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

% Judgment reserved on: *22.04.2026*
Judgment delivered on: *03.07.2026*
Judgment uploaded on: *As per Digital Signature~*

\+ **LPA 149/2023**

DR SACHIN GAGAJIBHAI SHETA .....Petitioner

versus

UOI & ORS .....Respondents

Advocates who appeared in this case

For the Appellant : Mr. Apoorve Karol, Advocate

For the Respondents : Ms. Nidhi Raman CGSC with Mr. Akash Mishra, Advocate for UOI
Mr. T. Singhdev, Mr. Abhijit Chakravarty, Mr. Bhanu Gulati, Ms. Yamini Singh, Mr. Tanishq Srivastava, Mr. Vedant Sood and Ms. Ramanpreet Kaur, Advocates for R-2

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

CM APPL. 21350/2026(Exemption)

1. Exemption is allowed subject to all just exceptions.

2. The application is disposed of.

CM APPL. 9914/2023(Condonation of delay 90 day in filing),

3. For the reasons stated in the application, the delay of 90 days in filing the appeal is allowed.

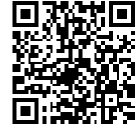
4. The application is disposed of.

LPA 149/2023
CM APPL. 9913/2023
CM APPL. 9917/2023
CM APPL. 42078/2023
CM APPL. 44268/2023
CM APPL. 21349/2026

5. This Intra - Court appeal has been filed challenging the Judgment of the learned Single Judge in W.P.(C) 5328/202 dated 11.10.2022 whereby the learned Single Judge had dismissed two petitions including W.P.(C) 7615/2022. This appeal has been filed seeking the following prayers:

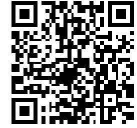
> *"a. Pass appropriate order(s) setting aside the impugned common order & judgment dated 11.10.2022 passed by the Ld. Single Judge of this Hon'ble Court in W.P.(C) No. 5328 of 2021;*
> *b. Pass any other order(s) as this Hon'ble Court deems fit in the interest of justice."*

6. Before delving into the merits of the present controversy, it is essential to give a brief factual background surrounding this appeal as noted from the record. The appellant who was the petitioner before the learned Single Judge was pursuing a Fellowship of the College of Physicians and Surgeons (FCPS) at the College of Physicians and Surgeons of Mumbai (CPS Mumbai). The appellant has in effect challenged the policy decision taken by respondent no.1 - Ministry of Health and Family Welfare (MoHFW) which had held that the FCPS courses are not equivalent to a



Master's Degree being MS/MD Degree. The contention of the appellant was that the decision has made him ineligible for various examinations conducted after MS/MD Degree, among such examinations is the final exam for the Diplomat of National Board (DNB examination) and the National Eligibility cum Entrance Test-Super Speciality (NEET SS examination) which is conducted by the National Board of Examinations (NBE) being the respondent no.3 herein.

7. The respondent no.4 establishment is CPS Mumbai and offers certain post MBBS Medical Fellowship Courses which were recognised through government notifications since 1954. The learned Single Judge had noted the recognition status of such courses was subject of several litigations and the respondent no.1 through notification dated 22.01.2018 granted the status of a 'recognised medical qualifications' to certain FCPS courses offered by CPS Mumbai with specified dates for each course. On 30.04.2021, the respondent no.1 *vide* letter no. C.18018/11/2021-MEP C.18018/11/2021-MEP clarified that FCPS qualifications are recognised and eligible for registration as a medical qualification for the purposes of the Indian Medical Council Act, 1956 (IMC Act) and the National Medical Commission Act, 2019 (NMC Act) but the same are not equivalent to either the MD or MS Degrees. The appellant here being the aspirant for the DNB/DrNB examination must fulfil the eligibility criteria as set out by the NBE being that the aspirant must undergo DNB/DrNB training from accredited institute or likewise possess a post graduate degree in this case being MD or MS from a recognised university. However, for June 2021, the NBE issued an Information Bulletin for the DNB/DrNB examination wherein as per Clause 4.3.2, it was stipulated that the candidates possessing FCPS qualification

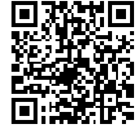


were deemed as not eligible to apply till such time such qualification was found to be equivalent to the counterpart degrees being MD or MS qualification as confirmed by the government. Thereafter, the Clause 4.3.2 of the Information Bulletin for the session June 2022 declared the FCPS course candidates to be ineligible for appearing in the DNB/DrNB examination.

8. As the appellant neither possess MD or MS degree nor has undergone the DNB/DrNB training he was deemed ineligible for the said examination. It is this disqualification that the appellant has challenged and the de-recognition of the equivalence of the FCPS courses at the level of MD or MS degrees along with the eligibility conditions as prescribed by the NBE in Clause 4.3.2 of the Information Bulletins for the years 2021 and 2022.

SUBMISSIONS ON BEHALF OF THE APPELLANT

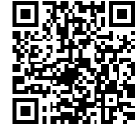
9. Mr. Apoorve Karol, learned counsel for the appellant has argued that the appellant had joined a three year DrNB Cardiology conducted by the respondent no.3 on 15.12.2020 after successfully qualifying the NEET SS examination and was in the midst of the course when the respondent no.1 declared *vide* impugned letter dated 30.04.2021 that even though FCPS courses were recognised and the qualifications were eligible for registration for the purpose of practice however, the same were not equivalent to MD or MS courses. According to him, the appellant who was petitioner no.11 in W.P.(C) 5328/2021 received a letter dated 28.03.2022 (after almost one year from the date of the issuance of the impugned letter dated 30.04.2021) wherein, the NBE informed the appellant that his candidature for the DrNB course stood cancelled. In this regard, he has drawn our attention to the letter



dated 28.03.2022 being Annexure A-3 of CM APPL. 42078/2023 accompanying the appeal.

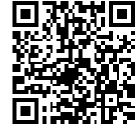
10. It is his case that the appellant had almost completed half of his DrNB course and moved an interim application being CM APPL. 19269/2022 in W.P.(C) 5238/2021 seeking stay of operation of letter dated 28.03.2022 and for a direction to continue with the course. It is his submission that the learned Single Judge *vide* order dated 21.04.2022 permitted the appellant to continue with the course. Mr. Karol has argued that the Court continued these directions vide order dated 19.05.2022. According to him, similarly placed Doctor had approached the Bombay High Court through Writ Petition No. 5199/2022 and the Bombay High Court had granted a temporary injunction in favour of the petitioner therein.

11. Another limb of argument of Mr. Karol is that the rules of the game cannot be changed once the game has begun as the appellant had already enrolled in the course when his candidature was cancelled. The action of the respondents as per Mr. Karol is in violation of Articles 14 and 16 of the Constitution of India. In this regard, he places reliance on the judgment of the Supreme Court in the case of ***Suresh Pal and Others v. State of Haryana and Others (1987) 2 SCC 445***. It is also his case that the appellant has already paid Rs.1,47,500/- for each of the first two years and Rs.1,25,000/- for the third year of the course the said fees totals upto Rs.4,20,000/- which has been accepted by NBE. It is his case that the said course would have culminated in December 2023. The action of the respondent as per Mr. Karol has also jeopardise the appellant’s career progression. He further stated that no reason was provided by the



respondents for coming to the said conclusion and the same divests the appellant of substantive rights that have accrued in his favour prior to 30.04.2021. He seeks to rely on a judgment of the Supreme Court in the case of ***Punjab State Cooperative Agricultural Development Bank Ltd. v. Registrar, Cooperative Society & Ors., (2022) 4 SCC 363***.

12. According to him, the impugned letter dated 30.04.2021 as implemented by the respondent no. 1 ought to be only applied prospectively and not retrospectively. The appellant had joined the FCPS course prior to 30.04.2021 and therefore, cannot be ousted from the course through a retrospective action. He also placed reliance in the case of ***Aasawari Kiran Purohit and Others v. Government Of India and Others, Writ Petition No. 4235 of 2023*** to state that the Doctors who had joined their two years diploma courses at CPS, Mumbai to pursue their DNB/DrNB B degrees even though the said degrees are not equivalent to or corresponding to the other recognized two year degrees as the said students had joined the diploma course in the year 2017-18 when CPS students pursuing such diploma course were allowed to pursue DNB/DrNB courses are protected. He stated that the said decision was followed by the Division Bench of the Bombay High Court in the case of ***Dr. Hindustanwala Mohd. Adnan Vs. Union of India, WP (L) No. 1711 of 2012***. Even in the year 2009 when FCPS courses were de-recognised, the said policy decision was held to be prospective keeping in mind the interest of the future student Doctors. He stated that even those students, who had joined the FCPS course prior to 2009 but completed it after 02.12.2009 i.e. when the FCPS courses were de-recognised in such a scenario, not only were the degrees considered recognized but they were also allowed to sit for the DNB/DrNB final



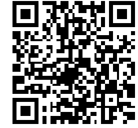
examination held in the year 2011-12.

13. It is his case that admittedly till the year 2019-20, the Doctors who had successfully completed their recognised FCPS course were allowed to sit in the DNB/DrNB final examination and awarded the Diplomate of National Board Degree. This factum has been recorded in the minutes of meeting of the examination committee of the respondent no. 3. In the present case, the appellant had completed his recognized FCPS course from MGM Medical College and Hospital, Aurangabad. The said hospital also provides MBBS, post-graduate and super specialty courses and there is no question regarding the quality of training and education received by the appellant.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

14. Ms. Nidhi Raman, learned Central Government Standing Counsel appearing on behalf of the respondents stated that it was by way of notifications dated 02.12.2009 and 03.02.2010 that the Central Government had de-recognised the qualifications issued by the CPS, Mumbai by deleting these qualifications from the first Schedule of the IMC Act w.e.f. 02.12.2009. It was thereafter by way of notification dated 17.10.2017 published in the official gazette on 23.10.2017 that the Central Government recognised the 39 diploma courses at a post-graduation level conducted by CPS, Mumbai and had included them in the first Schedule of the IMC Act.

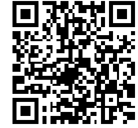
15. According to her, the respondent no. 2/NMC in its reply has stated that various communications took place between the Medical Council of India as well as the Central Government regarding the re-examination /



recall / withdrawal of the notification dated 23.10.2017. She has drawn our attention to the communications dated 02.11.2017, 03.11.2017, 08.11.2017, 21.11.2017, 27.11.2017, 19.12.2017 and 25.01.2018. It was through another notification dated 22.01.2018 that the Central Government again de-recognised 36 diploma courses conducted by CPS, Mumbai by deleting them from the first Schedule of the IMC Act. Although, 6 FCPS courses were inserted in the first Schedule of the IMC Act and in the said notification, it was clarified that these qualifications shall not be treated as recognised medical qualification for the purpose of teaching.

16. On 25.07.2020, the result of NEET SS 2020 was declared and in order to ascertain the status of equivalence of CPS qualifications with the degrees offered by Indian universities, the respondent no. 3 had vide communications dated 16.09.2020 and 25.11.2020 written to the Central Government and the NMC. It was in the interregnum that respondent no. 3 vide communication dated 22.09.2020 informed the candidates who had appeared for the final theory examinations on June, 2020 that they were provisionally being allowed to appear for the said examination till the question of equivalence was being resolved by the Central Government.

17. For the period between 07.10.2020 and 22.10.2020, the common counseling was done for the admission into the courses of DM/MCh/DNB Super Specialty SS 2020. According to Ms. Raman, the authenticity of the documents submitted by the candidates were not verified during the online counseling and the question of the eligibility of candidates was also not determined at the time of participation in the online counseling. The respondent no. 3 received a communication dated 20.11.2020 from the



National Medical Commission although, a response from the Central Government had not come as on that day. It was on 15.12.2020 that the appellant was awarded a seat in the cardiology department at the Apex Heart Institute, Ahmadabad during the first round of counseling and the appellant was permitted to join the institute. Ms. Raman stated that even at this point of time since no response from the Central Government was received, the question regarding the eligibility criteria had not been finally decided.

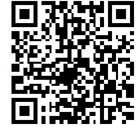
18. It is her case that the respondent no. 3 is fully entitled to lay down the eligibility criteria for the award of the Diplomate of National Board and the matter was considered by the governing body of respondent no. 3 and it had been decided on 24.12.2020 that the FCPS candidates shall not be allowed to appear in the DNB/DrNB final examination till such a time the clarification regarding the equivalence of the FCPS in respect of the degrees awarded by Indian universities was decided by the Central Government.

19. She argued that in terms of the aforesaid decision, the respondent no.3 issued the information bulletin for DNB/DrNB final examination on 19.01.2021 with the addition of clause 4.3.2 to hold that the candidates possessing FCPS qualification awarded by CPS, Mumbai were not eligible to apply for the DNB/DrNB final exam.

20. Ms. Raman stated that a batch of writ petitions, which was filed before the Bombay High Court wherein the Court was considering the question whether the diploma qualification of the petitioners therein in terms of notification dated 17.10.2017 when they appeared for the DNB/DrNB examination and their diploma qualifications were de-recognised vide notification dated 22.01.2018 having cleared the DNB 2017 and completed

the entire two years in the DNB/DrNB post diploma course in terms of the interim order dated 10.04.2018. The Bombay High Court vide order dated 24.02.2021 directed respondent no. 3 to treat the petitioners therein to pursue the DNB/DrNB post-diploma course and to treat their qualification as duly obtained. It is her case that the order dated 24.02.2021 was passed in the peculiar facts of that case.

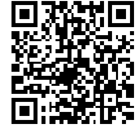
21. She argued that the appellant herein paid the registration fees to the respondent no. 3 for the NEET SS examination 2020 on 18.03.2021. On 25.03.2021, the respondent no. 3 issued the Information Bulletin for DNB/DrNB 2021 with the clause that the candidates from CPS, Mumbai were not eligible to apply for DNB/DrNB question of equivalence of CPS diploma qualifications till such time was still pending at the Government of India level. Being aggrieved by this clause, some of the candidates holding a diploma from CPS, Mumbai approached the learned Single Judge of this Court through writ petition being W.P.(C) 4252/2021. In response to the said petition, the respondent no. 3 had informed the learned Single Judge that the question of equivalence of qualifications issued by CPS, Mumbai was awaited from the Central Government and the learned Single Judge had ordered vide order dated 09.04.2021 that the Central Government bring its stand on record. In the meanwhile, respondent no.2 NMC vide letter dated 31.03.2021 informed the Central Government that it did not find any merit in the request for granting recognition to 14 courses as suggested by the Hand Holding Committee and further recommended that the qualifications of CPS, Mumbai that were in the Schedules of IMC Act should also be de-notified. The Central Government vide its letter dated 30.04.2021 took a call on this issue and clarified that the FCPS qualifications cannot be treated to



be equivalent to MD/MS qualifications.

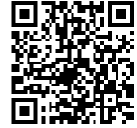
22. Ms. Raman has brought to our notice that the learned Single Judge of this Court had accepted the stand of the Central Government in terms of the letter dated 30.04.2021 and disposed of the writ petition being W.P.(C) 4252/2021 *vide* judgment dated 04.05.2021. The other candidates including the appellant herein had filed in the present writ petition being W.P.(C) 5328/2021 challenging the Information Bulletin for DNB/DrNB in its Clause 4.3.2. She stated that it must be noted that the appellant herein is petitioner no.11 in the said writ petition and it was by way of order dated 17.05.2021 notice was issued by the learned Single Judge in the said writ petition as well as the application seeking interim relief. It was in the meantime that the respondent no.3 on 12.07.2021 issued another Information Bulletin regarding DNB/DrNB final examination for June, 2021 reiterating its earlier stipulation that the candidates with FCPS qualifications awarded by the CPS Mumbai are not equivalent to MD or MS level qualifications.

23. She stated when the matter was listed on 16.07.2021, the petitioners therein pressed for interim relief and sought to appear in the DNB/DrNB final examination and the said prayer was rejected by the learned Single Judge through a detailed order of the same date. She further argued that on account of the COVID 19 Pandemic, the determination of eligibility of the candidates who had taken admission in NEET 2020 and their registration process was delayed. It is to quell such a situation that the respondent no.3 developed a web portal for uploading registration form and other documents for generating registration number for the candidates. After which the



respondent no.3 on 23.10.2021 issued another Information Bulletin for DNB/DrNB final examination for December, 2021 wherein it was re-emphasised that the candidates with FCPS qualifications from CPS Mumbai would not be considered equivalent to either MD or MS level qualifications. Pursuant to the said Information Bulletin, the candidates filed another application being CM APPL 39169/2021 sought permission to appear in the DNB/DrNB final examination schedule from 16.12.2021 to 19.12.2021. The learned Single Judge again rejected the aforesaid prayers *vide* order dated 08.11.2021. On 28.01.2022, the appellant was asked to submit the deficient documents on the web portal for generating the registration number. However, on scrutinising the documents so received on 28.03.2022, it was found that the qualification of the appellant being FCPS from CPS Mumbai not equivalent to MD or MS courses, he was found to be ineligible to pursue the DNB/DrNB course run by the respondent no.3. Ms. Raman has drawn our attention to Clauses 2.15, 2.21 and 2.23 stipulated in the Information Bulletin for NEET 2020 which were considered by respondent no.3 *vide* letter dated 28.03.2022 wherein the candidature of the appellant was cancelled.

24. It was after this that vide order dated 13.04.2022, the learned Single Judge of this Court had permitted the writ petitioners to fill up the forms for appearing in the DNB/DrNB final examinations against which the respondent had preferred an Intra - Court appeal in the form of LPA 348/2022 wherein this Court *vide* order dated 24.05.2022 had stayed the operation of the impugned judgment therein. The learned Single Judge *vide* order dated 21.04.2022 directed that the appellant be permitted to continue with the DNB/DrNB Training Course as an interim measure which was



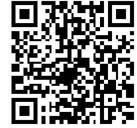
further extended on 19.05.2022. The learned Single Judge thereafter dismissed the writ petition *vide* impugned judgment 11.10.2022 against which this present appeal has been filed. She stated that there are three other appeals being LPA 15/2023, LPA 16/2023 and LPA 87/2023 filed challenging the same impugned judgment dated 11.10.2022.

25. In this regard, Ms. Raman has invited our attention to the order dated 18.09.2023 passed in the above three appeals along with the present appeal, wherein on the issue of interim relief, it was held as under:

> *"(i) The notification dated 22.01.2018 issued by the Central Government recognizing FCPS courses never indicated that the said courses as equivalent to MD/MS qualification.*
> *(ii) No documents have been shown to establish that equivalence was ever granted to Fellowship courses conducted by CPS, Mumbai or FCPS was held equivalent to MD/MS qualification at any point of time.*
> *(iii) There is no retrospective Application of the letter dated 30.04.2021 issued by the Central Government.*
> *(iv) No case is made out for grant of interim relief in favour of the Appellants."*

26. It was vide judgment dated 01.04.2024 that the LPA 15/2023, LPA 16/2023 and LPA 87/2023, wherein the challenge to the same impugned judgment as is the case here, were dismissed by this Court by holding as follows:

> *"(i) There is no retrospective application of the letter dated 30.04.2021 issued by the Central Government. By the said letter, the Central Government has only sought to clarify the position that already existed.*
> *(ii) The Appellants who have taken admission in FCPS courses between 02.12.2009 and 22.01.2018 have taken admission in an unrecognized course.*

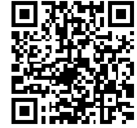


(iii) The Appellants who have taken admission in FCPS courses after 22.01.2018 have taken admission in a course which is recognized, however, is not equivalent to MD/MS.
(iv) There cannot be any legitimate expectation or promissory estoppel in education matters as claimed by the Appellants.
(v) Merely because the courses conducted by the CPS, Mumbai have been granted recognition, the same would not mean that they have also been granted equivalence to MD/MS degree.
(vi) In the absence of any specific Rule/Regulation/Policy Decision regarding the FCPS qualifications as being equivalent to MD/MS degree, this Court cannot proceed on the basis of any presumption, merely on the basis of the some past practice wherein doctors with FCPS qualifications had been allowed to take the DNB examination.
(vii) In the absence of the appellants possessing MD/MS qualification, they cannot be allowed to sit for the DNB examination on the basis of FCPS qualification, which is not equivalent to MD/MS qualification."

27. Ms. Raman has also stated that against the said judgment Special Leave Petitions being SLP(C) No. 8630-8631/2024 and SLP(C) No. 25142/2024 have been filed by the candidates and the Supreme Court has been pleased to issue notice, however, there is no stay operating on the judgment dated 01.04.2024.

28. Ms. Raman has stated that since the DrNB courses are being conducted by respondent no.3, it is fully empowered and competent to lay down standards and the eligibility criteria for the award of the DrNB qualification. In this regard, she places reliance on the judgments in the cases of ***National Board of Examinations v. G Anand Ramamurthy and Ors. (2006) 5 SCC 515*** and ***Divyesh J Pathak v. National Board of Examinations 2020 SCC Online 604***.

29. She has argued that in view of the settled position of law regarding



the equivalence of FCPS qualification not being analogous to MS/MD qualification. The Clause 4.1 of the Information Bulletin concerning NEET SS 2020, the appellant is neither eligible to appear in the said examination nor pursue the course run by the respondent no.3. In this regard, she has drawn our attention to Clauses 2.3, 2.12, 2.15, 2.21, 2.23, 2.26 and 2.27 of the Information Bulletin to support her arguments. She argued that the Doctrine of Legitimate Expectation or Estoppel in the matters concerning academics would not be applicable in the present case. She has drawn our attention to the judgment in the cases of ***Mahesh Prakash Shinde & Ors. v. Union of India & Ors. 2024:DHC:2551-DB, Rajat Duhan and Ors. v. All India Institute of Medical Sciences & Ors 2019 SCC Online Del 11437*** and ***Divyesh J. Pathak (supra)***.

30. Another limb of argument of Ms. Raman is that Courts of this country have consistently held that academic bodies are competent to change and modify eligibility criteria to maintain quality and standards of education. Simply, because the eligibility criteria was different in the past years as compared to the subsequent years does not invalidate the subsequent changes brought about in the interest of quality standards. To buttress her argument, she has taken recourse to the judgments in the cases of ***Rajat Duhan (supra)***, ***Ashwin Prafulla Pimpalwar v. State of Maharashtra 1991 SCC Online Bom 384*** and ***Mahesh Prakash Shinde (supra)***.

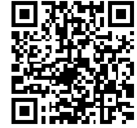
31. Ms. Raman has sought to differentiate the reliance placed by Mr. Karol on the order dated 27.04.2022 of the High Court of Bombay by stating that in the facts of that case, the petitioner therein who had an FPS qualification had already obtained DNB/DrNB unlike the petitioner herein

and therefore the revocation of his candidature is justified. Similar is the case regarding reliance placed on the interim orders dated 21.04.2022 and 19.05.2022 of the learned Single Judge of this Court in W.P.(C) 5328/2021 since the said orders stand superseded by the impugned judgment dated 11.10.2022 wherein the writ petition was dismissed.

32. She further argued that a perusal of the FCPS qualification dated 13.07.2018 placed on record by the appellant herein, it would become apparent that the appellant has taken admission prior to 22.01.2018 i.e., when the said course was not even recognised by the Central Government.

33. It is her case that the reliance placed on the judgment in the case of ***Suresh Pal (supra)*** by Mr. Karol is misplaced since the rules of the game have not been changed. More so, since the letter dated 30.04.2021 has only clarified the status of the FCPS qualification wherein the said qualification has been notified to not be treated as a medical qualification for the purposes of teaching in terms of notification dated 22.01.2018.

34. Ms. Raman has also argued that this Court ought to not place reliance on the orders dated 24.02.2021, 19.04.2023, 21.04.2023, 08.06.2023 and 30.06.2023 of the Bombay High Court as the said issue involved in those orders did not pertain to equivalence to FCPS course with MD/MS courses and the same are distinguishable on facts. She further argued that the issue of legality of the letter dated 30.04.2021 is liable to be rejected in view of the judgment dated 01.04.2024 of this Court. In view of the above arguments, Ms. Raman seeks the dismissal of the present appeal.



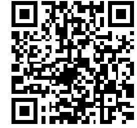
ANALYSIS AND CONCLUSION

35. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the learned Single Judge is justified in dismissing the writ petition filed by the appellant. At the outset, we may state that the subject matter of the present appeal i.e., judgment dated 11.10.2022 passed by the learned Single Judge were subject matter of LPA 15/2023; LPA 16/2023 and LPA 87/2023. The aforesaid appeals have been dismissed by a Division Bench of this Court *vide* its judgment dated 01.04.2024. We have been informed that the judgment dated 01.04.2024 is pending consideration before the Hon'ble Supreme Court in SLP(C) No. 8630-8631/2024 and SLP(C) No. 25142/2024 wherein notice has been issued but the impugned order has not been stayed by the Supreme Court.

36. Having said that, from the facts noted above the following position emerges:

I. Notification dated 02.12.2009 and 03.02.2010 were issued by the Central Government de-recognising qualifications issued by the CPS Mumbai by deleting the same from the schedule of the IMC Act.

II. By way of notification dated 17.10.2017 as published in the Official Gazette on 23.10.2017, the Central Government recognised 39 diploma courses at post graduate level conducted by CPS Mumbai. The Medical Council of India had written to Central Government for re-examination/recall/withdrawal of the notification dated 23.10.2017.



III. *Vide* notification dated 22.01.2018, the Central Government de-recognised 36 diploma courses conducted by CPS Mumbai.

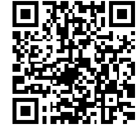
IV. Although, 6 FCPS courses were inserted in the first schedule of the IMC Act but making it clear that the same shall not be treated as recognised medical qualification for the purpose of teaching.

V. On 25.07.2020, the result of the NEET SS was declared.

VI. The respondent no.3/National Board of Examinations *vide* notification dated 16.09.2020 and 25.11.2020 sought clarification on the status of equivalence of FCPS qualification to that of degrees offered by the Indian universities. Pending that, vide notification dated 22.09.2020, the respondent no.3 informed the candidates who have appeared for the final examination on June, 2020 that they are provisionally being allowed to appear for the said examination till the equivalence is resolved by the Central Government.

VII. The case of the respondent no.3 is that authenticity of the documents submitted by the candidates were not verified during the online counselling and the question of eligibility of candidates was not determined on the participation of online counselling.

VIII. On 15.12.2020, the appellant was awarded seat at Cardiology department at the Apex Heart Institute, Ahmedabad which institute the appellant had joined. Even on that day, no response from the Central Government was received by respondent no.3, on the issue of equivalence of FCPS qualifications with that of



degrees offered by Indian Universities.

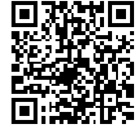
IX. The governing body of the National Board of Examination on 24.12.2020 decided that FCPS candidates shall not be allowed to appear in the DNB/DrNB final examination till such time the issue of FCPS qualifications equivalence is clarified by the Central Government.

X. Even on 19.01.2021, Information Bulletin for DNB/DrNB final examination stipulated in terms of Clause 4.3.2 that the candidates possessing the FCPS qualification awarded by CPS Mumbai are not eligible to apply in the DNB/DrNB final examination, till such time the issue of equivalence of FCPS was pending clarification.

XI. The appellant had on 18.03.2021 paid the registration fee for the NEET SS examination 2020. On 25.03.2021, the respondent No.3/National Board of Examination, issued Information Bulletin for DNB/DrNB 2021 that candidates from CPS Mumbai are not eligible to apply for DNB/DrNB until resolution of the question of equivalence of diploma is pending before the Government of India.

XII. The Central Government, *vide* letter dated 30.04.2021 clarified that FCPS qualification cannot be treated equivalent to MD/MS qualification.

XIII. The appellant along with other candidates filed writ petition being W.P.(C) 5328/2021 challenging the Information Bulletin for DNB/DrNB in its Clause 4.3.2. The interim prayer sought by the



petitioners including the appellant herein was rejected by the learned Single Judge.

XIV. Even on 23.10.2021, again Information Bulletin was issued for DNB/DrNB final examination for December, 2021 reiterating that candidates with FCPS qualification from CPS Mumbai would not be considered qualified to the level of either MD or MS Degree.

XV. Even the application filed by the appellant seeking permission to appear in the DNB/DrNB final examination was rejected. On 28.01.2022, the appellant was asked to submit the deficient documents on the web portal for generating registration number.

XVI. On scrutinising the documents so received on 28.03.2022, it was found he has FCPS of CPS Mumbai which is not equivalent to MD/MS courses as such he was found ineligible and *vide* letter dated 28.03.2022, the candidature of the appellant was cancelled.

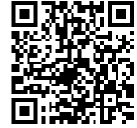
37. The aforesaid being the position, it is clear that it is the consistent stand of the respondent no.1 and 3 in terms of clarification that the diploma secured by the appellant from CPS Mumbai was not equivalent qualification of MS/MD Degrees and therefore not eligible to undertake the DNB/DrNB exam.

38. The plea of the learned counsel for the appellant is primarily that the appellant has completed three years of the DNB/DrNB course and cannot be disqualified and as such cancellation of his candidature of DNB/DrNB is unjust. We are not impressed by the said submission made by the learned counsel for the appellant. This we say so as it has been the consistent stand

of the respondent no.1 and 3 that the various FCPS qualification granted by CPS Mumbai are not equivalent to MD/MS qualifications.

39. The plea of the learned counsel for the appellant that the rules of the game have been changed mid way is also not impressive, in view of the notification dated 22.01.2018 and the Information Bulletin issued from time to time. In this regard, the stand taken by respondent no.1 - Ministry of Health and Family Welfare as has been noted by the Coordinate Bench of this Court in the judgment in the case of ***Dr. Mahesh Prakash Shinde & Ors. v. Union of India & Ors, 2024:DHC:2551-DB***, is also relevant wherein, in paragraph 21, the following is stated:

> *"21. It is also relevant to note that in respect of equivalence of qualifications granted by CPS, Mumbai, the Central Government vide its letter dated 30th April, 2021 has clarified that the various FCPS qualifications, are registrable for medical practice, however, the said qualifications are not equivalent to either MD or MS qualifications. In this regard, the respondent no. 1/MoHFW, has categorically stated that the aforesaid letter dated 30th April, 2021 was issued as a clarification, with a view to clarify the position as regards the CPS courses that already existed. Thus, respondent no. 1/MoHFW has explained its position in the short written submissions filed on its behalf, which reads as under:-*
>
> > *"xxx xxx xxx*
> >
> > *14. It is submitted that before the clarification of the Ministry of health and family welfare vide communication/letter dated 30.04.2021 has already clarified by the NMC, vide letter dated 20.11.2020 that With reference to your letter No. NBE/ED O/2020/430 dated 16.09.2020, on the subject noted above, it is to inform you that as notified under Gazette of India dated*

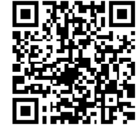


February 2018, FCPS (Midwifery & Gynecology) qualification awarded by College of Physicians and Surgeons, Mumbai, are registrable for practice but there is no notification with respect to their equivalence to MD/MS.

15. It is submitted that the ministry has not decided or made something substantive order but only clarify the position of the courses already existed, based on the notification dated 17.10.2017 and 22.01.2018, as the recognition to these courses were granted with terms and conditions put at bottom of the notification dated 22.01.2018. The letter dated 30.04.2021 has only clarified the ambiguity as sought by the respondent no. 3/NBE it does not require notification public at large. It does not make any substantive changes in the notification but only clarify the terms and conditions mentioned in the notification and hence this cannot be challenge on the ground of retrospective operation. It has been clarified that since notification clearly stipulates that the CPS qualifications shall not be treated as a recognized medical qualification for the purpose of teaching and hence these qualifications are registrable qualification for practice, however, the same are not equivalent to either MD or MS courses because the MD or MS qualifications are mandatory for teaching.

16. It is submitted that for the sake of argument the letter dated 30.04.2021 has retrospective operation, the presumption against retrospective operation is not applicable to clarificatory or, declaratory statute. In Para-34, Para-35 and para-36 of the recent judgment of Hon'ble Supreme Court in Civil Appeal No. 1318-1322 of 2021, titled as Puneet Sharma and Ors vs Himachal Pradesh state Electricity Board ltd Anr, the Hon'ble Supreme Court has reiterated the settled law regarding retrospective operation of rules/law/order etc.""

40. From the above it is clear that what has been stated by the Ministry of



Health and Family Welfare vide its letter dated 30.04.2021 is primarily a statement of the position as existed on that day, inasmuch as the Central Government clarified the status on FCPS qualifications as was already existing. To be noted, nothing has been brought to our notice that FCPS qualifications were treated as equivalent to MD/MS Degrees even on the day when the petitioner got admission in DNB/DrNB on 15.12.2020. In that sense there is no change of rules as sought to be alleged.

41. In fact, the IMC/NMC had been taking consistent stand atleast from 02.11.2017 when communications were sent by the NMC to the Central Government for re-examination/recall/withdrawal of the notification dated 23.10.2017. In fact, *vide* notification dated 22.01.2018, the Central Government had de-recognised 36 diploma courses conducted by CPS Mumbai. Even with regard to 6 courses, it was clarified that the said qualification shall not be treated as recognised qualification for the purpose of teaching.

42. If that be so, no right would enure to the appellant merely because he had secured admission in DNB/DrNB conducted by the National Board of Examination in the circumstances highlighted by Ms. Raman which we have noted above. In that sense, the appellant had been informed that the qualifications possessed by him are not equivalent to MD/MS and as such he was not eligible to participate in the DNB/DrNB course. Despite of the above existing position, the appellant having taken admission in the course cannot seek to enforce a right which had never accrued to him.

43. Hence, we are of the view that the learned Single Judge is justified in dismissing the petition. We also reproduce paragraphs 22 onwards of the

conclusion drawn by the Coordinate Bench in ***Dr. Mahesh Prakash Shinde (supra)*** in the following manner:

"22. In view of the aforesaid, the undisputed position that emerges is that the Central Government has only clarified the status of the FCPS qualifications, as already existing. It is also undisputed that there is no notification in existence which recognizes the FCPS qualifications as equivalent to MS/MD. Therefore, the submission raised on behalf of appellants with regard to retrospectivity of the notification dated 30th April, 2021, is totally misplaced. The issue of retrospective application of the letter dated 30th April, 2021 issued by respondent no. 1/MoHFW has wrongly been raised by the appellants, as by way of the aforesaid letter, the respondent no. 1/MoHFW has only sought to clarify a position that already existed. It is not the case of the appellants that equivalent status was granted to FCPS qualification with MS/MD earlier, which has been sought to be withdrawn by the respondent no. 1/MoHFW by its letter dated 30th April, 2021.

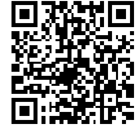
23. This Court records the unequivocal stand of respondent no. 2/NMC, wherein it has gone to the extent of stating that in recognizing the qualifications by organizations like CPS, Mumbai, the NMC carries the risk of being accused of promoting sub-standard training and specialists. Letter dated 31st March, 2021 in this regard, issued by the NMC is reproduced as hereunder:-

"दूरभाष/ Phone: 25367033, 25367035, 25367036 पाकेट-14, सेक्टर-8, द्वारका, फेस1, नईददल्ली77-
फैक्स/Fax : 0091-11-25367024 Pocket-14, Sector-8, Dwarka
ई-मेल / E-mail: secy-mci@nic.in Phase 1, New Delhi-77

राष्ट्रीयआयुदविज्ञानआयोग
National Medical Commission
Postgraduate Medical Education Board (PGMEB)

No. NMC/MCI-23(1)/2021/Med./ 007204 Date: 31-03-2021

The Joint Secretary,
Medical Education Policy
Government of India,
Ministry of Health & Family Welfare,



Nirman Bhavan, New Delhi

(Kind Attn.: Shri Chandan Kumar, US (MEP))

Subject: *VIP reference of Shri Jai Prakash Hon'ble MP, Lok Sabha and PMO Reference (PMO ID No. 5328875/PMC/2021/SW_dt_12.02.2021) regarding representation dated 10.12.2020 from Dr. G.K. Maindarkar (President, College of Physicians and Surgeons of Mumbai).*

Sir,

Reference the Ministry's letter dated 6.1.2021 (No. V.11025/01/2021-ME-I(FTS-8090760) forwarding a reference from Shri Jai Prakash, Hon'ble MP, Lok Sabha regarding the representation from Dr. G.K. Maindarkar (President, College of Physicians and Surgeons of Mumbai) and also the letter dated 23.2.2021 forwarding a PMO reference on the same subject.

The matter with regard to the recognition of courses offered by the College of Physicians and Surgeons (CPS), Mumbai was considered by the National Medical Commission at its meeting on 16.3.2021. The Commission considered the representation of Dr. G.K. Maindarkar, the Report of the Committee to provide the Hand holding support to College of Physicians and Surgeons, Mumbai and all other documents pertaing to CPS available with the Commission (including those related to the period of the erstwhile MCI).

The Commission noted that the Hand holding Committee had in its report observed that since every developed country has more PG seats than UG seats, and the same is not the case with India, the recognition and expansion of CPS courses would benefit, especially to provide well trained specialist doctors in rural and peripheral areas. The Commission however, is not in agreement with the observations of the need for equal PG seats as UG seats, as the health care structure in the country differs from that in the countries alluded to. The Commission also feels that the country needs more general physicians and/or Family physicians than specialists to cater to the needs of our population. The argument that those with qualifications conferred by CPS would be available to under-served and rural areas cannot be justified if such under trained physicians/specialists were to serve the most needy in the country. Further, the available documents do not support that those with CPS qualifications have predominantly served in rural/peripheral areas nor that they have contributed in substantial measure to the improvement of health care indicators in the regions where they are working/have worked. The Commission was also concerned with the quality of training, as CPS did not have the rigour of monitoring and supervision of the National Medical Commission in the institutions approved/recognized by it. Further, recognizing the qualifications by such organizations such as the CPS, the NMC carries the risk of being accused of promoting substandard training and specialists.

The Commission in its considered opinion did not find any merit in the request for grant of recognition to the proposed 14 courses as suggested by the Hand Holding Committee. Further, it also strongly recommends that the qualifications of the College of Physicians and Surgeons of Mumbai currently included in the Schedules of the IMC Act, 1956 (now the NMC Act 2019) should also be denotified.

This is for your information and necessary action, and is issued in pursuance of the decision taken by the NMC in its meeting held on 16.3.2021.

Yours faithfully,
(Dr. R.K. Vats)

Secretary"

24. This Court also records the Minutes of the Meeting dated 28th June, 2022 of the PGMEB under the NMC, wherein, the PGMEB has recommended NMC to take measures to set right the various irregularities in the courses conducted by CPS, Mumbai and to derecognize the said courses till necessary corrections are one. The Minutes of the Meeting dated 28th June, 2022 of the PGMEB of the respondent no. 2/NMC, is reproduced as under:-

"दूरभाष / Phone: 25367033, 25367035, 25367036 पॉकेट-14, सेक्टर-8, द्वारका, फेस - 1, नईददल्ली-110077
फैक्स/Fax: : 0091-11-25367024 Pocket-14, Sector-8, Dwarka
ई-मेल / E-mail : pomeb.section@nmc.org.in Phase-1, New Delhi – 110077

राष्ट्रीय आयुर्विज्ञान आयोग
National Medical Commission
Post Graduate Medical Education Board (PGMEB)

No. NMC/PGMEB-Admin/02/2021-Med

The meeting of the Post Graduate Medical Education Board was held under the chairmanship of Dr Vijay Oza, President, PGMEB on 28th June, 2022 at 12.00 Noon in Room No.119, 1st Floor, Sector-8, Pocket-14, Dwarka, New Delhi.

Attendees:-

S. No.	Name	Designation
1	Dr Vijay Oza	President, Postgraduate Medical Education Board
2	Dr. R.K. Dhiman	Part Time Member
3	Dr. Saleem-ur-Rehman	Part Time Member

Additionally, Mr. Aujender Singh, Deputy Secretary (PGMEB), Mr. Pramod Pant, PPS, Ms Navaneetha Pramod, Section Officer (PGMEB), Ms Rashmi, ASO and Shri Deepak, ASO were also present to facilitate the meeting.

Minutes of the Meeting

2. The Post Graduate Medical Education Board decided the following four major policy matters/issues, which are detailed below, before taking up the Agenda items:

2.1 Recognition of Courses offered by CPS, Mumbai:
The matter of recognition of qualifications provided by the College of Physicians and Surgeons (CPS), Mumbai, was discussed in detail in the Board's meeting. The Board observed that the CPS is running various courses of qualifications since 1916 and these courses are included in the Third Schedule, Part-I of the IMC Act, 1956 (Annexure-I).
The matter of continuation of the recognition of the courses of qualifications has been debated since long. The Ministry of Health & Family Welfare (MoH&FW), in its letter dated 30th April, 2021, has informed the following (AnnexureII):-
i. The DPB, DGO, DCH, MCPS, FCPS (Med.), FCPS (Path.), FCPS (Surg.), FCPS (Derm.), FCPS (Mid & Gynae) and FCPS (Opth.) are the only recognised CPS courses at present;
ii. The aforementioned FCPS qualifications awarded by the CPS, Mumbai are recognised medical qualifications for the purposes of the erstwhile Indian Medical Council Act, 1956 and also for the purposes of the NMC Act, 2019. These qualifications are registerable qualification for practice, however, the same are not equivalent to either MD or MS
courses;
iii. The Diploma qualifications DPB, DGO and DCHawarded by the CPS, Mumbai are equivalent to their corresponding other recognised Diploma qualifications. NMC, in its letter dated 31.03.2021 to the MoH&FW, have strongly recommended that the qualifications of the College of Physicians and Surgeons of Mumbai currently included in the Schedule of the IMC Act, 1956 (now the NMC Act,
2019) should be denotified (Annexure-III).
In reply, the MoH&FW had written on 24.05.2021, that as per the NMC Act, 2019 the power of recognition or otherwise lies with the NMC. Hence, it requested NMC to take appropriate action in the matter and intimate the Ministry. In this connection, the Chairman, NMC vide his note dated 18.05.2022 asked the Post Graduate Medical Education Board (PGMEB) for its comments (AnnexureIV)
The PGMEB discussed this issue in detail and made the following observations:-
i. As per Section 25 of the NMC Act, the powers and functions of the PGMEB are to determine and develop and maintain best standards of medical education at the postgraduate level and super-specialty level by framing guidelines of requirements and standard for setting up medical institutions and medical colleges; and by developing competency based dynamic curriculum. ii. Further, as per Section 35 of the NMC Act, 2019, the PGMEB has to recognise and renew the courses of qualifications.
Based on all the above observations, as per Section 25(2) of the NMC Act, 2019, the Board decided to recommend NMC and MARB

to take measures to set right these irregularities and, if necessary, derecognise these courses till necessary corrections are done."

25. In fact, it is the clear stand of respondent no. 2/NMC that the courses run by CPS, Mumbai do not come under the monitoring control of NMC. Therefore, the PGMEB recommended that the equivalence given by MoHFW to the three diploma courses of CPS, Mumbai, should also be withdrawn. Letter dated 13th April, 2023 issued by respondent no. 2/NMC, reads as under:-

"National Medical Commission
Post Graduate Medical Education Board (PGMEB)

No. P(23)(l)(02)/2023-PGMEB *Date: 13.04.2023*

To
Shri Sunil Kumar Gupta,
Under Secretary
Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi-110077

Sub.- Clarification regarding recognition of Diploma courses offered by the CPS, Mumbai reg.

Sir,

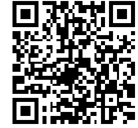
Please refer to your letter no. V-110025/14/2015-MEP [FTS:307429] dated 31.03.2023. It is informed that the matter was discussed in the Post Graduate Medical Education Board Meeting held on 12.04.2023 wherein it was decided that he courses run by CPS, Mumbai does not come under the monitoring control of National Medical Commission. Therefore, PGMEB does not agree to providing equivalence to courses of 466 students recognized by the MoHFW vide its letter dated 18.10.2022.

2. Further, the PGMEB also recommends that the 3 Diploma courses (DPB, DCH and DGO) for which equivalence has been given vide MoHFW vide letter dated 30.04.2021 should also be withdrawn from next academic year.

3. These issues with the approval of Competent Authority.

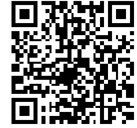
Yours Faithfully
Rita Singh
UnderSecretary, PDMEB"

26. Thus, it is manifest that the appellants, who have taken admission in FCPS courses between 02nd December, 2009 and 22nd January, 2018, have taken admission in an unrecognized



course. The appellants, who have taken admission in FCPS courses after 22nd January, 2018, have taken admission in a course which is recognized, however, is not equivalent to MD/MS. Thus, this Court is in agreement with the findings of the learned Single Judge in the impugned judgment on the question of retrospective application, wherein the learned Single Judge has held as follows:-

> *"xxx xxx xxx*
>
> *33. It has been argued that notwithstanding non-recognition of equivalence of FCPS courses — impugned policy decision must not be given retrospective application so as to prejudice candidates who sought admission in FCPS courses, relying on past practice of Respondents. However, since the impugned letter merely clarified the position that was already in force since 22nd January, 2018, the question of retrospective application does not arise. Declaring impugned policy decision to have prospective application and permitting Petitioners to appear for DNB examination, would be beyond the ambit of judicial review. Under the scheme of IMC Act and general practice, MoHFW is the final authority to decide how conditions introduced by notification of 2018 are to operate. Even otherwise, it is settled law that a declaratory or clarificatory rule operates from a prior date covering antecedent events since it merely elucidates the initial intent of the enactment. As discussed hereinbefore, impugned letter was sent by MoHFW to clarify the position qua operation of notification of 2018, and thus, it shall be deemed to apply to all candidates, including Petitioners, who seek to enjoy the benefit of equivalence of their courses with MS/MD degrees and appear for postgraduate level professional examinations.*
>
> *34. That apart, NBE itself has reserved an absolute right to alter, amend or modify its guidelines under the information bulletin. From a perusal of stipulations contained in previous years' information bulletins issued by NBE for DNB examinations, it manifests that NBE cautioned prospective candidates that they shall not be entitled to claim any right whatsoever from past schedules, policies or guidelines of NBE. It would not be in the interest of either the candidates or the medical profession to restrict this power of NBE. It can also not be said that NBE has usurped its jurisdiction or power, that would warrant quashing of impugned clause 4.3.2 of the information bulletins.*
>
> *35. As regards those Petitioners who have already appeared in DNB examination in the year 2020 and their results have been withheld, there is merit in NBE's contentions that such Petitioners were only provisionally permitted to appear in the examination, a fact which was communicated to them not only by way of the information*



bulletin for the year 2020, but also by e-mail communication dated 22nd September, 2020 in following terms:

> *"Dear Candidate,*
> *This is with reference to your application for DNB Final (Theory) Examination June 2020 session.*
> *You have been provisionally allowed to appear in the aforementioned examination purely on provisional basis. Please be apprised that the appearance in examination shall be provisional subject to receipt of clarification awaited from the Govt of India and Medical Council of India regarding equivalence of FCPS qualifications with the corresponding MD/MS counterparts.*
> *The permission granted for appearance shall not allow the candidates to exercise any legal rights in their favour for considering their candidature and/or declaration of result and/or appearance in practical examination in case the clarifications received from Gol and/or MCI do not confirm the equivalence of FCPS with corresponding MD/MS courses…"*

36. Therefore, it is abundantly clear that concerned Petitioners' candidatures were only provisional and no relief can be claimed by them since status of equivalence has now been clarified.
37. Lastly, as regards Petitioners' plea of legitimate expectation, this Court in Dr. Divyesh J. Pathak and Ors. v. National Board of Examinations and Anr. has held that the principle of legitimate expectation is inapplicable to matters pertaining to education and as such, Respondents cannot be compelled to continue recognising equivalence of FCPS courses with MS/MD degrees and thereby permitting all candidates similarly placed as Petitioners, to take NEET-SS or DNB examination on that basis.
xxx xxx xxx"

27. It is no longer res-integra that Court cannot apply its own evaluation criteria and cannot substitute its own opinion in place of decisions taken by specialists/experts. The high standards in medical education cannot be compromised with. If an expert body has determined that FCPS courses run by CPS, Mumbai do not meet the supervision of NMC, the Court cannot review the expert body's evaluation with respect to the eligibility criteria or quality of education. In view thereof, it is prudent for this Court to leave it to the wisdom of the experts to take decisions in such academic matters, who have a deeper understanding of the issues at hand, than the Courts when it comes to matters of academics. Thus, Supreme Court in the

case of All India Council for Technical Education Versus Surinder Kumar Dhawan and Others (2009) 11 SCC 726, has held as under:

"xxx xxx xxx

16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realising the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.

17. The role of statutory expert bodies on education and the role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in. In J.P. Kulshrestha (Dr.) v. Allahabad University [(1980) 3 SCC 418 : 1980 SCC (L&S) 436] this Court observed : (SCC pp. 424 & 426, paras 11 & 17)

"11. … Judges must not rush in where even educationists fear to tread. …

*****

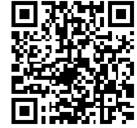
17. … While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."

xxx xxx xxx"

28. Similarly, the Supreme, Court on the aspect of Court's interference in academic matters in the case of Medical Council of India Versus Sarang and Others (2001) 8 SCC 427, has held as under:

"xxx xxx xxx

6. In matters of academic standards, courts should not normally interfere or interpret the rules and such matters should be left to the experts in the field. This position has been made clear by this Court in University of Mysore v. C.D. Govinda Rao [AIR 1965 SC 491 : (1964) 4 SCR 575] , State of Kerala v. Kumari T.P. Roshana [(1979) 1 SCC 572 : (1979) 2 SCR 974] and Shirish Govind Prabhudesai v. State of Maharashtra [(1993) 1 SCC 211] . The object of the said Regulation appears to be that although the course of study leading to the IInd professional examination is common to all medical colleges, the sequence of coverage of subjects varies from college to college.



Therefore, the requirement of 18 months of study in the college from which the student wants to appear in the examination is appropriately insisted upon. Migration is not normally allowed and has got to be given in exceptional circumstances. In the absence of such a stipulation as contained in Regulation 6(5), it is clear that the migrated student is likely to miss instruction and study in some of the subjects, which will ultimately affect his academic attainments. Therefore, the strained meaning given by the High Court, which actually changes the language of Regulation 6(5), is not permissible. Thus we disagree with the view taken by the High Court and state that the correct interpretation is as given by the Medical Council of India, set forth above by us.

xxx xxx xxx"

29. Likewise, there cannot be any legitimate expectation or promissory estoppel in education matters, as claimed by the appellants herein. Law is well settled that the expectation must be fair, rational, and valid in order to be considered legitimate. It is not possible to hold that the appellants have any kind of reasonable expectation in the present instance. If an authority makes any representations or promises either explicitly or implicitly, then a person might be said to have a "legitimate expectation" of receiving a certain treatment or benefit. In the present case at hand, as is the case of respondents, there is no notification whatsoever, which has been issued by the competent authorities, granting the status of equivalence to the concerned FCPS courses.

30. Delving on the aspect of legitimate expectation, Supreme Court in the case of State of West Bengal & Others Versus Gitashree Dutta (Dey) 2022 SCC Online 691, has held as under:

"xxx xxx xxx

10. The doctrine of ―legitimate expectation‖ has been developed in the context of principles of natural justice. ‗Legitimate expectation' is a public law right whereas ‗promissory estoppel' is a private law right. The doctrine of legitimate expectation in public law is based on the principle of fairness and non-arbitrariness in governmental actions.

11. However, the doctrine of legitimate expectation ordinarily would not have any application when the legislature has enacted the statute. Further, the legitimate expectation cannot prevail over a policy introduced by the Government, which does not suffer from any perversity, unfairness or unreasonableness or which does not violate any fundamental or other enforceable rights vested in the respondent.

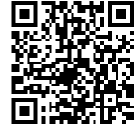
When the decision of public body is in conformity with law or is in public interest, the plea of legitimate expectation cannot be sustained. In Punjab Communications Ltd. v. Union of India1 this Court held that policy decision creating the legitimate expectation which is normally binding on the decision maker, can be changed by the decision maker in overriding public interest. It was held as under:

"37. The above survey of cases shows that the doctrine of legitimate expectation in the substantive sense has been accepted as part of our law and that the decision-maker can normally be compelled to give effect to his representation in regard to the expectation based on previous practice or past conduct unless some overriding public interest comes in the way……."

12. In Sethi Auto Service Station v. Delhi Development Authority, this Court after referring to various precedents observed as under:

"32. An examination of the aforenoted few decisions shows that the golden thread running through all these decisions is that a case for applicability of the doctrine of legitimate expectation, now accepted in the subjective sense as part of our legal jurisprudence, arises when an administrative body by reason of a representation or by past practice or conduct aroused an expectation which it would be within its powers to fulfil unless some overriding public interest comes in the way. However, a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in violation of principles of natural justice and not taken in public interest. But a claim based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.

33. It is well settled that the concept of legitimate expectation has no role to play where the State action is as a public policy or in the public interest unless the action taken amounts to an abuse of power. The court must not usurp the discretion of the public authority which is empowered to take the decisions under law and the court is expected to apply an objective standard which leaves to the deciding authority the full range of choice which the legislature is presumed to have intended. Even in a case where the decision is left entirely to the discretion of the deciding authority without any such legal bounds and if the decision is taken fairly and objectively, the court will not interfere on the ground of procedural fairness to a person whose interest based on legitimate expectation might be affected. Therefore, a legitimate expectation can at the most be one of the grounds which may give rise to judicial review but the granting of relief is very much limited.



[Vide : Union of India v. Hindustan Development Corporation, (1993) 3 SCC 499]"

13. In Union of India v. Lt. Col. P.K. Choudhary, this Court held that the legitimate expectation, as an argument, cannot prevail over the policy introduced by the Government which does not suffer from any perversity, unfairness or unreasonableness or which does not violate any fundamental or other enforceable rights vested in the respondents.

14. There is a necessary inter-play between the plea of legitimate expectation and Article 14. For a decision to be non-arbitrary, the reasonable/legitimate expectations of the claimant have to be considered. However, to decide whether the expectation of the claimant is reasonable or legitimate in the context, is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. In Food Corporation of India v. Kamdhenu Cattle Feed Industries, this Court has pointed out as under:

"8. The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant. A bona fide decision of the public authority reached in this manner would satisfy the requirement of nonarbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent."

31. Similarly, the Supreme Court in the case of Ram Pravesh Singh and Others Versus State of Bihar and Others (2006) 8 SCC 381, while elucidating the doctrine of legitimate expectation, has held as under:

"xxx xxx xxx

15. What is legitimate expectation? Obviously, it is not a legal right.

It is an expectation of a benefit, relief or remedy, that may ordinarily flow from a promise or established practice. The term ―established practice" refers to a regular, consistent, predictable and certain conduct, process or activity of the decision-making authority. The expectation should be legitimate, that is, reasonable, logical and valid. Any expectation which is based on sporadic or casual or random acts, or which is unreasonable, illogical or invalid cannot be a legitimate expectation. Not being a right, it is not enforceable as such. It is a concept fashioned by the courts, for judicial review of administrative action. It is procedural in character based on the requirement of a higher degree of fairness in administrative action, as a consequence of the promise made, or practice established. In short, a person can be said to have a ―legitimate expectation" of a particular treatment, if any representation or promise is made by an authority, either expressly or impliedly, or if the regular and consistent past practice of the authority gives room for such expectation in the normal course. As a ground for relief, the efficacy of the doctrine is rather weak as its slot is just above ―fairness in action‖ but far below "promissory estoppels". It may only entitle an expectant: (a) to an opportunity to show cause before the expectation is dashed; or (b) to an explanation as to the cause for denial. In appropriate cases, the courts may grant a direction requiring the authority to follow the promised procedure or established practice. A legitimate expectation, even when made out, does not always entitle the expectant to a relief. Public interest, change in policy, conduct of the expectant or any other valid or bona fide reason given by the decision-maker, may be sufficient to negative the "legitimate expectation". The doctrine of legitimate expectation based on established practice (as contrasted from legitimate expectation based on a promise), can be invoked only by someone who has dealings or transactions or negotiations with an authority, on which such established practice has a bearing, or by someone who has a recognised legal relationship with the authority. A total stranger unconnected with the authority or a person who had no previous dealings with the authority and who has not entered into any transaction or negotiations with the authority, cannot invoke the doctrine of legitimate expectation, merely on the ground that the authority has a general obligation to act fairly.

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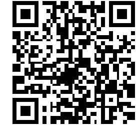
17. This Court also explained the remedies flowing by applying the principle of legitimate expectation: (SCC pp. 546-47, para 33)

"[I]t is generally agreed that legitimate expectation gives the applicant sufficient locus standi for judicial review and that the doctrine of legitimate expectation is to be confined mostly to right of a fair hearing before a decision which results in negativing a promise or withdrawing an undertaking is taken. The doctrine does not give



scope to claim relief straightaway from the administrative authorities as no crystallised right as such is involved. The protection of such legitimate expectation does not require the fulfilment of the expectation where an overriding public interest requires otherwise. In other words where a person's legitimate expectation is not fulfilled by taking a particular decision then decisionmaker should justify the denial of such expectation by showing some overriding public interest. Therefore even if substantive protection of such expectation is contemplated that does not grant an absolute right to a particular person. It simply ensures the circumstances in which that expectation may be denied or restricted. A case of legitimate expectation would arise when a body by representation or by past practice aroused expectation which it would be within its powers to fulfil. The protection is limited to that extent and a judicial review can be within those limits. But as discussed above a person who bases his claim on the doctrine of legitimate expectation, in the first instance, must satisfy that there is a foundation and thus has locus standi to make such a claim. In considering the same several factors which give rise to such legitimate expectation must be present. The decision taken by the authority must be found to be arbitrary, unreasonable and not taken in public interest. If it is a question of policy even by way of change of old policy, the courts cannot interfere with a decision. In a given case whether there are such facts and circumstances giving rise to a legitimate expectation, it would primarily be a question of fact. If these tests are satisfied and if the court is satisfied that a case of legitimate expectation is made out then the next question would be whether failure to give an opportunity of hearing before the decision affecting such legitimate expectation is taken, has resulted in failure of justice and whether on that ground the decision should be quashed. If that be so then what should be the relief is again a matter which depends on several factors.

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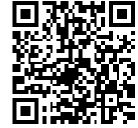
32. It is significant to point out that merely because courses conducted by CPS, Mumbai, have been granted recognition would not mean that they have also been granted equivalence to MD/MS degree. "Equivalence" is a term which describes the state of being equal and requires scrutiny to decipher whether two things are, in fact, equal in force and value. Navigating the complexities of equivalence often requires the involvement of credential evaluation by the expert bodies. The Supreme Court in the case of Mukul Kumar Tyagi Versus State of Uttar Pradesh and Others (2020) 4 SCC 86 , had laid emphasis on the literal meaning of the term "equivalence", the relevant portion of which reads as under:

"xxx xxx xxx
65. We have already held that equivalence of qualification cannot be left to candidates by their self-declaration. There have to be norms and guidelines, which may subserve the purpose and object of making equivalent qualification as an eligibility for the post. The word "equivalent" has been defined in Advanced Law Lexicon by P. Ramanatha Aiyar, 3rd Edn. in the following manner:
"Equivalent. Equal in worth or value. Equal in value, measure, force, effect, etc. EQUIVALENT, EQUAL. Equal expresses the fact that two things agree in anything which is capable of degree, e.g., in quantity, quality, value, bulk, number, proportion, rate, rank and the like. Equivalent is equal in such properties as affect ourselves or the use which we make of things, such as value, force, power, effect impact and the like (as) "Equivalent of money".
xxx xxx xxx"

33. This Court is of the considered view that even otherwise, the issue pertaining to equivalence is to be decided by the competent authority, having expertise in academic matters. This Court cannot adjudicate on the aspect of equivalence in the absence of any notification issued by the competent authority granting the status of an equivalent medical qualification. In the present case, the notification dated 30th April 2021 issued by the respondent – Ministry of Health and Family Welfare (MoHFW), stipulates in categorical terms that FCPS qualifications awarded by the CPS, Mumbai are registrable qualification for practice, however, the same are not equivalent to either MD or MS Courses. In this regard, the Supreme Court in the case of Unnikrishnan CV and Others Versus Union of India & Others 2023 SCC Online 343, has held as under:

"xxx xxx xxx
14. In Guru Nanak Dev University v. Sanjay Kumar Katwal, this Court has reiterated that equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. Dealing specifically with whether a distance education course was equivalent to the degree of MA (English) of the appellant university therein, the Court held that no material had been produced before it to show that the distance education course had been recognized as such.
15. In Zahoor Ahmad Rather v. Sheikh Imtiyaz Ahmad, it was held that the State, as an employer, is entitled to prescribe qualifications as a condition of eligibility, after taking into consideration the nature



> *of the job, the aptitude required for efficient discharge of duties, functionality of various qualifications, course content leading up to the acquisition of various qualifications, etc. Judicial review can neither expand the ambit of the prescribed qualifications nor decide the equivalence of the prescribed qualifications with any other given qualification. Equivalence of qualification is a matter for the State, as recruiting authority, to determine.*
> *xxx xxx xxx"*

34. Further, in the case of Godrej and Boyce Mfg. Co. Ltd. Versus State of Maharashtra and Others (2009) 5 SCC 24, Supreme Court has noted that "Equivalent" has been defined to be equal in value, amount, function, meaning having the same or similar effect or significant corresponding in position or function.

35. The fact that FCPS qualifications are recognized as per Schedule 1 of the Indian Medical Council Act, 1956, will also not help the case of the appellants to claim equivalence to MD/MS degree. No presumptions can be made by Court in education matters. In the absence of any specific Rule/Regulation/Policy Decision regarding the FCPS qualifications as being equivalent to MD/MS degree, this Court cannot proceed on the basis of any presumption, merely on the basis of the some past practice wherein doctors with FCPS qualifications had been allowed to take the DNB examination.

36. There is no denying the fact that the appellants are qualified doctors, who have successfully completed the MBBS course. There is also no denying the fact that FCPS qualifications of the appellants are recognized. However, on that basis, the appellants cannot raise any claim for taking the DNB examination, when there is a categorical assertion by the respondents that the appellants are not entitled to take the DNB examination, as they do not possess the requisite qualification of MD/MS for taking up the DNB examination. The appellants have not been able to point out any Rules or Regulations to show that the FCPS qualifications held by them are equivalent to MD/MS qualification, in order to entitle them to take the DNB examination.

37. The judgments relied upon by the appellants-doctors do not, in any manner, aid or assist their cases, as the same are clearly distinguishable in law and facts.

37.1 The judgment in the case of Hindustanwala Mohd. Adnan (supra) of Division Bench of Bombay High Court dealt with the issue of de-recognition of the courses run by CPS, Mumbai. It was in that context that the Division Bench of Bombay High Court had held that the notification regarding de-recognition of the said courses would operate prospectively. However, the present appeals do not deal with the issue of de-recognition of any courses. It is undisputed that the FCPS courses run by CPS, Mumbai are recognized. The said case did not deal with the issue of equivalence of FCPS qualifications with MD/MS, which is the issue in the present case. Even otherwise, there is nothing on record to show that equivalence was granted to the FCPS qualifications with MD/MS, which is sought to be withdrawn by the impugned letter/notification. Appellants, in the present appeals have not pointed out any Rule/Regulation/Notification ever granting equivalence to FCPC qualifications with MD/MS. Thus, the present is not a case of withdrawal of a benefit that was earlier conferred on the appellants.

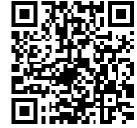
37.2 The judgment in the case of Anita Kishan Rao Videkar (supra) of Bombay High Court dealt with a case wherein eligibility criterion was changed midway, which is not the case in the present appeals.

37.3 The judgment in the case of Suresh Pal (supra) of Supreme Court dealt with a situation where the petitioners were admitted to a course having a requisite recognition, which was later de-recognized during the time when the petitioners were still pursuing the case. This was held to be impermissible by the Supreme Court. However, in the present appeals, the courses pursued by the appellants have not been de-recognized. Only a clarification has been issued as regards the status of the course pursued by the appellants, which status already existed since recognition of the said courses by way of notification dated 22nd January, 2018 issued by the Central Government, viz. respondent no. 1/MoFHW.

37.4 Likewise, the judgment in the case of Aasawari Kiran Purohit (supra) of Bombay High Court and Geetanjali Medical College And Hospital (supra) of Rajasthan High Court, did not deal with the issue of equivalence, which is the subject matter

of adjudication in the present appeals.
37.5 The judgment in the case of Sree Sankaracharya University of Sanskrit and Others (supra) of Supreme Court dealt with the issue of withdrawing a benefit by way of a clarification. However, in the present appeals, the appellants have not been able to point out any Rule/Regulation/Notification by which equivalence was granted to the FCPS qualifications with MD/MS. Therefore, the present appeals stand on a different footing, as the same do not pertain to withdrawal of a benefit, conferred earlier.
37.6 Similarly, the judgment in the case of Assistant Excise Commissioner, Kottayam and Others (supra) of Supreme Court has no applicability to the facts and circumstances of the present appeals, as the said case dealt with retrospective operation of new laws affecting rights, which is not the case in the present appeals.
38. Considering the aforesaid detailed discussion, it is manifest that the notification dated 22nd January, 2018 issued by respondent no. 1/MoFHW recognizing the FCPS courses never indicated that the same were equivalent to MD/MS qualification. Therefore, in the absence of any specific notification in this regard, there cannot be any presumption regarding equivalence of FCPS courses with MD/MS qualification.
39. This Court notes that for the DNB course, possessing MD/MS qualification is a pre-requisite. Hence, in the absence of the appellants possessing MD/MS qualification, they cannot be allowed to sit for the DNB examination on the basis of FCPS qualification, which is not equivalent to MD/MS qualification.
40. In view of the aforesaid discussion, this Court finds no merit in the present appeals. The same are accordingly, dismissed along with pending applications."

44. Insofar as the judgments relied upon by the learned counsel for the appellant are concerned three judgments have been dealt with by the Division Bench in the aforesaid three appeals. The said judgments primarily being ***Hindustanwala Mohd. Adnan (supra), Suresh Pal (supra)*** and



Aasawari Kiran Purohit have been distinguished by the Division Bench in paragraphs 37.1, 37.3 and 37.4, respectively. Insofar as the judgment in the case of ***Punjab State Cooperative Agricultural Development Bank Ltd. (supra)*** as relied upon by the counsel for the appellant to argue that substantive rights have accrued in the favour of the appellant herein is concerned, the said judgment does not aid the case of the appellant as the same diverges on facts. Moreover, as we have already come to a conclusion that no right had accrued in favour of the appellant herein to seek equivalence in qualification acquired from CPS Mumbai, he cannot enforce a right which had never existed in him/in his favour.

45. The judgment in the case of ***Dr. Mahesh Prakash Shinde (supra)*** is squarely applicable to the present case, more so since the judgement decided a challenge to the same order of the learned Single Judge which has been impugned in the present appeal. We do not find any reason to deviate from the reasoning of the Coordinate Bench of this Court.

46. In view of our discussion above, we are of the view that present appeal filed by the appellant is devoid of merits. The learned Single Judge is justified in dismissing the petition.

47. The appeal is dismissed and the pending applications having become infructuous are also dismissed.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JULY 03, 2026
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