IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24261-2023 (O&M)

Date of decision: 06.05.2025

Jashandeep Kaur and others ....Petitioners

V/s

Union of India and others ....Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Himanshu Arora, Advocate for the petitioner(s)
in CWP-24261-2023 and CWP-25599-2023.

Mr. Tej Bahadur, Yadav, Advocate for
Mr. Ramneek Vasudeva, Advocate for the petitioner
in CWP-1380-2024.

Mr. S.K. Rattan, Advocate for the petitioner(s)
in CWP-27009-2023 and CWP-27662-2023, CWP-1475-2024,
CWP-31-2024 and CWP-33-2024.

Mr. Manbir S. Batth, Advocate for the petitioner(s)
in CWP-29553-2023, CWP-1050-2024.

Mr. Gurcharan Dass, Advocate for the petitioner
in CWP-25867-2023.

Mr. Sandeep Sharma, Advocate for the petitioner
in CWP-3931-2025.

Mr. Sunil Kumar Rohilla, Advocate and
Mr. Surinder Mohan Sharma, Advocate for the petitioners
in CWP-26930-2024.

Mr. Anurag Chopra, Additional Advocate General Punjab and
Mr. Salil Sabhlok, Sr. DAG Punjab.

Mr. Anil Chawla, Senior Panel Counsel, UOI in
CWP-24261-2023, CWP-27009-2023, CWP-27662-2023,
CWP-32-2024, CWP-31-2024, CWP-33-2024,
CWP-1050-2024, CWP-1380-2024, CWP-25867-2023,
CWP-1475-2024 and CWP-25599-2023.

Mr. Vipul Aggarwal, Senior Panel Counsel UOI
in CWP-29553-2023 and CWP-796-2024.

Mr. Ravi Sharma, Senior Standing Counsel and

Mr. Raywant Kaushik, Advocate for the respondent-National Medical Counsel.

Mr. Naresh Kumar, Advocate for the respondent-Baba Farid University of Health Sciences.

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SUMEET GOEL, JUDGE

1. By way of the present common judgment, we proceed to decide the instant batch of fifteen Civil Writ Petitions, since there is commonality of the facts and congruity of legal issues therein as conceded by the learned rival counsel. The details of these writ petitions read, thus:

1. Jashandeep Kaur and ors. v/s Union of India and ors.(CWP-24261-2023)
2. Sherrin Regi Varghese v/s Union of India and others(CWP-1050-2024)
3. Asher Esli Lal v/s Union of India and others(CWP-1380-2024)
4. Raj Kanwar Singh v/s Union of India and ors. (CWP-1475-2024)
5. Rajan Singh and another v/s Union of India and others (CWP-25599-2023)
6. Samridhi Sharma v/s Union of India and others(CWP-25867-2023)
7. Shaurya Thakur v/s Union of India and others(CWP-27009-2023)
8. Sumedh Sharma v/s Union of India and others(CWP-27662-2023)
9. Gurleen Singh v/s Union of India and others(CWP-29553-2023)
10. Simran Passi v/s Union of India and others(CWP-31-2024)
11. Ishwinder Singh Hanjra v/s Union of India and others(CWP-32-2024)
12. Lalita Korotana and others v/s Union of India and others(CWP-33-2024)
13. Earesh Kumar v/s Union of India and others(CWP-796-2024)
14. Abhijeet Singh Beniwal and another v/s Union Of India and others-(CWP-26930-2024)

15. Mohnish Bhangle v/s Union of India and others(CWP-3931-2025)

For the cause of convenience, the facts are drawn out from CWP-24261-2023 titled as Jashandeep Kaur and others vs. Union of India and others (hereinafter referred to as the *writ petition in hand*).

2. The *writ petition in hand* preferred under Articles 226/227 of the Constitution of India, in essence, entreats for the grant of benefit of the guidelines, issued by the National Medical Commission (hereinafter referred to as '*NMC*') on 01.08.2023 (hereinafter referred to as '*01.08.2023 guidelines'*), alongwith notification dated 01.09.2023 (hereinafter referred to as *'01.09.2023 notification'),* and for quashing of the public notice dated 03.10.2023 issued by the *NMC* (hereinafter referred to as '*03.10.2023 public notice'*), and consequential declaration/modification of the result of the petitioners in terms thereof.

3. Shorn of non-essential details, the relevant milieu of the *lis* in the *writ petition in hand* is adumbrated, thus:

(i) The petitioners had been admitted to the MBBS degree course, in the academic session for the year 2021-2022, in the first professional examination in the respondent No.5-College.

(ii) Result thereof was declared on 02.05.2023, wherein the petitioners failed in their first professional examination.

(iii) Subsequently, supplementary examination was held in June/July, 2023 wherein the petitioners had appeared.

(iv) Thereafter, *01.08.2023 guidelines* came to be issued by respondent No.3-*NMC*.

(v) The result of the petitioners *qua* the supplementary examination(s) was declared on 18.08.2023.

(vi) *01.09.2023 notification* was issued by respondent No.3-*NMC*, relevant whereof reads as under:

> ***"CORRIGENDUM***
>
> ***SUBJECT: Competency Based Medical Education Curriculum (CBME) Guidelines – National Medical Commission.***
>
> *Kindly refer to the communication of even no. dated 01st August, 2023 on the above mentioned subject and to inform that provisions at page 58 of CBME is amended as under:*

Page 58 of CBME Guidelines	*Amended page 58 of CBME Guidelines*
In subjects that have two papers, the learner must secure *minimum 50% of marks in aggregate (both papers together) to pass in the said subject.*	***In subjects that have two papers, the learner must secure*** *minimum* ***40%*** *of marks in aggregate (both papers together) to pass in the said subject.*
Criteria for passing in a subject: *A candidate shall obtain 50% marks in University conducted examination separately in Theory and in Practical (practical includes: practical/clinical and viva voce) in order to be declared as passed in that subject.*	***Criteria for passing in a subject:*** *A candidate shall obtain 50% marks in aggregate and 60:40 (minimum) or 40:60 (minimum) in University conducted examination separately in Theory and in Practical (practical includes: practical/clinical and viva voce) in order to be declared as passed in that subject.*

(vii) *03.10.2023 public notice* came to be issued by respondent No.3-*NMC*, relevant whereof reads as under:

> *"PUBLIC NOTICE*
>
> *This is in continuation to new Amendment in CBME Guidelines issued through "Corrigendum" bearing No.F.No.U/14021/8/2023-UGMEB dated 01.09.2023 where a new amendment was introduced to the CBME Guidelines vide page number – 58.*
>
> *2. After thorough consideration of the subject matter, it has been decided that retrospective effect in this connection is not possible."*

(viii) The petitioners sought for the revision of their result, in terms of *01.08.2023 guidelines* read alongwith *01.09.2023 notification,* which was

not granted and, thus, the petitioners hae approached this Court by way of the *writ petition in hand*.

(ix) On 07.11.2023, this Court had passed the following order (hereinafter referred to as '*07.11.2023 interim order'):*

> *"As per office report, service upon respondents No.3 and 5 is still awaited.*
>
> *Let fresh notices to respondents No.3 and 5 be issued for 29.3.2024.*
>
> *In the meantime, as per the result declared on 18.08.2023, the petitioners shall be given benefit of guidelines dated 01.08.2023 (Annexure P-6) read with corrigendum dated 01.09.2023 (Annexure P-7) and be declared pass."*

(x) It is in this factual backdrop, that the present writ petition(s) came up for receiving consideration at the hands of this Court.

Rival Submissions

4. Learned counsel appearing for the petitioners has argued that the petitioners had appeared in the supplementary examination held in June/July, 2023 and result thereof was declared on 18.08.2023, but in view of *01.09.2023 notification* being retrospective in nature, the respondents ought to have revised the result of the petitioners in consonance therewith. In order to buttress his arguments, the learned counsel for the petitioners has relied upon a judgment passed by a Division Bench of the Hon'ble Madras High Court on 23.01.2025 passed in WA-333-2024 and titled as ***The Controller of Examinations, Pondicherry University, Pondicherry vs. Megha Maria Joe and others*** & a judgment of a Divison Bench of the Hon'ble Kerala High Court dated 28.02.2025 passed in WA-403-2025 and titled as ***National Medical Commission vs. Antony P. Alappat and others:***

2025: KER: 22334. Learned counsel has further iterated that the respondents cannot be permitted to plead that, since the examination had commenced prior to 01.08.2023, therefore, the *01.08.2023 guidelines* and *01.09.2023 notification* could not be applied and the petitioners were to be governed by the guidelines prior thereto. In other words, learned counsel has urged that though the petitioners appeared in the examination in question, prior to the promulgation of *01.08.2023 guidelines,* but their results were declared on 18.08.2023 i.e. after the promulgation of the *01.08.2023 guidelines* & hence they ought to be accorded its benefit. Further, by virtue of the *01.09.2023 notification* being solely clarificatory in nature, it would relate back to 01.08.2023 i.e. when the *01.08.2023 guidelines* were issued and thus the same ought to be given retrospective effect. It has been further contended that the *03.10.2023 public notice* is in direct contravention of the settled canons of statutory interpretation which unequivocally provide that a clarificatory notification is to be construed as operating retrospectively & any interpretation to the contrary would defeat the very object and purpose of such clarificatory legislation.

Learned counsel has further implored that, when two interpretations are possible, the one which is beneficial to the rights of students/candidates ought to be adopted.

Learned counsel has further submitted, by placing reliance upon *07.11.2023 interim order,* that the petitioners were afforded the benefit of *01.08.2023 guidelines* read with *01.09.2023 notification* as an interim measure and considerable time having elapsed since then, the said interim benefit ought to be made absolute on the ground of equity alone.

On the strength of these submissions, the grant of writ petition in hand is vociferously entreated for.

5. Upon notice of motion having been issued, the respondent No.1-UOI caused appearance through counsel but no reply has been furnished. Similar is the situation in respect of respondent No.2-State of Punjab.

5.1. Learned counsel appearing for respondent No.3-*NMC*, while raising submission in tandem with the reply filed by *NMC*, has urged that since the supplemental examinations are continuation of the main professional examinations, as such there cannot be two sets of evaluation methodology for the main examination and supplemental examination & hence the petitioners are not eligible for lowered/modified passing standards. It has been further iterated that the result of the petitioners came to be declared on 18.08.2023 and thus they cannot be extended the benefit of *01.09.2023 notification*. Learned counsel has further urged that the *01.09.2023 notification,* by its intrinsic nature itself, reflects that it is not clarificatory in essence and hence it cannot be said to be retrospective in nature. In any case, it has been expressly clarified by *03.10.2023 public notice* that the *01.09.2023 notification* cannot be construed to be retrospective in nature. Learned counsel has further iterated that the examination in question pertains to the MBBS degree course and thus, the high requisite standards are required to be scrupulously maintained therein.

5.2. Learned counsel appearing for respondent No.4-Baba Farid University of Health Sciences, while raising submissions in tandem with the reply and the additional affidavit submitted on its behalf, has argued that the

result of the first professional supplementary batch 2021 examination was declared on 18.08.2023 i.e. much before the issuance of the *01.09.2023 notification* and thus no benefit thereof can be extended to the petitioners. Placing reliance on *03.10.2023 public notice*, it has been urged that any dispute(s) regarding applicability of *01.09.2023 notification* has been put to rest as the same has been clarified to be prospective in nature.

5.3. None has caused appearance on behalf of respondent No.5-College despite service.

On the strength of these submissions, the dismissal of the *writ petition in hand* is canvassed for by the learned counsel appearing for the represented respondents.

6. We have heard learned counsel for the rival parties and have perused the record.

Prime Issue

7. The prime issue that arises for consideration is as to whether the petitioners ought to be afforded the benefit of *01.08.2023 guidelines* read with *01.09.2023 notification.*

The analogous issue which arises for cogitation is as to whether the *01.09.2023 notification* is required to be considered to be merely clarificatory in nature so as to enable all concerned to apply it in a retrospective mode, especially in view of the *03.10.2023 public notice* issued by respondent No.3-*NMC.*

Analysis

8. We now proceed to dilate on the rival submissions made on behalf of the represented respondents.

Re: *Whether 01.09.2023 notification is required to be applied retrospectively or prospectively i.e. whether the changes in 01.09.2023 notification would be applicable from 01.08.2023 onwards or from 01.09.2023 onwards only.*

9. The pivotal point involved in the *lis* in hand is the date of applicability of *01.09.2023 notification.* Before proceeding further, it would be apposite to refer herein to the case law germane to this issue:

(i) A Four Judge Bench of the Hon'ble Supreme Court in the case titled as ***Arjan Singh and another vs. State of Punjab and others, 1970 AIR Supreme Court 703,*** has held thus:

> *"3. It is a well settled rule of construction that no provision in a statute should be given retrospective effect unless the legislature by express terms or by necessary implication has made it retrospective and that where a provision is made retrospective care should be taken not to extend its retrospective effect beyond what was intended."*

(ii) A Three Judge Bench of the Hon'ble Supreme Court in the case of ***Commissioner of Income-tax, Bombay etc. vs. M/s Podar Cement Pvt. Ltd. etc. 1997(5) SCC 482*** has held as under:

> *"45. In our view, the circumstances under which the amendment was brought into existence and the consequences of the amendments will have a greater bearing in deciding the issue placed before us. In other words, if after discussion we come to a conclusion that the amendment was clarificatory/declaratory in nature and, therefore, it will have retrospective effect then it will set at rest the controversy finally."*

(iii) A Five Judge Bench of the Hon'ble Supreme Court in the case of ***Commissioner of Income Tax (Central)-I, New Delhi vs. Vatika Township Private Limited, 2015(1) SCC 1,*** has held as under:

> *"32. The obvious basis of the principle against retrospectively is the principle of 'fairness', which must be the basis of every legal rule as was*

observed in the decision reported in ***L'Office Cherifien des Phosphates v. Yamashita-Shinnihon Steamship Co.Ltd, (1994) 1 AC 486****. Thus, legislations which modified accrued rights or which impose obligations or impose new duties or attach a new disability have to be treated as prospective unless the legislative intent is clearly to give the enactment a retrospective effect; unless the legislation is for purpose of supplying an obvious omission in a former legislation or to explain a former legislation. We need not note the cornucopia of case law available on the subject because aforesaid legal position clearly emerges from the various decisions and this legal position was conceded by the counsel for the parties. In any case, we shall refer to few judgments containing this dicta, a little later.*

33. We would also like to point out, for the sake of completeness, that where a benefit is conferred by a legislation, the rule against a retrospective construction is different. If a legislation confers a benefit on some persons but without inflicting a corresponding detriment on some other person or on the public generally, and where to confer such benefit appears to have been the legislators object, then the presumption would be that such a legislation, giving it a purposive construction, would warrant it to be given a retrospective effect. This exactly is the justification to treat procedural provisions as retrospective. In ***Government of India & Ors. v. Indian Tobacco Association****,****(2005) 7 SCC 396****, the doctrine of fairness was held to be relevant factor to construe a statute conferring a benefit, in the context of it to be given a retrospective operation. The same doctrine of fairness, to hold that a statute was retrospective in nature, was applied in the case of* ***Vijay v. State of Maharashtra & Ors. (2006) 6 SCC 286.*** *It was held that where a law is enacted for the benefit of community as a whole, even in the absence of a provision the statute may be held to be retrospective in nature. However, we are confronted with any such situation here.*

(iv) The Hon'ble Supreme Court in a judgment titled as ***Sree Sankaracharya University of Sanskrit and others vs. Dr. Manu and Another, 2023 SCC OnLine SC 640,*** has held thus:

"45. It is trite that any legislation or instrument having the force of law, which is clarificatory or explanatory in nature and purport and which seeks to clear doubts or correct an obvious omission in a statute, would

> *generally be retrospective in operation, vide Ramesh Prasad Verma. Therefore, in order to determine whether the Government Order dated 29th March, 2001 may be made applicable retrospectively, it is necessary to consider whether the said order was a clarification or a substantive amendment.*
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> *xxx xxx xxx xxx*
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> *xxx xxx xxx xxx*
>
> *52. From the aforesaid authorities, the following principles could be culled out:*
>
> *i) If a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted.*
>
> *ii) In order for a subsequent order/provision/amendment to be considered as clarificatory of the previous law, the pre-amended law ought to have been vague or ambiguous. It is only when it would be impossible to reasonably interpret a provision unless an amendment is read into it, that the amendment is considered to be a clarification or a declaration of the previous law and therefore applied retrospectively.*
>
> *iii) An explanation/clarification may not expand or alter the scope of the original provision.*
>
> *iv) Merely because a provision is described as a clarification/explanation, the Court is not bound by the said statement in the statute itself, but must proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively."*

9.1. *Craies on Statute Law*, Fifth Edition, pp.56-57), which has met with approval by a Five Judge Bench of the Hon'ble Supreme Court in a case titled as ***Central Bank of India and others vs. Their Workmen, etc., 1960 AIR Supreme Court 12***, iterates as under:

> *"For modern purposes a declaratory Act may be defined as an Act to remove doubts existing as to the common law, or the meaning or effect of any statute. Such Acts are usually held to be retrospective. The usual reason for passing a declaratory Act is to set aside what Parliament*

> *deems to have been a judicial error, whether in the statement of the common law or in the interpretation of statutes. Usually, if not invariably, such an Act contains a preamble, and also the word "declared" as well as the word 'enacted'".*

To similar effect is the enunciation explained by Justice G.P. Singh in the *Principles of Statutory Interpretations, 13th Edition 2012* published by *Lexis Nexis Buttersworths Wadhwa, Nagpur* which has met with the approval from the Hon'ble Supreme Court in the case of ***Vatika Township*** (supra).

9.2. The general principle of law which emerges herein, fortified by the longstanding jurisprudence, is that a statute — or any amendment thereto — is operational and applies prospectively, unless the statute explicitly provides for a retrospective application, or such an intention can be necessarily inferred by an inevitable implication. It is a well-settled canon of interpretation, sanctified by time and judicial pronouncements, that statutes which create new substantive rights or extinguish existing substantive rights are presumed to be operational prospectively. Their retrospective operation can only be justified if the language employed by the legislature, clearly and unequivocally, mandates such an application. The rationale underpinning this venerable rule is that the present conduct of individuals ought to be governed by the legal norms, currently in force; and the law should not retroactively impinge upon the activities completed under an earlier legal framework. Every person is presumed to be entitled to order and regulate his or her affairs, in reliance upon the extant legal regime, and should not find the settled expectations confounded by retrospective alterations of the law.

The legal maxim ***lex prospicit non respicit*** *— the law looks forward, not backward —* eloquently encapsulates this foundational principle.

Ergo, it must be regarded as a cardinal rule that unless a notification or circular expressly or by necessary intendment declares its retrospective application, the courts ought not to infer such an operation. The golden rule of interpretation mandates that the legislative intent must be discerned from the words used, according to their plain, ordinary, and grammatical meaning. Moreover, the context and circumstances surrounding the promulgation of the statute, together with the legal consequences flowing therefrom, must be accorded significant weightage in determining whether a change in a statute/rule should be construed as operating retrospectively. An exception to this general presumption promulgates in the case of statutes or amendments which are purely declaratory or clarificatory in nature. Where a subsequent enactment merely clarifies the law, as it always ought to have been understood, without effecting a substantive change, such a legislation may, by its very character, be applied retrospectively. However, it must be demonstrably clear that the intent of the legislature was to resolve ambiguities or doubts in the antecedent law, rather than to promulgate an entirely new regime.

Although the above ratio decidendi pertains primarily to statutory enactments and amendments, the principles enunciated therein are equally applicable, *mutatis mutandis*, to notifications, circulars, or directives possessing the force of law, issued by statutory authorities, including the *NMC*.

9.3. Reverting to the factual matrix of the *writ petition in hand*; the *01.08.2023 guidelines* introduce an entirely new regulatory framework governing the standards of assessment and the procedure for evaluation, thereby effectuating a substantive departure from the pre-existing regime. The *01.08.2023 guidelines,* being constitutive of substantive rights of obligations cannot — absent an express provision or an necessary implication — be construed as having retrospective operation. Furthermore, Clause 3 of *01.08.2023 guidelines* unequivocally stipulates that they shall come into force with effect from 1st August, 2023, thereby rendering the intention of the promulgating authority manifestly clear & beyond cavil. Furthermore, the *01.09.2023 notification* does not expressly provide any guidance as to whether it would apply prospectively or retrospectively. The title of *01.09.2023 notification* describes it as "*Corrigendum"* but body thereof informs that the relevant provision contained at page No.58 of *01.08.2023 guidelines* is "*Amended*". Further, an analytical perusal of *01.09.2023 notification,* reflects that it does bring in a substantial change namely reducing the passing marks from 50% to 40%. This is indubitably a substantial change in the *01.08.2023 guidelines*. The language employed in *01.09.2023* notification, as well as the substantive alteration(s) introduced thereby, incontestably indicates that the *01.09.2023 notification* is not merely clarificatory in nature. Rather, it effects a fundamental and material departure from the *01.08.2023 guidelines.* It does not purport to elucidate or remove ambiguities inherent in earlier notification; instead it establishes new & distinct passing marks standard, thereby altering the substantive rights obligations contemplated under the *01.08.2023 guidelines.* Still further; the

gap, if any, stands foreclosed by *03.10.2023 public notice* wherein it has been specifically notified by *NMC* that retrospective effect of *01.09.2023 notification* is not possible.

The accrual of the cause of action in relation to the standards for passing & the process of evaluation is inextricably linked to the date on which the examination is held. In the absence of an express and unambiguous direction by the duly empowered authority entrusted with the conduct of such examination, any subsequent alteration — whether in the minimum qualifying marks or in evaluative methodology — cannot be imposed retrospectively. The rights and liabilities of a candidate must be determined in accordance with the rules and criteria in force at the time the examination is undertaken, to do otherwise would not only offend principles of fairness & legal certainty but would also impermissibly impair vested rights. It is thus indubitable that *01.08.2023 guidelines* as well as *01.09.2023 notification* must not, by any stretch of legal imagination, be applied retrospectively i.e. to the exams conducted prior thereto, irrespective of the date of declaration of results.

9.4. There is yet another aspect *nay* pertinent aspect of the *lis* in hand which requires to be delved into. It is a well-settled proposition in academic jurisprudence that supplementary examinations do not constitute a distinct or autonomous evaluative exercise, but rather operate as an ancillary or continuative component of the principal examination cycle. They are, in essence and effect, an extension of the main examination, and therefore, ought to be governed by the same corpus of procedural norms, regulatory mandates, and evaluative standards — including, but not limited to, the

prescribed syllabus, minimum qualifying thresholds, and eligibility criteria. Absent an express and unequivocal departure articulated by the competent statutory authority vested with the regulatory oversight of such examinations, any attempt to apply a divergent set of standards to the supplementary assessment would be legally untenable and jurisprudentially unsound. To hold otherwise would not only violate the principles of uniformity and parity in academic assessment but would also engender grave and manifest prejudice to candidates belonging to the same academic cohort who had successfully cleared the main examination under the extant norms.

The contention advanced on behalf of the petitioners, invoking the principles of ***lex mitior*** or the ***Rule of Lenity*** to seek the benefit of the *01.08.2023 guidelines* along with *01.09.2023 notification,* is equally untenable. The said doctrine, though recognized in penal/criminal jurisprudence, cannot be indiscriminately transposed to the context of professional academic qualifications, especially one as sensitive and paramount as the MBBS course, which directly involves public health and safety. The *NMC,* being the designated regulatory body vested with statutory competence and domain expertise, has consciously taken a position contrary to the petitioners' plea(s). This considered position of the expert body must be accorded due deference, lest the judicial process inadvertently substitute its own judgment for that of the specialized authority in matters demanding technical proficiency and sectoral oversight.

Ergo, the petitioners cannot be extended the benefit of *01.08.2023 guidelines* read with *01.09.2023 notification.*

Re: *Whether; 07.11.2023 interim order passed by this Court granting interim relief to the petitioners, efflux of some time having passed since then and the petitioners being students; causes equity in favour of the petitioners.*

10. The crux of this aspect of the matter, as espoused on behalf of the petitioners, is that they were afforded interim benefit of the *01.08.2023 guidelines* read with *01.09.2023 notification* & since considerable time has passed thereafter, the said interim order deserves to be made absolute in exercise of equitable jurisdiction of this Court.

Before delving into this aspect of the matter it would be germane to refer herein to a judgment passed by this Court in the case titled as ***Gurpreet Singh vs. Guru RavidasAyurved University, VPO Kharkan, Una Road, District Hoshiarpur and another : Neutral Citation No.:= 2025:PHHC:039199-DB,*** relevant whereof reads as under:

> *"It is an immutable and sacrosanct obligation of a writ Court to dispense justice in accordance with the exalted principles of good conscience, justice and equity. However, the invocation of equitable jurisdiction does not confer upon the Court an unfettered prerogative to render orders in complete defiance or in oblivion of the established tenets of the law of the land. The administration of equity must operate within the defined contours of jurisprudence and cannot transgress into the realm of judicial adventurism, whereby reliefs, alien to the fundamental precepts of law, are granted without legal substratum. Equity, in its true essence, does not entail bestowing that which the law does not contemplate, nor does it envisage the conferment of benefits that stand in stark contradiction to statutory mandates. The writ Court, whilst exercising its plenary powers inequity, is vested with the authority to bridge the lacunae that may exist within the rigid framework of statutory provisions. However, such a course of action must be undertaken with due reverence to the overarching legal order, lest it results in judicial encroachment that supplant it; or it tampers the rigours of legal formalism without eviscerating the statutory fabric upon which the administration of justice firmly rests. The equitable*

> *jurisdiction of a writ Court must be exercised with judicious restraint, ensuring that its decisions do not traverse beyond the permissible precincts of legal propriety. The maxim* ***Aequitas Sequitur Legem*** *— equity follows the law —encapsulates the fundamental doctrine, namely, that an equitable relief must be harmonized with statutory provisions, not granted in derogation thereof. While it is within the writ Court's remit to remedy injustice where the law is silent or deficient, such remedial measures must not metamorphise into judicial legislation which impinges upon the extant rules. The Court, in its equitable jurisdiction serves as the guardian of justice, yet it must remain ever vigilant against the perils of judicial overreach, wherein discretionary powers are wielded in a manner that proscribes legal mandates."*

10.1. Indubitably, the interim benefit of the *01.08.2023 guidelines* and *01.09.2023 notification* was granted to the petitioners vide order dated 07.11.2023 earlier passed by this Court and the judgment was reserved in the *writ petition in hand* on 24.04.2025, which time line does reflect that there is some efflux of time since the petitioners were extended the interim benefit by this Court. However, it cannot be lost sight of that the petitioners are aspiring to be doctors who are required to be professionals with astute knowledge of medical science(s) and many ancillary skills of akin nature. It is a matter of profound public interest that the highest *nay* exceptional standards of qualification ought to be scrupulously maintained in professional courses such as MBBS, which occupy an exalted position even within the domain of medical education. The nature of these disciplines, including MBBS, essentially deal directly with precious human life and it, hence, necessitates that only those of proven merit and competence are permitted entry. When the competent examining authority, acting under the mandate of law, prescribes minimum eligibility criteria or standards of qualification, such prescriptions must be regarded with the utmost sanctity. It

is neither appropriate nor permissible for a writ court, however noble its intentions, to dilute or circumvent these standards. The conditions so prescribed are the outcome of deliberate and expert considerations, tailored to ensure that entrants possess the necessary intellectual acumen, academic proficiency, and professional aptitude to uphold the rigours of the medical profession. The authority tasked with conducting such examinations and overseeing admissions is best placed to judge the qualifications required, which also being endowed with the requisite expertise and statutory responsibility. The eligibility norms framed by such authorities are neither arbitrary nor whimsical; rather, they are anchored in the larger objective of preserving the sanctity, integrity, and excellence of professional education and, time-tested as well as aligned with real-time needs & requirements of larger public interest. Thus, the writ Court ought to exercise restraint and abstain from substituting their own notions of fairness in lieu of the wisdom embedded in such prescriptions. The role of the writ Court is indeed to act equitably and to advance the cause of justice. Yet, equity must operate within, and not outside, the framework of law. While the writ Court is the custodian of justice, it must not, under the guise of equitable relief, usurp the function entrusted to expert bodies or render the statutory scheme nugatory. Judicial intervention, if any, must be reserved for instances of manifest arbitrariness or egregious violation of constitutional rights - not for revisiting or softening eligibility standards rooted in reason and necessity. It must be underscored that public interest far outweighs individual hardships, in matters concerning professional qualifications. Sympathy, however natural, must not obscure the larger imperative of maintaining competence within

fields where public trust and lives are at stake. To allow otherwise would be to compromise not merely individual standards but the very edifice of professional excellence. Thus, the judicial conscience must, in such matters, be tempered with a deep respect for statutory intent and the greater good. The writ Court must confine itself to ensuring that the prescribed qualifications are applied fairly and uniformly; not to carving out exceptions, based on misplaced notions of equity. In conclusion, while writ courts possess a wide and potent jurisdiction, their exercise must be harmonious with the statutory framework, particularly in fields where technical expertise and public welfare converge. Judicial interference with prescribed qualifications should remain an exception, not the rule, lest the court inadvertently erodes the very standards it is duty-bound to uphold.

The pristine words of Benjamin N. Cardozo, which met with approval from the Hon'ble Supreme Court, read thus:

> *"The judge, even when he is free, is still not wholly free. He is not to innovate at pleasure. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to the primordial necessity of order in the social life. Wide enough in all conscience is the field of discretion that remains"*

Ergo, this Court finds itself unable to exercise its equitable jurisdiction in favour of the petitioners.

Re: *Whether the dicta of Division Bench judgments of the Hon'ble Madras High Court and the Hon'ble Kerala High Court, holding that 01.09.2023 notification has retrospective effect, is binding precedent upon this Court.*

11. Learned counsel for the petitioners has vociferously relied upon the dicta of the judgments passed by the Hon'ble Division Bench(s) of the Hon'ble Madras High Court and Hon'ble Kerala High Court to argue that the issue of *01.09.2023 notification* being retrospective in nature is conclusively decided therein in favour of the petitioners.

11.1. Before delving into this aspect of the matter, it would be apposite to refer herein to relevant case-law, *viz*:

(i) A three Judge Bench of the Hon'ble Supreme Court in the case titled as ***Valliama Champaka Pillai vs. Sivathanu Pillai and others, 1979(4) SCC 429,*** has held as under:

> *"18. xxxxxxxxxxx. The point sought to be made out is that the Madras High Court was legally bound to apply the Travancore Limitation Regulation as interpreted by the Travancore High Court, in preference to the earlier decisions of the Madras High Court. It is urged that even on the doctrine of stare decisis, the learned Judges of the High Court ought to have adhered to the view taken by the Travancore Court in the said cases.*
>
> *xxx xxx xxx xxx*
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> *xxx xxx xxx xxx*
>
> *21. These erroneous decisions of the Travancore Court could, at best, have a persuasive effect and not the force of binding precedents on the Madras High Court. There is nothing in the States Reorganisation Act 1956 or any other law which exalts the ratio of those decisions to the status of a binding law, nor could the ratio decidendi of those decisions be perpetuated by invoking the doctrine of stare decisis."*

(ii) Further, a Division Bench of the Hon'ble Bombay High Court in a case of ***Commissioner of Income Tax vs. Thana Electricity Supply Ltd. 1993 SCC Online Bom 591,*** has held that:

> *"12. It is equally well settled that the decision of one High Court is not a binding precedent on another High Court. The Supreme Court in Valliama Champaka Pillai v. Sivathanu Pillai, AIR 1979 Supreme Court 1937, dealing with the controversy whether a decision of the*

erstwhile Travancore High Court can be made a binding precedent on the Madras High Court on the basis of the principle of stare decisis, clearly held that such a decision can at best have persuasive effect and not the force of binding precedent on the Madras High Court. Referring to the States Reorganisation Act, it was observed that there was nothing in the said Act or any other law which exalts the ratio of those decisions to the status of a binding law nor could the ratio decidendi of those decisions be perpetuated by invoking the doctrine of stare decisis. The doctrine of stare decisis cannot be stretched that far as to make the decision of one High Court a binding precedent for the other. This doctrine is applicable only to different Benches of the same High Court.

(iii) A Division Bench of the Hon'ble Bombay High Court in a judgment titled as ***Dharmendra M. Jani vs. Union of India & Ors.*** in Writ Petition No.2031 of 2018 decided on 16.06.2021, has held as under:

"59. It is a settled legal proposition that decision of one High Court is not binding on another High Court though it deserves due consideration and certainly has a high persuasive value. This position has been clarified by the Supreme Court in Valliamma Champaka Pillai Vs. Sivathanu Pillai, (1980) 1 SCR 354 and by this Court in CIT Vs. Thane Electricity Supply Limited, (1994) 206 ITR 727. In Valliamma Champaka Pillai (supra), Supreme Court declared that the erroneous decisions rendered by the erstwhile Travancore High Court could not be made binding on the Madras High Court. Such decisions could at best have a persuasive effect. There is nothing in the States Re-organisation Act, 1956 or any other law which exalts the ratio of those decisions to the status of a binding law nor could the ratio decidendi of those decisions be perpetuated by invoking the doctrine of stare decisis. Expanding on this, this Court in Thane Electricity Supply Limited (supra) held that the decision of one High Court is neither a binding precedent for another High Court nor for courts or tribunals outside its own territorial jurisdiction. It is well settled that the decision of a High Court will have the force of binding precedent only in the states or territories over which the Court has jurisdiction. In other states or outside the territorial jurisdiction of that High Court it may at best have only persuasive effect. By no amount of stretching of the doctrine of stare decisis, can judgments of one High Court be given the status of a binding precedent so far other High Courts or courts or

tribunals outside the territorial jurisdiction of that High Court are concerned."

The doctrine of *Stare Decisis,* more commonly known as doctrine of binding precedents, originates from the maxim "*Stare Decisis et non quieta movere",* translation whereof reads — "to stand by precedent and not to disturb what is settled". It embodies the desideratum that judicial decision, once rendered, ought to be adhered to in subsequent cases involving similar questions of law, thereby fostering consistency, certainty and predictability in the administration of justice. This doctrine reflects the legal axiom that the Courts should not exercise their jurisdiction in any random manner for this would speedily land everything in "*confusion worse confused".* Of necessity there must be certain fixed land-marks approaching correctness, though not infallibly perfect; and the Courts should be guided by these even though a rigorous adherence to them might at times work individual hardship. These land-marks are, of course, prior decisions serving as precedents not lightly to be changed. *Ergo,* this doctrine has the merit of promoting a certainty and consistency in judicial decisions, and enables an organic development of the law, besides providing assurance to the individual, as to the consequence of transactions, forming part of his daily affairs. However, this salutary doctrine, while deeply entrenched within the jurisprudential framework, operates within a hierarchical structure. It is within this structural context that the nuanced position concerning the inter-relationship between decisions of High Courts across various jurisdictions must be understood.

The *ratio decidendi* of the above demiurgic case-law indubitably reflects that the decision of one High Court is not a binding precedent for another High Court. The doctrine of *Stare Decisis* does not implore the judgments of one High Court to be of binding precedent insofar as other High Courts are concerned. In other words, by no quantum of stretching of the doctrine of *stare decisis*, can judgments of one High Court be given the status of a binding precedent insofar as other High Courts are concerned. Any such attempt will go counter to the very doctrine of *stare decisis* and also the *dicta* laid down by the Hon'ble Supreme Court, which has interpreted the scope and ambit thereof. The fact that there is only one decision of any High Court on a particular point or that number of different High Courts have taken identical views in that regard is not at all relevant for that purpose. Whatever may be the conclusion, the decisions cannot have the force of binding precedent on other High Courts. Such demiurgic status is reserved only for the decisions of the Hon'ble Supreme Court which are binding on all Courts in the country by virtue of Article 141 of the Constitution. The distinction arises from the federal character of the Indian judiciary, where each High Court exercises jurisdiction over a defined territorial region and is a *Court of Record* under Article 215 of the Constitution. The rationale underpinning the non-binding nature of High Court decisions *inter* se lies in the very architecture of judicial federalism. Each High Court is competent to interpret and apply the law within its own territorial limits, and in doing so, it may adopt a view distinct from that of another High Court. While a pronouncement from a High court, particularly one rendered after detailed analysis and reasoned exposition, may commond

high persuasive authority, it does not operate as a precedent in the binding sense for other High Courts. At the same time, it cannot be lost sight of that law will be bereft of all its utility if it ought to be thrown into the state of uncertainty on account of conflicting stalemates and, therefore, it is essential that a High Court while deferring with a view taken by other High Court(s) ought to record its dissent with reasons therefor. In other words, a judgment of other High Court(s) ought to be taken note of and dissented with only upon recording reasons, including reasons for not adhering to persuasive value of judgment of another High Court(s).

12. Adverting to the present matter, it is noticeable that learned counsel for the petitioners has placed reliance upon the judgment dated 28.02.2025 rendered by the Division bench of the Hon'ble High Court of Kerala passed in WA-403-2025 titled as ***National Medical Commission Vs. Antony P. Alappat and Others; 2025:KER:22334***. (hereinafter referred to as '*judgment dated 28.02.2025*').

While the pronouncement undoubtedly commands great respect and consideration at our end; we yet, after a circumspect and thoughtful consideration, are unable to persuade ourselves to subscribe to the reasoning and conclusions arrived at by the Hon'ble Kerala High Court. Thus, we are constrained, with humility, to take a different view for the reasons, namely:

FIRSTLY, it is pertinent to note that the *03.10.2023 public notice* does not appear to have been adverted to by the Hon'ble Kerala High Court while rendering the *judgment dated 28.02.2025.* The *03.10.2023 public notice* unequivocally articulates the intention of the promulgating authority (*NMC)* to apply the *01.09.2023 notification* prospectively. It

appears, that the *03.10.2023 public notice* may not have been brought to the attention of the Hon'ble Kerala High Court, which, had it been considered, might have resulted in another view.

SECONDLY, the *judgment dated 28.02.2025* has not taken into account that the course under consideration pertains to the field of Medicine, namely the MBBS programme which, by its very nature, is a highly specialised and professional discipline. In such a sensitive domain, higher qualification standards are mandated not merely to serve individual aspirations but to safeguard the broader public interest. It is a settled canon that Courts ought to exercise utmost circumspection before intervening in matters of academic standards set by a statutory authority such as the *NMC*, particularly when those standards are rooted in considerations of public welfare and safety. Individual hardships, however sympathetic, cannot outweigh the collective good necessitating rigorous professional benchmarks.

THIRDLY, the *judgment dated 28.02.2025* appears to have proceeded on the premise that the *01.09.2023 notification* was merely clarificatory, thereby affording it retrospective operation. However, a plain and harmonious construction of the language employed therein reveals no such intent to merely elucidate or clarify existing ambiguities. On the contrary, the *01.09.2023 notification* manifests promulgation of an altogether new regulatory framework, introducing substantive changes rather than merely explicating previous provisions as propounded vide *01.08.2023 guidelines*. In such circumstances, and more so particularly in light of the express declaration contained in the *03.10.2023 public notice* prescribing

prospective application, the *01.09.2023 notification* cannot, by any established canon of statutory interpretation, be treated as clarificatory so as to warrant retrospective operation.

13. Further, the learned counsel for the petitioners has placed reliance upon the judgment dated 23.01.2025 rendered by the division bench of the Hon'ble High Court of Madras passed in WA-333-2024 titled as ***The Controller of Examinations, Pondicherry University, Pondicherry Vs. Megha Maria Joe and others***,(hereinafter referred to as '*judgment dated 23.01.2025*').

With the highest respect and profound deference to the Hon'ble High Court of Madras, it must be observed that, apart from the matter being factually distinguishable from the instant case, we, upon a circumspect and anxious consideration, are unable to concur with the view enunciated in *paragraph 15* of the *judgment dated 23.01.2025*, wherein it has been held that the rules embodied in the *01.08.2023 guidelines* would be applicable to those students also whose results had not been declared by the said date.

In the factual milieu before the Hon'ble High Court of Madras, it is pertinent to note that the examination process was still ongoing, as the practical component of the examination had been conducted subsequent to 01.08.2023 — the date on which the *01.08.2023 guidelines* came into force. It was in these circumstances that the benefit of the *01.08.2023 guidelines* was extended to the students therein. In contradistinction, in the present case under consideration, the entire process of examination had already culminated, and the final results were duly declared on 18.08.2023, which was prior to the issuance and coming into effect of the *01.09.2023*

notification. Consequently, any endeavour to accord retrospective operation to the *01.09.2023 notification* in the facts of the instant case would, in effect, amount to a revision or alteration of results already declared — a proposition that finds no sanction in law and is anathema to the settled legal principles. Such a course would offend the finality of results and introduce uncertainty into the domain of academic evaluation, a result that the law, with its paramount concern for certainty and stability, cannot countenance.

Adverting to the observation made by the Hon'ble High Court of Madras in *paragraph 15* of *judgment dated 23.01.2025*, the pertinent excerpt of which is as follows:

> *"15. ……..To state with more clarity, the new regulations would apply to the students, whose results have not been published by 01.08.2023."*

With the utmost respect and reverence for the esteemed *judgment dated 23.01.2025* rendered by the Hon'ble Madras High Court, it appears to us, with humility, that such an interpretation extends the operation of the *01.08.2023 guidelines* beyond its natural and intended temporal limits, thereby imparting to it a retrospective character, which is neither expressly provided for nor can be inferred by necessary implication from its language. As per the settled canons of statutory construction, a provision affecting substantive rights must, in the absence of clear legislative intent to the contrary, be construed to operate prospectively. The language of the *01.08.2023 guidelines*, upon a plain and grammatical reading, does not evince any such retrospective application.

Decision:

14. In view of the prevenient ratiocination, the instant batch of civil writ petitions is dismissed. Pending application(s), if any, shall also stand disposed of accordingly. There shall be no order as to costs.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

May 06, 2025
Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No