



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

S.B. Civil Writ Petition No. 8790/2023

Dr. Amit Mundel S/o Ramchandra Mundel, Aged About 29 Years,
Near Phula Bai Devara Mundelo Ka Bas, Khangata, Bhopalgarh,
District Jodhpur, Rajasthan.

-----Petitioner

Versus

1. Union Of India, Through Its Secretary, Ministry Of Health
And Family Welfare, New Delhi 110029.
2. All India Institute Of Medical Science Jodhpur (Aiims),
Through Its Director, Situated At Basni Iind Phase,
Jodhpur, Rajasthan.
3. Administrative Officer, All India Institute Of Medical
Science, Jodhpur (Aiims), Situated At Basni Iind Phase,
Jodhpur, Rajasthan.
4. Dean Academics, All India Institute Of Medical Science,
Jodhpur (Aiims), Situated At Basni Iind Phase, Jodhpur,
Rajasthan.
5. Director, All India Institute Of Medical Science Delhi,
Ansari Nagar, Nirman Bhawan, New Delhi.

-----Respondents

For Petitioner(s)	:	Dr. Nikhil Dungawat.
For Respondent(s)	:	Mr. Mukesh Rajpurohit, Deputy Solicitor General of India assisted by Mr. Prakash Raika & Dr. Pradeep, Vice Dean (Academics), AIIMS, Jodhpur.

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

06/01/2025

Heard learned counsel for the parties.



The present writ petition has been filed with a prayer that the respondent- AIIMS, Jodhpur may be directed to return the original documents to the petitioner as mentioned in the list of documents (Annex.3) and the respondents may be restrained from raising any illegal demand of forfeiting the amount deposited by the petitioner on account of his non-joining of the PG Course.

Briefly noted facts of the present case are that the petitioner after completing his Graduation appeared in the Common Entrance Test conducted for admission in PG/MD Course in the month of November, 2022. The result was declared and the petitioner secured his merit position at Serial No.22436. However, the petitioner did not participate in the main counseling rounds held by the respondents. Since the respondent AIIMS, Jodhpur had certain seats vacant and therefore, vide notification dated 24.02.2023, spot counseling was held for admission to PG/MD Courses on 27.02.2023. The petitioner participated in the spot counseling and was allotted a seat in Forensic Medicine Toxicology. The petitioner submitted his original documents but he did not deposit the Demand Draft of Rs.5,00,000/- (Rupees Five Lakhs), though he joined the course on 28.02.2023. The petitioner after joining the course did not feel convenient to continue with the course and therefore, he asked for returning all his original documents but the same was denied on account of the fact that he did not deposit the amount of Rs.5,00,000/-(Rupees Five Lakhs only). Hence, the petitioner has preferred the present writ petition before this Court.

Learned counsel for the petitioner vehemently argued that the demand of Rs.5,00,000/-(Rupees Five Lakhs only) is arbitrary



and unreasonable as there was no condition in the Notification for spot counseling which is placed on record as Annexure-2. He submits that the petitioner hails from a very humble background. He participated in the spot counseling only on the ground that there was no condition required for depositing the demand draft of Rs.5,00,000/-, therefore, the respondents cannot insist for deposition of the same and refuse to hand over the original documents to the petitioner. Learned counsel vehemently submits that the condition mentioned in the Brochure (Annex.1) has no application in the notification of spot counseling for PG admission. Learned counsel submits that since the spot counseling is a separate process, therefore, the conditions mentioned in Brochure (Annex.1) have no application for admission in the PG courses at AIIMS, Jodhpur.

Learned counsel further submits that in other AIIMS Institutions located at different places, there is a specific condition that in case, a candidate fails to join the desired course of PG, he will be charged penalty by forfeiture of amount deposited by him. However, learned counsel further submits that there was no such condition mentioned in the notification for spot counseling notified by the respondents. He further submits that in the subsequent spot counseling notification, the respondent- AIIMS has incorporated a condition that in case, a person is not joining or accepting the seat, the same will lead to imposition of penalty applicable to a student who resigns after admission. He submits that inclusion of such condition categorically shows that at the time when the petitioner appeared in the spot counseling, there



was no such condition, therefore, the petitioner cannot be charged with a huge sum of Rs.5,00,000/- (Rupees Five Lakhs).

Learned counsel further submits that in pursuance of the direction issued by this Court on 01.08.2023, the petitioner has deposited an amount of Rs.2,50,000/- (Rupees Two lakhs Fifty Thousand only) and the respondents have handed over the original documents to the petitioner. He also submits that the financial condition of the petitioner is not good, and therefore, he is not in a position to deposit balance amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only). He, therefore, prays that the writ petition filed by the petitioner may be allowed and the respondents may be restrained from raising the demand of Rs.5,00,000/- from the petitioner.

Per contra, learned counsel for the respondents vehemently opposed the submissions made by learned counsel for the petitioner. He submits that the spot counseling is a continuation of the process undertaken by the respondents for admission into PG Courses in pursuance of the Prospectus issued by the respondents in January, 2023 which is placed on record as Annexure-1. He submits that a detailed procedure has been prescribed in the prospectus, specifying the circumstances and conditions, under which allocation of seats will be made after holding requisite rounds of counseling. Learned counsel further submits that the spot round counseling is made only in a contingency when a particular institution has vacant seats and issuance of the notification (Annex.2) is nothing but only to fill up those seats which remained vacant after main round of the counseling. He submits that the spot counseling for PG admission courses is not a



separate or distinct process, rather the same is continuation of earlier rounds of counseling in which certain seats remained vacant and for filling those vacant seats, such counselings are held at respective centers. The conditions for main counseling enshrined in the main prospectus, are same which are applicable in the spot counseling. There is no separate prospectus or guidelines issued by the respondents for holding the spot counseling. He further submits that the petitioner appeared in the examination process and secured merit position No. 22436 and is quite aware of the fact of the process undertaken by the respondents to fill up the PG admission seats by the respective institutions. Since the prospectus elaborately mentions each and every condition, therefore, there is no need for issuance of separate guidelines for spot counseling. Thus, the petitioner was under an obligation to deposit the amount of Rs.5,00,000/- while submitting his original documents for the seat offered to him for PG Course. He submits that point No.4 of Annexure-R/1 is nothing but a clarification of the conditions mentioned in the original prospectus.

Learned counsel, in these circumstances, submits that the respondent – AIIMS is well within its right to ask for the Demand Draft of Rs.5,00,000/- for releasing the original documents of the petitioner in the event of not continuing with the seat offered to him. He submits that the seat which has now been vacated by the petitioner shall now remain vacant throughout the Session and the institute will have to bear the burden of non-joining of the Course by the petitioner.



I have considered the submissions made at the Bar and gone through the relevant record of the case.

Undisputed facts narrated above clearly show that the petitioner appeared in the Common Entrance Test held by the respondents in the year 2023 for admission into the Post Graduate Courses mentioned in brochure - Annex.1. The brochure - Annex.1 is the prospectus for holding the examinations for admission to PG Courses at the Centres mentioned therein. The detailed procedure mentioned in the prospectus (Annex.1) through flow chart reads as under:-

INI-CET:Process-Map		
I. Application →	II. Examination →	III. Seat Allocation
Registration & Basic Candidate Information ↓	Admit Card ↓	Mock Round>>1 st Round ↓
Generation of Exam Unique Code (EUC) for applying for January 2023 Session ↓	Computer Based Test ↓ Declaration of Results ↓	2 nd Round ↓ Additional Round, if needed ↓ Open Round ↓
Completion of Application (Application for January 2023 Session)	Invitation of choice & order of preference	Spot Round, if needed

A bare perusal of the same clearly goes to show that for allocation of the seats, there are mock rounds. In this first round, if certain seats are not filled in, then second round takes place and if that also does not complete the seat matrix of the institute, then additional rounds are taken and thereafter open rounds are taken and finally if the respective Institutions are still having certain vacant seats, then spot counseling round is also held at the respective centres. For holding the spot round, the respective institute issues a Notification projecting the number of vacant seats available at its centre and all those candidates who have



participated in the examination are allowed to participate in that spot round. The conditions mentioned in the prospectus very clearly reflect that in the event a Post Graduate Student of AIIMS, Jodhpur leaves the course during counseling, the student shall be liable to pay Rs.3,00,000/- (Rupees Three Lakh Only) and after the last date of joining of last open counseling, he/she shall be liable to pay a sum of Rs.5,00,000/- (Rupees Five Lakh Only) by way of compensation/losses incurred by AIIMS, Jodhpur due to such midstream departure. The petitioner should have been well aware of this condition as the pre-condition of leaving the course is very well enumerated in the prospectus mentioned above. The AIIMS, Jodhpur was having certain seats available and, therefore, the spot counseling for PG Admission Course was undertaken and since the petitioner was falling in the merit, he chose to appear in the spot counseling. Thus, in the humble opinion of this Court, the conditions mentioned in Annexure-1 Prospectus for admission into PG Courses shall be applicable even if the same are not mentioned in the spot counseling Notification – Annexure-2. This court is of the view that spot counseling held by the AIIMS, Jodhpur is a continuation of the process undertaken by it for filling up the vacant seats in Post Graduate Course in the year 2023. In these circumstances, the petitioner was under an obligation to deposit a demand draft of Rs.5,00,000/- (Rupees Five Lakh) as mentioned in the condition of the prospectus discussed above.

The argument of learned counsel for the petitioner that only in the subsequent notification, the respondents have placed this condition of charging any penalty, if a student resigns after admission, he is not liable to pay Rs.5,00,000/- (Rupees Five



Lakhs) is noted to be rejected as by way of the subsequent notification, the respondents have clarified the position enshrined in their original prospectus and in order to avoid any confusion and litigation, such certification has been issued. The issuance of such clarification of this condition will not mean that at the time of spot counseling, of the petitioner, there was no such condition of depositing Rs.5,00,000/- (Rupees Five Lakhs). Since the original prospectus contains this condition and spot counseling is a part of that process, therefore, in the opinion of this Court, it was already in existence and the same has been clarified by issuance of the specific condition in the subsequent notification. The petitioner cannot be extended any benefit on account of such condition being mentioned by the respondents in their subsequent notification.

The argument of learned counsel for the petitioner that AIIMS located at different locations were prescribing such condition in the notification for spot counseling, will not be of any help to the petitioner, as it has already been held in the preceding paras by this Court that original prospectus for admission to the PG Course at different centers mentioned in Annex.1 clearly prescribes the condition of deposition of Rs.5,00,000/-(Rupees Five Lakhs only) in the event of leaving the course by a candidate in between or resigning from the course, such candidate will be penalized for the amount mentioned therein. Therefore, if such condition has not been mentioned by the AIIMS, Jodhpur in the notification for spot counseling, no illegality can be alleged to have been committed and the petitioner cannot derive any benefit out of the same.



It is also noted by this court that the seat vacated by the petitioner will remain vacant as AIIMS, Jodhpur will not be able to admit any student on the same and, therefore, will have to suffer the loss caused by the vacancy created by the petitioner.

In view of the discussion made above, this court finds no merit in the writ petition. Consequently, the same is hereby dismissed.

Since, the petitioner has already taken the original documents in view of the interim order passed by this court, therefore, the petitioner is directed to deposit balance amount of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only). If the petitioner fails to deposit this balance amount, the respondents will be free to recover the same in accordance with law.

(VINIT KUMAR MATHUR),J

1-Anil Singh/-