



2024 : DHC : 4284



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

*Reserved on : 20 May 2024
Pronounced on : 27 May 2024*

+ W.P.(C) 4016/2024

SAMIKSHA CHAUDHARY & ORS. Petitioners
Through: Mr. Harsimran Singh Duggal,
Adv.

versus

MAULANA AZAD MEDICAL COLLEGE & ANR.

..... Respondents

Through: Mr. Satyakam, ASC for
GNCTD with Mr. Pradyut Kashyap, Adv.
for R-1/MAMC

Mr. T. Singhdev, Ms. Bhanu Gulati, Mr.
Abhijit Chakravarty, Ms. Anum Hussain,
Mr. Aabhaas Sukhramani, Mr. Tanishq
Srivastava and Mr. Sourabh Kumar,
Advocates, for R-3

Mr. Mohinder J.S. Rupal, Mr. Hardik Rupal,
Adv. for University of Delhi

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T

27.05.2024

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The controversy

1. The petitioners are MBBS students studying in the Maulana Azad Medical College (“MAMC”), affiliated to the Delhi University (“DU”). They claim to have been entitled to undertake their 3rd Professional Part II MBBS Examination on 11 March 2024 and,



therefore, assail letter dated 7 March 2024 issued by the MAMC which entitles them to undertake the said examination only on 15 April 2025. The petitioners' entitlement to undertake the 3rd Professional Part II MBBS Examination has, therefore, according to them, been illegally deferred by over a year. The petitioners therefore pray that the letter dated 7 March 2024 be quashed and set aside and that the 3rd Professional Part II MBBS Examination of the petitioners be directed to be conducted during the currency of the present academic year.

2. The issue in controversy is therefore, whether the petitioners were, or were not, entitled to undertake their 3rd Professional Part II MBBS Examination on 11 March 2024 and, assuming they were, whether the court can direct the DU to hold the 3rd Professional Part II MBBS Examination for the petitioners during the current academic year instead of their having to wait till 15 April 2025.

Facts

3. The relevant clauses of the Scheme relating to the MBBS course contained in the MBBS Ordinances of the DU, in so far as they relate to examinations to be undertaken, may be reproduced as under:

“4. **TRAINING PERIOD AND TIME DISTRIBUTION** :

(a) The duration of course of study : 4 ½ Academic years are divided into 9 semesters plus one year Internship Training.

5 **MODEL TABLE OF TIME DISTRIBUTION** :

**(clinical)**

Total Subject	3 rd Semester (Wks)	4 th Semester (wks)	5 th Semester (wks)	6 th Semester (wks)	7 th Semester (wks)	8 th Semester (wks)	9 th Semester (wks)	Total (wks)
General Medicine***	6	-	4	-	4	6	6	26
Paediatrics	-	2	-	2	-	4	2	10
Tuberculosis And chest Diseases	-	2	-	-	-	-	-	02
Skin & STD	-	2	-	2	-	2	-	06
Psychiatry	-	-	2	-	-	-	-	02
Radiology*	-	-	-	-	2	-	-	02
General Surgery****	6	-	4	-	4	6	6	26
Orthopaedics**	-	-	4	4	-	-	2	10
Ophthalmology	-	4	-	4	2	-	-	10
Ear Nose and Throat	-	2	-	4	2	-	-	8
Obstetrics and Gynaecology Including Family Welfare planning	2	4	4	-	4	4	6	24
Community Medicine	4	4	-	4	-	-	-	12
Casualty	-	-	-	2	-	-	-	02
Dentistry	-	2	-	-	-	-	-	02
Total (in weeks)	18	22	18	22	18	22	22	142

(b) - Clinical methods in Medicine and Surgery for whole class will be for 2 weeks each respectively at the start of 3rd semester

(c) * This posting includes training in Radiodiagnosis and Radiotherapy where existent.

(d) ** This posting includes exposure to Rehabilitation and Physiotherapy.

(e) *** This posting includes exposure to laboratory medicine and infectious diseases.

(f) **** This posting includes exposure to dressing and Anesthesia.

(g) ***** This includes maternity training and Family



medicine and the 3rd semester posting shall be in Family Welfare Planning.”

8A. ATTENDANCE

75% of attendance in a subject for appearing in the university examination is compulsory inclusive of attendance in non-lecture teaching i.e. seminars, group discussions, tutorials, demonstrations, practicals, hospital (Tertiary, Secondary, Primary) posting and bed side clinics, etc.

10. SCHEME OF UNDER-GRADUATE EXAMINATION & DISTRIBUTION OF MARKS

NOTE: The Curriculum of the MBBS Course shall be as per Medical Council of India Regulations on Graduate Medical Education, 1997. The syllabus may be determined by the respective Committee of Courses and studies in their Departments under the Faculty of Medical Sciences from time to time.

Re-admission: A candidate having failed to pass the supplementary of the first and second MBBS Examination, may register for re-admission to the same class at the discretion of the Principal of the College within 15 days of the announcement of the result of the University Examination in the local press. The candidate will be required to pay enrolment fee, special University fee etc. and the College will inform the University of his/her re-admission.”

4. Thus, the scheme of the course, training and examination may be set out thus:

- (i) The course is for 4½ years followed by one year of compulsory internship.
- (ii) Phase I of the training is undertaken in the first year.



- (iii) The first year consists of two semesters, of six months each.
- (iv) At the end of the Phase I training, i.e. at the end of the first year, the candidates undertake the first professional examination.
- (v) After undertaking the first professional examination, the candidate commences Phase II of training.
- (vi) Phase II of training encompasses the next 1½ years, of three semesters of six months each.
- (vii) At the end of the said period of 1½ years and after having undergone the Phase II training, the candidates undertake the second professional examination.
- (viii) After clearing the second professional examination, the candidate commences Phase III of training.
- (ix) Phase III of the training is in two parts, Part I and Part II. Each part is of one year. In other words, 2½ years having been spent in Phase I and Phase II of the trainings, Phase-III of the training encompasses the next two years.
- (x) Part I of the Phase III training is again of two semesters of one year, at the conclusion of which the candidates attempt the



third professional Phase III Part I examination.

(xi) Part II of the Phase III training is also of one year of two semesters, at the end of which the candidate attempts the third professional Phase III Part II examination.

(xii) Ordinarily, therefore, Part I of the third professional (Phase III) examination is attempted at the end of 3 ½ years and Part II of the third professional (Phase III) examination is attempted at the end of 4 ½ years.

5. The Regulations on Graduate Medical Education, 1997 (hereinafter, “the GME Regulations”), as per the curriculum of which the MBBS course has to be undertaken, were framed in exercise of the powers conferred by Section 33 of the Indian Medical Council Act, 1956. Regulations 7 and 8 thereof deal with phase, distribution and timing of examination and may be reproduced thus:

“7. Training Period and Time Distribution

(1) Every student shall undergo a period of certified study extending over 4 ½ academic years divided into 9 semesters, (i.e. of 6 months each) from the date of commencement of his study for the subjects comprising the medical curriculum to the date of completion of the examination and followed by one year compulsory rotating internship. Each semester will consist of approximately 120 teaching days of 8 hours each college working time, including one hour of lunch.

(2) The period of 4 ½ years is divided into three phases as follows :-

a) Phase-I (two semesters) - consisting of Pre-



clinical subjects (Human Anatomy, Physiology including Bio-Physics, Bio-chemistry and introduction to Community Medicine including Humanities). Besides 60 hours for introduction to Community Medicine including Humanities, rest of the time shall be somewhat equally divided between Anatomy and Physiology plus Biochemistry combined (Physiology 2/3 & Biochemistry 1/3).

b) Phase-II (3 semesters) - consisting of para-clinical/ clinical subjects.

During this phase teaching of para-clinical and clinical subjects shall be done concurrently.

The para-clinical subjects shall consist of Pathology, Pharmacology, Microbiology, Forensic Medicine including Toxicology and part of Community Medicine.

The clinical subjects shall consist of all those detailed below in Phase III.

Out of the time for Para-clinical teaching approximately equal time be allotted to Pathology, Pharmacology, Microbiology and Forensic Medicine and Community Medicine combined (1/3 Forensic Medicine & 2/3 Community Medicine). See Appendix-C.

c) Phase-III (Continuation of study of clinical subjects for seven semesters after passing Phase-I)

The clinical subjects to be taught during Phase II & III are Medicine and its allied specialties, Surgery and its allied specialties, Obstetrics and Gynaecology and Community Medicine.

Besides clinical posting as per schedule mentioned herewith, rest of the teaching hours be divided for didactic lectures, demonstrations, seminars, group discussions etc. in various subjects. The time distribution shall be as per Appendix-C.

The Medicine and its allied specialties training will include General Medicine, Paediatrics, Tuberculosis



and Chest, Skin and Sexually Transmitted Diseases, Psychiatry, Radio-diagnosis, Infectious diseases etc. The Surgery and its allied specialties training will include General Surgery, Orthopaedic Surgery including Physio-therapy and Rehabilitation, Ophthalmology, Otorhinolaryngology, Anaesthesia, Dentistry, Radio-therapy etc. The Obstetrics & Gynaecology training will include family medicine, family welfare planning etc.

(3) The first 2 semester (approximately 240 teaching days) shall be occupied in the Phase I (Pre-clinical) subjects and introduction to a broader understanding of the perspectives of medical education leading to delivery of health care. No student shall be permitted to join the Phase II (Para-clinical/clinical) group of subjects until he has passed in all the Phase I (Pre-clinical subjects) for which he will be permitted not more than four chances (actual examination), provided four chances are completed in three years from the date of enrollment.

In the above sub-section 7(3) the words “for which for which he will be permitted not more than four chances (actual examination), provided four chances are completed in three years from the date of enrollment” have been deleted in terms of notification published on 30.09.2003 in the Gazette of India.

(4) After passing pre-clinical subjects, 1 ½ year (3 semesters) shall be devoted to para-clinical subjects.

Phase II will be devoted to para-clinical & clinical subjects, along with clinical postings. During clinical phase (Phase III) pre-clinical and para-clinical teaching will be integrated into the teaching of clinical subjects where relevant.

(5) Didactic lectures should not exceed one third of the time schedule; two third schedule should include practicals, clinicals or/and group discussions. Learning process should include living experiences, problem oriented approach, case studies and community health care activities.

(6) The Universities and other authorities concerned shall organize admission process in such a way that teaching in first semester starts by 1st of August each year. For this purpose, they shall follow the time schedule indicated in APPENDIX E



(6A) There shall be no admission of students in respect of any academic session beyond 30th September under any circumstance. The Universities shall not register any student admitted beyond the said date.

(6B) The Medical Council of India may direct, that any student identified as having obtained admission after the last date for closure of admission be discharged from the course of study, or any medical qualification granted to such a student shall not be a recognized qualification for the purpose of the Indian Medical Council Act, 1956.

The institution which grants admission to any student after the last date specified from the same shall also be liable to face such action as may be prescribed by MCI including surrender of seats equivalent to the extent of such admission made from its sanctioned intake capacity for the succeeding academic year”.

(7) The supplementary examination for 1st Professional MBBS examination may be conducted within 6 months so that the students who pass can join the main batch and the failed students will have to appear in the subsequent year provided that the students who pass the supplementary examination shall be allowed to appear in the second professional MBBS examination only after he/she completes the full course of study of three semesters (i.e. 18 months) for the second professional MBBS examination irrespective of the examination of the main batch.”

“8. Phase Distribution and Timing of Examinations

6 MONTHS 6 MONTHS 6 MONTHS

1

2

Ist professional examination (during second semester)

3

4

5

IInd professional examination (during fifth semester)
IIIrd professional

6

7

Part I (during 7th semester)



8

9

IIIrd professional Part
II (Final Professional).

Note:

- a) Passing in Ist Professional is compulsory before proceeding to Phase II training.
- b) A student who fails in the IInd professional examination, should not be allowed to appear IIIrd Professional Part I examination unless he passes all subjects of IInd Professional examination.
- c) Passing in IIIrd Professional (Part I) examination is not compulsory before entering for 8th & 9th semester training, however passing of IIIrd Professional (Part I) is compulsory for being eligible for IIIrd Professional (Part II) examination.

During third to ninth semesters, clinical postings of three hours duration daily as specified in the Table below is suggested for various departments, after Introductory Course in Clinical Methods in Medicine & Surgery of two weeks each for the whole class

Total Subject	3 rd Semester (Wks)	4 th Semester (wks)	5 th Semester (wks)	6 th Semester (wks)	7 th Semester (wks)	8 th Semester (wks)	9 th Semester (wks)	Total (wks)
General Medicine***	6	-	4	-	4	6	6	26
Paediatrics	-	2	-	2	2	4	-	10
Tuberculosis And chest Diseases	2	-	-	-	-	-	-	02
Skin & STD	-	2	-	2	-	2	-	06
Psychiatry	-	-	2	-	-	-	-	02
Radiology*	-	-	-	-	2	-	-	02
General Surgery****	6	-	4	-	4	6	6	26
Orthopaedics**	-	-	4	4	-	-	2	10
Ophthalmology	-	4	-	4	-	-	2	10
Ear Nose and Throat	-	4	-	4	-	-	2	10
Obstetrics and Gynecology Including Family Welfare planing	2	4	4	-	4	4	6	24
Community Medicine	4	4	-	4	-	-	-	12
Casualty	-	-	-	2	-	-	-	02
Dentistry	-	-	-	-	2	-	-	02
Total (in weeks)	18	22	18	22	18	22	22	142



- Clinical methods in Medicine and Surgery for whole class will be for 2 weeks each respectively at the start of 3rd semester

* This posting includes training in Radiodiagnosis and Radiotherapy where existant.

** This posting includes exposure to Rehabilitation and Physiotherapy.

*** This posting includes exposure to laboratory medicine and infectious diseases.

**** This posting includes exposure to dressing and Anesthesia.

***** This includes maternity training and Family medicine and the 3rd semester posting shall be in Family Welfare Planning.”

6. With the above statutory backdrop in place, one may advert to the facts of the present case.

7. For the sake of reference, the facts relating to Petitioner 1, as asserted by her, may be noted :

(i) Petitioner 1 was admitted to the MBBS course on 1 August 2017. At the end of one year, Petitioner 1 became entitled to attempt the 1st professional examination.

(ii) Petitioner 1 was able to clear her 1st professional examination only in her sixth attempt. She passed the examination on 1 March 2021.

(iii) The Phase II training period of the Petitioner 1 was from 6 March 2021 to 12 March 2022. Though this period is only of a



little over one year, Mr. Duggal submits that the training would be deemed to have commenced from 31 November 2020 under Regulation 7(7) of the GME Regulations.

(iv) At the conclusion of her Phase II training, Petitioner 1 became entitled to attempt her 2nd professional examination. She was able to pass the second professional examination only on 29 May 2023 in her fourth attempt.

(v) Petitioner 1 underwent Part I and Part II of her Phase III training during the period 7 April 2022 to 15 December 2022 and 1 June 2023 to 20 February 2024 respectively.

(vi) After completion of her Phase III Part I training, Petitioner 1 became entitled to undertake her 3rd professional Part I examination. She undertook the examination in March 2023, but could not clear all papers. She cleared the uncleared papers in the 3rd professional Part I supplementary examination which was originally to be held in August 2023 but was delayed and held on 25 October 2023. The results were announced on 19 December 2023.

8. The above facts apply *mutatis mutandis* to Petitioners 2 and 3 as well. The details of the training period and the dates of passing the relevant examinations by the petitioners have been provided in a tabulated form by Mr. Harsimran Singh Duggal, learned counsel for the petitioners and the details contained in the said tabular statement



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are not disputed by the respondents. They may, therefore, be reproduced thus :

DETAILS REGARDING PETITIONER NO.1

Date of Admission – 01.08.2017		
Ist Professional Exams		
Training Period	Date of passing	No. of attempts
01.08.2017 to 15.06.2018	01.03.2021 (Supplementary Exams) (Deemed to be from 30.11.2020)	6
2nd Professional Exams		
Training Period	Date of Passing	No. of Attempts
06.03.2021 to 12.03.2022 (Marks uploaded on website on 12.03 2022)	29.05.2023 (Supplementary Exams)	4
3rd Professional Exams Part I		
Training period	Date of Passing	No. of Attempts
07.04.2022 to 15.12.2022 (Marks uploaded on website on 25.07.2023)	19.12.2023 (Supplementary Exams)	1
3rd Professional Exams Part II (training)		
Training period	Date of completion	No. Of Attempts
01.06.2023 to 20.02.2024 (Marks uploaded on website on 09.03.2024)	20.02.2024	N/A

DETAILS REGARDING PETITIONER NO.2

Date of Admission – 01.09.2015		
Ist Professional Exams		
Training Period	Date of passing	No. of attempts
01.09.2015 to 15.06.2019	30.11.2020 (Annual Exams)	6
2nd Professional Exams		
Training Period	Date of Passing	No. of Attempts
30.11.2020 to 12.03.2022 (Marks uploaded on website on 12.03 2022)	22.09.2022 (Supplementary Exams)	2
3rd Professional Exams Part I		



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Training period	Date of Passing	No. of Attempts
07.04.2022 to 15.12.2022 (Marks uploaded on website on 25.04.2023)	19.12.2023 (Supplementary Exams)	2
3rd Professional Exams Part II (training)		
Training period	Date of completion	No. Of Attempts
01.06.2023 to 20.02.2024 (Marks uploaded on website on 09.03.2024)	20.02.2024	N/A

DETAILS REGARDING PETITIONER NO.3

Date of Admission – 29.08.2013		
Ist Professional Exams		
Training Period	Date of passing	No. of attempts
August 2013 to December 2015	15.11.2019 (Supplementary Exams)	6
2nd Professional Exams		
Training Period	Date of Passing	No. of Attempts
18.11.2019 to 20.03.2021	01.03.2023 (Annual Exams)	3
3rd Professional Exams Part I		
Training period	Date of Passing	No. of Attempts
26.05.2021 to 02.03.2023 (Marks uploaded on website on 25.07.2023)	19.12.2023 (Supplementary Exams)	1
3rd Professional Exams Part II (training)		
Training period	Date of completion	No. Of Attempts
02.03.2023 to 20.02.2024 (Marks uploaded on website on 09.03.2024)	09.03.2024	N/A

Rival Contentions

9. According to Mr. Duggal, there are only two requirements which an MBBS student has to satisfy in order to be entitled to undertake the 3rd Professional Part II Examination. The first is that the student must have cleared all papers in all prior examinations i.e. the



1st Professional Examination, the 2nd Professional Examination and the 3rd Professional Part I Examination. The second is that the student must have completed the Phase I training, Phase II training and Parts I and II of Phase III training – in other words, all trainings must have been completed.

10. Mr. Duggal's contention, which is the basis of the claim in the writ petition, is that each of the petitioners has fulfilled these requirements. They have all cleared their 1st Professional, 2nd Professional and Part I of their 3rd Professional MBBS Examinations. They have all completed the requisite training in Phase I, Phase II and Phase III, of which the last has been completed in both Parts. All that remains, therefore, is for the petitioners to undertake the 3rd Professional Part II Examination. The petitioners' case, as presented by Mr. Duggal, is that, as each of the petitioners has admittedly cleared her 3rd Professional Part I MBBS Examination in December 2023 and has also completed Phase I, Phase II and Parts I and II of Phase III training, she was entitled to attempt and undertake the 3rd Professional Part II MBBS Examination which commenced on 11 March 2024. According to the petitioners, there is no justification for deferring their 3rd Professional Part II Examination by over a year till 15 April 2025.

11. Mr. Duggal submits that the impugned letter indicates that the only reason why the petitioners are being permitted to undertake their 3rd Professional Part II Examination only on 15 April 2025 is that they have cleared their 3rd Professional Part I Examination in December



2023. He submits that, in fact, each of the petitioners had attempted the 3rd Professional Part I examination in March 2023 but had certain papers yet to be cleared, for which purpose, they were entitled to participate in the 3rd Professional Part I Supplementary examination. The said supplementary examination, which was ordinarily held in the month of August was, for no fault of the petitioners, delayed by the DU and held only in October 2023 of which the results were announced in December 2023. It is for this reason that the petitioners could complete clearing all their 3rd Professional Part I MBBS papers only in December 2023.

12. It is submitted that there is no rule or guideline which stipulates any time gap between clearing of the 3rd Professional Part I MBBS Examination and undertaking the 3rd Professional Part II MBBS Examination. If the candidate has completed the requisite training, and has cleared all papers in the 1st Professional, 2nd Professional and 3rd Professional Part I Examination, the candidate is *ipso facto* entitled to attempt the 3rd Professional Part II Examination when it is next held. The requisite training having been completed, and the 3rd Professional Part I Examination having been cleared by the petitioners in December 2023, they were, therefore, entitled to appear in the 3rd Professional Part II Examination when they were held on 11 March 2024.

13. Predicated on this reasoning, the writ petition seeks to contend that there was no legally tenable justification for the respondents deferring the petitioners' right to attempt the 3rd Professional Part II



Examination till April 2025. A valuable year would have been lost in the process.

14. It was only on 7 March 2024, four days before the commencement of the 3rd Professional Part II examinations on 11 April 2024, that the impugned letter was issued, deferring the petitioners' right to attempt the 3rd Professional Part II examination till 15 April 2025. The petitioners have, therefore, had to approach this Court post haste. Inasmuch as the petitioners have not been able to approach this Court earlier only because of the belated issuance of the impugned communication on 7 March 2024, it is submitted that the DU deserves to be directed to conduct separate examinations for the petitioners this year itself. In the alternative, the petitioners seek that they be permitted to appear in the 3rd Professional Part II Supplementary Examinations, which commenced on 21 May 2024.

Submissions of Mr. Mohinder J S Rupal for the DU

15. Mr. Rupal advanced two preliminary objections, specifically with respect to the right of the petitioners to appear in the 3rd Professional Part II Supplementary Examinations which started on 21 May 2024. The first is that this relief is not encompassed within the reliefs sought in the writ petition, which essentially seek a direction to the DU to conduct the 3rd Professional Part II Examinations for the petitioners during the 2024-2025 academic year. The second is that Supplementary Examinations are held only to enable the candidate to clear backlog papers of the Main Examination and, as the petitioners



have not attempted the 3rd Professional Part II Main examinations held starting 11 March 2024, they could not be allowed to undertake the Supplementary Examinations starting 21 May 2024.

16. The DU has, in para 8 of its counter-affidavit filed by way of response to the writ petition, additionally contended thus:

“8. It is respectfully submitted that as per the MBBS Ordinance 2011, the duration of different Professional of the MBBS Course are as follows :

MBBS Prof. I	-	12 months
MBBS Prof. II	-	18 months
MBBS Prof. III (P-I)	-	12 months
MBBS Prof. III (P-II)	-	12 months”

On 25 April 2024, Mr. Duggal, learned counsel for the petitioner, waived his right to file rejoinder to the counter-affidavit of DU. Resultantly, the averments in para 8 of the counter-affidavit have to be treated as admitted on the principle of non-traverse.

17. Mr. Rupal submits that none of the petitioners have undergone 12 months in Part I and 12 months in Part II of Phase III of their MBBS course, and, having not done so, were not entitled to undertake their terminal 3rd Professional Examinations.

Submissions of Mr. Singhdev for NMC

18. Mr. T. Singhdev, appearing for the NMC, disputes the petitioners’ contention that the petitioners have not completed the course of 4½ years, with the requisite training for being eligible to appear in the 3rd Professional Part II MBBS Examination which was



held on 11 March 2024. Though it is true that MAMC has awarded internal assessment marks to each of the petitioners and issued them completion training certificates, on the basis of which they attempted their 3rd Professional Part-I MBBS Examination in October 2023, Mr Singhdev draws attention to the Table following Note (c) below Regulation 8 of the GME Regulations, which suggests the number of clinical postings to be undertaken by each candidate during the 3rd to the 9th semesters. It is submitted that in the 6th, 7th, 8th and 9th semesters, each candidate is required to undertake 22, 18, 22 and 22 weeks of training respectively divided amongst the various specialities, working out to a total of 84 weeks equivalent to 21 months of training. The periods of training undertaken by the petitioners, as per the tabular statement that Mr. Duggal himself furnished and which stand reproduced in para 8 *supra* indicate that none of the petitioners have fulfilled the requisite number of weeks of training in the 6th to 9th semesters. *Qua* Petitioners 1 and 2, as per the charts submitted by Mr. Duggal,

- (i) Petitioner 1 has undertaken Phase III Part I training from 7 April 2022 to 15 December 2022, and Phase III Part II training from 1 June 2023 to 20 February 2024, making a total of 73 weeks, and
- (ii) Petitioner 2 has undertaken Phase III Part I training from 7 April 2022 to 15 December 2022 and Phase III Part II training from 1 June 2023 to 20 February 2024, making a total of 73 weeks.

Though the chart submitted by Mr. Duggal regarding Petitioner 3 would seem to indicate that she has completed the requisite training,



she has, nonetheless, not completed the entire 4½ years of the course. Thus, it is contended that the petitioners cannot be allowed to undertake the 3rd Professional Phase II Examination.

Submissions of Mr. Pradyut Kashyap for MAMC

19. Supporting the case of the petitioner, Mr. Pradyut Kashyap, who appears for MAMC, submits that the DU and the NMC cannot be heard to contend that the petitioners have not completed the requisite training before they were issued the training completion certificates by the MAMC as the petitioners undertook their 3rd Professional Part-II Supplementary Examination in October 2023 on the basis of admit cards issued by the DU. Having itself issued admit cards to the petitioners, the DU cannot seek to contend that the petitioners were not eligible to appear in the 3rd Professional Part II Supplementary Examination in October 2023.

Mr. Duggal's submissions in rejoinder

20. On being queried regarding the entitlement of the petitioners to undertake the 3rd Professional Part II MBBS Examination without having completed the number of weeks of clinical posting/training envisaged in Regulation 8 of the GME Regulations, Mr. Duggal's only answer is that, as each of the petitioners was marked for internal assessment and issued a training completion certificate by MAMC before undertaking her 3rd Professional Part I Supplementary Examination, it cannot now be sought to be contended that the



petitioners have not completed the requisite number of weeks of training/clinical posting. Besides, he submits that the number of weeks of clinical posting as contained in the tabular statement in Regulation 8 of the GME Regulations is only a suggestion and is not therefore binding on the College. Once MAMC has consciously treated the petitioners as having completed the requisite training/clinical posting and has not only marked them in that regard but also issued training completion certificates, Mr. Duggal submits that it cannot be held that the petitioners have yet to complete the requisite training.

21. Mr. Duggal further submits that, if Mr. Singhdev's submission is accepted, a piquant situation would result, in which, though training completion certificates have been issued to the petitioners, they would still have to wait for a year before undertaking their 3rd Professional Part II MBBS Examination. "What are the petitioners to do during this entire year?", Mr. Duggal "asks himself", as, having been issued training completion certificates, the petitioners can quite obviously not be asked to undertake any further training, according to him. They would just be sitting at home, doing nothing, thereby wasting an entire precious year of their career.

Order dated 20 May 2024

22. As arguments in this case were held on 20 May 2024, when judgment was reserved for being pronounced today, the petitioners were provisionally permitted, by order dated 20 May 2024, to appear in the Medicine I, Medicine II and General Surgery-I papers, which



were to be held on 21 May 2024, 22 May 2024 and today i.e. 27 May 2024. This was, however, strictly provisional and subject to the outcome of the present writ petition. It was clarified that no equities could be claimed by the petitioners, as the court had permitted them to appear only because it had yet to take a decision on the merits of their case and so as to avoid the decision being rendered fruitless, were the court to finally hold in the petitioners' favour.

23. For the reasons which follow hereinafter, however, I am not persuaded to do so.

Analysis

Re. Preliminary Objections of Mr. Rupal

24. I am not inclined to accept the preliminary objections of Mr Rupal.

25. The writ petition specifically impugns the letter dated 7 March 2024, which holds the petitioners entitled to attempt the 3rd Professional Part II Examination only on 15 April 2025. As such, the prayer for being permitted to attempt the 3rd Professional Part II Examination on 11 March 2024 is well within the scope of the reliefs sought in the petition.

26. The second preliminary objection of Mr. Rupal is that, as the petitioners have not attempted the 3rd Professional Part II Main



Examination on 11 March 2024, they cannot be permitted to appear in the 3rd Professional Part II Supplementary Examination which commenced on 21 May 2024. This submission, too, does not merit acceptance. The petitioners have been prevented from appearing in the 3rd Professional Part II Main Examination on 11 March 2024 only because of the impugned decision dated 7 March 2024. The decision itself was communicated just four days prior to the holding of the Examination. If this Court were to hold the petitioners as entitled and eligible to have undertaken the 3rd Professional Part II Main Examination which was held on 11 March 2024, it would be entirely unjust to still require them to wait for a year to attempt the Examination in April 2025. In that event, the interests of justice would require the petitioners would be permitted to undertake the 3rd Professional Part II Supplementary Examination which commenced on 21 May 2024 and which the petitioners have, in fact, been allowed to attempt provisionally, subject to the present judgment.

27. The preliminary objections of Mr. Rupal, therefore, fail to impress.

On Merits

28. On merits, I am unable, however, to convince myself to hold that the petitioners were entitled to attempt the 3rd Professional Part II Examination on 11 March 2024, as Mr. Duggal would seek to contend.



Failure to undergo requisite number of weeks of clinical posting/training

29. Regulation 7(1) of the GME Regulation is titled “Training Period and Time Distribution”. There is, therefore, no distinction between the length of the training period and the length of the teaching period. Regulation 7(1) stipulates that every student has to undergo a period of certified study extending over 4 ½ academic years divided into nine semesters of six months each, from the date of commencement of study till the date of completion of examination, followed by one year internship. This is, therefore, an independent mandatory requirement for a student to be treated as having completed the requisite teaching and training envisaged in the MBBS course. Regulation 7(1) reads thus:

7. Training Period and Time Distribution

(1) Every student shall undergo a period of certified study extending over 4 ½ academic years divided into 9 semesters, (i.e. of 6 months each) from the date of commencement of his study for the subjects comprising the medical curriculum to the date of completion of the examination and followed by one year compulsory rotating internship. Each semester will consist of approximately 120 teaching days of 8 hours each college working time, including one hour of lunch.

30. That apart, the notes below Regulation 8 referred to the number of weeks of clinical posting/training which the MBBS student has to undergo during each of the semesters from 3rd to the 9th in each specialty. Though it is true that the text of the Note uses the word “suggested”, the Court is inclined, given the fact that Regulations pertain to acquisition of the MBBS degree, not to regard the use of the word “suggested” as rendering the prescribed number of weeks of



clinical posting, contained in the table that follows, as merely directory.

31. Any ambiguity on this score stands removed, in any case, when one reads the provisions in the Ordinance governing the MBBS course as issued by the FMS, DU, and reproduced in para 3 *supra*. The table contained in the Notes below Regulation 8 of the GME Regulations is reproduced verbatim in Clause 5 of the Ordinance under the Head “Model Table of Time Distribution (Clinical)”. There is, no doubt, a caveat, below the table, which reads “Subject to college level adjustment”, but it is nobody’s case, including MAMC’s, that MAMC had “adjusted” the stipulated number of weeks of clinical posting in any manner, at any stage.

32. Besides, all that is permitted is “adjustment”, and not *reduction* of the stipulated number of hours of clinical posting. An individual college has, therefore, the latitude, for legitimate reasons which have necessarily to be recorded in writing, to rearrange the number of hours of clinical postings. There cannot, in my considered opinion, be any question of compromise regarding the number of hours of clinical posting that the MBBS student has to undertake during her, or his, MBBS course, as set out in the Table in the Notes below Regulation 8 of the GME Regulations and as reproduced in Clause 5 of the MBBS Ordinance of the DU. Undertaking the stipulated number of weeks of clinical posting is mandatory, and non-negotiable.

33. An actual suggestion: Though Clause 5 of the MBBS



Ordinance makes matters clear, insofar as the DU FMS MBBS course is concerned, the use of the word ‘suggested’ in Regulation 8 of the GME Regulations is nonetheless somewhat unhappy. Perhaps, the NMC would do well to consider whether the word ‘suggested’ in Regulation 8 may be replaced by some more appropriate expression as would make it clear that the weeks of clinical posting envisaged in the said Regulation are not negotiable.

34. The Supreme Court has held, time and again that medical education cannot tolerate any relaxations from the stipulated academic prerequisites. In *Astha Goel v. Medical Counselling Committee*¹, the Supreme Court observed that “there cannot be any compromise with the merits and/or quality of Medical Education, which may ultimately affect the Public Health”. On the importance of clinical and practical training in medical education, it was observed, in *National Medical Commission v. Pooja Thandu Naresh*², that “without practical training, there cannot be any doctor who is expected to take care of the citizens of the country”.

35. It is obvious that there can be no relaxation of stipulated eligibility requirements in the matter of undertaking of examinations in medical courses, as the health of the public, who look up to doctors to rid them of their ailments, hangs in the balance. An ill-trained medical practitioner can cause untold damage to the society. Given the peculiar nature of the medical profession, undertaking of the stipulated number of weeks of clinical posting is perhaps of even

¹ 2022 SCC OnLine Del SC 734

² (2022) 13 SCC 56



greater significance than classroom teaching, where medical professionals are concerned. After all, doctors deal with human bodies, not with automatons. Actual physical interaction through clinical posting is therefore of prime significance in the overall training undertaken by a medical professional who aspires to tend to the clinical needs of the public. It is obviously for this reason that, while Regulation 8 of the GME Regulations does not stipulate any specific number of weeks of teaching for various subjects across MBBS course, specific periods of clinical postings are specified. These submissions have, therefore, to be strictly followed. There can be no relaxation or negotiation in the aspect of clinical postings or training where medical professionals are concerned.

36. In any event, the undisputed fact is that, against a period of 84 weeks of clinical posting, which a MBBS candidate is required to undergo during the 6th to 9th semesters of the MBBS programme, Petitioner 1 has undergone only 73 weeks of training and Petitioner 2 has undergone only 73 weeks of training.

37. I may note, here, that though in additional affidavits filed by the individual petitioners, it has been sought to be contended that the training of Phase II and Phase III of the MBBS course are overlapping and concurrent, and that students start clinical postings relevant to Phase III as soon as they enter Phase II, no statutory or regulatory basis for this assertion is forthcoming from the record. For ready reference, paras 3 to 5 of the additional affidavit of Petitioner 1 may be reproduced thus:



“3. I enrolled in M.B.B.S. course at Maulana Azad Medical College (MAMC) on 01.08.2017, under the Old Scheme. As “per Medical Council of India Regulations on Graduate Medical Education, 1997 — the duration of MBBS course, under the old scheme, is 4 ½ academic years, divided into Three Phases and 9 Semesters (of 6 months each) as follows:

Phase	Exam	Duration	Semester
Phase-I	1 st Professional MBBS	12 months	1 st -2 nd
Phase-II	2 nd Professional MBBS	18 months	3 rd -5 th
Phase-III	3 rd Professional MBBS (Part I)	12 months	6 th -7 th
	3 rd Professional MBBS (Part II)	12 months	8 th -9 th

4. As per Regulation No.7, titled “*Training Period and Time Distribution*”, Phase-1 training is of two semesters in which Pre-clinical subjects are taught. As per Note (a) of Regulation No.8, titled, “*Phase Distribution and Timing of Examinations*”, **passing in 1st Professional examination is compulsory before proceeding to Phase II training.**

5. However, there are no similar Regulations governing Phase-II & Phase-III training. In fact, as per Regulation No.7, Phase-II & III training are overlapping and concurrent, and the students starts to attend his/her clinical postings of Phase-III subjects as soon he/she enters Phase-II. The relevant portions of Regulation No.7 are reproduced below:

7. **Training Period and Time Distribution :**

(2) The period of 4 ½ years is divided into three phases as follows :

a) Phase-1 (two semesters) – consisting of Pre-clinical subjects (Human Anatomy, Physiology including Bio-Physics, Bio-chemistry...

b) Phase-II (3 semesters) – consisting of para-clinical /clinical subjects. During this phase, teaching of para-clinical and clinical subjects shall be done concurrently. The para-clinical subjects shall consist of Pathology, Pharmacology, Microbiology, Forensic Medicine including Toxicology and part of Community Medicine. **The clinical subjects shall consist of all those detailed below in Phase III...**



c) **Phase-III (Continuation of study of clinical subjects for seven semesters after passing Phase -I)** The clinical subjects to be taught during Phase II and III are Medicine and its allied specialities, Surgery and its allied specialities, Obstetrics and Gynaecology and Community Medicine.

38. Paras 3 to 5 of the additional affidavits filed by the petitioners, which are identical and which are reproduced above, do not indicate, in any manner, that training/clinical posting of Phase II and Phase III of the MBBS course can be undertaken concurrently or simultaneously.

39. The basis for this conclusion as arrived at by the petitioners appears to be that

(i) Note (a) in Regulation 8 specifies that passing in the 1st Professional Examination is compulsory before proceeding to Phase II training, whereas there is no similar stipulation to the effect that passing in the 2nd Professional Examination is compulsory before proceeding to Phase III training,

(ii) Regulation 7(2)(b) stipulates that Phase II consists of para-clinical and clinical subjects and that teaching of para-clinical and clinical subjects would be done concurrently in Phase-II,

(iii) while para-clinical subjects are specified as Pathology, Pharmacology, Microbiology, Forensic Medicine including Toxicology and part of Community Medicine, clinical subjects are stated as consisting of all clinical subjects detailed in Phase-III, and

(iv) reference to Phase III is followed by a parenthesized



reference reading “continuation of study of clinical subjects for 7 semesters after passing Phase I”.

In my opinion, all these factors, even if taken together, do not indicate that a MBBS student is permitted to undergo trainings for Phase II and Phase III together. The mere fact that there is a specific stipulation that before proceeding to Phase II training, the 1st Professional Examination has to be cleared, and that there is no parallel stipulation regarding proceeding to Phase III training, does not *ipso facto* mean that, without clearing the 2nd Professional Examination, the student can proceed to Phase III training. Similarly, with respect to the recitals contained in Regulation 7(2)(b) with respect to Phase II, the first recital merely states that Phase II consist of para-clinical and clinical subjects and both would be taught concurrently during the said Phase. This stipulation is obviously restricted to Phase-II alone and has nothing to do with Phase-III. The further stipulation with respect to Phase II, that the clinical subjects in Phase II would consist of all the clinical subjects in Phase-III, and the further stipulation in Phase III that it involves continuation of study of clinical subjects for 7 semesters after passing Phase I, also do not indicate that Phase II and III trainings/clinical postings can be undertaken concurrently. If Phase II and Phase III trainings could be concurrently undertaken, the GME Regulations ought to have said so. They, however, do not.

40. In fact, Note (c) below Regulation 8, specifically indicates to the contrary. The table in Note (c) is clearly divided semester-wise. There is no overlapping of clinical postings in any semester. For example, in the specialization of Paediatrics, the number of weeks of



training/clinical training are 0 in 3rd semester, 2 in the 4th semester, 0 in the 5th semester, 2 in the 6th semester, 2 in the 7th semester, 4 in the 8th semester and 0 in the 9th semester. Similarly, for General Surgery, the number of weeks of clinical postings are 6 in 3rd semester, 0 in the 4th semester, 4 in the 5th semester, 0 in the 6th semester, 4 in the 7th semester, 6 in the 8th semester and 6 in the 9th semester. Such semester-wise break-up of the number of weeks of clinical postings to be undertaken by the MBBS student for all semesters from the 3rd to the 9th, covering Phase II and Phase III of the MBBS programme, is to be found in respect of each speciality subject in the Table in the Notes below Regulation 8. In fact, there are certain specialities for which there is no training whatsoever in Phase-II, such as Radiology and Dentistry. In respect of Radiology, the training schedule envisages only 2 weeks of training to be undertaken in the 7th semester. Similarly, for Dentistry, 2 weeks of training have to be undertaken in the 7th semester.

41. In such circumstances, it is clear that there is no overlapping of training in Phase II and Phase III of the MBBS programmes. Training/clinical posting has to be undertaken for the stipulated number of weeks as per the table below Note (c) in Regulation 8 of the GME Regulations in each subject/speciality.

42. For the same reason, it does not appear that Phase III Part I training and Phase III Part II training can overlap.

43. Insofar as the satisfaction of the prerequisites for being



permitted in 3rd Professional Part II MBBS examination is concerned, the cases of Petitioners 1 and 2 and of Petitioner 3, stand on slightly different footings. As against the required minimum of 84 weeks of clinical posting/training to be undergone in the 6th to 9th semester, Petitioners 1 and 2 have each undergone only 73 weeks of training. Neither of the said petitioners has, therefore, completed the requisite weeks of training/clinical posting for Phase III Part II of the MBBS programme. Insofar as Petitioner 3 is concerned, though the tabular statement furnished by Mr. Duggal would seem to indicate that she may have completed the requisite number of weeks of training, she has, nonetheless, not completed 4½ years of the MBBS course, which is the stipulated minimum as per Regulation 7(1) of the GME Regulations. Petitioner 3, too, therefore, cannot be regarded as eligible for undertaking the 3rd Professional Part II MBBS examination.

44. Mr. Singhdev also pointed out that in fact, it appears that the petitioners have also not put in the requisite number of weeks of clinical posting before undertaking their 1st Professional and 2nd Professional Examinations. I am not, however, venturing into that arena, as the respondents are not joining issue on the entitlement of the petitioners to have undertaken their 1st Professional and 2nd Professional Examinations.

45. As such, none of the petitioners can be regarded as eligible or entitled to have undertaken their 3rd Professional Part II MBBS Examination on 11 March 2024.



Failure to undergo 12 month courses in Part I and Part II of Phase III of the MBBS Programme

46. Besides, if one were to go by para 8 of the counter-affidavit of the DU, Part I and Part II of Phase III of the MBBS programme are each required to be of twelve months. None of the petitioners have undertaken twelve months in Part I or in Part II of Phase III of their MBBS Professional Course. As already noted, by not opting to file any rejoinder to the counter-affidavit of the DU, the assertions in para 8 of the counter-affidavit stand admitted on the principle of non-traverse. Even on this ground, therefore, none of the petitioners were entitled to participate in the 3rd Professional Part-II MBBS Examination, which was conducted on 11 March 2024.

The sequitur

47. No error, can, therefore, be found in the impugned decision dated 7 March 2024, whereby the petitioners were found entitled and eligible to appear in their 3rd Professional Part-II MBBS Examination only when it is held in April 2025.

48. This entitlement has, however, to be hedged in by a caveat.

Requirement of undergoing the remaining training/clinical posting

49. As earlier noted, Mr. Duggal wondered, aloud, as to what the petitioners are supposed to do in the next one year, as they have



already been issued training completion certificates.

50. It is obvious that the certificates have been issued to Petitioners 1 and 2 without the petitioners having undertaken the requisite number of weeks of clinical posting, as per the tabular statement below Note (c) of Regulation 8 in the GME Regulations and as stipulated in Clause 5 of the DU MBBS Ordinance. Undertaking the requisite number of weeks of clinical posting is mandatory and non-negotiable. Petitioners 1 and 2 have, therefore, necessarily to undertake the remaining weeks of clinical posting. How they are to do so, is a matter which the respondents would have to work out between themselves. The petitioners can also not refuse to undertake the said weeks of clinical posting, as it is a statutory imperative in the Note below Regulation 8 of the GME Regulations.

51. Though, in view of this discussion, the training completion certificates issued to Petitioners 1 and 2 by the MAMC ought not to have been issued without the petitioners completing, in the first instance, the requisite number of weeks of clinical posting as per the Note below Regulation 8 of the GME Regulations, this Court is not inclined to invalidate the training completion certificates. However, their validity would be subject to the petitioners undertaking the deficit weeks of clinical postings.

52. The clock cannot, however, be put back; nor can we travel back in time. Petitioners 1 and 2 would, therefore, be permitted to undertake the remaining weeks of clinical postings in the next one



year, for which the DU and the MAMC are directed to work out the schedule in respect of each of the petitioners. Subject to their completing the remaining weeks of clinical posting, their training completion certificates would be regarded as valid, and the petitioners would be entitled to undertake the 3rd Professional Part-II MBBS Examination in April 2025 as per the impugned notice.

53. As the deficit in the case of Petitioner 3 is with respect to the overall period of 4 ½ years stipulated in Regulation 7(1), the training certificate issued to her by MAMC may be treated as in order.

Conclusion

54. In view of the aforesaid, this writ petition is dismissed, subject, however, to the following directions/observations :

(i) Petitioners 1 and 2 are required to undertake the remaining weeks of clinical posting/training, as per the table below Note (c) in Regulation 8 of the GME Regulations, on or before 1 April 2025.

(ii) The schedule in that regard would be drawn up by the MAMC in consultation with the DU, within a week from today and communicated to the individual petitioners.

(iii) Petitioners 1 and 2 would adhere to the said schedule and attend the requisite number of weeks of clinical posting as



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directed hereinabove.

(iv). Subject to completion of the remaining weeks of the clinical posting/training, the training completion certificates issued by the MAMC to Petitioners 1 and 2 shall be treated as valid and as enabling them to undertake the 3rd Professional Part-II MBBS Examination in April 2025.

- 55.** The impugned order is upheld as it is, in respect of Petitioner 3.
- 56.** There shall be no orders as to costs.

C. HARI SHANKAR, J.

MAY 27, 2024

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