



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Special Appeal Writ No. 494/2023
URN: SAW / 968U / 2023

Sheikh Tarique S/o Siraj Sheikh, Aged About 30 Years, Resident
Of Lilong, Hangamthabi, P.o./p.s. Lilong, Distt. Thoubal-795130,
Manipur.

-----Appellant

Versus

1. Union Of India, Through The Secretary, Medical And
Health Department, Room No. 348, A Wing, Nirman Bha-
van, New Delhi-110011
2. National Medical Commission, Through Its Executive Sec-
retary Having Its Office At Pocket-14, Sector-8, Dwarka,
Phase-I, New Delhi - 110077
3. National Institute Of Medical Sciences (Nims), University,
Nh-11C, Delhi - Jaipur Expy, Shobha Nagar, Jaipur-
303121, Rajasthan

-----Respondents

For Appellant(s)	:	Mr. Tanveer Ahamad
For Respondent(s)	:	Mr. Angad Mirdha Mr. Achintya Kaushik Ms. Vinita Sharma Mr. C.P. Sharma for Mr. Devesh Kumar Bansal

**HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE MANEESH SHARMA**

Order (Oral)

Reportable

13/07/2026

Per: Arun Monga, J.

1. Appellant before us, an aspirant to become a physician, is assail-
ing an order dated 18.04.2023 rendered by the learned Single Judge of
this Court, whereby his writ petition seeking direction to the respon-



dent-University to permit him to participate in the MBBS Final Professional Part-II Examination for the remaining two subjects, comprising four papers was dismissed.

2. The appellant took admission in the MBBS course at NIMS University in the year 2010. By way of the writ petition, he had prayed that he be permitted to participate in the MBBS Final Professional Part-I Examination in the remaining two subjects comprising four papers, namely, Medicine and Obstetrics & Gynaecology.

3. The principal contention urged on behalf of the appellant, before the learned Single Judge as well as before us, is that at the time of his admission in 2010, the applicable regulations prescribed no outer time limit within which the MBBS course was to be completed; in other words, according to the appellant, he was entitled to unlimited attempts to pass the course, and the ten-year cap introduced by the Regulations on Graduate Medical Education (Amendment), 2019 cannot be applied retrospectively to him.

4. Hence, this appeal.

5. Before we proceed further the impugned order dated 18.04.2023 be seen which reads as under:

"Heard counsel for the parties and perused the record.

This writ petition filed by the petitioner deserves to be dismissed for the reasons; firstly, the petitioner has failed to pass the MBBS course within a period of thirteen years of his admission, therefore, in my considered view, the petitioner cannot take advantage of his own wrong in not passing the course within the stipulated period; secondly, in view of Clause 7.6(ii) of the Amended Regulations of 2019, the petitioner has failed to pass MBBS course within a period of ten years; and lastly, in view of the judgment passed by the Delhi High Court in the matter of Sachin & Ors. (supra) which has been affirmed by the Supreme Court, in my view, no case is made out for interference by this Court under Article 226 of the Constitution of India.

Hence, this writ petition stands dismissed."

6. In the aforesaid backdrop, we have heard learned counsel for the parties and perused the impugned judgment as well as the record made available before us.





7. At the very outset, the chronology of the appellant's academic record is a telling tale in itself which is tabulated as below :

Date/Period	Event
2010	Appellant took admission in the MBBS course at NIMS University.
June 2011	Appeared in MBBS 1st Year Examination; failed overall, passing only the Physiology paper.
August 2011	Appeared in the supplementary examination in the remaining papers, namely Anatomy and Biochemistry.
March 2013	Appeared in MBBS 2nd Professional Examination but failed.
January 2014	Appeared in MBBS 2nd Professional Supplementary Examination; passed only Microbiology and Forensic Medicine.
March 2014	Appeared again in MBBS 2nd Professional Supplementary Examination and passed all subjects, including Pathology and Pharmacology.
January 2015	Appeared in MBBS Final Professional Part-I Examination but could not pass all papers.
April 2015	Appeared in MBBS Final Professional Part-I Supplementary Examination; declared failed.
December 2015	Appeared in MBBS Final Professional Part-I Examination; passed ENT but failed the other two subjects.
April 2016	Again attempted MBBS Final Professional Part-I Supplementary Examination; declared failed.
December 2017	Appeared again in MBBS Final Professional Part-I Supplementary Examination; passed Ophthalmology but failed Community Medicine.
December	Appeared in MBBS Final Professional Part-I Examination; passed



Date/Period	Event
2019	Community Medicine.
March 2020	Appeared in MBBS Final Professional Part-II Supplementary Examination; passed Surgery and Paediatrics but failed Medicine and Obstetrics & Gynaecology.



The record thus reveals that in a span of nearly fourteen years, the appellant has not been able to clear the MBBS course despite repeated attempts at every stage.

8. That apart, this Court, being fully cognizant that the career of a young student was at stake, went the extra mile to salvage it. A Division Bench of this Court, then seized of the matter, by an interim order dated 30.01.2024, afforded the appellant yet one more opportunity to participate in the MBBS Third Professional Part-II Examination. The said order reads as under:

" Heard on the application for allowing petitioner to appear in the MBBS, 3rd Professional (Part-II) Examinations scheduled from 1st February, 2024 to 15th February, 2024.
It is contended by counsel for the applicant that applicant took admission in the MBBS course in the year 2010 and at the relevant time, in the Regulation, there was no time cap within which a student is required to complete the course. However, in 2019, an amendment was made in the Regulation and a time cap of 10 years was put in place for a student to clear the said course.
It is contended that the National Medical Commission has also responded to the communication vide letter dated 12.09.2022 stated that there was no restriction/time cap within which a student can complete the course prior to the Regulation on Graduate Medical Education, 2019.
It is contended by counsel for the respondent that in W.P.© 13180/2022 & CM APPL.39902/2022 titled as Sachin and Ors. Versus Union of India and Ors., the decision of the Single Bench of the High Court Delhi was affirmed by the Apex Court. It is also contended that the applicant has been out to the academia for a period of more than four to five years.
We have considered the contentions and perused the judgment.
The judgment given by the Delhi High Court differs on facts, as in that case the students had taken admission in the year 2019 and the Regulations were made effective from 2019-2020 onwards.
Be that as it may, we deem it proper to direct the respondents to permit the appellant to participate in the MBBS 3rd Professional (Part-II) examinations scheduled from 1 February, 2024 to 15th February, 2024.
The result of the petitioner would however be submitted to the Registry of this Court in a sealed cover.
List the matter on 20.03.2024."



9. In the course of hearing today, learned counsel for the respondents has tendered before us the appellant's result dated 12.03.2024, which is taken on record and marked as Annexure-A. It reveals that, yet again, the appellant has failed to qualify the MBBS Examination 3rd Professional Part-II, Batch 2010. The significance of this development cannot be overstated, even when this Court, of its own indulgence, secured for the appellant an additional opportunity beyond what the regulations permitted, he was unable to avail of it.

10. In this peculiar backdrop, the outcome of the interim opportunity has rendered the appellant's principal contention, regarding the retrospective applicability of the ten-year cap under the 2019 Regulations, largely academic. Even proceeding on the assumption most favourable to the appellant, namely, that no time cap governed his batch, the fact remains that he has failed in every attempt afforded to him, including the most recent one secured under the orders of this Court. What survives, therefore, is only the plea of hardship viz. that the appellant's career would be jeopardised and that he would suffer harsh financial consequences, having borrowed from various quarters to pay for his admission and tuition. We are unable to persuade ourselves that these considerations, by themselves, can furnish a ground for interference.

11. While this Court is not unsympathetic to the financial loss that the appellant may suffer, however, sympathy cannot be permitted to override the larger public interest. The MBBS qualification is not a mere academic credential; it is a licence to treat patients. A court cannot remain unmindful of the fate of patients who would be treated by a physician who has been unable to demonstrate the minimum competence prescribed, despite attempts spread over fourteen years. Indeed, a patient



made aware of such an academic record would justifiably dread the consequences of such treatment.

12. In the premise, we are unable to accept the plea of the learned counsel for the appellant for any further indulgence. Such indulgence would not only be misplaced on the facts, but would also run contrary to the rules and regulations governing medical education in the country, including Clause 7.6(ii) of the Amended Regulations of 2019, which we need not dilate upon further in view of the appellant's peculiar academic record, which speaks for itself.

13. Suffice it to say that the present special appeal merits no indulgence, both for the reasons recorded hereinabove and for the reasoning contained in the impugned judgment of the learned Single Judge, with which we are in respectful agreement.

14. The special appeal is, accordingly, dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

(MANEESH SHARMA),J

(ARUN MONGA),J

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