

A ASSOCIATION OF MANagements OF UNAIDED PRIVATE
MEDICAL & DENTAL COLLEGE & ANR.

v.

UNION OF INDIA & ORS.

B (Interlocutory Application No. 2)
(For directions)

in

(Transfer Case (C) No.(s).7 of 2013 etc.)

C MAY 9, 2016

[ANIL R. DAVE, SHIVA KIRTI SINGH AND ADARSH
KUMAR GOEL, JJ].

D *Education/Educational Institutions – Admission for MBBS/
BDS course – Notification dated 21.12.2010 introducing National
Eligibility-cum-Entrance Test (NEET) – For admission to MBBS/BDS
courses – Notification struck down in Christian Medical College
case – However, that order recalled by order dated 11.4.2016 –
Writ petition No. 261/2016 filed seeking direction to conduct NEET
for the academic session 2016-17 – Assurance by the parties
concerned that NEET would be conducted for the academic session
E 2016-17 giving schedule for the same – Court by order dated
28.4.2016 directed to hold the NEET as assured – Present
applications seeking modification of the orders dated 11.4.2016
and 28.4.2016 – Held: There is no infirmity in NEET regulation on
F the ground that it affects the rights of the States or the private
institutions as the same provides only for conducting entrance test
for eligibility for admission – It is further directed that all such
eligible candidates who could not appear in NEET-I and those who
had appeared but have apprehension that they had not prepared
well, be permitted to appear in NEET-II, subject to seeking an option
G from the candidates to give up their candidature for NEET-I – All
the applications and writ petitions disposed of.*

Modern Dental College & Ors. v. State of M.P. & Ors.
2016(4) JT 476 – relied on.

H *Christian Medical College, Vellore v. Union of India*
2013 (7) SCR 908 = 2014 (2) SCC 305 – referred to.

- A Sharma, Ms. Pankhuri Shrivastava, V. Balaji, M.S.M. Asaithambi, Atul Sharma, C. Kannan, Ms. Sripradha Krishnan, B. Balaji, G. Pramod Kumar, Vijay Kumar Paradeshi, Ms. Fara Fathima, Ramesh Babu M.R., E.R. Kumar, Krishna Srinivasan, Ms. Geethi A., Abhinay, Ms. S. Lakshmi Iyer, (For M/s. Parekh & Co.), Mahesh Agarwal, Shashank Manish, Himanshu Satija, E.C. Agrawala, Prateek Chadha, Ankur Kashyap, B Raghav Chadha, Zulnoor Ali Ahmad, G. Prabhakar, Ms. Prerna Singh, Ms. Liz Mathew, Ms. Krishna Sarma, Avijit Roy, Navnit Kumar, Ms. Deepika, (For M/s. Corporate Law Group), Naveen R. Nath, Ranjit B Raut, Ms. Bina Gupta, P.V. Reddy, Prashant Kr. Tyagi, (For M/s. Venkat Palwai Law Ass.), Venkitasubramoniam T.R., Prasanth P., C. Kannan, C Yunus Malik, Ekansh Agarwal, Ms. Rajeeta Raj, Sanjeev Agarwal, V.G. Pragasam, S.P. Ramasubramanian, Seshachari, T.V. Lakshmanan, V.S. Lakshmi, A. Venayagam Balan, Amol Chitale, G.B. Sathe, K.P. Narayanan, K. Mayil Samy, Ananda Selvam, (For P. Somasundaram), Ms. Aruna Mathur, Yusuf Khan, Ms. Anuradha Arputham, (For M/s. Arputham Aruna & Co.), Ms. Anita Sahani, Purnima Bhat, Ms. Anitha D Shenoy, Ms. Nishruti Vijay, S. Bhatnagar, Anshumani Srivastava, S.S. Rebello, Jai Dehadrai, Amogh Prabhudesai, Edward Belho, Ms. K. Enatoli Sema, K.L. Mechael, Amit Kumar Singh, Elix Gangmei, A. Ramesh, Syed Ahmad Naqvi, Ms. Shilpi Gupta, Rakesh K. Sharma, Ms. Shubharangini Iyengar, Ms. Sangita Chauhan, Arun Bharadwaj, Jai E Wadhwa, Ronak Karan Gupta, Sriram, Vishwapal Singh, Srilok Nath Rath, Kulbir Singh Malik, J.M. Wadhwa, Dr. Sushil Balwada, R.K. Kapoor, Ms. Shweta Kapoor, Ms. Kheyali Sarkar, Ms. Rekha Giri, Anis Ahmed Khan, A.P. Mayee, Charudatta Mahindrakar, A. Selvin Raja, Rauf Rahim, Rajiv Kr. Jha, P. Das, Amit Kumar, Rekha Bakshi, Avijit F Mani Tripathi, Shaurya Sahay, Manish, Sunil Fernandes, Ms. Astha Sharma, Puneeth K.G., Ms. Mithu Jain, K.K. Trivedi, Rabin Majumdar, O.P. Shukla, Abdhesh Chaudhary, Alok Shukla, Ajay Choudhary, Amit Sharma, Amit Anand Tiwari, Sandeep R. Limbani, N.K. Mishra, Dr. Ajay Kumar, R.K.S. Yadav, Chimony Khaladkar, Ms. Pragya Baghel, G.S. Mani, A. Arockiaraj, R. Sathish, D.N. Ray, Lokesh K. Choudhary, G Ms. Sumita Ray, Mrinal Kanti Mandal, Parijat Sinha, Joydeep Mazumdar, Rohit Dutta, Ms. Reshmi Rea Sinha, Ravindra K. Adsure, V.N. Raghupathy, Ms. Sushma Suri, Ms. Pragati Neekhra, R. Chandrachud, Ms. Vaijyanthi Girish, Ms. Astha Tyagi, M/s. Lawyer's Knit & Co., Nirnimesh Dubey, N.R. Katneshwarkar, Prashant Bhushan, Sudhanshu H S. Choudhari, Vikash Singh, Ram Kishor Singh Yadav, Advs for the

appearing parties.

The following Order of the Court was delivered

ORDER

1. These applications have been filed by the private medical colleges and also by some of the States seeking modification of order dated 28th April, 2016 in W.P.(C)No.261 of 2016.

2. The Medical Council of India (MCI) and the Dental Council of India (DCI) issued notifications dated 21st December, 2010, amending the existing statutory regulations to provide for a single National Eligibility-cum-Entrance Test (NEET) for admission to the MBBS/BDS course.

3. The said notifications were struck down in Christian Medical College, Vellore Vs. Union of India, 2014 (2) SCC 305.

4. The said judgment stands recalled vide order dated 11th April, 2016 in Review Petition (C) Nos.2159-2268 of 2013.

5. On 28th April, 2016, in W.P.(C)No.261/2016 a statement was made by the learned counsel for MCI, CBSE and Union of India that for the academic year 2016-17, NEET would be held.

6. We have heard the learned counsel for the parties.

7. In recent Constitution Bench judgment dated 2nd May, 2016, in Modern Dental College & Ors. Vs. State of M.P. & Ors. in Civil Appeal No.4060 of 2009 etc., the stand of the private medical colleges (including minorities) that conducting of entrance test by the State violated right of autonomy of the said colleges, has been rejected. The State law providing for conducting of entrance test was upheld, rejecting the contention that the State had no legislative competence on the subject. At the same time, it was held that the admission involved two aspects. First, the adoption of setting up of minimum standards of education and coordination of such standards which aspect was covered exclusively by Entry 66 of List I. The second aspect is with regard to implementation of the said standards which was covered by Entry 25 of List III. On the said aspect, the State could also legislate. The two entries overlap to some extent and to that extent Entry 66 of List I prevailed over the subject covered by Entry 25.

8. Prima facie, we do not find any infirmity in the NEET regulation on the ground that it affects the rights of the States or the private

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A institutions. Special provisions for reservation of any category are not subject matter of the NEET nor rights of minority are in any manner affected by NEET. NEET only provides for conducting entrance test for eligibility for admission to the MBBS/BDS course.

B 9. We thus, do not find any merit in the applications seeking modification of order dated 28th April, 2016.

C 10. Only other contention relates to perceived hardship to the students who have either applied for NEET-I but could not appear or who appeared but could not prepare fully thinking that the preparation was to be only for 15% All India seats and there will be further opportunity to appear in other examinations. To allay any such apprehension, we direct that all such eligible candidates who could not appear in NEET-I and those who had appeared but have apprehension that they had not prepared well, be permitted to appear in NEET-II, subject to seeking an option from the said candidates to give up their candidature for NEET-I. It would be open to the respondents to reschedule the date of holding NEET-II, if necessary. To this extent the earlier orders stand modified.

E 11. We may also add here that to ensure total credibility of the examination to be held by the CBSE, the Oversight Committee appointed by this Court vide the aforesaid judgment dated 2nd May, 2016 shall also oversee the NEET-II examination to be conducted by the CBSE.

12. In view of the above, it is also clarified that only NEET would enable students to get admission to MBBS or BDS studies.

F 13. In view of the above order, all the applications and writ petitions seeking modification of order passed on 11th April, 2016, stand disposed of.

W.P.(C)261/2016

14. In view of the above order, W.P.(C)No.261/2016 also does not survive and that is also disposed of.

G Kalpana K. Tripathy

Applications and Writ Petitions disposed of.