IN THE HIGH COURT OF MADHYA PRADESH, JABALPUR

BEFORE
SHRI JUSTICE SUJOY PAUL
&
SHRI JUSTICE ARUN KUMAR SHARMA
ON THE 9nd FEBRUARY, 2022

WRIT PETITION No. 2357 of 2022

BETWEEN :-

Madhav Shrama,

Permanent resident of:

……..**Petitioner**

(By Shri Suyash Mohan Guru, Advocate.)

AND

1. State of Madhya Pradesh
   through Director Medical Education,
   Satpura Bhavan, Bhopal.

2. M.P. Online Limited
   Through authorized representative,
   Block-OB-14 to 17, 4th Floor,
   DB City Corporate Park, Arera Hills,
   M.P. Nagar, Bhopal (M.P.)

3. Union of India
   through its Secretory,
   Ministry of Health and Family Welfare,
   Nirman Bhavan,

New Delhi 110011.

4. National Testing Agency
Through its Director
First Floor, NSIC-MDBP Building,
Okhla Industrial Estate,
New Delhi, Delhi 110020.

…..**Respondents**

(By Shri Pradeep Singh, Government Advocate.)

(Heard through Video Conferencing)

Whether approved for reporting	Yes.
Law Laid down :-	

O R D E R

Sujoy Paul, J.:-

The singular question involved in this petition filed under Article 226 of the Constitution is whether petitioner after filling up the form of counselling and inserting 'No' before the entry whether he is domicile of State of M.P. can ask for a change in the entry relating to domicile and take benefit arising thereto.

2. Indisputably, petitioner preferred his candidature for MBBS and BDS Courses and appeared in the NEET U.G. Examination, 2021. By placing reliance on the educational qualification, certificates of Class-X and Class-XII of petitioner (Annexure P-1 and P-2 respectively), Shri S. M. Guru learned counsel submits that petitioner cleared both the examinations from State of M.P. Annexure P-3 is a domicile certificate of petitioner's father wherein the name of petitioner is also mentioned. Annexure P-4 is the form

through which petitioner submitted his candidature for NEET Exam wherein his permanent address of Gohad, Bhind (M.P.) is mentioned. Shri S. M. Guru, learned counsel further submits that after getting the score card of NEET Test (Annexures P-5) when petitioner was required to fill up the counselling form, he committed an inadvertent mistake and in front of relevant entry whether he belongs to M.P. Domicile, he mentioned in capital letters as 'No'. In the result, the respondents in the impugned merit list treated the petitioner as a candidate not belonging to M.P. Domicile. This action of the respondents has a drastic impact on the petitioner's fate. If petitioner is treated to be a candidate having M.P. Domicile, his chances to get a government institution in State of Madhya Pradesh will be on higher footing in comparison to a situation which is flowing from the impugned merit list**.**

3. The bone of contention of Shri S. M. Guru learned counsel is that the documents Annexures P-1, P-2 and P-3 coupled with the entry of form Annexure P-4 makes it clear that petitioner is a permanent resident of Madhya Pradesh. Thus, a technical mistake committed by him while entering 'No' in the counselling form (Annexure P-8). This should not deprive him from the fruits of domicile which he otherwise possess.

4. Learned counsel for the petitioner fairly submits that as per **Madhya Pradesh Medical Education Admission Rules, 2018** (in short **'Rules'**), the respondents have made it clear that after registration, no information furnished by candidate shall be permitted to be changed, modified or additional information shall be accepted. Shri Guru urged that this rule should not be given literal interpretation. Otherwise, it will defeat the very

purpose of grant of benefit of domicile. This is a curable defect, which can be permitted to be cured. **(2016) 7 SCC 478** (***Kedar Mishra Vs. State of Bihar and Others)*** was relied upon to contend that the technical objection should not prevail over the purpose and object of the enactment. **(2012) 5 SCC 511** ***P.A. Mohammed Riyas Vs. M.K. Raghavan and Others*** is relied upon to contend that a curable defect may be permitted to be cured. For the same purpose **AIR 2000 SC 1261** ***Molar Mal (dead) through LRs. Vs. M/s. Kay Iron Works (P) Ltd.*** is relied upon. Judgment of Supreme Court **(2015) 1 SCC 617** ***Bhagwati Vanaspati Traders Vs. Senior Superintendent of Post Offices, Meerut*** is relied upon to contend that curable defects can be permitted to be cured notwithstanding any statutory provision. Lastly, **AIR 2002 SC 2877** ***Kailash Chand Sharma Vs. State of Rajasthan and others*** and **(2005) 9 SCC 779** ***Dolly Chhanda Vs. Chairman, JEE and Others*** were relied upon to bolster the submission that the merit should be given preference over any technicality.

5. Sounding a contra note, Shri Pradeep Singh, learned Government Advocate for the State submits that petitioner submitted the registration form on 23.12.2021 whereas last date was 21.01.2022. The petitioner submitted his form on 23.12.2021 but did not take any pains to correct the mistakes before last date of submission of form i.e. 21.01.2022.

6. The Division Bench judgment of this Court in **W.P. No.14736/2019 (*Ayushi Saraogi vs. State of Madhya Pradesh and others*)** (Annexure R/4) is relied upon in which the Court has interpreted Rule 6 of the **Admission Rules.** In view of this Division Bench order, Shri Singh, submits that Rule 6 is plain and clear and as per this Rule, no modification, amendment or change in the entry already made is permissible.

7. The next contention of learned Government Advocate is that when language of Rule 6 is absolutely clear which prohibits any correction, this Court is under no obligation to pass an order which runs contrary to statutory Admission Rules. Reliance is placed on **Maharishi Daynanda University v. Surjeet Kaur 2010(11) SCC 159**.

8. In rejoinder submissions, Shri Guru submits that all the judgments cited by the respondents are distinguishable. The Division Bench of this Court was dealing with a request of changing the caste from OBC to General whereas here the petitioner is seeking change in the category as 'domicile' from 'non-domicile'. The judgment of Supreme Court in ***Molar Mal (dead) through LRs. Vs. M/s. Kay Iron Works (P) Ltd.*** **AIR 2000 SC 1261** was again pressed into service to urge that object of the statute must be given due importance.

9. Parties confined their arguments to the extent indicated above.

10. We have heard learned counsel for the parties at length and perused the record.

11. Before dealing with rival contentions advanced at the Bar, it is apposite to quote Rule 6 of Admission Rules, which is reads as under :-

> "6. **पंजीयन** – चयन परीक्षा में उत्तीर्ण अभ्यर्थी को पोर्टल पर आवश्यक जानकारी देते हुए विनिर्दिष्ट समय–सीमा के भीतर पंजीयन कराना होगा। अभ्यर्थी को पंजीयन के लिए आवश्यक समस्त जानकारी पोर्टल पर, पंजीयन के प्रपत्र में उपलब्ध कराना होगी। जानकारी अपूर्ण होने की दशा में पंजीयन नहीं हो सकेगा। **पंजीयन पश्चात् पंजीयन में दी गई जानकारी में परिवर्तन, संशोधन अथवा अतिरिक्त जानकारी प्रदाय अथवा स्वीकार नहीं की जाएगी।"**

12. The very same Rule 6 became subject matter of consideration in the case of **Ayushi Saraogi (supra)**, the Division Bench opined as under :-

> "Having heard the learned counsel for the parties at length, we are of the considered opinion that sanctity of the entire admission process will be maintained only when the authorities strictly follow the provisions of the rules. A perusal of the provisions of Rule 6 of the Rules of 2018, makes it abundantly clear that the information filled up by the candidate at the time of registration would be final and will not be permitted to be changed or amended later on. The aforesaid rule is of significance and is mandatory. We are constrained to say so, as In case the **said rule is interpreted liberally and the authorities are permitted to change the information mentioned by the candidate in the registration form, that would lead to chaos in the admission process and would also permit unscrupulous persons to misutilize the provisions of the Rules violating the sanctity of process of admission.**
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> In the circumstances, we do not find any merit in the petition nor do we find any merit in the prayer made by petitioner for a direction to the respondent authorities to violate their own rules, mainly Rule 6. We are of the considered opinion that this Court in exercise of powers under Article 226 of the Constitution of India cannot direct the authorities to violate their own rules as nothing could be more subservient to the Rule of law."
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> **(Emphasis Supplied)**

13. The plain reading of the said findings of the Division Bench leaves no room for any doubt that aforesaid Rule was treated to be binding and mandatory.

14. This is trite that if language of a statute is plain and unambiguous, it should be given effect to irrespective of the consequences as expounded in **Nelson Motis v. Union of India and another 1992 (4) SCC 711** and in **P. Gopalkrishnan Alias Dileep Vs. State of Kerala and Another (2020) 9 SCC 161.** Para-20 of **P. Gopalkrishnan (supra)** reads as under:

> "It is well established position that when the statute is unambiguous, the Court must adopt plain and natural meaning irrespective of the consequenses expounded in **Nelson Motis v. Union of India and another.** On a bare reading of 207 of the 1973 Code, no other interpretation is possible".

15. The language of Rule 6 aforesaid, in our opinion is plain, clear and unambiguous. Thus, it should be given effect to in spite of any consequence. The purpose of inserting Rule 6 is already dealt with in sufficient detail by the previous Division Bench in **Ayushi Saraogi (supra).** We are in respectful agreement with the view taken by the Division Bench in the case of **Ayushi Saraogi (supra).** If any other interpretation is given to the said Rule, it will certainly defeat the very purpose of inserting the said Rule in the statute book. Rule 6 is inserted by law maker with a conscious view that if position or factual aspects are permitted to be changed, it will create chaos for the examining authorities.

16. In the case of **Surjeet Kaur (supra),** the Apex Court considered the previous judgments on the point and opined as under :-

> "**11.** It is settled legal proposition that neither the court nor any tribunal has the competence to issue a direction contrary to law and to act in contravention of a statutory provision. The Court has no competence to issue a direction contrary to law nor the court can direct an authority to act in contravention of the statutory provisions.
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> **12.** In *State of Punjab* v. *Renuka Singla* [(1994) 1 SCC 175], dealing with a similar situation, this Court observed as under:
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> "*8*. … We fail to appreciate as to how the High Court or this Court can be generous or liberal in issuing such directions which in substance amount to directing the authorities concerned to violate their own statutory rules and regulations…."
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> **13.** Similarly, in *Karnataka SRTC* v. *Ashrafulla Khan* [(2002) 2 SCC 560 : AIR 2002 SC 629] , this Court held as under:

> "*27.* … The High Court under Article 226 of the Constitution is required to enforce rule of law and not pass order or direction which is contrary to what has been injuncted by law."
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> **(Emphasis Supplied)**

17. This judgment makes the legal position clear like a cloudless sky. If constitutionality of a Rule is not called in question, by adopting an interpretative process, we cannot defeat the plain language and purpose of the Rule. We are unable to accept the contention of learned counsel for the petitioner that present defect was curable and Rule is not coming in the way of the petitioner.

18. The judgments cited by learned counsel for the petitioner are based on different factual backdrop and different statutory provisions. Although heavy reliance was placed on the judgment of the Supreme Case in **Molar Mal** (supra). Suffice it to say, in our view, the object to frame admission rules was to prescribe a procedure for the purpose of admission process. While doing so, Rule makers have provided specific methods, checks and prohibitions to ensure smooth conduct of examination/ selection. Thus, object of said rule cannot be stretched in the manner suggested by learned counsel for the petitioner. The judgments cited by learned counsel for the petitioner cannot be pressed into service in the facts and circumstances of the present case.

19. In view of foregoing analysis, no case is made out for our interference. The petition fails and is hereby **dismissed.**

(SUJOY PAUL)
JUDGE

(ARUN KUMAR SHARMA)
JUDGE

Ahd/rc/manju/bks