



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 11545/2025

Vyas Medical College And Hospital, Having Its Campus Situated At Vyas Medicity, Kudi Haud, Jhalamand, Jodhpur, A Unit Of Rajasthan Vikas Sansthan, Having Its Registered Office At Teesra Prahar Bhawan Building, 1St A Road, Sardarpura, Jodhpur, Through Its Dean Dr. Kailash Chandra Agarwal S/o Shri Ram Gopal Agarwal, Aged About 69 Years.

-----Petitioner

Versus

1. Union Of India, Through Its Secretary, Ministry Of Health And Family Welfare, Nirman Bhawan, New Delhi.
2. National Medical Commission, Through Its Secretary, Pocket 14, Sector 18, Dwarka Phase-I, New Delhi - 110077.
3. Medical Assessment And Rating Board (MARB), Through Its President, Pocket 14, Sector 18, Dwarka Phase-I, New Delhi - 110077.
4. Under Graduate Medical Education Board, Through Its President, Pocket 14, Sector 18, Dwarka Phase-I, New Delhi - 110077.

-----Respondents

For Petitioner(s) : Mr. Manish Shishodia, Sr. Advocate assisted by Mr. Aniket Tater and Mr. Bhuvneshwar S. Sodha.

For Respondent(s) : Mr. R.S. Saluja
Mr. Achraj Singh Saluja.

HON'BLE MR. JUSTICE SUNIL BENIWAL
Order

Conclusion of Arguments &

Reserved on : 04/11/2025

Pronounced on : 07/11/2025

1. This writ petition has been filed by the petitioner with the following prayer :-

“(a)- by an appropriate writ, order or direction, including writ in the nature of mandamus, the respondents be directed to



forthwith open the payment portal and/or provide an alternate mechanism to enable the Petitioner to deposit the application fee of Rs.11,80,000/- for increase in MBBS UG seats for the academic year 2025-26;

(b)- by an appropriate writ, order or direction, the respondents be directed to process the Petitioner's application for increase in MBBS seats from 100 to 200 for the academic year 2025-26 in accordance with law, without being prejudiced by the technical non-payment of fee due to circumstances beyond the Petitioner's control;

(c)- Issue an appropriate writ, order or direction, declaring that the Petitioner's application submitted on the Respondents' portal with "Pending-payment" status shall not be rejected solely on the ground of non-payment of fee due to technical reasons, and be treated as a valid application upon payment;

(d)- by an appropriate writ, order or direction, pending final disposal of the present writ petition, direct the Respondents to provisionally process the Petitioner's application, including scheduling of inspection and other procedural formalities, subject to final orders;

(e)- Pass any such further relief(s) which in the facts and circumstances of this case may do complete justice to the petitioner; and

(f)- Costs of the writ petition be awarded to the petitioner.

2. The facts, in a nutshell, leading to the filing of the present writ petition are that the petitioner – Institute was established in the year 2024 and was granted approval by National Medical Council ('NMC') for an intake of only 100 MBBS students for the academic year 2024-2025. On 05.12.2024, the Medical Assessment of Rating Board ('MARB') of NMC, in exercise of its statutory functions, issued a public notice inviting applications for establishment of new medical colleges / institutions and for increase of undergraduate seats in existing medical institutions for the academic year 2025-2026. This communication was followed by a further communication dated 19.12.2024, which specified 18.01.2025 as the last date for submission of applications. Considering the availability of infrastructure, the petitioner – Institution intended to increase the intake capacity from 100 to





200 MBBS seats. The application for seeking enhancement of seats was to be submitted through online portal of NMC on 17.12.2024. It is stated that all the requisite formalities were completed and the application was uploaded on the online portal of the NMC, however, on account of inadvertent technical lapse, the payment of application fee amounting to Rs.11,80,000/- could not be processed. On account of not depositing the requisite fee, the application for enhancement of seats was not processed. In these circumstances, the petitioner preferred the present writ petition.

3. Learned Senior counsel Mr. Manish Shishodia assisted by learned counsel Mr. Aniket Tater while arguing the writ petition submitted that on account of technical glitch, the requisite fee amounting to Rs.11,80,000/- could not be deposited and therefore, considering the fact that the petitioner is having infrastructure of intake capacity of 200 seats so also considering the fact that the petitioner has made an investment of approximately Rs.450 crores, the authorities are required to ignore such technical glitch when the petitioner is ready and willing to pay the application fees and further authorities are directed to process the application form in accordance with law.

3.1 Learned Senior counsel further submitted that on previous occasions, respondents have taken liberal approach and maintained administrative flexibility by revising/extending time period for submission of application. Therefore, without providing opportunity of rectification to the petitioner and non-consideration





of the technical glitch not attributable to the petitioner, the respondents are acting arbitrarily.

3.2 It is further submitted that the petitioner had submitted Standard Assessment Form ('SAF') in pursuance of the public notice dated 23.04.2025 and the same was indisputably acknowledged by the respondents. Therefore, non-acceptance of the petitioner's application in light of public notice dated 18.12.2024 not only portrays the contrary approach of the respondents, rather is also prejudicial to the petitioner as it is single and time bound opportunity which petitioner has to increase the intake capacity.

3.3 Learned Senior counsel further submitted that this Court had passed an interim order on 13.06.2025, whereby respondents were directed to accept the demand draft, as offered by the petitioner, within a period of two days and on depositing such demand draft, it was further directed to conduct inspection of the petitioner – Institution for the purpose of enhancement of MBBS seats for the academic year 2025-2026. Further direction was given to the respondents to undertake the inspection of the petitioner's institution and assess whether the requisite infrastructure and other facilities are available to justify the proposed enhancement of seats.

3.4 The order dated 13.06.2025 was challenged before the Division Bench by filing DBSAW No.886/2025. The Division Bench was not inclined to stay the order dated 13.06.2025. Being aggrieved by non-grant of interim order, Special Leave Petition





(Civil) No.20709/2025 was preferred before the Hon'ble Apex Court and that came to be dismissed vide order dated 30.07.2025.

3.5 A review petition was preferred before the Hon'ble Apex Court, that too came to be dismissed vide order dated 24.09.2025. As a consequence of rejection of SLP so also the review petition, the appeal preferred by NMC before the Division Bench also came to be dismissed vide order dated 06.10.2025.

3.6 It is argued that the order dated 13.06.2025 attained finality. It is stated that in para 4 of the said order, the Court, considering the peculiar facts and circumstances of the case, directed the respondents to accept the demand draft. Once the demand draft was accepted and the inspection was carried out, the respondents were required to disclose the outcome of the said inspection. If the inspection report is found to be positive then appropriate directions for enhancement of seat are required to be issued and if the inspection report is not found to be satisfactory, then the petitioner would take appropriate course, in accordance with law.

3.7 Based on the above submissions, it is stated that the interim order dated 13.06.2025 be made absolute and the present writ petition may be disposed of while directing the respondent authorities to disclose the outcome of the inspection report.

4. Per contra, learned counsel appearing for the respondents submitted that the application was accepted through online portal by NMC and as many as 169 applicants have submitted applications. There was no technical fault / glitch on part of the respondents and therefore, the reason for not submitting application form is highly improbable and cannot be accepted.





More so, when no such complaint was made by as many as 169 applicants. It is further stated that cut-off date is a sacrosanct date as observed by the Hon'ble Apex Court in number of cases so also by this Court. That being so, the writ petition filed by the petitioner deserves to be rejected on threshold.

4.1 Learned counsel for the respondents further stated that there is no material placed by the petitioner before this Court to show the availability of requisite fee on the date of submitting application form so also any material to suggest that it attempted to deposit the fee, however, on account of technical glitch, the same could not be transferred in the account of the respondents. In absence of any such material, the petitioner is not entitled to get any relief.

4.2 The main submission of fact without supporting document is not good enough to prove the said fact. Therefore, no relief can be granted to the petitioner as the application of petitioner was never received on the web-portal of NMC as the requisite fee for the final submission of the application form remained unpaid.

4.3 It is evident that the last date for submission of the application form was extended from 04.01.2025 to 18.01.2025, therefore, petitioner had ample opportunity to submit the final form whereas the petitioner admittedly only registered on the web-portal and did not complete the process for final submission.

4.4 Learned counsel for the respondents stated that if the petitioner was not able to deposit the fee towards application form on account of some technical glitch then it was expected of the petitioner to have reported immediately. On the contrary, the





petitioner has communicated to the respondents for the first time on 30.01.2025. This rather shows that the reason assigned for not submitting application form and depositing fee is an after thought.

4.5 Learned counsel for the respondents further submitted that numerous communications have been placed on record by the petitioner, wherein the petitioner has not alleged the ground of technical glitch, but has stated that fees could not be deposited on account of technical oversight. It is stated that as a matter of fact, the petitioner is admitting his fault in communications dated 30.01.2025, 14.02.2025, 28.03.2025, 12.05.2025 & 13.05.2025 and if the petitioner admitted that it was due to technical oversight then the fault cannot be attributed to the respondents. Further, if the fault is committed on part of the petitioner, the petitioner is not entitled for any relief under extra-ordinary jurisdiction of Article 226 of the Constitution of India.

4.6 Learned counsel for the respondents relied on the following judgments :-

- (1)- Mrs. Rekha Chaturvedi Vs. University of Rajasthan & Ors. - 1993 AIR SCW 1488
- (2)- Alka Ojha Vs. RPSC & Anr. - AIR 2011 SC 3547
- (3)- Ashok Kumar Sonkar Vs. Union of India & Ors. - (2007) 4 SCC 54
- (4)- S.B. Civil Writ Petition No.5010/2015 (Mamta Gawan Vs. State & Anr.) alongwith connected matters, decided on 22.05.2015.

5. Heard learned counsel for the parties and perused the material available on record.





6. It is true that this Court passed an interim order dated 13.06.2025 to accept the demand draft and also further directed the respondent authorities to undertake inspection. However, such direction was purely interim in nature and such directions were ordered to be remain subject to the final outcome of the present writ petition. It may be that such interim order was not interfered by the Hon'ble Division Bench so also the Hon'ble Apex Court, but since the matter is being finally heard, the interim order, as such, cannot be made basis of deciding the writ petition.

7. The submissions made by learned counsel for the petitioner on merits are that the requisite fees could not be deposited on account of technical glitch. It is to be noted that while advancing arguments, learned counsel for the petitioner has used phraseology 'technical glitch', whereas in the petition the phraseology used is 'technical lapse' and the phraseology used in the representation is 'technical oversight'. While using different phraseology, it has not been specifically averred that all these technical lapse / glitch / oversight occurred on part of the respondent or on part of the petitioner. In absence of any such specific assertion, it cannot be presumed that there was any technical fault at the end of respondents, which has resulted in non-transfer of payment.

8. Apart from making such averment, learned counsel for the petitioner has not placed any material on record to show that the petitioner was ready with the amount by submitting bank statement or any other document to show that a genuine effort was made for transferring the payment but on account of technical





glitch or error in the portal, the amount could not be transferred to the respondents.

9. It is to be noted that initially the time for submitting application form was from 05.12.2024 to 03.01.2025. This date was extended upto 18.01.2025. Learned counsel for the petitioner has not stated any reason as to why the petitioner could not submit its application form as per initial last date and no good reason has been assigned for him to wait till the last date that too extended date, which was 18.01.2025.

9.1 It is also to be noted that the petitioner attempted to submit application form on 17.01.2025 and it could not deposit fee on account of technical glitch. Even assuming that there was technical glitch then it was required of the petitioner to have immediately communicated to the respondents highlighting the issue of technical glitch. For the first time, the issue was raised after about 13 days i.e. on 30.01.2025. This further shows that the reason assigned for not depositing fee is an after thought.

9.2. Learned counsel for the respondents has cited aforementioned judgments while contending that last date is sacrosanct and no application submitted after the cut-off date can be accepted. The above principle is not disputed by learned counsel for the petitioner. Considering the fact that there is no dispute to the said principle, more so, the issue raised in the present writ petition is not regarding the cut-off date, but the petitioner is seeking indulgence of this Court on the ground that the application form should not be non-suited on account of such





technical reason and considering the past practice, the petitioner could be granted opportunity to deposit fee after the cut-off date.

10. During course of arguments, learned counsel for the petitioner has stated that SAF report was accepted by the respondents and the acceptance of SAF report was itself good enough to establish the fact that the respondents were in fact proceeding with the application of the petitioner for enhancement of seats. The submission made by learned counsel for the petitioner would not in any manner validate the act of not depositing the fees as required. There is no dispute to the fact that in absence of submitting application form along with the requisite fee, the application cannot be processed. Therefore, no case for interference is made out.

11. The writ petition is accordingly dismissed.

12. All pending application(s), if any, shall stand disposed of.

(SUNIL BENIWAL),J

Rmathur/-