

W.P. No. 6384/2016

28.4.2016

Shri Aditya Sanghi, counsel for the petitioner.

Shri Amit Seth, Government Advocate for the respondents-State.

Heard counsel for the parties on admission.

This petition under Article 226 of the Constitution of India takes exception to Rule 15(7) of M.P. Government Autonomous Medical and Dental Postgraduate Courses (Degree/Diploma) Admission Rules, 2016. The said Rule, reads, thus:

“15 (7) In addition, a candidate who has completed Post Graduate Degree/Diploma course will not be eligible for next three years in case of Degree course and for next two years in case of Diploma course from the date of completion of such course, respectively.”

The respondent-State has filed reply-affidavit. According to the State, such restriction is just and proper. For that, the State is relying on the Full Bench decision of this High Court in the case of **Rajeev Dalela v. State of M.P. And others** reported in **2007 (4) MPLJ 469**.

On perusal of the said decision, however, we, prima facie, agree with the submission of the petitioner that the Rule considered by the Full Bench is materially different. It

was concerning candidate, who had “not completed” his course and yet wanted to take admission to another course. The present Rule, however, is to injunct the candidate even though he has completed his degree/diploma course, for specified period. In our opinion, if the candidate intends to do career progression or excel in education by taking admission to postgraduate degree course thereafter, we fail to understand as to how the State can be heard to complain about loss of public exchequer or any other contention, which weighed with the Full Bench while upholding Rule considered by it. That principle may not be applicable to Rule 15(7). At best, the State may complain about violation of bond condition already given by the candidate while taking admission to diploma course, as in the case of this petitioner, who has given bond of Rs.8 Lacs with undertaking to serve for one year in rural area in the State after completion of diploma course. That bond can be given effect to even after the petitioner completes the postgraduate degree course and in addition, the petitioner can be asked to give additional bond for commensurate amount and period of rural service, for having availed of postgraduate degree course. In other words, the petitioner can be compelled to do rural service for the period specified for both the courses separately after he passes out postgraduate degree course.

Counsel for the petitioner submits that the petitioner is willing to give such undertaking.

If so, his claim can be considered by the Director, Medical Education upon giving such undertaking and accepted by the Authority concerned.

We make it clear that if the petitioner is admitted to the postgraduate course on the basis of his merit position upon complying with the above condition, that admission will be subject to the outcome of this petition and no equities can be claimed by the petitioner at a later stage on any count thereafter. Interim relief is granted on the above terms.

Admit.

To proceed for final hearing, being admitted matter.
To be listed under category **Writ (Civil): Education – Professional – Admission Matters (16.i.a).**

Certified copy as per Rules.

(A. M. Khanwilkar)
Chief Justice

(J. P. Gupta)
Judge