

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

(Through Video Conference)

EMG-WP(C) No. 11/2020,
EMG-CM No. 20/2020.

Dr. Sovia Anand

.....Petitioner (s)

Through :- Mr. Pawan Dev Singh, Advocate
(on Voice Call from residence in Jammu)

V/s

B.O.P.E.E. and another

.....Respondent(s)

Through :- Mr. F. A. Natnoo, AAG for respondent
No. 1
(on Video Call from residence in Jammu)
Mr. H. A. Siddiqui, Sr. AAG for respondent
No. 2
(on Voice Call from residence in Jammu)

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

ORDER

EMG-WP(C) No. 11/2020

01. The case of the petitioner in the instant writ petition is that she after having completed the two years PG Diploma Course in Pathology in the year 2017, obtained the admission for PG(MD) in Pathology in Government Medical College, Jammu, pursuant to the notification No. 28-BOPEE of 2018 dated 01.05.2018. She joined the said course on 03.05.2018. Later on, she tendered her resignation and as such her admission in PG(MD) in Pathology was cancelled on 24.05.2019. The contention of the petitioner is that despite emerging successful in the NEET-PG(MD/MS)-2020, the respondent No:1 has not been permitting her to participate in the counseling for admission in

PG(MD/MS) Course-2020 on the basis of the bar envisaged by SRO-48 of 2018.

02. The contention of the petitioner is that as she had already undergone PG Diploma Course, so duration of PG(MD) Course in her case would be two years, and even if the provisions of SRO-48 of 2018 are put into operation, even then she has a right to participate in the selection process because period of two years is to be reckoned from the day she obtained admission in MD Pathology. Learned counsel for the petitioner has further argued that the bar created vide SRO-48 of 2018 is co-terminus with the duration of the Course, for which the petitioner had earlier sought admission. So, if the petitioner is not permitted to participate in the counseling process, she would be losing another year, thus barring her to participate for three years, which is not the purport of SRO-48 of 2018.

03. Mr. Natnoo, learned AAG has filed the objections as well as supplementary affidavit. Mr. H. A. Siddiqui, learned Sr. AAG, for respondent No. 2 submits that he adopts the objections filed by the respondent No. 1.

04. Mr. Natnoo has argued that SRO-48 of 2018 clearly bars the petitioner from participating in selection for PG(MD/MS) Course-2020, as she had left the Course in the midway for which she had obtained admission in the year 2018 and as per the said SRO, she would be eligible for participation in PG(MD/MS) Course-2021 only.

05. He has further argued that respondent No. 2 has already submitted in detail that the co-selectees of the petitioner are still pursuing their Courses. As such, the petitioner is not entitled for any relief.

06. After hearing the respective counsel for the parties and also perusing the documents on record, this Court is of the opinion that prima-facie case for admission of the writ petition is made out.

07. **Admit.**

08. Issue post-admission notice.

09. Mr. F. A. Natnoo, learned AAG waives notice on behalf of respondent No. 1. He submits that objections already filed on behalf of the respondent No. 1 be treated as counter in the instant writ petition. His prayer is allowed. Mr. H. A. Siddiqui, learned Sr. AAG has also made a similar prayer.

10. Two weeks' time is granted to learned counsel for the petitioner to file rejoinder, if any.

List again on 01.06.2020 for final consideration.

EMG-CM No. 20/2020

On being confronted with the fact that respondent No. 1 has already issued a select list, after the first round of counseling, learned counsel for the petitioner submits that the petitioner is ready to participate in the second round of counseling without disturbing the candidates selected and joined pursuant to 1st round of counseling. His statement is taken on record.

As such, respondent No. 1 is directed to permit the petitioner to participate in the counseling process and grant her provisional admission for the PG(MD/MS) Course-2020 at her own risk and responsibility, provided she fulfils other eligibility criteria. This order shall have no effect upon the candidates, who are selected and have joined their respective courses pursuant to the 1st round of counseling. It is further made clear that this order shall not

create any equity in favour of the petitioner and shall be subject to the further orders of this Court.

List as above.

Copy of this order to be supplied to the learned counsel for the petitioner and respondent No. 1 through e-mail.

(RAJNESH OSWAL)
JUDGE

Jammu
11.05.2020
(Muneesh)

