



2026:CGHC:21137-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPC No. 138 of 2026

1 - Smriti Pandey D/o Shri Suresh Pandey, Aged About 25 Years, R/o MIG -1-114, Maharana Pratap Nagar, Po- Korba, District : Korba, Chhattisgarh

... Petitioner

versus

1 - Union of India Ministry of Health and Family Welfare, Through- ITS Secretary / Authorized Representatives, "A" Wing, Nirman Bhawan, New Delhi- 110011

2 - National Medical Commission Through- ITS Chairman / Authorized Representatives, Pocket-14, Sector-8, Dwarka, Phase-1, New Delhi- 110077

3 - National Board of Examination in Medical Sciences Through- ITS President / Authorized Representatives, Medical Enclave, M.G. Marg, Ansari Nagar Ring Road, New Delhi- 110029

... Respondents

(Cause title taken from Case Information System)

For Petitioner : Mr. T.K. Jha, Advocate.

For Respondent: Mr. R.S. Marhas and Ms. Shriya Jaiswal,
No.2 Advocates.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board**Per Ramesh Sinha, C.J.****06-05-2026**

1. The present petition has been filed by the writ petitioner under Article 226 of the Constitution of India claiming the following relief(s):-

“10.1 Hon'ble Court may kindly be pleased to call for the entire records pertaining to the case.

10.2 The Hon'ble Court may kindly be pleased to allow this petition and declare the provisions mandatorily requiring 50% aggregate marks in Physics, Chemistry and Biology at 10+2 level for issuance of eligible certificate for appearing in screening test to Medical Graduates from foreign country recognized by Medical Council of India, as provided in Chapter II clause 5(5) of Graduate Medical Regulation, 1997, and sub clause 2(A) of clause 4 of Screening Test Regulation 2002, set aside as ultra vires of IMC Act, 1956 is arbitrary and violative of Article 14 of Constitution of India, and set aside the communication dt. 4.12.2025, in the interest of Justice or alternatively.

10.3 That Hon'ble Court may kindly be pleased to allow the petition and with magnanimity direct the respondents to

round off 49.67 marks as 50% marks at 10+2 level in PCB to enable her to appear in screening test as an exceptional case, in the interest of justice.

10.4 Any other relief which the Hon'ble Court deems fit and proper in the facts and circumstances of the case may also be provided to the petitioner. An Affidavit in support of this writ petition is filed herewith.”

2. Brief facts of the case are that, the petitioner has acquired intermediate examination (science faculty 10+2) from C.G. Board of Secondary Education in the year 2017 and secured total aggregate marks of 49.67% in Physics, Chemistry, Biology and English subjects. In the same year she joined her MBBS course from international Higher School of Medicine Kyrgyzstan which is one of the recognized institution for medical education by the national Board of Examination New Delhi. Till 2017, though to pursue of the medical education for MBBS course from foreign institutions, qualifying NEET examination was not mandatory for the students and the same was made mandatory from the year 2018. Since the petitioner started pursuing her MBBS course from Kyrgyzstan, from the year 2017, she completed her MBBS course from the International Higher School of Medicine Kyrgyzstan in the year 2022 and awarded graduation certificate with 73% of aggregate marks. When she applied for eligibility certificate and screening test conducted by the National Board of Examination new Delhi, by the communication

dated 04-12-2025 she was informed that she is not eligible to appear in the screening test for the reason that she has not secured 50% aggregate marks in Physics, Chemistry and Biology in Class 12th in General category which is required under Clause 5(v) of Chapter II of Graduate Medical Education Regulation 1997 and has rejected her application. It is also the case of the petitioner that by the circular No.U-15024 / 04 / 2022 -UGMEB dated 04.05.2022 the National Medical Commission exempted the provision of FMGE Regulation, 2021 in respect of candidates who have joined their under graduate medical education in foreign institutions prior to 18.11.2021 and by will be governed by the Screening Test Regulation, 2022. The requirement of 50% aggregate marks in Physics, Chemistry, Biology in 10+2 examination from the graduates of foreign medical education to appear in screening test, is unreasonable and arbitrary in view of the proviso to section 4(B) of Indian Medical Council Act, 1956 and clause 5(v) of Chapter II of Graduate Medical Education Regulation 1997. When the petitioner obtained a graduate degree from the foreign medical institution, the requirement of 50% aggregate marks in 10+2 would be of no relevance. By the said unreasonable requirement the petitioner is deprived from appearing in screening test and therefore, she filed the writ petition for the aforesaid relief.

3. Learned counsel appearing for the petitioner would submit that the petitioner has secured 49.67% aggregate marks in Physics, Chemistry,

Biology in 10+2 examination and when the said marks is taken after rounding off she may be eligible to appear in screening test. After 10+2 examination the petitioner has already pursued her further studies and obtained medical degree from the International Higher School of Medicine Kyrgyzstan that too in very critical weather condition of minus 30 degree Celsius during winter season and after obtaining the medical degree under such tough environment she may not be held ineligible only because of the reason that she has not secured total 50% aggregate marks in 10+2 examination particularly when rounding off her aggregate marks comes to 50%. Even after secured such a professional qualification without obtaining any registration certificate from the Indian Medical Board she cannot work in the medical field and her medical education would go on waste. Securing 50% aggregate marks in Physics, Chemistry, Biology in 10+2 examination has no nexus to appear in screening test for grant of certificate. He would also submit that the students who pursue their medical education from other countries like Australia, Canada, Newzeland, United Kingdom and United States of America are exempted from qualifying screening test for registration as medical practitioner in India under Clause A of Screening Test Regulations, 2002, whereas, a medical degree obtained from Russian university is put under the screening test which is discriminatory. He would also submit that considering the entire facts and circumstances of the case and also the fact that the petitioner has already completed her medical degree course, as an exceptional case,

she may be permitted to appear in the screening test considering her 49.67% aggregate marks in 10+2 examination as 50% after taking it in rounding off. He would rely upon the judgments passed in the matter of **Selin Mary Mammen Vs. Mahatma Gandhi University and others**, (2008) 17 SCC 615 and **Ku. Firdous Bano Vs. The Jiwaji University and others**, 2012 SCC OnLine MP 8856.

4. Per contra, learned counsel appearing for respondent No.2/ National Medical Commission opposed the submission made by learned counsel for the petitioner and has submitted that Indian Medical Council Act, 1956 has been repealed and is no longer in force and new Act National Medical Commission, Act, 2019 came into force from 25.09.2020. The petitioner has claimed that the Regulation of 1997 and Screening Test Regulation, 2002 are ultra vires to the Indian Medical Council Act, 1956 is untenable on the said ground that Indian Medical Council Act, 1956 has already been repealed. He would further submit that the application of the petitioner has been rejected thrice on the ground that the mark sheet uploaded by the petitioner was issued by Jharkhand State Open School which is not recognized board. The application was also rejected on the ground that the minimum requisite qualification in terms of GMER, 1997 for issuance of the eligibility certificate is not from a recognized board and therefore, the application stood rejected in the year 2023 itself. Thereafter, the petitioner made another application in the year 2024 wherein she stated that she studied

her 10+2 with Hindi, English, Physics, Chemistry and Biology subject from C.G. Board of Secondary Education, Raipur securing 49.67% aggregate marks in the year 2017 which itself created a suspicion that the petitioner did class 12th and 10+2 from different institutions which is impossible. The application for issuance of eligibility certificate to appear in screening test was rejected vide communication dated 04.12.2025 on the ground that she has not secured 50% aggregate marks in Physics, Chemistry, Biology in Class 12th as required for General category candidates under Clause 5(v) of Graduate Medical Education Regulation Act, 1997. He would also submit that earlier two applications having ID No.R.15012/022602/2023-REGM and R.15012/028239/2023-REGM were rejected for the reason that the petitioner had filed class 12th mark sheet issued by Jharkhand State Open School which is not recognized board. Thereafter, the petitioner filed another application with ID No.R.15012/030056/2024 REGM and on verification of the documents it is found that she had passed Class 10th examination from Blue Bird Public Higher Secondary School Korba in the year 2015, Class 11th in the year 2016 and 10+2 in the year 2017 with subjects of Hindi, English, Physics, Chemistry, Biology and secured 49.67% aggregate marks which was from C.G. Board of Secondary Education. He would further submit that as per Clause 5(v) of Chapter II of Graduate Medical Education Regulation Act, 1997 the candidate must have obtained minimum of 50% marks in Physics, Chemistry, Biology if she belongs to General category. Her application has been rejected on

the ground that she has not secured 50% marks in her 10+2 examination. Therefore, rejection of the application of the petitioner is strictly in accordance with Rules governing the field and she is not entitled for any relief. Learned counsel for the respondent No.2 has relied upon the judgment passed by Delhi High Court in the case of **Apurv Shankar Vs. Union of India and Ors.** in WP(C) No. 8069/2021 decided on April 20, 2022 and on the judgment of the Hon'ble Supreme Court in the case of **Naresh Chandra Agrawal Vs. The Institute of Chartered Accountants of India and others**, 2024 LiveLaw (SC) 101.

5. We have heard learned counsel for the parties and perused the material annexed with the writ petition.

6. The petitioner's claim in the present writ petition is that, in 10+2 examination in which she appeared in the year 2017 from C.G. Board of Secondary Education, she secured 49.67% aggregate marks in Physics, Chemistry, Biology. The National Medical Council rejected her application for issuance of eligibility certificate to appear in the screening test on the ground that Graduate Medical Education Regulation Act, 1997 requires minimum 50% marks in qualifying 12th /10+2 examination which she does not secure. Clause 5(v) of Graduate Medical Education Regulation Act, 1997 reads as under:-

“(5) Procedure for selection to MBBS course shall be as follows:-

- i) In case of admission on the basis of qualifying examination under Clause(1) based on merit, candidate for admission to MBBS course must have passed in the subjects of Physics, Chemistry, Biology & English individually and must

have obtained a minimum of 50% marks taken together in Physics, Chemistry, and Biology at the qualifying examination as mentioned in Clause(2) of regulation 4. In respect of candidates belonging to Scheduled Castes, Scheduled Tribes or Other Backward Classes, the marks obtained in Physics, Chemistry and Biology taken together in qualifying examination be 40% instead of 50% as above.

ii) In case of admission on the basis of competitive entrance examination under Clauses (2) to (4) of this Regulation, a candidate must have passed in the subjects of Physics, Chemistry, Biology and English individually and must have obtained a minimum of 50% marks taken together in Physics, Chemistry and Biology at the qualifying examination as mentioned in Clause (2) of Regulation 4, and in addition must have come in the merit list prepared as a result of such competitive entrance examination by securing not less than 50% marks in Physics, Chemistry and Biology taken together in the competitive examination. In respect of candidates belonging to Scheduled Castes, Scheduled Tribes or Other Backward Classes, the marks obtained in Physics, Chemistry and Biology taken together in the qualifying examination and competitive entrance examination be 40% instead of 50% as stated above.

That if a candidate who has appeared in the qualifying examination, the result of which has not been declared, he may be provisionally permitted to take up the competitive entrance examination and in case of selection for admission to the MBBS course, he shall not be admitted to that course until he fulfills the eligibility criteria under Regulation 4.”

7. The petitioner’s submission is that she appeared in 10+2 examination in the year 2017 from C.G. Board of Secondary Education in which she secured 49.67% aggregate marks in Physics, Chemistry, Biology, whereas, the respondent No.2 replied that on the earlier occasion when two applications of the petitioner have been rejected on the ground that she has submitted her 10+2 examination certificate

obtained from Jharkhand State Open School which is not recognized board and therefore, the eligibility certificate cannot be issued in her favour and has rejected the application of the petitioner. The respondent No.2 had filed the document submitted by the petitioner along with her application form through covering memo dated 05.05.2026 which is available in the present writ petition. From perusal of page 10 of the document which is a certificate of intermediate certificate examination (10+2) shown to be issued on 14.06.2017, enrollment No. 101800417920125, whereas, at page No.47 of the said document copy of higher secondary school certificate examination 10+2 from C.G. Board of Secondary Education, Raipur is there which has been issued to her having enrollment No.A13/332026/028 and she appeared as regular candidate in the examination. The said certificate has been issued on 27.04.2017. It transpires that for the same session of 2017 the petitioner submitted two different certificates from two different board which is impossible for a student in the same session, that itself makes her claim suspicious. There is no explanation from the petitioner with respect to the said certificate issued in her favour from Jharkhand State Open School. The submission made by the learned counsel for respondent No.2 is that the earlier two applications of the petitioner for grant of eligibility certificate to appear in the screening test have been rejected on this ground that her 10+2 certificate has been obtained from a board which is not recognized. On 3rd application the petitioner submitted her application along with 10+2 certificate issued by C.G.

Board of Secondary Education, Raipur in which she secured 49.67% aggregate marks in Physics, Chemistry, Biology and since she has not secured minimum 50% marks as required under the relevant rules, her application has been rejected.

8. The issue involved in the present writ petition that the petitioner could not secure total 50% marks in 10+2 examination, however, after rounding off the total marks secured by the petitioner would come to 50% and therefore, by considering the same as an exceptional case, she may be permitted to appear in screening test, the similar issue came up for consideration before the Delhi High Court in the case of **Apurv Shankar Vs. Union of India and Ors.** in WP(C) No. 8069/2021 decided on April 20, 2022 and the learned Single Judge of Delhi High Court has decided the issue by detailed consideration of the provisions of Indian Medical Council Act, 1956 and Graduate Medical Education Regulation, 1997 and held that:-

“8. Having heard the learned counsel for the parties, the issue which arises for consideration is whether the petitioner needs to have 50% marks in aggregate in the subjects of Physics, Chemistry and Biology for being issued an Eligibility Certificate to sit in the Screening Test, having secured MBBS qualification from a foreign medical institution, to get himself registered in India under the provisions of the IMC Act, 1956. The submission of Mr. Mishra in his challenge to the impugned email is that in view of the Press Note dated October 08, 2008, any requirement for a candidate securing MBBS degree from an institution outside India to have an Eligibility Certificate issued by the MCI under the Eligibility Regulations, shall be prospective i.e., after October 08, 2008 and not before that. The petitioner having secured the admission in

the college in Nepal in the year 2007, shall not be bound by the said Eligibility Regulations.

9. Suffice to state that this issue is no more *res integra*, in view of the judgment of the Supreme Court in the case of **Yash Ahuja**¹. The petitioners/appellants therein, who were students/persons who had completed MBBS course from various institutions in Nepal recognised by the MCI, sought directions to grant them provisional and permanent registration with the National/State Medical Councils, without insisting that they qualify the screening test. The Supreme Court noted that Section 12 of the IMC Act, 1956 deals with recognition of medical qualifications granted by medical institutions in countries with which there is a scheme of reciprocity. The MCI is empowered to enter into negotiations with the authority in any country outside India which by law of such country is entrusted with the maintenance of a register of medical practitioners, for settling a scheme of reciprocity for the recognition of medical qualifications. Once such a scheme is settled, the Central Government is authorised to amend the Second Schedule so as to include therein the medical qualification which the Council has decided should be recognised. The medical qualifications granted by medical institutions outside India which are included in the Second Schedule are recognised medical qualifications. Subsequently, one such scheme was entered into between the respective Medical Councils of India and Nepal. Over a period of time, it was noticed that a large number of private agencies sponsored Indian students for medical studies in institutions outside India for commercial considerations. Such students also included the students who failed to fulfill the minimum eligibility requirements for admission to medical courses in India. Serious aberrations were noticed in the standards of medical education available in some of the foreign countries which were not on par with the standards of medical education available in India. Due to lack of uniformity in the standards of medical education in various foreign countries, it was decided to make a provision in the IMC Act, 1956 to enable the MCI to conduct a screening test in order to satisfy itself with regard to the adequacy of knowledge and skills acquired by citizens of India who obtain medical qualifications from universities or medical institutions outside India before they

1 Yash Ahuja and Others v. Medical Council of India and Others, (2009) 10 SCC 313

are granted registration to practise medicine in India. Accordingly the IMC Act, 1956 was amended by the Indian Medical Council (Amendment) Act, 2001 and a new Section 13(4-A) was inserted, which requires that a person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognised for enrolment as a medical practitioner in that country after such date as may be specified by the Central Government under sub-section (3), shall not be entitled to be enrolled on any medical register maintained by a State Medical Council or to have his name entered in the Indian Medical Register, unless he qualifies the screening test in India prescribed for such purpose. Later, the MCI, on inspection of the institutions in Nepal, found certain deficiencies in the said institutions. The MCI subsequently decided to withdraw the recognition granted to them and also deny provisional/final registration under Section 12 of the IMC Act, 1956 to any student from such institutes who did not pass the Screening Test. They were also informed that no permanent registration certificate would be issued to such students who have already taken Provisional Registration Certificate.

10. The petition filed before the Supreme Court included a prayer for quashing the last paragraph of the Press Note dated October 08, 2008. The question before the Supreme Court was whether the petitioners/appellants can be subjected to the Screening Test postulated by the sub-section 4A of the Section 13 of the IMC Act, 1956, as the appellants/petitioners possess medical qualification mentioned in the second Schedule. The Supreme Court in paragraphs 71, 76 and 77 held as under:-

“71. What is relevant to notice is that Section 11 of the Act refers to the First Schedule whereas Section 12 refers to the Second Schedule and Sections 13(1) and 13(2) refer to Part I of the Third Schedule and Sections 13(3) and 13(4) refer to Part II of the Third Schedule. However, sub-sections (4-A) and (4-B) of Section 13 do not refer to any schedule at all because by those subsections general provisions are enacted which apply to all the cases where a citizen of India has obtained or is desirous of obtaining medical qualification granted by any medical institution in any country outside India. The provisions of sub-sections (4-A) and (4-B) would have applied to the cases covered by Section 14 of the Act also but for sub-section (4-C) of Section 13. Sub-section (4-C) of Section 13 specifically provides that nothing contained in sub-sections (4-A) and (4-B) shall apply to the medical qualifications referred to in Section 14 for the purposes of that section. If the legislature was so minded, nothing prevented it from laying down in Section 13(4-C) that the

provisions of sub-sections (4-A) and (4-B) would also not apply to the cases covered by Section 12 of the Act. If the arguments of the learned counsel for the appellants are accepted, the Court will have to rewrite sub-section (4-C) by laying down that the provisions of sub-sections (4-A) and (4-B) would also not apply to the cases covered by Section 12 of the Act. Such a course is neither permissible nor warranted by the facts of the case.

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76. The argument that MCI has admittedly understood and applied the provisions of the Act by releasing press note to mean that the Screening Test would not be necessary for students who have obtained degree from foreign medical institutions recognised under Section 12 of the Act and, therefore, MCI is precluded in insisting that the students, who have obtained degrees from foreign medical institutions, is devoid of merit. It is true that at one stage MCI had released a press note clarifying for the information of the general public that eligibility requirements for taking admission in an undergraduate medical course mentioned in the Foreign Medical Institutions Regulations, 2002 and the Screening Test Regulations, 2002 would not be applicable to the students joining an undergraduate medical course in foreign countries, recognised and included in the Second Schedule under Section 12 of the Act. However, this was the understanding of MCI, which is one of the parties before the Court. The scope of Section 13(4-A) is quite clear and covers all foreign medical institutions falling within the ambit of Sections 12 and 13 of the Act.

77. On a close and careful reading, provisions of the amending Act of 2001 with the Eligibility Requirement Regulations and the Screening Test Regulations, both of 2002, it becomes at once clear that MCI is obliged to stipulate the Screening Test in the case of all those candidates, who obtained medical qualification from medical institutions outside India falling within the purview of Sections 12 and 13 of the Act in view of the statutory provisions of Section 13(4-A) of the Act. The press release cannot be interpreted as precluding MCI from canvassing correct import of the provisions of the Act. In any view of the matter, the Court is of the firm opinion that press release by MCI cannot preclude the court from placing correct interpretation of the Act. Therefore, the said plea has no substance and is hereby rejected."

11. It is apparent from paragraph 77 of the Judgment as reproduced above, that the Supreme Court has also considered an identical submission made on behalf of the petitioners/appellants in that case and has stated that the Press Note of October 08, 2008 cannot be interpreted to preclude either the MCI or the Court in canvassing the correct interpretation of the IMC Act, 1956.

12. That apart, the Division Bench of this Court in **Rohinish Pathak**² has clarified that a claim for an eligibility certificate can be granted only if the person is qualified to be eligible for admission to an MBBS course in India in terms of the Graduate Medical Examination Regulations, 1997, and in the absence of such qualification, he shall not be entitled to sit for the Screening Test, in view of Regulation 4(2) of the Screening Test Regulations. The observations made by the Division Bench in paragraphs 8 and 21 are reproduced as under:

“8. It is evident from Regulation 3, read with Regulation 2(f), of the ERR that the petitioner’s claim for an eligibility certificate can be granted only if he was qualified to be eligible for admission to an MBBS course in India, in terms of the GMER. Regulations 5, 8(ii), 9 and 10 of the ERR indicate the mandatory nature of the eligibility criteria prescribed therein. They empower the MCI to investigate the correctness of the eligibility information supplied by the candidate, verify the same, and provide for the eligibility certificate to be issued only if the said criteria are satisfied.

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21. In the absence of meeting the qualifying criteria for obtaining an eligibility certificate, the petitioner is also not entitled to sit for the screening test. This is clear from a plain reading of Regulation 4(2) of the STR.....”

13. Hence, it is clear that in view of the provisions of the IMC Act, 1956, read with the regulations made there under, the petitioner was necessarily required to be eligible for admission to an MBBS course in India, i.e., he should have possessed 50% marks in Physics, Chemistry and Biology taken together for him to be issued the Eligibility Certificate to sit in the Screening Test. The petitioner, admittedly having only 47.83% marks in the three subjects, was ineligible for admission to an MBBS course in India, and as such, could not have been issued the Eligibility Certificate to enable him to sit in the Screening Test.

2 Rohinish Pathak v. Medical Council of India and Another, W.P.(C) 5907/2015, decided on February 26, 2019

14. I do not see any illegality in the impugned email. The application of the petitioner dated February 22, 2021 was rightly rejected by the respondent No.2.

15. The present petition is devoid of merit and the same is dismissed, but with no order as to costs.”

9. The abovementioned judgment dated 20.04.2022 passed in WP(C) No.8069/2021 by Delhi High Court was challenged before the Hon'ble Supreme Court in SLP(C) No.015733/2022 which has been dismissed affirming the order passed by the Delhi High Court. The Review Petition No.1227/2022 has also been dismissed by the Hon'ble Supreme Court vide order dated 09.11.2022 and thus, the judgment dated 20.04.2022 passed by Delhi High Court has the similar consideration with respect to the issue involved in the present case.

10. After having gone through the entire facts and circumstances of the case as well as considering the rival submissions made by learned counsel for the parties, it goes to show that the petitioner had earlier produced 10+2 certificate obtained from Jharkhand State Open School twice through ID No.No.R.15012/022602/2023-REGM and R.15012/028239/2023-REGM which have been rejected on the ground that Jharkhand State Open School is not a recognized board. Subsequently, in 3rd application having ID No.No.R.15012/030056/2024 REGM she submitted her another 10+2 certificate obtained from C.G. Board of Secondary Education and all these certificates of her 10+2 are of the year 2017, it could not be possible that a student could appear in

10+2 examination from two different places. There is no explanation from the petitioner to this discrepancy. Further, the petitioner had secured 49.67% marks in 10+2 examination from C.G. Board of Secondary Education, Raipur and the minimum requirement for eligibility criteria is of 50% aggregate marks in Physics, Chemistry, Biology in Class 12th/10+2 examination for General category candidates. Accordingly, we do not find any ground to interfere in the matter and to grant relief to the petitioner. The judgment cited by the petitioner is having distinguishable facts and consideration and therefore, no benefit could be extended to her from the judgment cited in her support.

11. Accordingly, the present writ petition is liable to be and is hereby dismissed.

Sd/-

(Ravindra Kumar Agrawal)
Judge

Sd/-

(Ramesh Sinha)
Chief Justice