners had duly informed the said authority that they were promoted from Class XI to Class XII amidst COVID-19 pandemic situation moreover, the same was made applicable to all the students enrolled for that academic year as directed by the Central and State Government.

4. Learned counsel had further apprised the Court with the fact that the petitioner had submitted an affidavit dated 28.10.2024 (Annexure-10) along with the bond for MBBS/BDS allotment (Annexure-11) as directed, by the respondents. Moreover, in the Provisional Combined Merit List (Revised) released by the respondents, the name of the petitioner (in the lead file) was reflected at (State Merit) serial no. 3647 [OBC (NCL) category] (Annexure-12). Subsequently, Provisional Combined Allotment list for College allotment was released by the respondents on 30.10.2024, however, the candidature of the petitioner was ousted from that list albeit her name was reflected in the first list and she had furnished requisite documents.

5. The petitioner presented her grievance vis-à-vis the aforementioned action of the respondents via mail on 30.10.2024 and 31.10.2024 (Annexure-15 and 16 respectively) however, no heed was paid qua the same. It was also apprised that the chronology of the events categorically depicts that all of the said



selection process was initiated and culminated during the festive time of Deepawali, therefore, it was impossible to approach any of the authorities in-person, as public and office holidays were ongoing.

6. It was further contended that albeit the petitioner(s) was/were meritorious candidates, her/their candidature was ousted and respondent nos. 5 and 6 were given preference, which is intrinsically an act of violation of the fundamental rights of the petitioner(s) as enshrined under the provisions of Article 14 and 21 of the Constitution of India. In support of the contentions made insomuch learned counsel for the petitioners have placed reliance upon the interim order passed in **S.B. Civil Writ Petition No. 17029/2024** titled as **Yashpreet Dhruv Vs. the Chairman, National Medical Council & Ors.** Further, learned counsel had averred that the respondents-Counseling Board have provided zilch opportunities to the petitioners during the said Stray Vacancy Round to furnish the certificate in the anticipated/prescribed format conversely, reasonable time was provided qua the candidates who appeared in the First, Second and Third round of counseling throughout India.

7. Lastly, learned counsel have profoundly relied upon the dictum encapsulated in **Civil Appeal No. 5055 of 2012 [Arising out of SLP (Civil) No. 7440 of 2012]** titled as **Asha Vs. Pt. B.D. Sharma University of Health Sciences & Ors.** and have averred that the petitioners have meticulously prepared and appeared for the said examination and have even stood meritorious. Moreover, merit scored by the candidate should be the exclusive criteria for allocation of seats.



8. Converse to the contentions made insofar, learned counsel appearing for respondent-State, NMC and NTA have drawn the attention of this Court upon the Information Bulletin issued along with the notification dated 23.10.2024 and the Minimum Requirements For Annual M.B.B.S Admissions Regulation, 2020 (issued by NMC along with the application form) (Annexure-6) and have averred that the said documents explicitly notes that Class XI mark-sheet along with the relevant subjects, is mandatory to be submitted during the said document verification, to be eligible to obtain a seat in the said Stray Vacancy Round.

9. Moreover, considering the protracted controversies alleged and involved qua the NEET-UG Examination, 2024 and even otherwise, Hon'ble Apex Court has unconditionally opined that time plays a vital role in such examinations, therefore, the schedule has to be strictly abided and endeavors are ought to be made that zilch modification in the time schedule and lists, is to be carried out. It was further contended that any change/alteration/modification in the said list shall have a PAN India repercussions.

10. It was further contended that unlike the prior First, Second and Third Round of counseling, the instant Stray Vacancy Round does not establish any vested or absolute rights qua the petitioners for allocation of the seats. At this juncture, learned counsel had placed reliance upon the additional affidavit furnished by the Chairman, Counseling Board wherein, it is unambiguously stated that in total 920 candidates appeared for their document verification, and out of the over-all candidates who appeared merely 878 were found eligible and approximately 19 candidates



have not submitted their Promotion Certificate revealing 'Biology' as one of the subjects that they have studied in their XI Class.

11. In support of the contentions made insofar learned counsel have placed reliance upon the ratio enunciated in

Ramkrishna Medical College Hospital & Research Centre Vs. State of Madhya Pradesh & Ors. registered as **SLP (C) No.11785/2024, S.B. Civil Writ Petition No.18396/2024** titled as **Premasukh Vs. Union of India & Ors.** and **(2020) 17 SCC 465** titled as **S. Krishna Sradha Vs. State of Andhra Pradesh & Ors.**

12. Heard and considered.

13. Before embarking upon the process of adjudication, it would be appropriate to delineate the attending factual matrix and the chronological incidents. The same are noted as follows:

13.1 The *lis* before this Court is that can the certificate submitted by the petitioner on 31.10.2024 (undersigned by the Principal, BVN Sr. Sec. School, Sikar) be considered valid and render the petitioners' eligible, especially when the respondents have granted a miniscule period to attain the said certificate moreover, when the petitioner is higher in merit than the respondent nos. 5 and 6.

13.2 The chronology of events is tabulated herein below:

Public Notice dated 09.02.2024	Advertisement by the respondents, inviting applications for NEET UG, Examination 2024. Cut-off date – 09.03.2024
Notification dated 14.08.2024	Counseling for NEET UG Examination, 2024
Notification dated 23.10.2024	Stray Vacancy Round Counseling for MBBS, BDS –



	NEET UG Examination, 2024
26.10.2024 (11.55 P.M.)	Cut-off date for applicants for <u>online submission</u> of their application forms.
25.10.2024	Provisional Vacant Seat Matrix after round 3
27.10.2024	Publication of Provisional Merit List
28.10.2024 (09.00 A.M. to 12.00 Noon)	Document verification and submissions of documents along with the bond.
30.10.2024	Publication of Stray Vacancy Round allotment Information on web-site (Online).

13.3 Upon a bare perusal of the afore-tabulated information, it can be deduced that the respondents have scheduled and conducted the said document verification/Stray Vacancy Round in a great haste during the period of public and office holidays on account of Deepawali. Withal, no sufficient or reasonable time was granted by the respondents, and no prudent person can obtain the said Provisional Certificate from the school authorities, especially within the limited time provided and on dates where it was public and office holidays.

13.4 This Court deems it apposite to consider the relevant provisions of the General Clauses Act, 1897 for computation of period. From a bare perusal of the relevant provisions it can be deduced that the petitioners herein, have within the time i.e. a day subsequent to the holidays (on 31.10.2024) have furnished the Provisional Certificate in the format as warranted by the respondents. Moreover, upon non-consideration of the said certificate the petitioners have knocked the doors of this Court without any deferment. Hence, no delay is caused by the



petitioners. The relevant extract from the said statute is reproduced herein below:

"10. Computation of time.—(1) *Where, by any [Central Act] or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:*

Provided that nothing in this section shall apply to any act or proceeding to which the 6 Indian Limitation Act, 1877 (15 of 1877), applies.

(2) This section applies also to all [Central Acts] and Regulations made on or after the fourteenth day of January, 1887."

13.5 Upon a glance of the application form of the petitioner-candidate it is noted that the relevant mandatory documents which are expected to be with the candidates upon being successful/meritorious in the said examination includes Class X and XII's mark-sheets (Annexure-1) and the same were duly submitted by the petitioner-candidates.

13.6 Upon a perusal of the Provisional Merit List for Stray Vacancy Round dated 30.10.2024 it is deduced that the candidates (respondent no. 5 and 6) who are less meritorious than the petitioners, are allotted with Colleges of their preference and the candidature of the petitioners is ousted merely on account of non-submission of adequate mark-sheet i.e. Class XI mark-sheet with 'Biology' as one of the subjects studied by the petitioner.





13.7 Nevertheless, it is an undisputed fact that the petitioner(s) have completed their Senior Secondary schooling amidst the COVID-19 pandemic. During that time, the Central and the State government had encouraged students to attend their lectures virtually, and all the students enrolled during that academic year were merely promoted to the next class as per the directions spelled out in order no. 66191/2020-21/14.04.2021 issued by the Director, Secondary Education, Bikaner, Rajasthan (Annexure-17). It is pertinent to note that the said format, circulated by the State Government had no column of any subject description, therefore no subject was mentioned in the Up-gradation Certificate of the petitioner of Class XI. For the sake of convenience the relevant extract from the order dated 10.04.2020 undersigned by Director, Secondary Education, Bikaner, Rajasthan, is reproduced herein below:

"कोरोना महामारी (COVID-19) के संक्रमण से बचाव एवं रोकथाम हेतु लॉक डाउन के कारण कक्षा क्रमोन्नति प्रावधानों में सत्र 2019-20 हेतु एकबारीय शिथिलन प्रदान करते हुए, उक्त सत्र में कक्षा 9 एवं 11 में अध्ययनरत समस्त विद्यार्थियों को एतद् द्वारा आगामी कक्षा क्रमशः- कक्षा 10 एवं कक्षा 12 में क्रमोन्नत करने का निर्णय लिया गया है। इस क्रम में संबंधित संस्था प्रधान निम्नांकित निर्देशों की पालना सुनिश्चित कराएंगे:-

1. सत्र 2019-20 में कक्षा 9 एवं 11 में नियमित अध्ययनरत विद्यार्थियों को उनके समग्र मूल्यांकन, के आधार पर आगामी कक्षा में क्रमोन्नत किया जाना है। इस हेतु संस्था प्रधान द्वारा सत्र 2019-20 में विद्यार्थी के अब तक के समग्र मूल्यांकन यथा- तीनों परखों, अर्द्धवार्षिक परीक्षा, सहशैक्षिक गतिविधियों में भागीदारी तथा सत्र में विद्यार्थी के समग्र प्रदर्शन को आधार बनाया जाएगा।

2. विद्यार्थी की आगामी कक्षा 10/12 में क्रमोन्नति के लिये कक्षा 9/11 में भारांक प्रतिशत निम्नानुसार होगा :-

क्र.सं.	विषय	प्रत्येक विषय हेतु निर्धारित पूर्णांक	अकादमिक भारांक प्रतिशत		सह शैक्षिक गतिविधि एवं सत्र में विद्यार्थी के समग्र प्रदर्शन हेतु भारांक प्रतिशत	विद्यार्थी द्वारा अर्जित प्राप्तांक
			अर्द्धवार्षिक परीक्षा के भारांक	तीनों परख के भारांक		
		100	50	20	30	



(1)	(2)	(3)	(4)	(5)	(6)	(7=4+5+6)

उदाहरणार्थ किसी विद्यार्थी के हिन्दी विषय में अर्द्धवार्षिक परीक्षा में पूर्णांक 70 में से प्राप्तांक 30 है और तीनों परख में पूर्णांक 30 में से प्राप्तांक 15 हैं तथा सहशैक्षिक गतिविधि एवं सत्र में विद्यार्थी के समग्र प्रदर्शन हेतु प्रदत्त अंक 25 हो, तो भारांक की गणना निम्नानुसार की जाएगी:-

क्र.सं.	विषय	प्रत्येक विषय हेतु निर्धारित पूर्णांक	अकादमिक भारांक प्रतिशत		सह शैक्षिक गतिविधि एवं सत्र में विद्यार्थी के समग्र प्रदर्शन हेतु प्राप्तांक	विद्यार्थी द्वारा अर्जित प्राप्तांक
			अर्द्धवार्षिक परीक्षा के भारांक	तीनों परख के भारांक		
		100	50	20	30	
(1)	(2)	(3)	(4)	(5)	(6)	(7=4+5+6)
1	हिन्दी	100	$30 \times 50 / 70 = 21.4 = 22$	$15 \times 20 / 3 = 0 = 10$	25	57

इसी अनुरूप प्रत्येक विषय का आकलन किया जाना है।

3. उपर्युक्तानुसार समग्र आंकलन कर कक्षा 9 एवं 11 के समस्त विद्यार्थियों को आगामी कक्षा क्रमशः 10 एवं 12 में क्रमोन्नत किया जाएगा।”

14. It is made unambiguous that the instant judgment shall be made applicable on mutatis mutandis basis. Ergo, considering the aforementioned facts and circumstances of the instant matter, juxtaposing the averments raised by the learned counsel for the parties (specially learned counsel representing the respondent nos. 5 and 6 – in representational capacity); assiduously scanning the record and judgments cited at the Bar; taking note of the fact that the merit scored by respondent nos. 5 and 6 is 3695 and 3792 respectively (less than the petitioners herein) (Annexure-12 and 13) this Court deems it appropriate to allow the instant petition for the following reasons:

14.1 That the non-submission of the said certificate by the petitioners (belonging to rural background) during the period of



document verification was beyond their control. Nevertheless, while taking note of the period during which the said Stray Vacancy Round counseling was scheduled (in-between 28.10.2024 and 03.11.2024) it can be straightforwardly construed that by any endeavor the said certificate in the prescribed format, would have not made available to the respondents amid the public and office holidays (28.10.2024 – 03.11.2024). The said reasons are uncontrollable by the petitioners. Nonetheless, the petitioners are vigilant about their rights and remedies and have therefore, approached this Court as soon as it was possible (soon after Deepawali vacations).

14.2 Moreover, the Senior Secondary mark-sheet of the petitioners categorically state 'Biology' as one of the subjects studied by the petitioners, and the same was duly submitted by the petitioners during the document verification. Withal, the respondents have failed to substantiate the rationale behind the mandatory provision for submitting Class XI mark-sheet depicting 'Biology' as one of the subjects studied by the petitioners, especially when the same is undisputedly revealed in Class XII mark-sheet.

14.3 Further, this Court is convinced with the averment made by the learned counsel representing the petitioners that the respondents (the NTA) have granted no time/limited time to furnish the documents, albeit the same was granted in the erstwhile three rounds of counseling.

14.4 Additionally, reliance can be placed upon the ratio encapsulated in **Asha (Supra)**, and it can be concluded that having recorded that the petitioners are not at fault and they have



pursued their rights and remedies as expeditiously as possible, the cut-off date cannot be used as a technical instrument or tool to deny admission to meritorious students. The relevant extract from the said ratio is retreated herein below:

"31. There is no doubt that 30th September is the cut-off date. **The authorities cannot grant admission beyond the cut-off date which is specifically postulated. But where no fault is attributable to a candidate and she is denied admission for arbitrary reasons, should the cut-off date be permitted to operate as a bar to admission to such students particularly when it would result in complete ruining of the professional career of a meritorious candidate, is the question we have to answer.** Having recorded that the appellant is not at fault and she pursued her rights and remedies as expeditiously as possible, we are of the considered view that the cut-off date cannot be used as a technical instrument or tool to deny admission to a meritorious students. The rule of merit stands completely defeated in the facts of the present case. **The appellant was a candidate placed higher in the merit list. It cannot be disputed that candidates having merit much lower to her have already been given admission in the MBBS course.** The appellant had attained 832 marks while the students who had attained 821, 792, 752, 740 and 731 marks have already been given admission in the ESM category in the MBBS course. It is not only unfortunate but apparently unfair that the appellant be denied admission. **Though there can be rarest of rare cases or exceptional circumstances where the courts may have to mold the relief and make exception to the cut-off date of 30**

September, but in those cases, the Court must first return a finding that no fault is attributable to the candidate, the candidate has pursued her rights and legal remedies expeditiously without any delay and that there is fault on the part of the authorities and apparent breach of some rules, regulations and principles in the process of selection and grant of admission. Where





denial of admission violates the right to equality and equal treatment of the candidate, it would be completely unjust and unfair to deny such exceptional relief to the candidate. [Refer *Arti Sapru and Others v. State of J & K and others* [(1981) 2 SCC 484]; *Chavi Mehrotra v. Director General Health Services* [(1994) 2 SCC 370]; and *Aravind Kumar Kankane v. State of UP and Others* [(2001) 8 SCC 355].

36. Now, we shall proceed to answer the questions posed by us in the opening part of this judgment.

ANSWERS

a) The rule of merit for preference of courses and colleges admits no exception. It is an absolute rule and all stakeholders and concerned authorities are required to follow this rule strictly and without demur.

b) 30th September is undoubtedly the last date by which the admitted students should report to their respective colleges without fail. In the normal course, the admissions must close by holding of second counseling by 15th September of the relevant academic year [in terms of the decision of this Court in *Priya Gupta (supra)*]. **Thereafter, only in very rare and exceptional cases of unequivocal discrimination or arbitrariness or pressing emergency, admission may be permissible but such power may preferably be exercised by the courts.** Further, it will be in the rarest of rare cases and where the ends of justice would be subverted or the process of law would stand frustrated that the courts would exercise their extra-ordinary jurisdiction of admitting candidates to the courses after the deadline of 30th September of the current academic year. This, however, can only be done if the conditions stated by this Court in the case of *Priya Gupta (supra)* and this judgment are found to be unexceptionally satisfied and the reasons therefore are recorded by the court of competent jurisdiction.

c) & d) Wherever the court finds that action of the authorities has been arbitrary, contrary to the judgments of this Court and violative of the Rules, regulations and conditions of the prospectus, causing prejudice to the rights of the students, the Court shall award compensation to such students as well as direct initiation of disciplinary action against the erring officers/officials. The court shall also ensure that the proceedings under the Contempt of





Courts Act, 1971 are initiated against the erring authorities irrespective of their stature and empowerment.

Where the admissions given by the concerned authorities are found by the courts to be legally unsustainable and where there is no reason to permit the students to continue with the course, the mere fact that such students have put in a year or so into the academic course is not by itself a ground to permit them to continue with the course."

14.5 In **Dr. Pradeep Jain Vs. and Ors. v. Union of India and Ors.** reported in **(1984) 3 SCC 654** it was categorically noted that merit alone must be the criteria for admission to MBBS courses. Hence, the rule of merit should not be defeated at any cost.

14.6 Upon consideration of the afore-cited ratios this Court is of the view that consideration of candidate solely on the basis of merit, un-biasness and transparency in the selection process, are the ethos of the selection/ admission process. A good college, as per the merit scored is the fruit that the candidates obtain resultant to their dedication and aspirations in life and in no situation the same can be compromised and the rule of merit should supersede over any other technical instruments.

14.7 Further, this Court deems it apposite to place reliance upon **Dolly Chhanda vs. Chairman JEE** reported in **(2005) 9 SCC 779:**

"The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in



the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or mark-sheets. Similarly, in order to avail of the benefit of reservation or weightage etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement for benefit of reservation. **Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature."**

14.8 Further, reliance can be placed upon the ratio enunciated in **S. Krishna Sradha (Supra)**, the relevant extract is reproduced herein below:

"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 canceled.***

14.9 Moreover, this Court is of the opinion that the verdict encapsulated in **Ramkrishna Medical College Hospital & Research Centre (Supra)**, as relied upon by the learned counsel appearing for the respondents is on a distinguishable factual matrix as therein, the issue before the Court pertains to issuance of a vacant seat and admission in a Medical College. For that reason, the same pertains to seeking directions for interim orders. Hence, it can be deduced that the same is of distinguishable factual matrix.

14.10 Additionally, the reliance placed by the learned counsel representing the respondents upon **Premasukh (Supra)** is a misnomer as in the said judgment the Court had rather directed the respondents therein to consider the candidature of the petitioners therein in the subsequent rounds of counseling and no specific observation is spelled out qua the residue issues.

15. Therefore, in summation of the aforementioned it can be noted that considering the limited resources available with the petitioners (considering their background restraints and the fact



that amidst COVID-19 pandemic all the enrolled students for that academic year were promoted as per the circular/order by the Central/State Government); that the respondent-NTA (and other respondents) have not supplied/published adequate information qua submission of documents, at a justified time before conducting the said document verification; that the said Stray Vacancy Round was conducted in-between the period of 26.10.2024 – 03.11.2024, which were public and office holidays; that the respondents (counseling conducting authority-NTA) have tendered a miniscule period (28.10.2024 from 09.00 A.M. to 12.00 Noon) within which the candidates had to submit their documents; that pronto, the petitioners (being higher in merit) have submitted the said certificate in the prescribed form (dated 31.10.2024, undersigned by the Principal) stating that the petitioner had studied 'Biology' as a subject in Class XI moreover, the same is reflected by her Senior Secondary mark-sheet; that the judgments relied upon by the learned counsel appearing for the respondents are on a distinguishable factual narrative and hence, ought not to be made applicable herein; that taking note of the ratio enunciated in **Asha (Supra)** and **Premasukh (Supra)**, this Court is of the view that the merit scored by the petitioners should be the exclusive criteria for allotment of seats/colleges, and in no manner due to the technical formalities the fundamental rights of the meritorious petitioners ought not to be frustrated and the instant petitions fall under the ambit of the rarest of the rare cases, where judicial intervention is warranted.

16. Therefore, the respondents are directed to consider the candidature of the petitioners, strictly on the basis of the merit



scored by them in NEET UG Examination, 2024 and allot Medical Colleges considering the same. Candidature/allotment of Colleges qua respondent nos. 5 and 6 is rejected considering the merit scored by them vis-à-vis the petitioners. Respondents are directed to carry out the requisites without further ado, as it is noted that the classes/lectures qua the relevant academic year have already begin.

17. Accordingly, the instant bunch of petitions is allowed. It is made clear that the instant judgment shall be applicable on all the connected petitions on *mutatis mutandis* basis. Allotment granted to respondent nos. 5 and 6 on the said seats is rejected/canceled. No orders as to cost. Pending applications, if any, shall stand disposed of.

(SAMEER JAIN),J

JKP/s-276, 277, 274-275