

Court No. - 40

Case :- WRIT - C No. - 20273 of 2021

Petitioner :- Lalit Chaudhary And 10 Others

Respondent :- Union Of India And 6 Others

Counsel for Petitioner :- Ashish Kumar Srivastava

Counsel for Respondent :- A.S.G.I., Abhinav

Gaur, C.S.C., Vibhu Rai, Vivek Kumar Rai

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Vikram D. Chauhan, J.

(Per Hon. Vikram D. Chauhan, J.)

1. The present writ petition has been filed by the petitioners for declaring the Combined Pre-Ayush Test 2017 (CPAT) for admission in BAMS course for the Session 2017–18 as unconstitutional, illegal and void ab initio. The petitioners further challenge the letter dated 26.04.2017 issued by the Government of India and the communication dated 31.05.2016 issued by the respondent No. 2– Central Council of Indian Medicine and other reliefs.

2. The brief facts in the present case is to the effect that the admissions in the Bachelor of Medicine and Surgery – B.A.M.S is regulated by Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Regulations, 1986, as amended from time to time. The present controversy arises out of the admission in Bachelor of Medicine and Surgery – B.A.M.S for the Session 2017–18. The petitioners in the present writ petition are the students of 2017–18 batch who have taken admission in Shaheed Narendra Kumar Ayurvedic Medical College and R.K.M.S. Charitable Hospital, Pisawa Road, Chandaus, District Aligarh.

3. The above-mentioned regulations were amended in the year

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2012 by means of notification dated 25.04.2012. The aforesaid notification dated 25.04.2012 did not provide for any Common Entrance Test for admissions in Bachelor of Medicine and Surgery – B.A.M.S in various institutions run in the State. It is the case of the petitioners that the regulations provide for direct admission in the Bachelor of Medicine and Surgery – B.A.M.S course to those candidates who fulfilled the admission qualification as prescribed in the above-mentioned regulations as amended by notification dated 25.04.2012.

4. The respondent institution for the academic session 2015-16 admitted students directly as per the above-mentioned regulations as amended by notification dated 25.04.2012. It is further submitted by the counsel for the petitioners that the State Government nor the University raised any objection to the said admissions.

5. By means of letter dated 31.05.2016, the Central Council of Indian Medicine, New Delhi communicated to the Health Secretaries of Government of Various States including the State of Uttar Pradesh and decision was taken at the meeting held on 09.05.2016 at the Ministry of Ayush providing that the admission to the above-mentioned course should be made in the country through National Eligibility Entrance Test (NEET) from Session 2017-18. It was also directed that the admissions to the above-mentioned course through any other means will not be admissible in any case from the Year 2016-17 and a direction was issued to the State Government to take responsibility to implement the aforesaid decision.

6. On 26.04.2017, the Ministry of Ayush communicated its decision to all the State Authorities that in case due to some difficulties the States are unable to adopt NEET merit list for

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AYUSH-UG admission for the academic year 2017–18 then the States may admit students in the colleges and institutions through Common Entrance Test (CET) of the concerned State Government.

7. Further, by means of notification dated 07.11.2016, the above-mentioned regulations were again amended by means of Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2016. The above-mentioned Regulations of 2016 provided for admission qualification. However, the aforesaid Regulations of 2016 also did not provide any mandate for holding of Common Entrance Test in respect of the course in question.

8. It is further submitted by the learned counsel for the petitioners that the State Government thereafter on 4.09.2017 issued direction nominating Lucknow University, Lucknow to conduct Combined Pre Ayush Test 2017 for selection of candidates for the Session 2017–18 in the BAMS Course. It is submitted by the learned counsel for the petitioners that the above-mentioned letter dated 04.09.2017 has been issued by the Secretary without any statutory authority or power. It is further submitted by the learned counsel for the petitioners that neither the regulation nor any rules have been framed for holding the selections through the Combined Pre Ayush Test.

9. It is submitted that all the colleges in the State of Uttar Pradesh were required to proceed for admissions in Bachelor of Medicine and Surgery – B.A.M.S only from students who have qualified the above-mentioned Combined Pre-Ayush Test. The respondent no 7-College was provided with 5 candidates from the above-mentioned Combined Pre-Ayush Test while the College had sanctioned strength of 60 Candidates.

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10. It is submitted by the learned counsel for the petitioners that thereafter the respondent No. 7 issued an advertisement dated 28.11.2017 in the daily newspaper inviting applications for direct admission to the Bachelor of Medicine and Surgery–B.A.M.S from students who have passed Intermediate examination. The petitioners in pursuance to the above-mentioned advertisement applied for admission in Bachelor of Medicine and Surgery – B.A.M.S Course and was admitted by the institution – respondent no 7 in the course on 29.11.2017.

11. It is further submitted that after being admitted by respondent No. 7 in the Bachelor of Medicine and Surgery – B.A.M.S for the Session 2017–18 and after completing one year of studies in the aforesaid institution when the petitioners submitted their online form for annual examination in the month of July 2019, they were debarred by the respondent University.

12. On 07.12.2018, the respondent No. 2 amended the above-mentioned regulations by means of Indian Medicine Central Council (Minimum Standard of Education in Indian Medicine) Amendment Regulation, 2018 and by means of Regulation 2 (d)(i), it was provided that there shall be a uniform entrance examination for all medical institutions at the undergraduate level namely the National Eligibility Entrance Test (NEET) for admission to undergraduate courses in each academic year and shall be conducted by an authority designated by the Central Government. It is submitted that for the first time in the year 2018 by means of notification dated 07.12.2018, the regulations above-mentioned were amended and the uniform entrance examination for the course in question was prescribed by the aforesaid regulations.

13. In July 2019 when the University held the examination in respect of the course in question, the petitioners were not allowed

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to appear in the first year examination of the said course and the respondent University illegally cancelled the candidature of the petitioners in the aforesaid course. On further enquiry it was revealed that the respondent institution being aggrieved by non-acceptance of the students by the University who have taken admission directly with the institution had preferred Writ Petition No. 23634 of 2019 and the aforesaid writ petition was finally decided by means of Judgement dated 22.07.2019. It is submitted by the learned counsel for the petitioners that the aforesaid judgement dated 22.07.2019 however does not take into consideration the legality and power of the State Government to hold a common entrance test in respect of the course in question as the same was never challenged in the aforesaid writ petition and in this manner, the aforesaid judgement would not have any effect on the issues raised by the petitioners by means of the present writ petition.

14. The challenge to the Combined Pre Ayush Test 2017 on behalf of the petitioners is that the Indian Medicine Central Council (Minimum Standard of Education in Indian Medicine) Regulations, do not provide for a Common Entrance Test in respect of the course in question and that the aforesaid regulations were amended by notification dated 07.12.2018 whereby a uniform entrance examination was introduced for the first time for all medical institution at the undergraduate level. The submission of the learned counsel for the petitioners is that for the Academic Year 2017-18 there was no provision in the regulation for conducting the common entrance test/uniform entrance examination for the course in question. It is submitted that the State Government has not been granted any power under the Indian Medicine Central Council Act, 1970 or under the regulations to impose any condition with regard to common entrance test/uniform entrance examination in respect of the course in

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question and as such the Combined Pre Ayush Test 2017 conducted by the respondent no 3 – State of Uttar Pradesh is without authority of law.

15. It is further submitted by the learned counsel for the petitioners that the institution in question has 60 sanctioned seats in the BAMS Course and out of the result of the above-mentioned common entrance test conducted by the respondent No. 3 only five candidates were allotted to the respondent No. 7 – institution. The remaining seat of the aforesaid institution remained vacant and as such there exist no illegality in filling up the vacant seats directly by the respondent No. 7–institution on the basis of an advertisement published in the newspaper. It is also urged on behalf of the petitioners that the respondent University was not justified in cancelling the candidature of the petitioners on the ground that the petitioners have not passed the Combined Pre Ayush Test 2017. According to the learned counsel for the petitioners, the admission of the petitioners was legal and valid in accordance with the Indian Medicine Central Council Act, 1970 and the Regulations framed thereunder.

16. On behalf of the respondents, it is submitted that the Combined Pre Ayush Test 2017 was conducted by the State Government on the basis of the directions issued by the Central Council of Indian Medicine and Ministry of Ayush. It is also submitted that on 09.05.2016 the Ministry of Ayush in order to bring meritorious students to the Indian System of Medicine by making admission in Ayurveda, Unani and Siddha Courses in the country directed for holding of National Eligibility Entrance Test from the Session 2017–18. It was further directed by the Ministry of Ayush by means of communication dated 26.04.2017 that the admission to the course in question for the Academic Year 2017-18 may be held by the respective State Governments by means of a

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common entrance test as per the existing rules and policies of the State Government. It is urged on behalf of the respondents that the above-mentioned decision to hold common entrance test in respect of the course in question was on account of the directives of Hon'ble Supreme Court in Writ Petition (C) No. 261 of 2016 and connected matters. It is further submitted by the learned counsel for the respondent that the common entrance test in respect of the course in question is in furtherance of the order of the Hon'ble Supreme Court and as such no interference is warranted in the present writ petition.

17. The controversy in the present writ petition arises out of the admissions to Bachelor of Medicine and Surgery–B.A.M.S for the Session 2017–18 made directly by respondent No. 7-Institution. By order dated 31.05.2016, the Central Council of Indian Medicine, New Delhi communicated to the Health Secretaries of Government of various States including the State of Uttar Pradesh its decision which was taken at the meeting held on 09.05.2016 at the Ministry of Ayush providing that the admission to the above-mentioned course should be made in the country through National Eligibility Entrance Test from Session 2017–18. It was also directed that the admissions to the above-mentioned course through any other means will not be admissible in any case from the Year 2016–17 and a direction was issued to the State Government to take responsibility to implement the aforesaid decision.

18. Further, on 26.04.2017 the Ministry of Ayush communicated its decision to all the State authorities that in case due to some difficulties the States are unable to adopt NEET merit list for AYUSH-UG admission for the academic year 2017–18 then the States may admit students in the colleges and institutions through Common Entrance Test of the concerned State Government as per the existing rules and policies of the concerned State and Union

Territories.

19. The aforesaid order dated 31.05.2016 and 26.04.2017 was issued by the respondent authorities on the basis of the directives issued by the Hon'ble Supreme Court in Writ Petition (C) No. 261 of 2016 (Sankalp Charitable Trust and another Vs Union of India). The order dated 28.04.2016 directed while recording the submissions of the respondents that the NEET would be held in respect of medical admissions. The aforesaid directions of the Hon'ble Supreme Court was further considered in the meeting at the Ministry of Ayush held on 09.05.2016 whereby it was decided that in order to bring meritorious students to the Indian System of Medicine by Making Admission in Ayurveda, Unani and Siddha courses admission in the country will be through National Eligibility cum Entrance Test (NEET) only from Session 2017-18 onwards.

20. In pursuance to the above-mentioned directions of the Ministry of Ayush and the Central Council of Indian Medicine, the State Government had conducted Combined Pre Ayush Test 2017 for admissions to the Bachelor of Medicine and Surgery – B.A.M.S for the Session 2017-18.

21. The submission of the learned counsel for the petitioners is that the Indian Medicine Central Council Act, 1970 and the Regulations framed thereunder do not provide for Common Entrance Test in respect of the course of Bachelor of Medicine and Surgery-B.A.M.S for the Session 2017-18 and the regulations were amended subsequently by means of notification dated 07.12.2018 providing for uniform entrance examination for all medical institutions at the undergraduate level and the aforesaid notification dated 07.12.2018 would not be applicable in respect of the admissions to be conducted for the Session 2017-18 and as such the State Government had no authority under the law to

conduct Combined Pre Ayush Test 2017.

22. The Combined Pre Ayush Test 2017 was conducted by the State Government on the basis of the direction dated 31.05.2016 issued by the Central Council for Indian Medicine and order dated 26.04.2017 by the Ministry of Ayush, Government of India. The aforesaid orders dated 31.05.2016 and 26.04.2017 was issued in furtherance of the direction of the Hon'ble Supreme Court in Writ Petition (C) No. 261 of 2016 (Sankalp Charitable Trust and another Vs Union of India). Once the Supreme Court has directed for holding of Common Entrance Test in respect of admission to the medical courses and in furtherance thereof the Central Council of Indian Medicine and Ministry of Ayush has further taken a decision to hold Common Entrance Test in respect of BAMS Course, the said decision of the respondent authorities is relatable to the direction issued by the Hon'ble Supreme Court in the above-mentioned writ petition.

23. It is further to be noted that Article 144 of the Constitution of India obliges all authorities, civil and judicial in the territory of India to act in aid of the Supreme Court and as such all the authorities are bound by the directions of the Supreme Court and have to act in aid and furtherance of the directions of the Supreme Court. The might of the State must stand behind the court's order for survival of the rule of law in the country. The common entrance examination in respect of the course in question was conducted on the basis of a policy decision taken by the respondent authorities in furtherance of the directions of the Hon'ble Apex Court in the above-mentioned writ petition and as such the State Government had the authority under law to act in aid of the directions of the Supreme Court as contained in the policy decision communicated by order dated 31.05.2016 and 26.04.2017. The holding of the combined entrance examination in respect of medical courses on

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the basis of the direction of the Hon'ble Supreme Court is in order to bring meritorious students to the medical education.

24. Further, Section 22 of the Indian Medicine Central Council Act, 1970 empowers the Central Council to prescribe the Minimum standards of education in Indian medicine and the aforesaid provision deals with the minimum standard of education in Indian Medicine which in effect covers the power to direct for conduct of Common Entrance Examination.

25. In view of the judgment of the Constitution Bench in **Preeti Srivastava (Dr) v. State of M.P., (1999) 7 SCC 120**, it is no longer possible to argue that norms for admission come into the picture only after admissions are made and have no connection with "standards of education". On the contrary, regulation of admissions has a direct impact on the maintenance of standards of education and in exercise of its power to prescribe and maintain standards of education, Central Council of Indian Medicine has the right as well as an obligation to regulate admissions.

26. The Hon'ble Apex Court in the case of **Dr Preeti Sriastava (supra)** held as under:-

"36. It would not be correct to say that the norms for admission have no connection with the standard of education, or that the rules for admission are covered only by Entry 25 of List III. Norms of admission can have a direct impact on the standards of education. Of course, there can be rules for admission which are consistent with or do not affect adversely the standards of education prescribed by the Union in exercise of powers under Entry 66 of List I. For example, a State may, for admission to the postgraduate medical courses, lay down qualifications in addition to those prescribed under Entry 66 of List I. This would be consistent with promoting higher standards for admission to the higher educational courses. But any lowering of the norms laid down can and does have an adverse effect on the standards of education in the institutes of higher education. Standards of education in an institution or college depend on various factors. Some of these are:

(1) the calibre of the teaching staff;

(2) a proper syllabus designed to achieve a high level of education in the given span of time;

- (3) the student-teacher ratio;
- (4) the ratio between the students and the hospital beds available to each student;
- (5) the calibre of the students admitted to the institution;
- (6) equipment and laboratory facilities, or hospital facilities for training in the case of medical colleges;
- (7) adequate accommodation for the college and the attached hospital; and
- (8) the standard of examinations held including the manner in which the papers are set and examined and the clinical performance is judged.

37. While considering the standards of education in any college or institution, the calibre of students who are admitted to that institution or college cannot be ignored. If the students are of a high calibre, training programmes can be suitably moulded so that they can receive the maximum benefit out of a high level of teaching. If the calibre of the students is poor or they are unable to follow the instructions being imparted, the standard of teaching necessarily has to be lowered to make them understand the course which they have undertaken; and it may not be possible to reach the levels of education and training which can be attained with a bright group. Education involves a continuous interaction between the teachers and the students. The pace of teaching, the level to which teaching can rise and the benefit which the students ultimately receive, depend as much on the calibre of the students as on the caliber of the teachers....”

27. Thus, in view of the law laid down by the Constitution Bench in **Dr Preeti Srivastava case (supra)** it must be held that the power to regulate the standards of education in Indian Medicine prescribed by the Council is vested in Central Council under the Indian Medical Council Act, 1970. The corresponding duty to conduct common entrance examination for filling up BAMS seats, on merits, must also vest in it.

28. The Indian Medicine Central Council (Minimum Standard of Education in Indian Medicine) Regulations at the relevant time did not provide any specific direction for holding of admissions in the course in question in a particular manner and in fact the regulations only prescribed the admission qualifications for eligibility/admission in Bachelor of Ayurveda education and as such the directions issued by the Central Council and the Ministry of

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Ayush were in no manner contrary to the Indian Medicine Central Council Act, 1970 and the Regulations framed thereunder. Where the regulations are silent in respect of the mode and manner of admissions in the course in question and the directions are issued by the Central Council and the Ministry of Ayush for admissions in the course in question through a Common Entrance Examination, the same cannot be said to be contrary to law. The field not being occupied by the Indian Medicine Central Council Act, 1970 and the Regulations framed thereunder and as such it is open for the respondent authorities to direct for holding of Common Entrance Test in respect of the admissions to the course in question specifically in view of the directions of the Hon'ble Apex Court and the powers vested in the Central Council and the Government.

29. The legislative competence of Parliament and the legislatures of the States to make laws under Article 246 is regulated by the VIIth Schedule to the Constitution. In the VIIth Schedule as originally in force, Entry 11 of List II gave to the State an exclusive power to legislate on

“education including universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I and Entry 25 of List III”.

Entry 11 of List II was deleted and Entry 25 of List III was amended with effect from 3-1-1976 as a result of the Constitution 42nd Amendment Act of 1976. The present Entry 25 in the Concurrent List is as follows:

“25. Education, including technical education, medical education and universities, subject to the provisions of Entries 63, 64, 65 and 66 of List I; vocational and technical training of labour.”

Entry 25 is subject, inter alia, to Entry 66 of List I. Entry 66 of List I is as follows:

“66. Coordination and determination of standards in institutions for higher education or research and scientific and technical institutions.”

30. Both the Union as well as the States have the power to legislate on education including medical education, subject, inter alia, to Entry 66 of List I which deals with laying down standards in institutions for higher education or research and scientific and technical institutions as also coordination of such standards. The State cannot, while controlling education in the State, impinge on standards in institutions for higher education as this is exclusively within the purview of the Union Government. Therefore, while prescribing the criteria for admission to the institutions for higher education including higher medical education, the State cannot adversely affect the standards laid down by the Union of India under Entry 66 of List I. The States are required to act in accordance with the standards for admission set by the Union and its agencies.

31. The executive power of the Union Government under Article 73 extends to the matters in respect to which the Parliament has power to make laws. While the executive cannot act against the provisions of law, it does not follow that in order to enable the executive to function relating to a particular subject there must be a law already in existence authorising such action. The functions of the executive are not confined to the execution of laws made by the legislature already in existence. Article 73 indicate that the power of the executive of the Union are coextensive with the legislature power of the Union. In the present case, the directions for holding of Common Entrance Test is relatable to Entry 66 of List I and in furtherance of the order of the Hon'ble Apex Court as detailed hereinabove. It is to be seen that the Indian Medicine Central Council Act and the Regulations framed thereunder at the relevant point of time were silent in respect of the mode/manner of admissions to be made in the BAMS Course and as such, the directions issued by the Government of India and the Central

Council is consistent with the Entry 66 List I of the Constitution of India. Once the Government of India, Ministry of Ayush has laid down the standard for higher education in the course in question by fixing Common Entrance Test in respect of admission to the course in question, it was incumbent upon the State Government to have followed the aforesaid direction and to have conducted the common entrance test for BAMS course for the Session 2017-18 and the aforesaid action of the State Government cannot be faulted on the ground that there is no provision in law, empowering the State Government to hold the common entrance test.

32. The course in question is undoubtedly a professional course. The institutions, therefore cannot be permitted to admit students through a process which is not fair and transparent and which does not promote merit and excellence in such courses. To curb the malpractices, the Supreme Court in the case of **Modern Dental College and Research Centre Versus State of Madhya Pradesh, (2016) 7 SCC 353** has emphasised the need for common entrance test to be held for admission in professional courses. In the present case, the institution in question has adopted dual approach while some students have been admitted by means of the common entrance examination and the unfilled vacancies in the institution for the course in question, have been filled up by direct admission by the respondent no.7-Institution. Institution was aware that admission was to be from NEET students only. If sufficient students were not available, it could have raised a grievance but direct admission, in face of direction by the competent body in light of Supreme Court direction was not permissible. Learned counsel for the petitioners has not been able to show the source of power which permits the respondent institution to directly take admissions in the course in question specifically when the institution already received student from the

common entrance examination. The advertisement issued by the respondent institution for taking direct admissions in the institution does not prescribe the procedure adopted by the respondent institution to take admissions in the institution. Further, the petitioners have no fundamental right to take admissions in the professional courses of higher education and any admission in respect of the professional courses can only be through common entrance test in view of the judgement of the Apex Court and the decision of Ministry of Ayush. The respondent institution could not be permitted to take admissions directly in professional courses specifically when Central Council and the Government of India has only permitted admission to the course in question through a common entrance examination. The non-availability of eligible candidates for admission in the course in question cannot be a reason to permit direct admissions by the respondent no 7 – Institution which will amount to lowering the minimum standard of education prescribed by the respondent Nos. 1 and 2. The petitioners had the opportunity to appear in the common entrance examination conducted by the State of Uttar Pradesh in respect of the course in question at the relevant time. However, the petitioners did not appear in the common entrance examination and thereafter as a backdoor entry have secured the admission to the respondent No. 7 – Institution in the professional course which is unfair and illegal.

33. It is further to be noted that earlier the respondent No. 7 – Institution had filed Writ Petition No. 23634 of 2019 (Shaheed Narendra Kumar Ayurvedic Medical College and R.K.M.S. Charitable Hospital Vs. State of Uttar Pradesh and 6 others) for regularisation of the admissions in the BAMS Course of students who have secured admission directly in the institution without participating in the common entrance examination. The aforesaid writ petition was finally disposed of by means of judgement dated

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22.07.2019 and it was specifically held that the institution has not only compromised with the merit but also the future of the students at stake. The aforesaid judgement further directed that the students who have been granted illegal admission in the BAMS course by the respondent-Institution are at liberty to approach before the appropriate forum to seek compensation from the institution.

34. In this reference relevant extract of the order passed by this Court in earlier Writ Petition No. 23634 of 2019 filed by respondent No.7- Institution is extracted hereinbelow :-

“In the facts and circumstances of the case, reference of the case of some Institution of State of Kerala is relevant to mention. Some medical Institution had given admissions to the students against the rule and regulations in the State of Kerala, however, the admissions were cancelled and such order was also upheld by the Hon'ble Supreme Court also. The State of Kerala promulgated ordinance in order to protect those students. However, the Hon'ble Supreme Court declared the said ordinance to be ultra vires by the judgment passed in the matter of Medical Council of India vs. State of Kerala reported in (2018) SCC Online SC 1467 in which the Supreme Court held that fairness of process of admission and merit cannot be compromised.

The Supreme Court has also directed to refund the fee received from the students and also held the students to be entitled for compensation also in the matter of Riya George vs. Kannaur Medical College reported in 2019 SCC Online SC 252.

The petitioner - Institution has not only compromised with the merit but also put the future of students at stake. Petitioner's college is not entitled for any sympathy or equity.

In view of the above discussions, the writ petition sans merit.

However, the students who have been granted illegal admissions in the BAMS course by the petitioner - Institution are at liberty to approach before the appropriate forum to seek compensation from the petitioner - Institution, if so advised.

The writ petition is, disposed of, accordingly.”

35. Learned counsel for the petitioners has further placed reliance on the judgment of the Apex Court in **Union of India Vs. Federation of Self-Financed Ayurvedic Colleges, Punjab and others**, reported in **(2020) 12 SCC 115**, to establish that the Apex Court has permitted the candidates who have not appeared

in the common entrance test to be continued in the course in question in ayurvedic undergraduate course. In this respect, it is to be seen that the aforesaid judgment was passed by the Apex Court as a one time exercise in the peculiar circumstances of the aforesaid case and the Apex court has further directed that the aforesaid order shall not be treated as a precedent. The reliance on the aforesaid judgment of the Apex Court is of no use in the present case as the aforesaid order was passed by the Apex Court in exercise of its power under Article 142 of the Constitution of India, considering the special facts and circumstances arising out of the case and since there being no right of the petitioners to have direct admission in the course in question by-passing common entrance test and as such no orders can be passed in favour of the petitioners.

36. It is further to be seen that the present writ petition pertains to the challenge to the BAMS Course for the Session 2017-18 and as per the case of the petitioners, in July, 2019 they were debarred by the University from filling the annual examination form online. Thereafter the respondent No. 7- Institution filed Writ Petition No. 23634 of 2019 challenging the aforesaid action of the respondent authorities and the aforesaid writ petition was disposed of by order dated 22.07.2019. The present writ petitioners who are the students in respect of the course in question however, at that point of time, did not prefer any writ petition before this Court challenging the action of the respondent authorities. However, when the writ petition of respondent no. 7-Institution was disposed of by order dated 22.07.2019, the petitioners have preferred the present writ petition in August, 2021. The aforesaid delay on behalf of the petitioners specifically after the order dated 22.07.2019 is of significance as the institution's writ was already disposed of with a specific finding that the institution has not only compromised with the merit but the also put the future of the

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petitioners at stake and as such, the present writ petition is a belated exercise which is not permissible in exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India.

37. In view of the aforesaid, the petitioners are not candidates who have secured admission in the BAMS Course for the Session 2017-18 in accordance with the established procedure and in accordance with the directions of the Supreme Court, through Common Entrance Test and as such are not valid candidates/students and as such no right accrues in favour of the petitioners for admission in the course in question.

38. In the result, the writ petition lacks merit and is dismissed.

Order Date :- 29.11.2021

VMA/D. Tamang

(Vikram D. Chauhan, J.) (Ashwani Kumar Mishra, J.)