

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

WA No. 29 of 2025

(Ref:- WP(C) No. 218 of 2025)

Dr. Mutum Anilkumar Singh, now working as Casualty Medical Officer, Jawaharlal Nehru Institute of Medical Sciences (JNIMS), Porompat, P.O. & P.S. Porompat, Imphal East District, Manipur – 795005.

... Writ Appellant

-Versus-

1. The State of Manipur represented by the Commissioner-cum-Secretary (Health & FW), Government of Manipur, New Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
2. The Jawaharlal Nehru Institute of Medical Sciences, JNIMS, P.O. & P.S. Porompat, Imphal East District, Manipur – 795005, through its Director.
3. The Dean Academic, JNIMS, P.O. & P.S. Porompat, Imphal East District, Manipur – 795005.
4. Dr. Ibetombi Kshetrimayum, aged about 50 years, D/o (Late) Ksh. Shyamkanhai Singh, Senior Resident, Radiodiagnosis Department, Jawaharlal Nehru Institute of Medical Sciences (JNIMS), Porompat, a resident of Sagolband Tera Yambem Leirak, P.O. Imphal, PS. Lamphel, Imphal West District, Manipur – 795001.

... Respondents

IN THE MATTER OF:

(in the Writ Petition WP(C) No. 218 of 2025)

Dr. Ibetombi Kshetrimayum, aged about 50 years, D/o (Late) Ksh. Shyamkanhai Singh, Senior Resident, Radiodiagnosis Department, Jawaharlal Nehru Institute of Medical Sciences (JNIMS), Porompat, a resident of

Sagolband Tera Yambem Leirak, P.O. Imphal, PS.
Lamphel, Imphal West District, Manipur – 795001.

... Petitioner

Vs.

- 1.** The State of Manipur represented by the Commissioner-cum-Secretary (Health & FW), Government of Manipur, New Secretariat Building, P.O. & P.S. Imphal, Imphal West District, Manipur – 795001.
- 2.** The Jawaharlal Nehru Institute of Medical Sciences, JNIMS, P.O. & P.S. Porompat, Imphal East District, Manipur – 795005, through its Director.
- 3.** The Dean Academic, JNIMS, P.O. & P.S. Porompat, Imphal East District, Manipur – 795005.
- 4.** Dr. Mutum Anilkumar Singh, now working as Casualty Medical Officer, Jawaharlal Nehru Institute of Medical Sciences (JNIMS), Porompat, P.O. & P.S. Porompat, Imphal East District, Manipur – 795005.

... Respondents

B E F O R E

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

For the Appellant	::	Mrs. G. Pushpa, Advocate
For the Respondents	::	Mr. Lenin Hijam, AG and Mr. N. Ibotombi, Sr. Advocate
Date of Hearing	::	22-07-2025
Date of Judgment	::	30-07-2025

J U D G M E N T

(A. Bimol Singh, J.)

[1] Heard Mrs. G. Pushpa, learned counsel appearing for the appellant; Mr. Lenin Hijam, learned Advocate General appearing for the respondents No. 1, 2 and 3 and Mr. N. Ibotombi, learned senior counsel appearing for the respondent No. 4.

The present appeal has been filed challenging the judgment and order dated 11-06-2025 passed by the learned Single Judge in WP(C) No. 218 of 2025. For easy reference, the prayers made in the present appeal are reproduced hereunder:-

- “(i) To admit the present appeal.***
(ii) To set aside the impugned judgment and order dated 11/06/2025 (Annexure W/1) passed by the Ld. Single Judge in WP(C) No. 218 of 2025.
(iii) To pass any other appropriate order or orders or direction(s) as to this Hon'ble Court may deem fit and proper and just to pass in the facts and circumstances of the case.

AND

- (iv) In the interim;***
Your Lordships be pleased to stay the operation of the impugned judgment order and dated 11/06/2025 passed in WP(C) No. 218 of 2025 during the pendency of the Writ Appeal.

OR

To direct the respondents authority not to disturb the continuing of PG Course in the Department of Radiodiagnosis by the respondent No. 4/Appellant during pendency of the Writ Appeal.”

[2] The issue raised in the present appeal relates to admission for undergoing P.G. Courses in the Jawaharlal Nehru Institute of Medical Sciences (JNIMS), Imphal against the 4 (four) seats reserved for the JNIMS sponsored candidates.

The brief facts which led to filing of the present writ appeal are that the National Board of Examinations in Medical Sciences, an autonomous body under the Ministry of Health & Family Welfare, Government of India conducted NEET-PG, 2024 Examination and both the appellant as well as the respondent No. 4 in the present appeal appeared in the said examination. By a notice dated 23-08-2024 issued by the National Board of Examinations in Medical Sciences, New Delhi, the result

[4]

of the said examination was declared. In the said notification, the cut-off percentile or minimum qualifying/ eligible criteria for admission to MD/ MS/ DNB/ Diploma Courses were notified as under:-

“

Category	Minimum Qualifying/Eligibility Criteria
General/EWS	50th Percentile
General-PwBD	45th Percentile
SC/ST/OBC (Including PwBD of SC/ST/OBC)	40th Percentile

”

The appellant scored 26.8 percentile while the respondent No. 4 scored 6.8 percentile. It is to be noted that both the appellant and the respondent No. 4 are serving in JNIMS in the capacity of Senior Casualty Medical Officer and Senior Resident in the Department of Radiodiagnosis respectively.

[3] After declaration of the result of the NEET-PG 2024 Examination, the Dean (Academics), JNIMS, Imphal (respondent No. 3 herein) issued a notice dated 31-10-2024 inviting applications from intending NEET-PG 2024 qualified medical graduates for undergoing P.G. (MD/ MS) courses in JNIMS in 20 different Departments for the Academic Session 2024-2025 against the total of 90 seats. The distribution of the said 90 PG seats in JNIMS are as under:-

- (i) All India Quota (AIQ) = 46
- (ii) State Quota = 44

In the said notification, it is provided that selection of candidates will be based on the NEET-PG 2024 score (Merit). In respect of sponsored category, candidates must be an officer serving under Manipur Health Services (MHS) or JNIMS and selection must be based strictly in the order

of Merit List of NEET-PG 2024 and other criteria/ incentives as mentioned in the said notice. In respect of All India Quota (AIQ), all the seats are to be filled up at All India Level as per norms adopted by the Medical Counselling Committee (MCC) of DGHS, Ministry of Health & Family Welfare, Government of India from All India Merit List of NEET-PG 2024.

[4] By a notice dated 05-11-2024 issued by the respondent No. 3, the last date of submission of forms was fixed on 18-11-20-24 till 03:00 P.M. By another notice dated 21-11-2024 issued by the Member Secretary, State Level PG Counselling Committee, the schedule for the Combined State Level PG Counselling (Hybrid Mode) for filling up of vacant seats for undergoing Post-Graduate Courses at JNIMS and RIMS, Imphal for the Academic Session 2024-2024 was notified as under:-

“

Sl. No.	Counselling	Date/ Day	Time	Venue
1.	1 st Round State Level PG Counselling	26/11/202, Tuesday	10.00 AM. onwards	JNIMS. Auditorium, Imphal
2.	2 nd Round State Level PG Counselling	19/12/202, Thursday	10.00 A.M. onwards	RIMS Jubilee Hall.
3.	3 rd Round State Level PG Counselling	09/01/202, Thursday	10.00 A.M. onwards	JNIMS, Auditorium, Imphal

”

[5] By a Notification dated 25-11-2024 issued by the Director, JNIMS, category-wise PG seats of JNIMS in respect of 44 seats available for the First Round State Level PG Counselling for the Academic Session 2024-2025 was notified as under:-

(a) Sponsored category:	-	21 seats
- Unreserved seats	-	12
- OBC(M)	-	2
- OBC(MP)	-	2
- Schedule Tribe seats	-	4
- Schedule Caste seats	-	1

(b) <u>Open Category:</u>	-	17 seats
- Unreserved seats	-	7
- OBC(M) seats	-	2
- ST seats	-	8
(c) <u>JNIMS product:</u>	-	2 seats
(d) <u>JNIMS Sponsored:</u>	-	4 seats
- Medicine	-	1
- OBG	-	1
- Pathology	-	1
- Radiodiagnosis	-	1

[6] The above quota of 4 (four) seats reserved for **JNIMS sponsored** candidates have been provided on the basis of the Rule called **“The Time Scale Promotion (Regularly appointed Senior Residents/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post-Graduate Degree) (1st Amendment) Rules, 2022”** (hereinafter referred to as **“1st Amended Rules 2022”**, for short) which was notified under a Notification dated 16-02-2022 issued by the Director, JNIMS. The relevant portions of the said rules are reproduced hereunder for ready reference:-

“1. SHORT TITLE AND COMMENCEMENT:

(1) These rules may be called the Time Scale Promotion (Regularly appointed Senior Residents/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post Graduate Degree) (1st Amendment) Rules, 2022.

(2) These rules shall come into force with effect from the current academic session i.e. 2021-2022.

2. Amendment of Rule 7(d) of Time Scale Promotion (Regularly appointed Senior Residents/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post Graduate Degree) Rules, 2018:

The existing Rule 7(d) shall be substituted by the following:-

For those regularly appointed Senior Resident/Tutor/ Demonstrator (Teachers) who do not possess Post Graduate Degree, there will be a provision for reservation of Post Graduate Degree seats in the Institute as follows:

- I) 14% of the State Open Quota seats in Post Graduate Degree courses of the Institute shall be reserved for teachers in each session.
- II) In order to be eligible for PG seats reservation, they must qualify NEET-PG exam.
- III) Reservation of PG seats shall be done in the same department in which they are already working.
- IV) In case of more than one member qualifying NEET-PG Exam in the same department in same session, preference will be given to the one who is older in age Irrespective of the score.
- V) If any Teachers' quota seat is not filled up due to unavailability of eligible Teachers, then the vacant seat shall be filled up by candidates from the State Merit List.
- VI) The seat allotment matrix will be adjusted from time to time according to availability of eligible Teachers with preference given to the subsequent year roster.
- VII) The reservation shall be in force for 5 years i.e. till 2025.
- VIII) The detail reservation roster is given at Schedule-1.”

“SCHEDULE-1

**P.G. DEGREE SEAT RESERVATION ROSTER FOR REGULAR NON-PG
TEACHERS (SR/ TUTOR/ DEMONSTRATOR) OF JNIMS, IMPHAL**

Sl. No.	Course	Year					Total
		2021	2022	2023	2024	2025	
1.	Anaesthesiology			1		1	2
2.	Forensic Medicine	1			1		2
3.	Medicine	1	1		1	1	4
4.	OBG		1		1		2
5.	Orthopaedics	1		1			2
6.	Paediatrics			1		1	2
7.	Pathology		1				1
8.	Pharmacology			1			1
9.	Radiodiagnosis				1		1
10.	Respiratory Medicine	1				1	2
11.	Surgery		1				1
	Total	4	4	4	4	4	20

”

[7] It has to be noted that under the said 1st Amended Rules, 2022, 14 percent of the State Open Quota seat in Post-Graduate Degree courses of JNIMS are to be reserved only for those regularly appointed Senior Residents/ Tutor/ Demonstrator (Teachers) and that Senior Casualty Medical Officers/ Casualty Medical Officer serving in JNIMS were not included. However, subsequently, by a Notification dated 21-10-2022 issued by the Director, JNIMS, Senior Casualty Medical Officers and Casualty Medical Officers serving in JNIMS were also included for consideration against the quota of four seats reserved for JNIMS sponsored candidates subject to certain conditions as mentioned in the said notification. For ready reference, the said Notification is reproduced hereunder:-

“NOTIFICATION

Imphal, the 21st October, 2022

No. 01/931/Non-PG CMO/22-JNIMS/3339: The President, Jawaharlal Nehru Institute of Medical Sciences Society, Imphal, Manipur with the previous sanction of the State Government, is pleased to make the following Scheme for reservation of Post Graduate Medical Seats in JNIMS for Senior Casualty Medical Officers and Casualty Medical Officers, JNIMS as follows:-

- i) The reservation of P.G. seats for regularly appointed Senior Casualty Medical Officers and Casualty Medical Officers will be considered only if any of the regularly appointed Sr. Residents/ Tutor/ Demonstrator/ Lady Medical Officers' quota seats provided by the Rule 7(d) of the Time Scale Promotion (Regularly appointed Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post Graduate Degree) (1st Amendment) Rules, 2022, are not filled up due to unavailability of eligible regularly appointed Sr. Residents/ Tutor/ Demonstrator/ Lady Medical Officer of the concerned department of JNIMS in that academic year.***
- ii) In order to be eligible for PG seats reservation, the Senior Casualty Medical Officer/ Casualty Medical Officers must qualify NEET-PG Examination.***
- iii) Since Sr. Casualty Medical Officers/ Casualty Medical Officers are open to any of the allocated P.G seat/ subject, Senior***

Casualty Medical Officers and Casualty Medical Officers shall be eligible to join 1st round of P.G. Counselling; but allotment of P.G. seat will be considered from 2nd round counselling onwards. If eligible candidates are available from the regular Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer in the concerned subject after lowering the NEET-PG cut off percentile in the subsequent round, the Sr. Casualty Medical Officer/, Casualty Medical Officers who has been allotted P.G. Seat must surrender the seat.

- iv) In case of having more than one NEET-PG qualifying candidates in the same Department, preference will be given on the basis of seniority in service, academic age of the candidate and NEET-PG Score.**
 - v) This scheme shall be applicable to Casualty Medical Officers who have rendered regular service of not less than 5 (five) years.**
 - vi) This reservation Scheme shall be in force for 5 (five) years i.e. till 2026 and in the line with Time Scale Promotion (Regularly appointed Senior Residents/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post Graduate Degree) (1^a Amendment) Rules, 2022.**
 - vii) If any Teachers' quota seat is not filled up due to unavailability of both eligible Teachers and Senior Casualty Medical Officer/ Casualty Medical Officers, then the vacant seat shall be filled up by candidates from the State Merit List.**
- 2. This is issued as per approval conveyed by Secretariat: Health Department, Government of Manipur vide Letter No. JNIM-1101/6/2021-HS-HEALTH, dated 20.10.2022 in accordance with State Cabinet Decision taken in its meeting held on 13/10/2022.**
- 3. This scheme shall be subject to outcome of all analogous Writ Petitions/SLPs relating to reservation of PG seats in UNIMS for JNIMS's Doctors."**

(Prof. L. Deben Singh)
Director, J.N. Institute of Medical Sciences"

[8] Consequent upon the due completion of screening process and First Counselling held on 26-11-2024, the Director, JNIMS issued a Notification dated 30-11-2024 notifying the provisionally selected candidates and the allotment of seats for undergoing Post-Graduate courses. In the said notification, 17 candidates were selected against the Open Category and 2 candidates were selected against the JNIMS

Product. However, no candidates were selected against the Sponsored Category and JNIMS Sponsored. Out of the 17 provisionally selected candidates in the Open Category, only 15 candidates were admitted and out of 2 provisionally selected candidates in the JNIMS Product, only 1 candidate was admitted for undergoing PG course in JNIMS.

[9] By a notice dated 18-12-2024 issued by the Director, JNIMS, the Second Round State Level PG Counselling (Hybrid Mode) for filling up vacant seats for undergoing PG courses at JNIMS was notified to be held on 19-12-2024. In the said notice, the vacant PG seats position at JNIMS was notified as under:-

(i) <u>Sponsored Category</u>	-	17 seats
(ii) <u>Open Category</u>	-	4 seats
(iii) <u>JNIMS Product</u>	-	1 seat
(iv) <u>JNIMS Sponsored</u>	-	4 seats

[10] Consequent upon the due completion of screening process and Second Counselling held on 19-12-2024, the Director, JNIMS issued an order dated 20-12-2024 thereby provisionally selecting and allotting seats for undergoing PG courses in JNIMS. As per the said order, 15 candidates were selected against 17 Sponsored Category seats, 4 candidates were selected against 4 Open Category seats and 1 candidate was selected against 1 JNIMS Product seat. However, no candidates were selected against 4 JNIMS Sponsored seats. All the selected candidates, except 2 candidates selected against Sponsored Category seats, were admitted for undergoing PG courses at JNIMS for the Academic Session 2024-2025, vide order dated 31-12-2024 issued by the Dean (Academics), JNIMS.

[11] The Government of India, Directorate General of Health Services, Medical Counselling Committee issued a notice dated 04-01-2025 notifying that the percentile and eligibility for NEET-PG Counselling 2024 had been lowered as under:-

“(i) General Category/ EWS:

- 15 percentile and above will be eligible to participate in counselling.

(ii) SC/ ST/ OBC/ PWD Category:

- 10 percentile and above will be eligible to participate in counselling.”

[12] After lowering of the percentile for eligibility to participate in the counselling, the Director, JNIMS issued a notice dated 06-01-2025 inviting fresh applications from intending and newly eligible candidates to participate in the 3rd Round State Level PG Counselling 2024 and the last date of submitting forms was notified as 08-01-2025 till 12:00 noon. Subsequently, the Director, JNIMS issued another notice dated 01-02-2025 notifying the date for the 3rd Round State Level PG Counselling 2024 as 03-02-2025 and also the vacant seats for undergoing PG courses at JNIMS for the Academic Session 2024-2025 as under:-

(a) <u>Sponsored Category</u>	-	9 seats
(b) <u>Open Category</u>	-	2 seats
(c) <u>JNIMS Sponsored</u>	-	4 seats
(d) <u>JNIMS Product</u>	-	1 seat

[13] The appellant, who obtained 26.8 percentile, on becoming eligible due to lowering of the cut-off percentile, applied for the 3rd Round Counselling and he was provisionally selected and allotted a seat against the JNIMS Sponsored seat for undergoing PG course at JNIMS in the

Radiodiagnosis Department. In this regard, the Dean (Academics), JINMS issued a Notification dated 04-02-2025 notifying that 8 candidates were selected against 9 Sponsored Category seats, 2 candidates were selected against two Open Category seats, 1 candidate was selected against 1 JNIMS Product seat and 2 candidates, including the appellant, were selected against 4 JNIMS Sponsored seats. Subsequently, the Dean (Academics), JNIMS issued a Notification dated 10-02-2025 notifying that all the selected candidates, except 1 candidate in the Un-reserved seat, were admitted for undergoing PG courses at JNIMS for the Academic Session 2024-2025.

It may be mentioned here that at the time of his admission, the appellant gave a written Undertaking, which are as under:-

"UNDERTAKING

I, Mutum Anilkumar Singh, understand that the seat allowed to me is provisional and is subject to change of speciality or surrender of seat based on any eventuality within MCC/ NBEMS framework and any rules of the State including lowering of percentile, court direction, etc.

***Place : Imphal
Date : 10/02/2025***

***Sd/-
Appellant***

***Witnesses:
i) Sd/-
ii) Sd/-"***

[14] The Director, JNIMS issued a Notice dated 20-02-2025 notifying that a Stray Vacancy Round State Level PG Counselling 2024 (offline mode) for filling up vacant seats for undergoing PG courses at JNIMS will be held on 21-02-2025. In the said notice, the vacant PG seat position at JNIMS was notified as under:-

[13]

- (a) Sponsored Category - 4 seats
(b) Open Category - 4 seats

However by another notice dated 23-02-2025 issued by the Member Secretary, State Level PG Counselling Committee, 2024, the Stray Vacancy Round State Level PG Counselling 2024 was rescheduled on 26-02-2025.

[15] By a notice dated 25-02-2025 issued by the National Board of Examinations in Medical Sciences, New Delhi, the minimum qualifying percentile for NEET-PG 2024 have been reduced as follows:

“

Category	Revised Minimum Qualifying Criteria for NEET-PG 2024
General/EWS	5 th Percentile
UR-PwBD	
SC/ST/OBC (including PwBD of SC/ST/OBC)	

”

As the respondent No. 4, who obtained 6.8 percentile in the NEET Examination became eligible due to lowering of the cut-off percentile, she submitted an application dated 26-02-2025 to the respondent No. 3 requesting to allow her to participate in the Stray Round Counselling. It may be mentioned here that on the same day i.e., 26-02-2025, the appellant submitted an application to the Director, JNIMS, stating, inter-alia, that if there has been any changes in the seat allocation after admission, he would like the chance to further participate in the in-service JNIMS sponsored category since the appellant was eligible for JNIMS sponsored seats and also requesting to reconsider and reserve the Medicine and Pathology PG seats for in-service JNIMS sponsored category candidates for the upcoming Stray Round. The said letter was hand written by the appellant

and the contents of the said letter are reproduced hereunder for ready reference:-

“26/2/2025

To,
The Director,
JNIMS (Porompat)

Sub.: Request to reserve PG -In-service JNIMS sponsored seats for eligible candidates.

Respected Madam,

I, Dr. Mutum Anilkumar Singh, currently undergoing PG course at Radiodiagnosis would like to request you to kindly reserve the in-service sponsored JNIMS candidates seats, so that I would be eligible to further participate again, since there has been reduction in NEET-PG 2024 cut-off eligibility criteria to 5th percentile.

If there has been any changes in the seat allocation after admission, I would like the chance to further participate in the in-service JNIMS sponsored category since I am eligible for JNIMS sponsorship.

Therefore, kindly reconsider and reserve the Medicine and Pathology PG seats for in-service sponsored JNIMS category candidates for the upcoming Stray Round.

**Thanking you.
Dr. Mutum Anilkumar Singh,
PG 1st Year (Radiodiagnosis)”**

[16] Consequent upon the completion of screening process and counselling held on 26-02-2025, the Dean (Academics), JNIMS issued a Notification dated 28-02-2025 notifying the selection and allotment of seats in respect of 3 candidates against the Sponsored Category seats and 4 candidates against the Open Category seats.

[17] The respondent No. 4 submitted another representation dated 27-02-2025 to the Commissioner (Health & Family Welfare), Govt. of Manipur and the Director, JNIMS stating, inter-alia, that she has become

qualified and is entitled to have the PG seat in Radiodiagnosis in JNIMS against the JNIMS sponsored quota as provided under the 1st Amended Rules and that the appellant, who is a Senior Casualty Medical Officer, must surrender the said seat as provided under para (iii) of the Notification dated 21-10-2022 and also requesting to allot the said PG seat of Radiodiagnosis for the Academic Session 2024 to her.

[18] The Director, JNIMS issued another notice dated 05-03-2025 inviting applications from intending and newly eligible candidates following lowering of minimum NEET 2024 qualifying percentile to participate in the special Stray Vacancy Round State Level PG Counselling 2024. In response thereto, the respondent No. 4 submitted her application dated 06-03-2025 to the respondent No. 2 for consideration of her case. The respondent No. 4 also submitted another application dated 10-03-2025 to the Director, JNIMS for allotment of the Post-Graduate seat in Radiodiagnosis as per the norms and rules of JNIMS.

[19] The Director JNIMS later on issued another notice dated 11-03-2025 in supersession of the earlier notice dated 05-03-2025, inviting fresh applications from newly NEET 2024 eligible candidates on or before 13-03-2025. In the said notification, it is stated that the vacant seats will be opened to in-service candidates of all States without any regards to Domicile.

Having been aggrieved, the respondent No. 4 filed a writ petition on 13-03-2025, which was registered as WP(C) No. 218 of 2025 seeking the following reliefs:

- “i) to admit this petition;*
- ii) to issue a Rule Nisi.*
- (iii) to issue a Writ in the nature of Certiorari for quashing the Notice dated 11/03/2025 issued by the Respondent No.2 inviting applications from the in-service candidates of all States without any regard domicile for participation in the Special Stray Vacancy Round Staff Level, PG Counselling, 2024 thereby superseding the Notification of even number dated 05/03/2025 issued by the Respondent No.2.*
- iv) to issue a writ of Certiorari for quashing the Notification dated 04/02/2025 issued by the Respondent No.3 thereby provisionally selected the Respondent No. 4 for undergoing Post-Graduate Course in the subject of Radiodiagnosis.*
- v) to issue a writ of Certiorari for quashing the Notification dated 10/02/2025 issued by the Respondent No.3 thereby admitting the Respondent No. 4 after completion of third round counselling of State Quota Seats for undergoing Post-Graduate Course in the subject of Radiodiagnosis.*
- vi) to issue a writ in the nature of Mandamus directing the Respondent Nos. 1 to 3 for fixing a date for holding a Special Stray Vacancy Round Staff Level, PG Counselling, 2024 for filling up the vacant seat for undergoing Post Graduate Course at JNIMS in the subject of Radiodiagnosis in the JNIMS Sponsored seat.*

AND

- vi) to pass any such further order(s) or direction(s) which this Hon'ble Court deem fit and proper to secure the ends of justice.”*

[20] While the aforesaid writ petition was pending in this court, the appellant also filed a writ petition on 07-04-2025, which was registered as WP(C) No. 295 of 2025 seeking the following reliefs:-

- (i) rule nisi.*
- (ii) a Writ of Certiorari or any other appropriate Writ or Writs for quashing/setting aside of the impugned Notification No. 01/931/Non-PG CMO/22-JNIMS/3339 dated 21/10/2022 (Annexure A/1 to the Writ petition) as the aforesaid impugned Notification has been issued by the authority of JNIMS whimsically and without application of proper mind with malafide intention only to favour one set of employees over a set of employee who are only distinguishable by a task but not by qualification and merit so as to meet the ends of justice.*
- (iii) Pass any further order or orders as to this Hon'ble Court may seem fit and proper for the ends of justice.*

[21] Both the writ petitions were heard jointly by the learned Single Judge and by the impugned judgement and order dated 11-06-2025, WP(C) No. 218 of 2025 filed by the respondent No.4 was disposed of with certain observations and directions while WP(C) No. 295 of 2025 filed by the appellant was not disposed of by the learned Single Judge and the same was directed to be listed again for consideration. The relevant portions of the judgment and order passed by the learned Single Judge are reproduced hereunder for ready reference:-

“[77] This Court is of the opinion that the respondent No. 4 (appellant herein) will have an independent right of challenging Para (iii) of the notification dated 21.10.2022 on the ground that the same is discriminatory against the Senior Casualty Medical Officer/Casualty Medical Officer like him. In the peculiar facts of the case, once he has taken admission in PG course against the seat reserved for Senior Resident/Tutor/Demonstrator/Lady Medical Officer under Para (i) of the notification dated 21.10.2022, it may not be proper for him to challenge Para (iii) of the same notification on the ground that the condition for surrendering the seat by Senior Casualty Medical Officer/Casualty Medical Officer is arbitrary, discriminatory, harsh and without any basis. The same will be barred by the principle of approbate and reprobate.”

“[78] Accordingly, this Court is not considering WP(C) No. 295 of 2024 in the present form and the same is left to be considered later on confined to the general ground of arbitrariness and irrationality in violation of the principle of equality as enshrined in the Article 14 of the Constitution of India and not to the particular ground that the condition requiring the respondent No. 4 to vacate the seat allotted to him is arbitrary. The petitioner herein who is a Senior Resident, claims her right of admission in the PG course in Radiodiagnosis as per Para (iii) of the notification dated 21.10.2022 against the seat adjusted in favour of respondent No. 4 (appellant herein) in terms of Para (i) of the notification dated 21.10.2022. The petitioner has also a legitimate right of expectation for admission as per the prevailing rules. Her right has also to be considered vis-à-vis the interest of the respondent No.4 (appellant herein).”

“[79] As observed above, the reservation under the notifications dated 16.02.2022 and 21.10.2022 providing 4 seats for JNIMS teachers has not been set aside by any competent Court nor repealed by the authority and such institutional-based reservation has been upheld by the Hon'ble Supreme Court in Para 33 of Dr. Tanvi Behl Case

(supra). By strict and literal interpretation of the statutory rules, the respondent No. 4 (appellant herein) is likely to lose his seat in PG course in Radiodiagnosis course in JNIMS in which he has been admitted in terms of Para (i) of the notification dated 21.10.2022 in the 3rd round of counselling. By Para (iii) of the same notification, the petitioner is to be considered against the seat to be vacated by respondent No. 4 (appellant herein)."

"[80] If the writ petition is allowed, it will cause immense hardship, inconvenience and loss of academic year to the respondent No. 4 (appellant herein). If the writ petition is dismissed, it will also cause injustice to the petitioner as she has a right to be considered for admission in PG course in Radiodiagnosis in terms of the notification dated 16.02.2022, especially in view of Para (iii) of the notification dated 21.10.2022. In the present case, this Court is dealing with the conflicting rights of two persons claiming under the same rules. While deciding this case, the Court has to find a mid-way where both parties can have something. Deciding the issues involved herein on merit may not be a good option, where there is a likelihood of the contesting parties becoming a victim in the process of adjudication."

"[82] It may be noted that the scheme of reservation under original notification dated 16.02.2022 [Annexure-A/33] is valid for only 5 years i.e. from 2021-2025 and 4 seats are distributed amongst 11 seats under Schedule-I of the notification dated 16.02.2022. The subject of Radiodiagnosis has got only one seat in the year 2024 during the period of five years (i.e., 2021-2025), where other subjects like Medicine got 4 seats over the period of 5 years. If the petitioner is not considered this year, she will not get any chance to be considered under the scheme in the next year also. The Senior Residents are assigned to different departments and the petitioner is in the department of Radiodiagnosis since the date of her initial appointment. As per the rules, she can only to be considered for PG in Radiodiagnosis course as stipulated by Para 2(III) of the notification dated 16.02.2022 [Annexure-P/33]. On the other hand, the respondent No. 4, (appellant herein) a Senior Casualty Medical Officer who has not been assigned to any particular department except the Casualty, can be adjusted in any subject."

"[83] Learned AG has admitted the existence of one subsequent vacant seat in PG course in General Medicine in JNIMS as surrendered by one Dr. Md. Mosmir in the 2024 session."

Moulding of Relief:

"[84] In a recent judgment of J. Ganapatha and Ors. vs. N. Selvarajalou Chetty Trust and Ors.: MANU/SC/0387/2025: 2025 INSC 395, Hon'ble Supreme Court discussed the concept of moulding of relief as an exception in a proceeding based on the facts and circumstances of

the case, even if the relief granted was not actually prayed for. While applying the rule, utmost care ought to be taken so as not to cause injustice and prejudice to any party. Relevant para is reproduced below:

"20. The concept of moulding of relief refers to the ability of a court to modify or shape a relief sought by a party in a legal proceeding based on the circumstances of the case and the facts established after a full-fledged trial. The principle enables the court to grant appropriate remedies even if the relief requested in the pleading is not exact or could not be considered by the court or changed circumstances have rendered the relief obsolete. The court aims that justice is served while taking into account the evolving nature of a case. The above road map is pursued by a court based on the notion of flexibility in relief, equitable jurisdiction, and is tempered by judicial discretion. When moulding the relief, the court considers the issues and circumstances established during the full-fledged trial, looks at shortening the litigation, and then in its perspective, renders complete justice to the issue at hand. The converse of the above is that the moulded relief should not take the aggrieved party by surprise or cause prejudice. The relief is moulded as an exception and not as a matter of course."

"[85] In the case of Shivanna and Ors. y. B.S. Puttamadaiah (Dead) through L.Rs.: MANU/SC/1462/2023, Hon'ble Supreme Court reiterated the principles of moulding of relief as an exception to do complete justice to the parties. Relevant para are quoted below for easy understanding:

*"11. The submission made by Mr. Sharanagowda Patil, learned Counsel appearing for the Appellants and Mr. Ashwin v. Kotemath, learned Counsel appearing for the Respondents are considered. What is important to note here is that the First Appellate Court declared title in favour of the Defendant although the Defendant never put forth any such claim in the Civil Suit. The suit was filed by the Plaintiff seeking declaration and injunction and the Appellate Court after dismissing the suit could not have then issued the declaration of title and possession, in favour of the Defendant, particularly when the Defendant never claimed any such relief from the Civil Court. It is well-settled in law that the principle of moulding of reliefs could at best be applied as an exception. This Court in *Om Prakash Gupta v. Ranbir B. Goyal*, MANU/SC/0035/2002: 2002 INSC 35: (2002) 2 SCC 256 laid down the following conditions where the relief could be moulded:*

11. The ordinary Rule of civil law is that the rights of the parties stand crystallised on the date of the institution of the suit

and, therefore, the decree in a suit should accord with the rights of the parties as they stood at the commencement of the lis. However, the Court has power to take note of subsequent events and mould the relief accordingly subject to the following conditions being satisfied:

- (i) that the relief, as claimed originally has, by reason of subsequent events, become inappropriate or cannot be granted;*
- (ii) that taking note of such subsequent event or changed circumstances would shorten litigation and enable complete justice being done to the parties; and*
- (iii) that such subsequent event is brought to the notice of the court promptly and in accordance with the Rules of procedural law so that the opposite party is not taken by surprise."*

"[86] Keeping in mind the principle of moulding of relief as an exceptional measure so as to do complete justice to the contesting rights of both parties and without going to the merit of the case, this Court is of the considered view that it will suffice, just and proper if respondent No. 4 (appellant herein) is adjusted against the PG seat in Medicine vacated by one Dr. Md. Mosmir in terms of the letter dated 21.05.2025 in PG in Medicine in JNIMS and in seat of PG in Radiodiagnosis to be vacated by the respondent No. 4 (appellant herein), the petitioner and similarly situated candidates, i.e., the Senior Residents and other teachers in JNIMS in Radiodiagnosis department are to be considered. It may be noted that the petitioner has also filed an affidavit dated 05.05.2025 affirming on oath that she is the only Senior Resident working in the Radiodiagnosis department of JNIMS, indirectly implying that she is the only eligible candidate under the notifications dated 16.02.2022 and 21.10.2022. This fact may be ascertained by the authority."

"[88] This Court is conscious of the fact that respondent No. 4 (appellant herein) may face some difficulties in shifting to another course in Medicine from the Radiodiagnosis in mid-way. However, this will be a consolation and a lesser evil against the possibility of cancellation of his seat looming over his head as Damocles' sword, if the matter is to be considered on merit."

"[89] With these observations and directions, the official respondents are directed to adjust the admission of the respondent No. 4 (appellant herein) in PG course in Radiodiagnosis subject against the subsequent vacant PG seat in Medicine in JNIMS as surrendered by one Dr. Md. Mosmir on personal ground and the petitioner and other eligible candidates, if any, as per Para (iii) of the notification dated 21.10.2022, be considered for admission in PG seat in Radiodiagnosis. It is made clear that the respondent No.4 (appellant

herein) is not required to pay any fee for fresh admission and all payments made by him for admission in PG for Radiodiagnosis will be adjusted against the new seat. The bond submitted by him will be valid for the now subject. The respondent No.4 (appellant herein) is liable to pay future fee and charges only.”

“[90] It is clarified that this is one-off exercise undertaken by this Court in exercise of its extraordinary power under Article 226 of the Constitution for doing complete justice by keeping in mind the interest of both the petitioner and respondent No. 4 (appellant herein). While taking this decision as an exception, this Court considers the fact that the petitioner is having only one opportunity in the year 2024 over the period of 5 years for admission in Radiodiagnosis course and also the difficulty to be faced by the respondent No.4 (appellant herein), if his admission to be cancelled. This exceptional endeavour is not to be treated as a precedent and this exercise is resorted to for doing complete justice to both parties in the peculiar facts of the present case.”

“[91] Since the scheme is valid for up to 2025, the JNIMS authority has the liberty to re-consider the problematic portion of Para (iii) of the notification dated 21.10.2022 [Annexure-A/34] which requires the Senior Casualty Medical Officer/ Casualty Medical Officer to surrender the seat at a later stage in favour of the teachers. This Court is not passing any direction in this regard.”

“[92] With the above observations and directions, WP(C) No. 218 of 2025 is disposed of. The direction for adjustment of the seat for the respondent No. 4 (appellant herein) to Medicine and the consideration of the petitioner's request for admission in PG seat in Radiodiagnosis be completed as expeditiously as possible keeping in mind the stage of the present semester.”

Feeling aggrieved, the appellant filed the present appeal challenging the judgment and order passed by the learned Single Judge and praying for setting aside the impugned judgement and order dated 11-06-2025 passed in WP(C) No. 218 of 2025.

[22] Mrs. G. Pushpa, learned counsel appearing for the appellant submitted that both the appellant and the respondent No. 4 appeared in the NEET-PG 2024 Examination and the appellant scored 26.580 percentile whereas the respondent No. 4 scored only 6.836 percentile and that in the

All India NEET-PG Ranking, the appellant was placed at Rank No. 159042 whereas the respondent No. 4 was placed at Rank No. 201615 and as such, the appellant is far more meritorious than the respondent No. 4. It has also been submitted that in the 3rd Round Counselling, the appellant was eligible and he got selected for undergoing PG course in Radiodiagnosis in JNIMS for the Academic Session 2024-2025 whereas the respondent No. 4 was not even eligible to participate in the said 3rd Round Counselling, therefore, the appellant was selected on the basis of merit over the respondent No. 4. It has been submitted that as the appellant is far more meritorious than the respondent No. 4, the findings and the directions given by the learned Single Judge that the respondent No. 4 is entitled to get the PG seat in Radiodiagnosis against which seat the appellant has already been admitted and undergoing PG course is very arbitrary and against the well settled rules and law laid down by the Hon'ble Supreme Court. Accordingly, the impugned order is liable to be quashed and set aside.

[23] The learned counsel for the appellant submitted that the 3rd Round Counselling was held on 03-02-2025 and the result of the same was declared on 04-02-2025. The appellant and other candidates were provisionally selected and allotted seat for undergoing PG course and the candidates were informed for getting themselves admitted by depositing necessary fees and the required documents on or before 07-02-2025. Thereafter, the admission of the candidates selected after completion of the 3rd Round Counselling was finalized on 10-02-2025 and thereafter, the names of the candidates so admitted were submitted to the National Medical Council and the same was uploaded. It has also been submitted that after the admission of the appellant was over and confirmed by the

National Medical Council, the appellant has been attending classes w.e.f. 10-02-2025 and at this juncture, if the appellant is to be shifted in another department such as Medicine in terms of the directions given by the learned Single Judge, the academic interest of the writ appellant shall be greatly disturbed. It has further been submitted that as the appellant has been attending classes for the last about six months the initial provisional admission has become regular in terms of various judgments passed by the Hon'ble Supreme Court and as such, the direction given by the learned Single Judge to seek his admission to another subject is unreasonable, arbitrary and against the principle of law laid down by the Hon'ble Apex Court.

[24] It has been submitted on behalf of the appellant that the appellant filed WP(C) No. 295 of 2025 challenging the Notification dated 21-10-2022 and the said writ petition was tagged along with WP(C) No. 218 of 2025 filed by the respondent No. 4 and the same were listed before the learned Single Judge for hearing jointly. The learned counsel submitted that at para No. 71 of the impugned judgment, the learned Single Judge observed that the impugned notification dated 21-10-2022 is discriminatory against the Senior Casualty Medical Officers/ Casualty Medical Officers in JNIMS to the extent that the latter have to surrender their seats if the teachers like the respondent No. 4 becomes eligible in subsequent NEET-PG Counselling on account of reduction of eligibility criteria. It has been strenuously submitted that despite such clear cut observations made by the learned Single Judge, the learned Single Judge failed to interfere with the said impugned notification dated 21-10-2022 and declined to decide the writ petition being WP(C) No. 295 of 2025 filed by the appellant and directed

[24]

to list it for consideration of the legality of the impugned notification dated 21-10-2022 raised by the appellant on a later date. The learned counsel submitted that such decision of the learned Single Judge shows partiality and the appellant has been denied to get justice at the appropriate time. The learned counsel, accordingly, submitted that the impugned judgment is liable to be interfered with on this count alone. It has also been submitted that while passing the impugned judgment and order dated 11-06-2025, the learned Single Judge has failed to quash and set aside any of the impugned orders as prayed for in the writ petition filed by the respondent No. 4 and as such, all the impugned orders are still intact and having the force of law.

[25] It has been submitted on behalf of the appellant that the Medical Counselling Committee (MCC) in its Bulletin Information and Counselling Scheme laid down the rule providing that the authorities shall publish guidelines and time schedule for the conduct of examination, common counselling, admission, joining and commencement of academic session and that the designated authority shall conduct common counselling in conformity with such published guidelines and time schedule. It has been submitted that in the present case, the counselling and admission in respect of PG seats in JNIMS had already been over and as such, the same cannot be changed now. The learned counsel, accordingly, submitted that the directions given by the learned Single Judge in the impugned judgment and order are akin to changing such rules and as such, the impugned judgment and order is not sustainable in the eyes of law.

[26] The learned counsel for the appellant also submitted that there is no wrong in challenging the offending portion of a piece of legislation and

the appellant challenging para (iii) of the Notification dated 21-10-2022 by filing WP(C) No. 295 of 2025 is permissible in law by way of applying the Doctrine of Severability. It has been submitted that the legislative intent in issuing the impugned notification dated 21-10-2022 is to make the Senior Casualty Medical Officers/ Casualty Medical Officers also eligible to apply to the reserve Post-Graduate medical seats in JNIMS. However, the said notification also providing for surrendering of the allotted seat even after admission and attending classes being illegal, the same can be dealt with under judicial review. It has been contended that the Information and Bulletin and the Counselling Scheme issued by the MCC is a Central rule whereas the said impugned notification dated 21-10-2022 is a piece of sub-ordinate legislation made by JNIMS and the same does not carry the same degree of immunity which is enjoyed by a statute.

[27] It has also been submitted by the learned counsel that the respondent No. 4 never participated in any NEET-PG Counselling and that for admission to any PG course, a candidate is required to participate in counselling and only on being selected and recommended after such counselling a candidate can be admitted for undergoing PG course. According to the learned counsel, as all rounds of counselling have already been completed, no further counselling can be held as mandated by the Hon'ble Apex Court in a catena of its judgments and as such, the respondent No. 4 cannot be admitted for undergoing PG course at this point of time.

[28] The learned counsel, lastly, submitted that neither the Undertaking dated 26-02-2025 given by the appellant at the time of his

admission nor the application dated 26-02-2025 submitted by the appellant requesting for re-considering his case for admission for PG course in Medicine or Pathology were part of the record and that the said documents were placed before this court by the learned Advocate General during the hearing of the present appeal. The learned counsel submitted that the appellant did not deny the existence of the said two documents, however, it has been submitted that the alleged undertaking as well as the alleged hand written application were not voluntarily submitted by the appellant and that the appellant was made to submit the same on the instruction of the authority of JNIMS. The learned counsel submitted that such undertaking and the application are not binding upon the appellant.

The learned counsel submitted that there is no illegality in the allotment of seat to the appellant in the 3rd Round of NEET-PG Counselling and hence, there is no good ground for interfering with the admission for undergoing PG course in the Department of Radiodiagnosis.

[29] In support of her contentions, the learned counsel appearing for the appellant cited the following case laws:-

1. **2002 SCC OnLine SC 1442 “Board of Governors in Supersession of Medical Council of India Vs. Dr. Priyambada Sharma & ors.” (para 9, 26 and 27)**
2. **2002 Legal Eagle 240 “K. Shekar Vs. V. Indiramma & ors.” (para. 21 and 23)**
3. **(2008) 3 SCC 512 “K. Manjushree Vs. State of Andhra Pradesh & anr. (para. 32)**

4. (2021) 10 SCC 116 “Somesh Thapliyal & anr. Vs. Vice Chancellor, H.N.B. Garhwal University & anr. (para. 37 to 52)
5. (2012) 7 SCC 433 “Priya Gupta Vs. State of Chhattisgarh (para. 32 to 38, 71,72, 78 and 79)
6. Order dated 25-06-2025 passed in SLP No. 14738 of 2025 “Kadam Girish Shriram Vs. Union of India & ors.”
7. (2022) 7 SCR 1078 “Dr. Astha Goel & ors. Vs. Medical Counselling Committee & ors.” (para. 10.4, 10.5, 10.6 & 11)

[30] Mr. Lenin Hijam, learned Advocate General, Manipur appearing for the respondents No. 1, 2 and 3 submitted that the appellant was appointed as Casualty Medical Officer in JNIMS in 2013 and promoted to Senior Casualty Medical Officer in 2021. The respondent No. 4 was appointed as Senior Resident in the Department of Radiodiagnosis in JNIMS in 2012. Both of them have completed 12 years and 13 years services in JNIMS. Both the appellant and the respondent No. 4 appeared in the NEET-PG Examination, 2024.

[31] It has been submitted by the learned Advocate General that under the Rule 7(d)(i) of the Time Scale Promotion (Regularly appointed) Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer possessing Post-Graduate Degree (1st Amendment) Rules, 2022 (1st Amended Rules, 2022), it is provided that 14 percent of the State Open Quota seats in Post-Graduate Degree course of the institute shall be reserved for those regularly appointed Senior Resident/ Tutor/ Demonstrator (Teachers) who do not possess Post-Graduate Degree. It has also been submitted that

under Rule 7(d)(VII) & (VIII) of the said rules, it is provided that the reservation shall be in force for five years, i.e., till 2025 and that the details of reservation roster shall be as per given at Schedule – I of the said rules. The learned Advocate General submitted that the four seats in the subjects of Medicine – 1, OBG – 1, Pathology – 1 and Radiodiagnosis – 1 reserved for JNIMS sponsored candidates for the academic year 2024-2025 and as notified in the Notification dated 25-11-2024 issued by the Director, JNIMS have been reserved in terms of Rule 7(d)(I), (VII) and (VIII) of the 1st Amended Rules, 2022. The learned Advocate General further submitted that under the Rules 7(d)(II) & (III) of the said 1st Amended Rules, 2022, it is provided that in order to be eligible for the reserved 4 PG seats, the candidate must qualify NEET-PG Examination and that the reservation of PG seats shall be done in the same Department in which they were already working. It has been submitted that under the said 1st Amended Rules, 2022, Senior Casualty Medical Officers and Casualty Medical Officers working in JNIMS were not entitled to be considered against the reserved seats provided under the said 1st Amended Rules, 2022.

[32] The learned Advocate General also submitted that under the scheme for reservation of Post-Graduate Medical seats in JNIMS for Senior Casualty Medical Officers and Casualty Medical Officers (**Reservation Scheme, 2022**), JNIMS as notified under the Notification dated 21-10-2022 issued by the Director, JNIMS, it is provided that –

- (I) The reservation of PG seats for regularly appointed Senior Casualty Medical Officers and Casualty Medical Officers will be considered only if any of the regularly appointed Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer quota seats

provided by Rule 7(d) of the 1st Amended Rules, 2022 are not filled up due to unavailability of regularly appointed Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer of the concerned Department of JNIMS in that academic year;

- (II) In order to be eligible for the said reserved PG seats, the Senior Casualty Medical Officers/ Casualty Medical Officers must qualify NEET-PG Examination;
- (III) Since Senior Casualty Medical Officers/ Casualty Medical Officers are open to any of the allocated PG seats/ subjects, Senior Casualty Medical Officers and Casualty Medical Officers shall be eligible to join 1st Round of PG Counselling but allotment of PG seats will be considered from the 2nd Round Counselling onwards and that if eligible candidates are available from the regular Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer in the concerned subject after lowering NEET-PG cut-off percentile in the subsequent round, the Senior Casualty Medical Officers/ Casualty Medical Officers who have been allotted PG seat must surrender the seat;
- (VI) Reservation Scheme shall be in force for five years i.e., till 2026.

[33] According to the learned Advocate General, the selection and the recommendation of candidates against the aforesaid 4 PG seats reserved for JNIMS sponsored candidates, which were notified under the Notification dated 25-11-2024, must be strictly in terms of the 1st Amended Rules, 2022 and the Reservation Scheme, 2022.

[34] The learned Advocate General submitted that when the minimum cut-off percentile for becoming eligible for counselling was lowered to 15 percentile on 04-01-2025, the appellant become eligible for counselling and he was selected and recommended for admission for undergoing PG course in Radiodiagnosis and thereafter, he was admitted in JNIMS for the said PG course. It has also been submitted that when the minimum cut-off percentile for becoming eligible for counselling was again lowered to 5 percentile on 25-02-2025, the respondent No. 4 also become eligible for counselling and as such, the respondent No. 4 submitted applications and representations for considering her case against the seat of Radiodiagnosis reserved for JNIMS sponsored candidates as she is entitled and eligible in terms of 1st Amended Rules, 2022 and Reservation Scheme, 2022. According to the learned Advocate General, the respondent No. 4 is entitled to be considered for admission for undergoing PG course against the PG seat of Radiodiagnosis reserved for JNIMS sponsored candidates for the academic year 2024-2025.

[35] It has been submitted by the learned Advocate General that as the selection and the recommendation of candidates against the aforesaid 4 seats reserved for JNIMS sponsored candidates are to be done strictly in terms of the aforesaid 1st Amended Rules, 2022 and Reservation Scheme, 2022, the contentions made on behalf of the appellant that the selection of candidates against the said 4 reserved posts are to be done strictly on merit is misconceived and without any substance. It has been submitted that the appellant, who is a well-educated person and serving as a Doctor, voluntarily submit his candidature for counselling against the seat reserved for JNIMS sponsored candidates knowing fully well the terms and

conditions as provided under the 1st Amended Rules, 2022 and Reservation Scheme, 2022 that he must surrender the seat in case any eligible candidate, who is serving as Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer become eligible after lowering the cut-off percentile in subsequent rounds.

It has been specifically pointed out by the learned Advocate General that at the time of his admission the appellant gave an Undertaking in writing on 10-02-2025 that the appellant understand that the seat allowed to him was provisional and is subject to change of speciality or surrender of seat based on any eventuality within MCC/ NBEMS framework and any rules of the State including lowering of percentile, court direction, etc. It has also been pointed out by the learned Advocate General that when the respondent No. 4 become eligible for counselling due to lowering of the minimum cut-off percentile at 5 percentile on 25-02-2025, the appellant submitted another application on 26-02-2025 to the Director, JNIMS stating that if there has been any changes in the seat allocation after admission, he would like the chance to further participate in the in-service JNIMS sponsored category seats and requesting to re-consider and reserve the Medicine and Pathology PG seats reserved for in-service JNIMS sponsored category candidates in the upcoming stray round. In this regard, the learned Advocate General submitted a copy of the Undertaking dated 10-02-2025 submitted by the appellant and also a copy of the application submitted by the appellant on 26-02-2025. The counsel for the appellant do not deny the existence or authenticity of the said documents.

[36] The learned Advocate General submitted that the selection and the recommendation of the appellant for his admission against the PG seats of Radiodiagnosis had been done in terms of the 1st Amended Rules, 2022 and the Reservation Scheme, 2022 after knowing fully well the terms and conditions mentioned in the said rules and reservation scheme. The learned Advocate General, accordingly, submitted that the appellant cannot raise the plea that the terms and conditions mentioned in the Reservation Scheme 2022 is arbitrary and discriminatory at this point of time as the same amounts to approbate and reprobate. In this regard, the learned Advocate General cited the judgment rendered by the Hon'ble Apex Court in the case of **"Union of India & ors. Vs. N. Murugesan & ors."** reported in **(2022) 2 SCC 25**, wherein it has been held at para. 26 as under:-

"26. These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction. This principle has to be applied with more vigour as a common law principle, if such a party actually enjoys the one part fully and on near completion of the said enjoyment, thereafter questions the other part. An element of fair play is inbuilt in this principle. It is also a species of estoppel dealing with the conduct of a party. We have already dealt with the provisions of the Contract Act concerning the conduct of a party, and his presumption of knowledge while confirming an offer through his acceptance unconditionally."

[37] The learned AG, lastly, submitted that the respondent No. 4 can be considered for her admission for undergoing PG course in JNIMS only against the lone seat of Radiodiagnosis for the academic year 2024-2025,

whereas the appellant can be re-considered for his admission against the available seat of Medicine in terms of the aforesaid 1st Amended Rules, 2022 and Reservation Scheme 2022 and both of them can be accommodated in terms of the directions given by the learned Single Judge in the impugned judgment and order. The learned Advocate General, accordingly, prays for not interfering with the impugned judgment and order in the interest of both the appellant as well as the respondent No. 4 and that the State respondents are ready to implement such directions in the interest of both the candidates.

[38] Mr. N. Ibotombi, learned senior counsel appearing for the respondent No. 4 submitted that the reservation as provided under the Amended Rules of 2022 is only for five years, i.e., till 2025 and that the reservation of PG seats for Senior Resident/ Tutor/ Demonstrator/ Lady Medical Officer shall be done in the same Department in which they are also working. It has also been submitted by the learned senior counsel that as per Schedule – I appended to the said Amended Rules of 2022, only 1 seat is reserved in the Department of Radiodiagnosis in the academic year 2024 during the whole five years while the said reservation rules was in force. According to the learned senior counsel, the respondent No. 4 got only one chance, i.e., for the academic year 2024 to get admission for undergoing PG course against the lone reserved seat in the Department of Radiodiagnosis in terms of the aforesaid 1st Amended Rules, 2022 and that unless the claim of the respondent No. 4 for considering her case against the said lone seat is considered in terms of the said 1st Amended Rules read with the provisions of the Reservation Scheme of 2022, her one time chance to get admission against the said lone post as provided under the

said rules and scheme will be defeated and she will be prejudicially affected. On the other hand, the case of the appellant can be considered against the available vacant seat of Medicine as requested by the appellant himself in his application submitted on 26-02-2025 and that both of them can be accommodated for undergoing PG course in the academic year 2024-2025.

[39] The learned counsel submitted that as soon as the respondent No. 4 become eligible for participating in the Stray Vacancy Round Counselling due to lowering of the minimum cut-off percentile, she submitted an application dated 26-02-2025 for allowing her to participate in the counselling well in time. It has also been submitted that the respondent No. 4 again submitted another representation dated 27-02-2025, stating, inter alia, that she has become qualified and entitled to have the PG seat in Radiodiagnosis reserved for JNIMS sponsored candidates and that the appellant must surrender the said seat as provided under para. III of the Reservation Scheme of 2022 and that there was no delay on the part of the respondent No. 4 in making a claim for considering her case. It has been submitted that the appellant had himself submitted an application to the authorities in his own hand writing on 26-02-2025 that if there has been any changes in the seat allocation after admission, he would like the chance to further participate in the Stray Round Counselling against the seat of Medicine and Pathology which has been reserved for JNIMS sponsored candidates. The learned counsel further submitted that despite such claim made by the respondent No. 4 and the request made by the appellant well in time, the authorities failed to consider their request and due to such inaction on the part of the authorities, the respondent No. 4 should not be

allowed to suffer without any fault on her part and that her one time chance of getting admission for undergoing PG course against the lone post of Radiodiagnosis as provided under the rules should not be deprived of without any fault on her part.

[40] The learned senior counsel submitted as there is no vacant seat available in the Department of Radiodiagnosis, the respondent No. 4 cannot participate in any counselling for admission against the said seat, however, as and when the said seat become vacant after the appellant surrender the seat, the respondent No. 4 can participate in the counselling for admission against the said seat. The learned counsel, accordingly, submitted that the plea raised by the learned counsel appearing for the appellant that the respondent No. 4 has not participated in any counselling is unreasonable and that on such ground the claim made by the respondent No. 4 for considering her case against the said seat cannot be rejected.

[41] We have heard the rival submissions advanced by the learned counsel appearing for the parties at length and also carefully examined all the materials available on record. In the present case, it is an undisputed fact that the appellant applied for his admission and got selected in the 3rd Counselling against the seat reserved for the JNIMS sponsored candidates as provided under the 1st Amended Rules of 2022 and Reservation Scheme of 2022 and not under any other rules or regulations. It is also an undisputed fact that the appellant gave a written undertaking dated 10-02-2025 at the time of his admission that the seat allotted to him is provisional and subject to change in speciality or to surrender the seat on any eventuality. It is also an undisputed fact that the appellant submitted an application on

26-02-2025 in his own hand writing stating that if there is any change in the seat allocation after his appointment, he will like the chance to participate in the upcoming Stray Round Counselling against the PG seats of Medicine and Pathology reserved for JNIMS sponsored candidates.

On the other hand, it is also undeniably on record that on becoming eligible to participate in the Stray Round Counselling due to lowering of the minimum cut-off percentile, the respondent No. 4 promptly submitted an application for allowing her to participate in such counselling. The respondent No. 4 again submitted a representation on 27-02-2025 to the authorities stating that the appellant must surrender the PG seat of Radiodiagnosis in terms of para. III of the Reservation Scheme of 2022 and thereafter, to allot the said seat to her as provided under the 1st Amended Rules as she has become eligible and entitled to get the said PG seat. In our considered view, there was no delay or lapses on the part of the respondent No. 4 in making a claim to the authorities to consider her case for admission against the PG seat in the Department of Radiodiagnosis as provided under the 1st Amended Rules of 2022 read with the Reservation Scheme of 2022 and that the authorities have unreasonably and without any justification failed to consider her claim in time. We are also of the opinion that the respondent No. 4 is entitled to have her case consider for admission against the lone PG seat in the Department of Radiodiagnosis, which is reserved for the JNIMS sponsored candidates, as provided under the 1st Amended Rules, 2022 read with the Reservation Scheme of 2022 and such entitlement cannot be deprived of only on account of the inaction on the part of the authorities and without any fault on the part of the respondent No. 4.

[42] The learned Single Judge, after taking into consideration the above factors and also taking into consideration that if the writ petition filed by the respondent No. 4 was decided on merit, either the appellant or the respondent No. 4 will be deprived of undergoing PG course and they will be made to suffer without any fault on their part, refrain from deciding the said writ petition on merit. Taking into consideration the fact that a vacant PG seat in the Department of Medicine is available against which the appellant can be accommodated, the learned Single Judge disposed of the writ petition filed by the respondent No. 4 by moulding the reliefs in such a way that both the appellant as well as respondent No. 4 can be accommodated for undergoing PG course in JINMS in the academic year 2024-2025 and also in order to protect the interest of both the candidates and to prevent victimisation of either of the said candidates without any fault on their part.

[43] Taking into consideration the facts and circumstances of the present case and the factors considered by the learned Single Judge and the efforts to protect the interest of both the appellant and the respondent No. 4 and also taking into consideration the submission advanced by the learned Advocate General that both the appellant and the respondent No. 4 can be accommodated for undergoing PG course in JNIMS for the academic year 2024-2025 in terms of the directions given by the learned Single Judge in the impugned judgment and order, we are of the considered view that it will be in the interest of both the appellant as well as the respondent No. 4 not to interfere with the impugned judgment rendered by the learned Single Judge and accordingly, we declined to do so. We direct the official respondents to expedite the necessary process for implementing

the directions given by the learned Single Judge in the impugned judgment and order immediately without any delay. With the above observations and directions, the present writ appeal is disposed of.

JUDGE

CHIEF JUSTICE

FR / NFR

Devananda