

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
ATJAMMU**

(i) OWP No. 1884/2017 c/w

Reserved on: 29.07.2026.

Pronounced on: 27.08.2026

Uploaded on : 27.08.2026.

01. Simron Randhawa
D/o Sh. Raj Pal Singh
R/o H.No. 98, Ward No. 1
Nanak Nagar, Jammu.
02. Meenakshi Panotra
D/o Sh. Kuldeep Raj
R/o Rattnu Chak, Jammu.
03. Sheenam Gupta
D/o Sh. Suresh Gupta
R/o Shaurya Agro Products Main
Road, Thickerrian, R.S. Pura,
District Jammu.
04. Mavish Jabeen
D/o Sh. Zubaid Hussain
R/o H.No. 95, Mohalla Saaj,
Thanamandi, District Rajouri.
05. Prabjot Kour
D/o Sh. Bhupinder Singh
R/o 33, Exchange Road Jammu.
06. Sherill Ratish D/o Sh. Ratish Gupta
R/o H.No. 74, Lane No. 2, Patel
Nagar, Talab Tillo, Jammu.
07. Deepraj Singh
S/o Sh Jatinder Singh
R/o H.No. 163 Sector -7 Lane No. 6
Nanak Nagar, Jammu.
08. Shantanu Gupta
S/o Sh. Vinay Gupta
R/o 209/A Gandhi Nagar, Jammu.
09. Peerzada Sharik Gul

S/o Sh. Showket Ahmad Masoodi
R/o New Colony Bijbehra,
Anantnag, Kashmir,
At Present: Hostel, Institute of
Dental Sciences Village Sehora,
Kunjwani Bishnah Road, Tehsil &
District Jammu.

10. Annie JamwalAppellant/Petitioner(s)
D/o Sh. Sumant Singh
R/o 11-Extn., Ward No. 9, Karan
Nagar Jammu.

Through: - Mr. Rahul Pant, Sr. Adv. with
Mr. Anirudh Sharma, Advocate.

v/s

01. Union of India through its Secretary
Ministry of Health & Family Welfare
Government of India, Nirman Bhawan,
New Delhi-110002.
02. Dental Council of India,
Alwan-E-Galib Marg, Kotla Road,
New Delhi-110002,
Through its secretary.
03. University of Jammu,
Baba Ambedkar
Marg, Jammu-180006
Through its Vice Chancellor
04. Institute of Dental Sciences,
Village Sehora, Kunjwani Bishnah
Road, Tehsil & District Jammu (J&K)
Through its Principal.Respondent(s)

Through :- Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC.
Mr. Ajay Abrol, Adv. for R-3.
Mr. Sunil Kumar Maini, Adv. with
Mr. Raj Kamal Gupta, Adv. for R-4

(ii) OWP No. 1882/2017

Institute of Dental Sciences,
Village Sehora, Kunjwani
Bishnah Road, Tehsil & District
Jammu(Union Territory of
Jammu & Kashmir) (in short,
UT of J&K) Through its
Chairman, Dr. Raj Kumar
Suri, S/o Late Sh. Charanjit
Suri, R/o 64 A/D, Gandhi
Nagar, Jammu (UT of J&K)

.....Appellant/Petitioner(s)

Through: Mr. Sunil Kumar Maini, Adv.
with
Mr. Raj Kamal Gupta, Advocate.

Vs.

01. Union of India through its
Secretary, Ministry of Health
& Family Welfare
Government of India, Nirman
Bhawan, New Delhi-110002.
02. Dental Council of India,
Alwan-E-Galib Marg, Kotla
Road, New Delhi-110002,
Through its Secretary.
03. University of Jammu,
Baba Ambedkar Marg,
Jammu-180006
Through its Vice Chancellor



.....Respondent(s)

Through: Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC.
Mr. Ajay Abrol, Adv. for R-3.

CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

JUDGMENT

1. By this common judgment, both writ petitions, which arise out of the same factual matrix and involve substantially identical questions of fact and law, are being taken up together for consideration and disposal. The controversy relates to the admission of ten students to the Bachelor of Dental Surgery (BDS) course in the Institute of Dental Sciences, Sehora, Jammu (*hereinafter referred to as "the Institute"*), for the academic session 2016–17. The Institute is affiliated with the University of Jammu and has a sanctioned annual intake of 100 students in the BDS course. Of these 100 seats, 60 constitute the Management Quota and the remaining 40 constitute the State Quota.
2. The case projected by the petitioners is that, prior to the academic session 2016–17, admissions against the State Quota seats were ordinarily made on the basis of merit secured in the Common Entrance Test conducted by the Jammu and Kashmir Board of Professional Entrance Examinations ("BOPEE"), whereas the Management Quota seats were filled through the entrance examination conducted by the Association of Private Unaided Medical

and Dental Colleges of Jammu and Kashmir, subject to the applicable statutory and regulatory framework.

3. It is further pleaded that, during the academic sessions 2010–11 to 2015–16, ten seats were being filled from amongst genuine NRI candidates on the basis of their inter se merit determined with reference to marks obtained in the qualifying 10+2 examination or equivalent examination. The petitioners have referred, in this regard, to the regulatory regime operating in the erstwhile State of Jammu and Kashmir, particularly the Jammu and Kashmir Private Medical Education Institutions (Selection and Admission) Rules, 1996, as subsequently amended.
4. The petitioners also rely upon the distinction between the regulatory position governing MBBS admissions and that governing BDS admissions. It is their case that, although the Medical Council of India (“MCI”), by circular dated 16.01.2015, had sought to prescribe Common Entrance Test merit for NRI admissions to MBBS courses, the said circular was subsequently set aside and withdrawn. According to the petitioners, no corresponding circular had been issued by the Dental Council of India (“DCI”) specifically requiring NRI candidates seeking admission to the BDS course, under the regulatory regime then prevailing, to qualify a particular

common entrance examination prior to the introduction of NEET.

5. A material change in the statutory regime occurred with the introduction of Section 10D by the Dentists (Amendment) Act, 2016, with effect from 24.05.2016. Section 10D contemplated a uniform entrance examination, namely the National Eligibility-cum-Entrance Test (“NEET”), for admission to undergraduate and postgraduate dental courses. The controversy in the present proceedings, however, arises in the context of the transitional academic session 2016–17 and the exemption granted in respect of Government/State Quota seats in certain States, including Jammu and Kashmir.
6. The specific case of the petitioners is that, notwithstanding the introduction of Section 10D, Government/State Quota seats in Jammu and Kashmir were, for the academic session 2016–17, exempted from the requirement of admission on the basis of NEET and continued to be governed by the State admission mechanism. The significance of this exemption lies at the heart of the present controversy, for the legality of the ten admissions would substantially depend upon whether the seats against which the students were admitted retained their character as State Quota seats or were,

instead, independent NRI/Management Quota seats. For the academic session 2016–17, all 60 Management Quota seats in the Institute were admittedly filled on the basis of NEET merit. There is no controversy regarding those admissions. Of the remaining 40 State Quota seats, however, BOPEE was able to fill only 22. Consequently, 18 seats earmarked as State Quota seats remained vacant after completion of the BOPEE process.

7. The case now specifically pleaded by the Institute is that, in exercise of the authority available to it under the Jammu and Kashmir Private Medical Education Institutions (Selection and Admission) Rules, 1996, as amended from time to time, it proceeded to fill those 18 vacant seats so that sanctioned seats in a professional course would not remain unutilised. Eight of those seats were filled by candidates who had qualified NEET-2016, whereas the remaining ten were filled from amongst genuine NRI candidates on the basis of their inter se merit in the qualifying examination. The admissions were completed before 15.10.2016, i.e., within the permissible admission schedule. The University thereafter issued roll numbers to the students and the Institute furnished particulars of all 100 admitted candidates to the DCI.

8. The dispute surfaced when the DCI, by communication dated 23.08.2017, directed the Institute to discharge the ten NRI students on the ground that they had not qualified NEET-2016 and that their admissions were, therefore, contrary to Section 10D of the Dentists Act and the applicable regulatory framework. The record indicates that the Executive Committee of the DCI had taken the relevant decision on 09.03.2017, although the same was communicated to the Institute only subsequently.
9. Aggrieved by the aforesaid action, the Institute as well as the affected students instituted the present writ petitions. Interim protection came to be granted in favour of the students. The Institute contends that, by the time the impugned direction was communicated, the students had already completed a substantial part of the first year and had progressed in their professional studies.
10. The University of Jammu and the DCI have opposed the petitions. Their principal submission is that qualification in NEET was mandatory for candidates admitted under the NRI category during the academic session 2016–17. According to them, the statutory exemption granted to Jammu and Kashmir was confined to Government/State Quota seats and could not be invoked to validate admissions made

against an independent NRI quota. Considerable reliance has also been placed by the respondents upon the advertisements issued by the Institute itself. In the advertisement dated 12.09.2016, the Institute required NRI candidates to have qualified NEET. A subsequent advertisement dated 17.09.2016 prescribed qualification in the 10+2 examination with the requisite subjects and marks and stated that preference would be accorded to candidates who had qualified NEET. According to the respondents, the advertisements demonstrate that the Institute itself understood NEET qualification to be relevant, if not mandatory, for NRI admissions. The DCI accordingly maintains that, the ten students admittedly not having qualified NEET-2016, their admissions were void ab initio and incapable of being validated by subsequent events. Reliance has been placed, inter alia, upon the order of the Supreme Court in *Vigyan Bharti Trust v. Union of India & Ors.* and upon the BDS Regulations governing admissions.

11. During the pendency of the writ petitions, the Institute moved an application dated 26.04.2022 seeking amendment of its pleadings in light of subsequent judicial developments concerning admissions of non-NEET-qualified candidates to BDS courses during the academic session 2016–17. The

amendment was allowed by this Court on 12.06.2023. In the amended pleadings, the Institute specifically clarified that the ten students were not admitted against any independent NRI quota over and above the sanctioned or prescribed seat matrix. Its case is that they were admitted against ten of the 18 State Quota seats which had remained vacant after BOPEE had concluded its admission process.

12. The respondents contend that this amended pleading is an attempt to improve upon or alter the original case, since the students had initially been described as NRI-category admissions. That objection, however, cannot, by itself, determine the legality of the admissions. Once the amendment was permitted by this Court and became part of the pleadings, the Court is required to adjudicate the controversy on the basis of the pleadings as they presently stand, read with the contemporaneous record. More importantly, nomenclature employed by a party cannot conclusively determine the legal character of a seat. That question must be answered by examining the sanctioned seat matrix, the quota to which the seat originally belonged, the applicable statutory regime and the circumstances in which the vacancy arose and was subsequently filled.

13. In the backdrop of the rival submissions, the following principal questions arise for determination:

(i) Whether the Institute was legally competent to fill the 18 State Quota seats which remained vacant after completion of the BOPEE admission process;

(ii) Whether, for the academic session 2016–17, qualification in NEET was mandatory in respect of Government/State Quota BDS seats in Jammu and Kashmir;

(iii) Whether the ten students were admitted against an independent NRI/Management Quota or against seats which continued to form part of the vacant State Quota; and

(iv) Depending upon the answers to the aforesaid questions, whether the DCI was justified in directing discharge of the ten students solely because they had not qualified NEET-2016.

14. Before examining the legal issues, certain foundational facts, which are either admitted or not seriously disputed, deserve to be identified. The sanctioned annual intake of the Institute was 100 BDS seats. Sixty seats formed part of the Management Quota and all 60 were filled on the basis of NEET merit. The remaining 40 seats constituted the State Quota. BOPEE could fill only 22 out of those 40 State Quota seats. Eighteen seats consequently remained vacant. Thereafter, eight NEET-qualified candidates and the ten students with whom the present proceedings are concerned

were admitted. The total number of admissions did not exceed the sanctioned intake of 100.

15. It is also significant that all the admissions in question were completed before the prescribed cut-off date. Nothing placed before this Court suggests that any of the ten students was admitted after expiry of the permissible admission schedule. This circumstance assumes importance when the respondents' reliance upon decisions dealing with admissions made after the statutory cut-off date is considered.
16. SRO-297, which amended the Jammu and Kashmir Private Medical Education Institutions (Selection and Admission) Rules, 1996 notified through SRO-46, enhanced the permissible percentage of NRI admissions from 5% to 10%. In an institution having an annual sanctioned intake of 100 seats, the permissible number of admissions from amongst NRI candidates could, therefore, extend to ten, subject to fulfilment of the conditions prescribed by law.
17. The position concerning NEET during the academic session 2016–17 is equally material. Section 10D introduced NEET as the uniform entrance examination for admission to dental courses. However, the academic session 2016–17 was a transitional year in which an exception was made in respect

of Government/State Quota seats of States which continued with their own entrance examination or admission mechanism.

18. The communication dated 12.07.2017 issued by the Ministry of Health and Family Welfare, which forms part of the record, lends support to the contention that Government/State Quota seats in dental colleges situated in Jammu and Kashmir, along with similarly situated States and Union Territories, were exempted from the NEET requirement for the academic session 2016–17, subject to the State having exercised the permissible option.
19. Thus, the proposition that every BDS seat in Jammu and Kashmir, irrespective of the quota to which it belonged, necessarily required NEET qualification during the academic session 2016–17 cannot be accepted without qualification. The statutory and regulatory position requires the Court first to identify the quota to which the disputed seats belonged. If the seats were Management Quota/NRI Quota seats, one set of consequences may follow. If, however, they continued to be State Quota seats falling within the transitional exemption, the matter would stand on an entirely different footing.

20. This brings the Court to what is, in substance, the central issue in the case: whether the ten students were admitted against an independent NRI quota or against ten vacant State Quota seats. In determining that issue, a distinction must necessarily be maintained between the category or status of a candidate and the character of the seat against which the candidate is admitted. These are conceptually distinct matters. A candidate may possess NRI status, but it does not inexorably follow that every seat occupied by such candidate acquires the legal character of an NRI or Management Quota seat. The character of a seat must ordinarily be traced to the sanctioned seat matrix and the regulatory framework under which the seat was earmarked. A seat which formed part of the State Quota does not automatically cease to be a State Quota seat merely because, after the State counselling mechanism has been exhausted, it is filled by an eligible candidate belonging to a particular category. Conversion of the character of a seat must have some basis in law or in the applicable admission rules; it cannot be inferred solely from the personal status of the candidate eventually admitted against it.
21. In the present case, the sanctioned seat matrix assumes decisive significance. All 60 Management Quota seats had

already been filled on NEET merit. There was, therefore, no unfilled Management Quota seat against which the ten disputed admissions could ordinarily be adjusted. What remained vacant were 18 seats out of the 40 seats earmarked for the State Quota. The record further indicates that eight of those 18 vacant seats were filled by NEET-qualified candidates. The remaining ten were filled by candidates possessing NRI status. Unless the respondents are able to demonstrate that, by operation of a statutory provision or binding regulation, those ten seats stood converted from State Quota seats into independent NRI/Management seats, the mere NRI status of the candidates cannot, by itself, bring about such conversion.

22. The respondents' argument, in substance, proceeds from the description of the candidates as NRI candidates to the conclusion that the seats must necessarily have been NRI seats. Such reasoning reverses the proper inquiry. The first question is: to which quota did the vacant seats belong? Only thereafter does the question arise whether the candidates selected for those seats satisfied the eligibility and merit requirements legally applicable to that quota. Tested on that basis, the material on record supports the Institute's case that the ten admissions were made against

seats which had originally formed part of the 40-seat State Quota and which had remained vacant after BOPEE could fill only 22 seats. The admissions did not encroach upon the 60 Management Quota seats, nor did they increase the sanctioned intake beyond 100.

23. The regulatory history relating to NRI admissions also requires consideration. The MCI circular dated 16.01.2015 requiring NRI admissions to MBBS courses to be based upon Common Entrance Test merit was quashed by the Karnataka High Court. The Special Leave Petition against that decision was dismissed by the Supreme Court on 06.07.2015, whereafter the circular was withdrawn. The material placed before this Court indicates that no corresponding DCI circular specifically governing NRI admissions to BDS courses had been issued at the relevant point of time.
24. Section 10D undoubtedly introduced NEET as the uniform entrance examination. The Court cannot dilute that statutory mandate. At the same time, the statutory mandate has to be applied in the manner in which it operated during the particular academic session under consideration. The academic session 2016–17 was subject to the transitional exemption relating to Government/State Quota seats. The

decisive question, therefore, remains whether the ten seats fell within that exempted quota.

25. The petitioners have relied upon ***“T.M.A. Pai Foundation v. State of Karnataka”***, (2002) 8 SCC 481; ***“Islamic Academy of Education v. State of Karnataka”***, (2003) 6 SCC 697; ***P.A. Inamdar v. State of Maharashtra***, (2005) 6 SCC 537; and ***Modern Dental College***, decided on 02.05.2016, in support of the proposition that private unaided professional institutions enjoy a measure of autonomy in matters of admission, though such autonomy remains subject to valid statutory regulation and to the overriding requirements that the admission process be fair, transparent, merit-oriented and non-exploitative.
26. Particular reliance has been placed upon *P.A. Inamdar*, wherein the Supreme Court considered the position of NRI seats in private professional institutions. The Supreme Court recognised that a limited percentage of seats could be made available to genuine NRI candidates, subject to safeguards intended to prevent misuse of the quota and subject also to the requirement that merit should not be completely sacrificed. The principle emerging from *P.A. Inamdar* is, therefore, not that an institution enjoys an unrestricted power to admit any candidate merely on the

basis of NRI status. The principle is that a limited NRI dispensation can be recognised, but it must operate bona fide, within the prescribed ceiling, and through a mechanism which does not altogether abandon merit.

27. In the present case, the ten candidates were selected within the 10% ceiling contemplated under the applicable State regulatory framework. Their inter se merit was determined with reference to marks obtained in Physics, Chemistry and Biology in the qualifying examination. Significantly, it is not alleged that any of the ten students was a fictitious or non-genuine NRI candidate, that any lacked the minimum academic qualification for admission to the BDS course, that the selection was made after the cut-off date, or that the sanctioned intake was exceeded. The objection of the respondents is essentially confined to the absence of NEET qualification. That objection would undoubtedly be decisive if the ten seats were seats to which NEET mandatorily applied. It loses that decisive character, however, if the seats were vacant State Quota seats falling within the exemption applicable to Jammu and Kashmir for the academic session 2016–17.

28. The next question is whether, after BOPEE had exhausted the State counselling process, the Institute could lawfully fill

the seats which remained vacant. The record indicates that candidates selected through BOPEE were required to report to their allotted institutions on or before 28.09.2016. Against the 40 State Quota seats available in the petitioner-Institute, only 22 candidates ultimately joined through BOPEE. The resultant 18 vacancies are supported by the information furnished by BOPEE and brought on record with the amended writ petition.

29. The Institute relies upon SRO-46 read with SRO-297 as the source of its authority to fill the vacancies in the circumstances then prevailing. The respondents have not demonstrated that, after completion of the BOPEE process, the Institute was under an absolute statutory prohibition against filling the remaining seats before the final cut-off date, even where otherwise eligible candidates were available.
30. This aspect cannot be viewed in isolation from the purpose underlying the admission schedule. The object of prescribing a centralised selection process and a final cut-off date is to ensure fairness, transparency, merit and certainty in professional admissions. It is not ordinarily an object of the regulatory regime that sanctioned seats in recognised professional institutions should remain vacant despite the

availability of eligible candidates, unless the law expressly produces that consequence.

31. Reference in this regard may appropriately be made to ***“Index Medical College, Hospital and Research Centre v. State of Madhya Pradesh & Ors.”, AIR 2021 SC 3090.***

The Supreme Court emphasised that keeping recognised medical seats vacant entails not only financial loss to educational institutions but also a national waste of educational resources, and that a regulatory restriction preventing the filling of seats must bear a rational nexus with the object sought to be achieved.

32. The said decision cannot, of course, be read as authorising an institution to disregard mandatory eligibility requirements or to make admissions contrary to a statutory scheme. Its relevance to the present case lies in the broader principle that a regulatory regime should not be interpreted so as to compel wastage of sanctioned professional seats unless such consequence is clearly required by law. Here, the Institute had 18 actual vacancies within its sanctioned State Quota. The admissions were completed within the prescribed time. The sanctioned intake was not exceeded. There is no allegation that any candidate having a superior enforceable claim to those seats was displaced. Nor has it

been shown that the filling of these seats prejudiced any candidate selected through BOPEE.

33. In these circumstances, if the State regulatory framework authorised the Institute to fill the residual vacancies after exhaustion of the BOPEE process, the exercise of such authority cannot be invalidated merely because the Institute chose to fill otherwise vacant seats rather than allow them to lapse, provided the candidates satisfied the eligibility requirements applicable to those seats.
34. Much emphasis has been placed upon the advertisements dated 12.09.2016 and 17.09.2016. The first advertisement required NRI candidates to have qualified NEET, whereas the later advertisement stated that preference would be given to NEET-qualified candidates. The advertisements are undoubtedly relevant pieces of contemporaneous evidence and cannot be ignored. They may indicate that the Institute itself was uncertain about the exact regulatory position then prevailing or initially proceeded on the assumption that NEET qualification might be necessary. Nevertheless, an advertisement issued by a private institution cannot enlarge the scope of a statutory requirement, nor can it create a statutory disqualification where none otherwise existed under the governing law. The legality of an admission must

ultimately be tested against the statute, the applicable regulations and the binding governmental framework, and not solely against an assumption reflected in an advertisement. The variation between the two advertisements, in fact, reinforces the conclusion that there was uncertainty during the transitional academic session. While such uncertainty does not excuse a violation of a clear statutory command, it becomes relevant where the very applicability of the NEET requirement depended upon the character of the seat against which the admission was made.

35. The respondents have questioned the amended stand of the Institute by contending that the students were originally described as having been admitted under the NRI category, whereas the Institute subsequently asserted that they had been accommodated against vacant State Quota seats. This objection does not merit acceptance as a ground for non-suiting the petitioners. The amendment application was considered by this Court and was allowed on 12.06.2023. The amended pleadings have, therefore, become part of the record and must receive consideration in accordance with law. More importantly, the amendment does not alter objective historical facts such as the sanctioned intake of

100 seats, the division of 60 Management Quota and 40 State Quota seats, the filling of all 60 Management Quota seats, the filling of only 22 State Quota seats through BOPEE, and the consequent availability of 18 State Quota vacancies. Those facts are capable of independent verification from the contemporaneous record.

36. The Court is concerned with the substance of the transaction rather than merely the terminology employed by the Institute at different stages. If the contemporaneous seat matrix establishes that the seats occupied by the ten students were vacancies within the State Quota, their description as “NRI candidates” does not, by itself, establish that they occupied ten additional or independent NRI seats.
37. A substantially similar controversy arose in 2018 Supreme (Madras) 3458 proceedings concerning 13 students admitted under the NRI category to a BDS course during the academic session 2016–17 without NEET qualification. The DCI had objected to those admissions as being contrary to Section 10D of the Dentists Act. The Division Bench took into account the peculiar transitional position prevailing during the academic session 2016–17 and the exemption from NEET applicable to State Government seats. Having regard to the availability of Government/State Quota

vacancies, the Court directed that the students be accommodated against such vacancies and directed the DCI to approve their admissions so that their professional education was not destroyed on account of the regulatory confusion which had arisen.

38. The present case stands, in one material respect, on a stronger factual footing. In the Madras case, accommodation had to be found against available Government Quota vacancies. Here, according to the contemporaneous seat matrix, 18 State Quota vacancies were available in the petitioner-Institute itself. Recognition of the ten admissions therefore neither requires creation of supernumerary seats nor displacement of any regularly admitted candidate nor adjustment in another institution.

39. Reference has also been made to proceedings before the Gujarat High Court involving non-NEET-qualified candidates admitted against vacant Government Quota BDS seats during the academic session 2016–17. Since learned counsel for the respondents expressed lack of instructions regarding those proceedings and the complete record thereof is not necessary for deciding the present petitions, this Court does not consider it appropriate to rest its conclusion upon those proceedings.

40. Reliance by the respondents upon **“Vigyan Bharti Trust v. Union of India & Ors”** also does not carry their case further. The factual setting of that case was materially different, particularly in relation to admissions made beyond the relevant cut-off date. The present admissions were completed within the permissible admission schedule. The dispute here does not concern the power of an institution to make admissions after expiry of the cut-off date. It concerns the different question whether NEET qualification was indispensable for candidates admitted, before the cut-off date, against seats which continued to form part of an exempted State Quota. A precedent must be applied with reference to the legal principle laid down and the material facts in which that principle arose. A decision concerning admissions made beyond a mandatory cut-off date cannot automatically govern admissions made within time where the principal dispute concerns the character of the seats and the applicability of a transitional statutory exemption.
41. There is yet another aspect of the matter which, although not by itself determinative of the legality of the admissions, cannot be ignored. The Institute furnished particulars of all 100 students admitted during the academic session 2016–17 to the University of Jammu and the DCI in December

2016. The DCI was thus placed in possession of the relevant particulars, including the particulars of the ten students presently in question. The Executive Committee of the DCI considered the matter on 09.03.2017 and resolved that the ten students should be discharged because they had not qualified NEET-2016. Yet the decision was communicated to the Institute only on 23.08.2017, followed by another communication dated 12.10.2017. By that stage, the students had already spent substantial time pursuing the BDS course. The University of Jammu had issued roll numbers to them and had permitted them to participate in the academic process. Thus, the admissions were not clandestine admissions discovered years later. The relevant particulars had been placed before the authorities at an early stage.

42. This Court is conscious that neither delay nor acquiescence can validate an admission which is prohibited by statute. If NEET qualification was an absolute statutory condition applicable to these ten seats, mere delay by the DCI could not confer legality upon admissions otherwise void. The significance of the delay is different. Once this Court finds, for independent reasons, that the seats were State Quota vacancies falling within the peculiar exemption governing

the academic session 2016–17, the subsequent delay of the authorities becomes relevant while considering the nature of relief. Students who were permitted to continue their studies while the authorities themselves took considerable time to communicate and pursue the objection ought not, in the absence of fraud or lack of basic eligibility, to bear the entire burden of administrative uncertainty.

43. Reliance placed by the respondents upon the earlier judgment reported as **2012 Legal Eagle (J&K) 857** also does not advance their case. The record indicates that, in proceedings arising from that judgment, the Division Bench, by order dated 31.01.2017, directed that the observations made by the Writ Court should not be treated as a precedent in future cases. The said judgment cannot, therefore, be regarded as determinative of the controversy presently before this Court.
44. The four questions framed in paragraph 17 may now be answered. As regards the first question, the record establishes that BOPEE could fill only 22 of the 40 State Quota seats, leaving 18 vacancies. The Institute has demonstrated its authority under the State regulatory framework then prevailing to fill residual vacancies within the sanctioned intake after completion of the BOPEE

process. No statutory provision has been brought to the notice of this Court which, in the peculiar circumstances of the academic session 2016–17, required those seats necessarily to remain vacant until they lapsed. The first question is accordingly answered in favour of the petitioners, subject always to compliance with the eligibility requirements legally applicable to those seats.

45. As regards the second question, although Section 10D introduced NEET as the uniform entrance examination, Government/State Quota BDS seats in Jammu and Kashmir were, for the transitional academic session 2016–17, covered by the exemption permitting continuation of the State admission mechanism. NEET qualification was, therefore, not an indispensable requirement merely because the admission was to a BDS course, if the seat in question genuinely formed part of the exempted State Quota.
46. As regards the third question, the sanctioned seat matrix and the contemporaneous factual position establish that all 60 Management Quota seats had already been filled. The vacancies which remained thereafter were 18 out of the 40 State Quota seats. The ten disputed admissions were accommodated within those vacancies. The fact that the candidates belonged to the NRI category did not, by itself,

convert the underlying State Quota seats into independent Management/NRI Quota seats. As regards the fourth question, once the seats are held to have retained their character as State Quota seats and once such seats were exempt from the NEET requirement during the academic session 2016–17, the sole ground upon which the DCI directed discharge of the students, namely their failure to qualify NEET-2016, cannot sustain the impugned action.

47. The Court is not oblivious to the importance of maintaining strict standards in admissions to professional courses. Medical and dental admissions cannot be permitted to depend upon unilateral institutional discretion contrary to statutory requirements. The principles of transparency, merit, fairness and adherence to the prescribed admission schedule are indispensable, and courts must be slow to validate admissions which circumvent those requirements. The present case, however, does not involve admissions beyond the sanctioned intake, admissions after the cut-off date, candidates lacking basic academic eligibility, or displacement of candidates selected through the prescribed State process. Nor is there any allegation that the ten students were not genuine NRI candidates or that their NRI status was fabricated to facilitate admission.

48. What the case presents is a peculiar consequence of the transitional regulatory regime prevailing during the academic session 2016–17. NEET had been statutorily introduced, but Government/State Quota seats in Jammu and Kashmir continued, for that academic session, under the State admission mechanism. BOPEE could fill only 22 of the 40 State Quota seats. Eighteen sanctioned seats remained vacant. The Institute filled those vacancies before the cut-off date, including ten candidates belonging to the NRI category.
49. The respondents have proceeded substantially on the premise that because the candidates were NRIs, their seats must necessarily be treated as NRI/Management Quota seats and must consequently satisfy the NEET requirement. For the reasons already recorded, that premise cannot be accepted. The legal character of a seat is not determined exclusively by the personal category of its occupant. It is determined principally by the sanctioned seat matrix and the regulatory framework governing that seat. Once this distinction is appreciated, the foundation of the impugned action becomes unsustainable. The 60 Management Quota seats had already been exhausted. The ten students were accommodated within the 18 existing State Quota vacancies.

The total sanctioned intake remained 100. No additional seats were created. No candidate selected by BOPEE was displaced. No admission was made beyond the cut-off date.

50. The amended DCI regulation relied upon by the respondents for making NEET marks compulsory was published only on 12.07.2017, by which time the admissions for the academic session 2016–17 had long since been completed. A subsequently crystallised regulatory position cannot, in the absence of an express retrospective mandate, be employed to invalidate admissions made during an earlier academic session under the legal regime then prevailing. The subsequent conduct of the authorities fortifies this conclusion for purposes of moulding relief. Complete particulars of the admissions were furnished to the University and the DCI. The University issued roll numbers. The DCI considered the matter in March 2017 but communicated the discharge direction only in August 2017. The students thereafter continued under interim protection granted by this Court.

51. It bears emphasis that the admissions are not being sustained on considerations of sympathy or merely because of the passage of time. Sympathy cannot override a statutory prohibition. The conclusion rests principally upon the

character of the seats against which the students were admitted and the regulatory exemption applicable to those seats during the academic session 2016–17. The subsequent passage of time, the conduct of the authorities and the completion of the course are relevant only as additional considerations; they are not the foundation of the students' entitlement.

52. The decision of the Madras High Court *supra* concerning similarly situated BDS students who had not qualified NEET also illustrates the difficulties occasioned by the transitional regulatory regime governing the academic session 2016–17. In that case, relief was moulded by accommodating the students against available Government/State Quota vacancies. The present case stands on a stronger footing in that no such external adjustment is necessary: sufficient vacancies in the State Quota were available in the petitioner-Institute itself. The principle noticed in *Index Medical College (supra)* is also relevant to the limited extent that sanctioned seats in professional courses ought not ordinarily to remain unfilled without compelling regulatory justification. This principle cannot, of course, override mandatory eligibility requirements. However, where the disputed eligibility requirement was itself inapplicable to the quota against

which the admissions were made, utilisation of otherwise vacant sanctioned seats by academically eligible candidates does not defeat the regulatory framework.

53. On a cumulative consideration of the statutory scheme, the sanctioned seat matrix, the exemption applicable to State Quota seats in Jammu and Kashmir for the academic session 2016–17, the existence of 18 vacant State Quota seats, and the authority available to the petitioner-Institute under SRO-46 read with SRO-297, this Court finds that the direction to discharge the ten students cannot be sustained. Significantly, there is no allegation that the sanctioned intake was exceeded or that the students lacked the basic academic eligibility prescribed for admission to the BDS course. The controversy appears to have arisen substantially from the uncertainty attending the transitional regime of 2016–17 and from the respondents treating the category of the candidates as determinative of the character of the seats. The relevant consideration, however, is the seat against which an admission was actually made. The admitted position that 18 State Quota seats remained vacant assumes significance in this regard.

54. During the pendency of these proceedings, and under the protection of interim orders passed by this Court, the ten

students have completed the BDS course. This circumstance does not cure an admission otherwise prohibited by law, nor does it independently confer a right upon the students. It nevertheless reinforces the consequences flowing from the legal position already determined. At this stage, invalidating the admissions would neither restore the seats to candidates possessing a superior claim nor correct any excess over the sanctioned intake. Nor would it advance the object underlying Section 10D. It would merely nullify qualifications earned over several years pursuant to admissions made against sanctioned vacancies to which, for the reasons already recorded, the NEET requirement was not applicable.

55. Courts must undoubtedly guard against permitting equities to be created on the strength of admissions made contrary to law. But where, upon examination of the governing statutory regime, the admissions are found not to suffer from the illegality alleged by the regulatory authority, relief cannot be denied merely because the litigation has remained pending and the students have, in the meantime, completed their course. The completion of the course does not create the right; it only reinforces the need to give effect to the legal right otherwise established.

56. Accordingly, both writ petitions are allowed. The impugned communications issued by the Dental Council of India, insofar as they direct the petitioner-Institute to discharge the ten students on the ground that they had not qualified NEET-2016, are quashed. It is declared that, in the peculiar facts and circumstances of the case, the ten students having been admitted against vacancies forming part of the State Quota for the academic session 2016–17, and such seats being covered by the exemption from NEET applicable to the State of Jammu and Kashmir for that academic session, their admissions could not have been invalidated solely on the ground that they had not qualified NEET-2016. A writ of mandamus is, accordingly, issued directing the respondents to recognise and treat the admissions of the ten students to the BDS course for the academic session 2016–17 as valid for all academic purposes.
57. The University of Jammu shall consequently process their cases for issuance of BDS degrees, certificates and other consequential academic documents, subject to each student having fulfilled the requirements relating to academics, attendance, internship, examinations and all other conditions prescribed for award of the BDS degree. Any consequential action taken solely on the basis of the

communications quashed herein shall stand effaced and shall not operate to the prejudice of the said students. Both writ petitions, along with all connected applications, stand ***disposed of*** accordingly.

(Sanjay Parihar)
Judge

JAMMU
27.08.2026
Rahul Sharma

Whether the judgment is speaking; Yes

Whether the judgment is reportable: Yes

