

**IN THE HIGH COURT OF JAMMU AND KASHMIR  
AT SRINAGAR**

**(VIDEO CONFERENCE)**

**EMG-LPA No.36-A/2020**

**EMG-CM No.07/2020**

J&K Board of Professional  
Entrance Examination

...Petitioner(s)/Appellants

Through: Mr. Shah Aamir, AAG with Ms. Sharaf Wani, Assistant  
counsel (through Whatsapp call from their office.

V/s

Dr. Showkat Ahmad Bhat & Ors.

...Respondents

Through:

**CORAM:**                **Hon'ble Mr Justice Dhiraj Singh Thakur, Judge.**  
                                 **Hon'ble Mr. Justice Sanjay Dhar, Judge.**

**(ORDER)**  
**13.05.2020**

This Letters Patent Appeal has been preferred against the order dated 30<sup>th</sup> of April, 2020, whereby learned Single Judge has permitted the petitioner (respondent No.1 herein) to participate in the counselling process and consequently for provisional admission in the PG course at his own risk and responsibility.

Case of the appellant is that the petitioner was ineligible to be considered in view of the specific provision as contained in SRO 48 dated 30<sup>th</sup> of January, 2018, which, *inter alia*, prescribed that the doctors who are doing Post-graduation/diploma course in any speciality at the Government expenses including those who leave the course midway after the cut off date of admission would not be eligible to apply for undergoing post-graduation courses in any other speciality in the State Medical Institutions till completion of their Post-graduation/Diploma Courses, as the case may be, and that they would be barred from seeking admission again till such

time they would have normally completed the course had they not left it midway.

The case set up is that the petitioner (respondent No.1 herein) participated in the National Eligibility-cum-Entrance Test for PG admission conducted in the month of January, 2020 by the National Board of Examinations. A merit list was notified by the BOPEE dated 10<sup>th</sup> of April, 2020 and the candidates asked to submit objections, if any, thereto.

It is stated that the objections were received, which indicated that the petitioner (respondent No.1 herein) had earlier been selected in Radiology in SKIMS, Srinagar, for the year 2017 and had left the course midway in 2018. It is also stated that the said course, in the normal circumstances is not complete and is expected to be completed by the end of May, 2020. It is, thus, stated that in view of clear prohibition contained in SRO 48, the petitioner was clearly ineligible and, therefore, no such direction could, in law, be issued directing the appellant Board to accord consideration and grant admission for this session.

The appellant has succeeded in establishing a prima facie case for staying the operation of the order impugned passed by the learned Single Judge as in view of the specific provisions of SRO 48 dated 30<sup>th</sup> January, 2018, the petitioner (respondent No.1 herein) was ineligible for even applying for admission to PG course conducted by the National Board of Examinations in January, 2020 by way of National Eligibility-cum-Entrance Test (NEET).

Notice returnable within two weeks. List again on 5<sup>th</sup> of June, 2020. In the meantime, operation of the order impugned dated 30<sup>th</sup> of April, 2020, shall remain stayed.

**SD/-**  
**( Sanjay Dhar)**  
**Judge**

**SD/-**  
**(Dhiraj Singh Thakur)**  
**Judge**

**Srinagar**  
**13.05.2020**  
***“Bhat Altaf, PS”***