

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
ARAVIND KUMAR AND PRADEEP SINGH YERUR	WP 9239/2020	18/08/2020	<p>Learned Senior advocates appearing for petitioners submit that deficit court fees would be paid during the course of day and prays for granting time to comply with other office objections. Permitted to pay court fee during the course of day and other office objections shall be complied before next date of hearing.</p> <p>2. Learned Additional Advocate General has sought short accommodation till 24.08.2020 to file statement of objections to these writ petitions. However, on account of urgency pleaded by learned Advocates appearing for petitioners, we have taken-up the matter for consideration of interim prayer.</p> <p>3. We have heard Sri.D.N.Nanjunda Reddy, Sri.Madhusudhan.R.Naik, Sri.Shashikiran Shetty, learned Senior Advocates appearing for petitioners and Sri.Dhyan Chinappa, learned Additional Advocate General assisted by Sri.Vikram Huilgol, learned AGA appearing for respondent Nos.1 and 2 and Sri.N.K.Ramesh, learned Standing Counsel appearing for respondent–Karnataka Examination Authority (for short ‘KEA’).</p> <p>4. Learned Senior Advocates have prayed for grant of interim order namely, stay of communication at Annexure-A bearing No.DME/PS/120/2020-21 dated 01.08.2020, communication at Annexure-A1 bearing No.DME/PGS/60/2020-21 - 14.08.2020 and notification at Annexure-B dated 15.08.2020 issued by respondent Nos.2 and 3 respectively, contending interalia that by virtue of notification (Annexure-B) issued by respondent Nos.2 and 3, fresh registration of candidates for counselling to PG Medical Courses has commenced and admission letters will be issued to the candidates and thereby selection already made by Member-Institution of first petitioner-Foundation would be unsettled.</p>

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			<p>5. Hence, we are of the considered view that interim arrangement deserves to be made till next date of hearing to protect the interest of both parties and ensuring no prejudice is caused to either of them.</p> <p>6. The present scenario that has unfolded before us, is on account of second respondent extending the last date of admission for Medical and PG Courses upto 31.08.2020.</p> <p>7. Hon'ble Supreme Court in W.P.No.76/2015 by its order dated 18.01.2016 clarified 'time schedule' stipulated for admission to Under Graduate-UG and Post Graduate-PG Courses by MCI is to be adhered to namely, approved the time schedule as prescribed in the notification issued by MCI with previous sanction of the Central Government.</p> <p>8. Notification dated 20.02.2018 (Annexure-G) came to be issued by the Medical Council of India substituting the time schedule to be followed for completing admission process for Post Graduate Courses (Broad Speciality) from 2018-19 batch onwards and notified thereunder that at the end of "Mop-Up" round of Counselling by the Governmental Agency, all those seats which remained unfilled/vacant should be handed over to the respective institutions and Counselling Authority should forward the list of students in order of merit equaling to ten times the number of vacant seats in respect of Medical colleges in the light of Consensual Agreement entered into between Government of Karnataka and first petitioner, which was on account of direction issued by the Hon'ble Apex Court in the matter of Dar-Us-Slam Educational Trust V/s. Medical Council Of India in WP.No.267/2017 dated 09.05.2017 wherein their Lordships directed that after completion of Counselling, the State Government has to determine the number of seats that are still vacant and thereafter should forward a list of students in order of merit, equaling to ten times the number of vacant seats to the Medical college so that in case of any stray vacancy arising in any college, the said seat may be filled up from the said list by the respective college/institution.</p>

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			<p>9. Under the notification dated 20.02.2018 (Annexure-G) , time schedule fixed for PG admission was 31st May of every academic year. Due to COVID-19 pandemic prevalent in the country, Hon'ble Apex Court extended the last date of admission to 31st July, 2020 for the academic year 2020-21.</p> <p>10. In the State of Karnataka the process of counselling was commenced and after 2 rounds of counselling and Mop-Up round being concluded on 27.07.2020, time for reporting to get admitted was fixed as 28.07.2020 by 6.00 p.m. Second respondent by communication dated 28.07.2020 (Annexure-N) addressed to all private medical and dental colleges, directed them to fill "the stray vacancy seats" in respective institutions by 31.07.2020. The names of eligible candidates, their details in the ratio of 1:10 was also shared by the second respondent with the private medical and dental colleges. It is stated by the first petitioner and its member-institutions that on receipt of communication dated 28.07.2020 (Annexure-N) they had duly notified on the web portal of third respondent about vacant seats and have called for applications from eligible candidates for filling up of the same. It is further stated that on 30.07.2020 third respondent also notified on its website the list of vacant and unreported seats after Mop-Up round and upon transfer of the unfilled seats and unreported seats allotted in the Mop-Up round of the counselling along with list of eligible candidates, petitioners are said to have sought for completion of admission process by 31.07.2020. Petitioners are said to have completed the admission between 27.07.2020 to 31.07.2020.</p> <p>11. However, the States of Bihar and Rajasthan counselling process having not been completed due to COVID-19, applications came to be filed before Hon'ble Apex Court for further extension of time schedule for admission to PG Courses for Academic Year 2020-21 and Apex Court by order dated 30.07.2020 in M.A.No.1282/2020 in W.P.(C) No.76/2015 allowed said application and extended the time for admission from</p>

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			<p data-bbox="639 197 1473 271">31.07.2020 to 31.08.2020 and ordered that such extension would enure to the benefit of entire country.</p> <p data-bbox="639 409 1473 1106">12. Pursuant to aforesaid order, impugned communications dated 01.08.2020 (Annexure-A), 14.08.2020 (Annexure-A1) and notification dated 15.08.2020 (Annexure-B) came to be issued by second and third respondent herein. The KEA by notification dated 15.08.2020 (Annexure-B) has proposed to conduct an extended Mop-Up round for filling up of Post Graduate seats in the petitioner's member-institutions including registration of the candidates. As such petitioners have contended that students who have already been admitted during interregnum period i.e., from 27.07.2020 to 31.07.2020 would be unseated if fresh registration and counselling is done and if admission letters are issued to the candidates for being admitted by member-Institutions of first petitioner-Foundation, the interest of students who have already been admitted requires to be safeguarded.</p> <p data-bbox="639 1245 1473 1942">13. Learned Senior Advocates appearing for petitioners in chorus have contended that orders passed by Hon'ble Apex Court does not suggest or indicate to undo the process of admission already done and extension was granted only in cases where counselling process could not be completed and member colleges of first petitioner-Foundation having already made admission under Clause 6(d) of Consensual Agreement, by accommodating unreported students admitted under Mop-Up round of counselling and thereby if Mop-Up round is now allowed to be extended by impugned communications and notification, it would be in gross violation of law affecting the rights of students who have already been admitted. They would also contend that representations submitted by petitioner-Association to the respondents is of no avail and as such they have sought for stay of impugned communications and notification.</p> <p data-bbox="639 2080 1473 2154">14. Learned Additional Advocate General and Sri.N.K.Ramesh, learned counsel appearing for</p>

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			<p>respondents have submitted before the Court that pursuant to the impugned notification several students have arrived from various parts of the country to participate in the fresh Mop-Up round of counselling notified by KEA under notification dated 15.08.2020 (Annexure-B) and said exercise is being undertaken by the State by virtue of the order passed by the Hon'ble Apex Court on 30.07.2020 extending the time schedule upto 31.08.2020 and in the event of process of counselling is stayed, it would result in great prejudice being caused to the students and it would not sub-serve the larger interest of students.</p> <p>15. Having regard to these rival contentions, we are of the considered view as observed herein above that interim arrangement deserves to be made by balancing the interest of both parties namely, both set of students, viz., students who have been admitted between 28.07.2020 to 31.07.2020 by member colleges of first petitioner-Foundation and students who are now seeking admission in the fresh Mop-Up round, which has been announced by the respondent-authorities. Hence, we direct that fresh Mop-Up round which is now being conducted, commencing from today i.e., 18.08.2020 at 11.00 am shall be proceeded with and those students who are successful in the fresh Mop-Up round of counselling, if issued with the admission card or letters by KEA, they shall be intimated by notifying in their admission card/letter that said admission card/letter is issued subject to result of these writ petitions and they would not be entitled to claim any equity or right by virtue of such admission card/letter having been issued to them by KEA.</p> <p>16. It is further made clear that, such admission card/letter issued by the respondent-authorities would not entitle or empower such students to get themselves admitted to the respective colleges to which they have been granted admission, till these writ petitions are disposed of.</p>

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			<p>17. We also make it clear that member-colleges of petitioner-Foundation, who have admitted the students as noticed herein above, would also be bound by the order that would be passed by this Court and their admissions which have been made by the respective colleges would be subject to the result of these writ petitions. We say so, for the reason that students who have joined the colleges by virtue of their admission are also represented by their respective Advocates and also in view of the fact that Association of Colleges being made a party to these proceedings, it shall be incumbent upon the respective Medical Colleges who have admitted the students during this interregnum period to intimate the students so admitted about the pendency of these writ petitions and file an acknowledgment by the next date of hearing for having intimated them.</p> <p>18. It is also agreed by the learned advocates appearing for both parties that on the next date of hearing matter can be heard and disposed of on merits finally.</p> <p>19. Learned Senior advocates appearing for both parties submit in chorus that they may be permitted to appear physically and address the arguments on the next date of hearing. They state that a joint memo to the said effect would be forwarded to the Registrar (Judicial) by Email for being placed before the Hon'ble Chief Justice and on orders being passed by the Hon'ble Chief Justice, the registry shall take steps to list these matters for physical hearing or virtual hearing, as may be ordered by the Hon'ble Chief Justice.</p> <p>Re-list on 25.08.2020.</p>

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