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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Judgment reserved on: 13.05.2026

Judgment pronounced on: 29.05.2026

+ **W.P.(C) 5824/2026 & CM APPL. 30162/2026**

DR AMAN CHOUDHARY

.....Petitioner

Through: Ms. Tanvi Dubey & Mr. Yash
Dubey, Advs.

versus

NATIONAL BOARD OF EXAMINATION IN MEDICAL
SCIENCES

.....Respondent

Through: Ms. Ruchira Gupta and Ms.
Sumriddhi Agrawal, Advs.

+ **W.P.(C) 4491/2026 & CM APPL. 21859/2026**

VENKTESH DASWANI

.....Petitioner

Through: Dr. Alakh Alok Srivastava and
Mr. Arpit Dangi, Advs.

versus

NATIONAL BOARD OF EXAMINATION IN MEDICAL
SCIENCES AND OTHERS

.....Respondents

Through: Ms. Ruchira Gupta and Ms.
Sumriddhi Agrawal, Advs. for R-1.
Mr. Sandeep Kumar Mahapatra, CGSC with
Ms. Mrinmayee Sahu, Mr. Tribhuvan and
Ms. Anushka Sarraf, Advs. for R-3.
Mr. Deepansh Sharma, GP for R-3.
Ms. Tanvi Dubey, Adv. for R-8.



CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

J U D G M E N T

W.P.(C) 4491/2026

1. This is a writ petition filed under Articles 226 and 227 of the Constitution of India seeking the following prayers:-

“a) Issue urgent appropriate writ, order, or direction to quash and set aside the Impugned Second Round Allotment List dated 02.04.2026 (Annexure P-1) to the extent the Respondent No.1 NBEMS has allotted few Sponsored Post MBBS DNB seats of 2025 Admission session to the ineligible Respondent Nos. 4 to 6 herein and has also not re-allotted the previously assigned seats of the ineligible Respondent Nos. 7 and 8 in the second round, in sheer contravention of clauses 2.3 and 2.4 of the NBEMS Handbook; and/or

b) Accordingly, issue urgent appropriate writ, order, or direction to the Respondent Authorities to forthwith publish a “Revised Allotment List” for the Second Round of the Sponsored Post MBBS DNB Seats Counselling 2025 after removing the abovementioned ineligible candidates, i.e., the Respondent Nos. 4 to 8 herein; and/or

c) Accordingly, issue urgent appropriate writ, order, or direction to the Respondent Authorities to re-allot a better seat of his choice to the Petitioner in the said “Revised



*Second Round Allotment List” of the Sponsored Post MBBS
DNB Seats Counselling 2025; and/or*

*d) Pass any such further order/order(s) as this Hon’ble
Court may deem fit and proper in the circumstances of the
case.”*

FACTUAL BACKGROUND

2. The petitioner (an MBBS Doctor) completed his MBBS in 2020 from Mahatma Gandhi Medical College and Hospital, Jaipur, Rajasthan and then joined Primary Health Centre at Amalda, District Bhilwara, Rajasthan, as Medical Officer and has been working there since. Later, the petitioner took NEET – PG 2025 examination and secured an All India Rank of 70279.
3. The counselling for NEET-PG (MD/MS/DNB) 2025 was regulated as per the Information Bulletin and Counselling Scheme issued by the respondent No.2 i.e., Medical Counselling Committee (“**MCC**”).
4. However, the petitioner did not secure any seat in Round No. 1, 2, 3 or Stray Vacancy Round of the counselling. Even then, the petitioner, a working/ in-service candidate, by virtue of his NEET-PG 2025 rank was eligible to participate in the Centralized Merit-based online counselling for admission to the Sponsored Post MBBS Diplomate of National Board (“**DNB**”) Seats for Academic Session 2025, conducted in accordance with the Handbook (“**NBEMS Handbook**”) issued by the respondent No.1 i.e., National Board of Examinations in Medical Sciences (“**NBEMS**”).
5. On 20.02.2026, the provisional list of eligible candidates for the said Sponsored Post MBBS DNB Seats Counselling for Academic Session



2025 was published, wherein the petitioner was at Serial No. 77. Consequently, the petitioner participated in the said counselling and locked his programme choices on 02.03.2026. On 06.03.2026, respondent No.1 published the Final Allotment List of First Round and petitioner, at Serial No. 47, was allotted “Respiratory Medicine” course at the Medanta - the Medicity Hospital, Sector-38, Gurgaon, Haryana-122001 (which was his 16th choice out of 18).

6. On finding out that some candidates, who are already pursuing PG Medical Courses through State Quota, were allotted seats in Final Allotment List of First Round, the petitioner submitted his Grievance on the online portal of respondent No.1 and also sent an email on 11.03.2026. The petitioner again raised grievance and also sent an email on 20.03.2026 to respondent No.1. However, no action was taken by the respondent authorities.
7. Being aggrieved, the petitioner filed a Writ Petition being W.P. (C) No. 3884/2026, seeking that the candidates already pursuing/ joined PG Medical Courses under State Quota should be debarred from participating in Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025, which was dismissed *vide* order dated 25.03.2026 recording statement of the respondent No.1’s counsel that the Clause No. 2.3 of the NBEMS Handbook will be followed.
8. Subsequently, on 02.04.2026, respondent No.1 published the Final Allotment List of Second Round (“**impugned Final Allotment List**”), wherein the petitioner, at Serial No. 11, is allotted “General Medicine” at Narayana Hrudayalaya Hospital, Bangalore (which was his 7th choice). In the said impugned Final Allotment List seats are also



allotted to respondent Nos. 4, 5 and 6, who are already pursuing PG Medical Courses under State Quota. Respondent Nos. 7 and 8 were allotted seats in the Final Allotment List of First Round dated 06.03.2026 and the said seats were not re-allotted in the Second Round.

9. Being aggrieved by the same, the petitioner raised grievance and sent an email on 03.04.2026 to remove respondent Nos. 4 to 8 from the impugned Final Allotment List dated 02.04.2026 and to re-issue list. However, the respondent authorities have not taken any action.
10. Hence, the present petition.
11. This Court *vide* order dated 06.04.2026 allowed the petitioner to participate in the Stray Vacancy Round, while letting him join the allotted seat in Second Round upon payment of the requisite admission fee. However, the petitioner neither joined the seat allotted nor deposited the fee. Thereafter, respondent No.1 filed an application seeking modification of the order dated 06.04.2026 to the extent that ‘General Medicine’ seat at Narayana Hrudayalaya Hospital, Bangalore be released for Stray Round of counselling, which was allowed *vide* order dated 08.05.2026 and it was recorded that “*The allotted seat of the petitioner has been given up*”.
12. In the meanwhile, respondent No.1 issued a show cause notice dated 02.04.2026 to respondent Nos. 4 to 8 seeking explanation for participating in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025, despite having been allotted a seat through State Quota and also sent communication dated 06.04.2026 to their respective institutes seeking their status. After reviewing the replies



from respondents and their respective institutes, the seats allotted to respondent Nos. 4 to 6 were cancelled, as they were already pursuing courses in the seats allotted through State Counselling, and the seats allotted to them and the petitioner in the Second Round would form part of Stray Round of counselling. The respondent Nos. 7 and 8 were issued another show cause notice dated 15.04.2026.

SUBMISSIONS ON BEHALF OF THE PETITIONER

13. Dr. Srivastava, learned counsel for the petitioner, submits that since respondent Nos. 4 to 6 have no objection to the seats allotted to them in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 being released, the same should be so done.
14. With regards to respondent Nos. 7 and 8, it is submitted that they should be debarred under Clause No. 2.3 of the NBEMS Handbook, which debars the medical students from participating in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025: (i) who are already pursuing a PG Medical Course, (ii) who have resigned or (iii) who have discontinued from such PG Medical Course. The said Clause No. 2.3 of the NBEMS Handbook reads as under:-

“2.3. Candidates already pursuing a Post Graduate course (MD/ MS/ DNB/ PG Diploma/ NBEMS Diploma) are not eligible for admission to Sponsored Post MBBS DNB seats of 2025 admission session for the entire duration prescribed for the course already joined by them earlier. This shall be irrespective of their resignation or discontinuation from the said course due to any reason.”

15. Further, in ***Remika Devi v. National Board Of Examination In***



Medical Sciences And Others, (W.P.(C)2957/2026) 2026:DHC:2372,
this Court held that a person who has “Joined/ Admitted” a PG Course will be said to be “pursuing” the said course and hence, another type of debarment was formed i.e., (iv) those candidates who have joined some other PG Course. Clause No. 2.3 of the NBEMS Handbook does not differentiate between “All India Quota” and “State Quota”, hence, a candidate pursuing or joined/ admitted in a PG Course under “State Quota”, also will be ineligible to participate in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025. However, it seems that the respondent Authorities have declared “All India Quota” candidates ineligible, while “State Quota” candidates have not been disturbed, which is violative of Article 14 of the Constitution of India.

16. It is further submitted that as that as per Clause Nos. 2.4, 12.3 and 12.4 of the NBEMS Handbook, the respondent No.1 can cancel admission of any candidate at any stage, even after they have taken admission under Sponsored Counselling, if ineligibility is found. Hence, in a case where candidate is (i) pursuing, (ii) joined, (iii) resigned or (iv) discontinuing any other PG Medical Course, then that candidate could be debarred at any stage, even after having taken admission. In the present case, respondent Nos. 7 and 8 are pursuing/ have joined other PG Medical Course through State Counselling and hence, are to be debarred from participating in Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025, even after being granted admission by the respondent No.1.
17. It is submitted that respondent No.1 with respondent No.2 failed to



eliminate candidates already pursuing PG Medical Courses under State Quota. Under Clause No. (d) of Chapter – 8 of the MCC Information Bulletin, the respondent No. 2 shall collect candidates' information who got admission under "State Quota" from all States, prior to conducting the All India Quota Stray Vacancy Round. Even, all state DMEs/ State Counselling Authorities are required to share candidates' data who have been allotted seats through State Quota, with the respondent No. 2, as per NEET-PG Schedule 2025. Further, in the Academic Session 2024, counselling went on till 19.05.2025, hence, if the prayers of the petitioner are allowed, there will be no delay to the academic session.

18. Lastly, it is submitted that the actions of the respondent Authorities of not debarring the illegible candidates from participating in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025, has warranted blocking of Sponsored Post MBBS DNB Seats, which has resulted in eligible candidates like petitioner being deprived of better PG Medical Seat. Reliance has been placed upon ***State of U.P. v. Bhavna Tiwari, 2025 SCC OnLine SC 1357***, to contend the respondent Authorities must ensure that seat blocking does not happen.

SUBMISSIONS ON BEHALF OF RESPONDENT NO. 1/NBEMS

19. Ms. Ruchira Gupta, learned counsel for the respondent No.1, submits that the seats allotted to respondent Nos. 4 to 6 already stand cancelled and shall form part of Stray Round of counselling and the seats allotted to respondent Nos. 7 and 8 are liable to be cancelled under Clause No. 2.3 of the NBEMS Handbook and shall form part of the



Stray Round of counselling. The respondent Nos. 7 and 8 have deliberately blocked seats and the same is prohibited by the Hon'ble Supreme Court in ***Bhavna Tiwari (supra)***. It is submitted that the respondent No.1 has the right to cancel any candidature and admission, at any stage, if found ineligible, in terms of Clause Nos. 2.3, 2.4, 12.3 and 12.4 of NBEMS Handbook.

20. It is further submitted that the petitioner's contention that the respondent No.1 did not conduct the counselling as per the NBEMS Handbook, particularly Clause No. 2.3, is wrong. The State Governments' counselling process is an independent process and allotment data is not shared with respondent No.1 and hence, respondent No.1 had no prior information about seat allotment through State Counselling and can verify the same only when data is revealed on the Online Portal for Joining and Registration ("**OPJR**") portal. Further, respondent No.1 has no means to find out about allotments of MD/MS seats. The NBEMS OPJR portal was opened on 09.03.2026 allowing updating candidates' details of joining and self-appraisal, including candidates allotted seat thorough State counselling and it is still ongoing with status of 1194 candidates pending. Further, respondent No.2 shares final allotment data with respondent No.1 only in respect of NBEMS seats.
21. Lastly, it is submitted that the petitioner has no cause of action as he has been allotted seats from his locked choices in both rounds of counselling. Further, *vide* order dated 06.04.2026, this Court has permitted the petitioner to participate in the stray round of counselling, hence, the relief of publishing 'Revised Allotment List' for Second



Round is unjustified. Also, since the admission process of most candidates is finalized, when such candidates are not party to the present writ petition, the said relief is legally not maintainable.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO.7

22. It is submitted that the respondent No.7 completed his MBBS from Maharaja Agrasen Medical College (“**MAMC**”), Agroha and in the year 2020 joined Haryana Health Department and has served as a Medical Officer for about 5.5 years. Then he participated in the NEET-PG 2025 examination and secured an All-India Rank of 39031. In the State Counselling rounds, the respondent No.7 was allotted a seat in MD Anaesthesiology at MAMC, Agroha and reported for the same on 19.02.2026, however, he never joined the department, nor pursued the said course. Thereafter, he participated in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 and was allotted a seat in DNB General Medicine at MAMC, Agroha, as per the Final Allotment List of First Round dated 06.03.2026. Consequently, on 10.03.2026, he surrendered the seat allotted through State counselling, which was accepted by the respective institute. On 11.03.2026, he reported to MAMC, Agroha, and completed admission formalities including payment of one-year annual course fee. An official ‘Document Verification Report’ was generated which certified respondent No.7 as “ELIGIBLE”. On 16.03.2026, he was officially relieved from his prior duties and on 17.03.2026 he joined the course at MAMC, Agroha and since then has been pursuing the said course. Even, the Head of the Department of General Medicine issued a Continuation Certificate certifying that respondent No.7 is pursuing



the said course for last two months.

23. It is submitted that as per Clause No. 2.3 of the NBEMS Handbook only candidates who are ‘already pursuing a Post Graduate course’ are barred, which includes candidates actively pursuing the PG course and mere seat allotment or preliminary reporting does not mean ‘joining’ or ‘pursuing’, reliance is placed upon **Remika Devi (supra)**. In the present case, respondent No.7 surrendered his seat through State Counselling, which was accepted by the respective institution, as also confirmed by the respondent No.1 and hence, his admission was never completed. Hence, the seat through State Counselling was merely allotted and the respondent No.7 never joined or pursued it and subsequently, surrendered it.
24. It is submitted that respondent No.7 surrendered the MD Anaesthesiology seat on 10.03.2026, way before admission cycle was concluded, which is usually after super stray round, which did not happen this year. Hence, there was no malicious intent to “block” or “waste” a medical seat. Further, “wastage of a seat” is not a ground to declare a candidate ineligible in either respondent No.2’s Information Bulletin or the NBEMS Handbook and respondent Authorities cannot originate a new disqualification not already present, reliance is placed on **Bhavna Tiwari (supra)**.
25. Lastly, it is submitted that the petitioner’s contention that he would have secured a “better seat” is only speculation, as seats are allotted on merit-cum-choice basis and given the disparity in respondent No.7’s rank i.e., 39031 and petitioner’s rank i.e., 70279, the petitioner has no vested right to a seat which would go to the next meritorious candidate



with a higher rank. The respondent No.1 has already generated the 'Document Verification Report' which certifies that respondent No.7 as 'ELIGIBLE' and hence, respondent No.1 cannot be allowed to arbitrarily reverse its own verification.

SUBMISSIONS ON BEHALF OF THE RESPONDENT NO.8

26. Ms. Dubey, learned counsel for the respondent No.8, submits that it was physically and statutorily impossible for the respondent No.8 to join the State Quota seat. The respondent No.8, since March 2023 till date has been working at the Community Health Centre ("**CHC**") Dhanur, Block Sri Karanpur, Sri Ganganagar as an in-service Medical Officer and has been issued a Continuance Certificate dated 08.05.2026 in this regard and the same could also be verified by his monthly salary slip for April 2026. He got an All India Rank of 67414 in NEET-PG 2025 and participated in the Rajasthan State PG Counselling, wherein he was allotted a Post MBBS Diploma (Pediatrics) seat at District Hospital ("**DH**"), Tonk. However, the respondent No.8 neither paid the full annual course fees nor executed the Surety Bond of Rs.8.5 Lakhs or Bank Guarantee of Rs.1.5 Lakhs. Hence, the respondent No.8 never officially joined DH Tonk. Further, as an in-service Medical Officer, respondent No.8 could not physically join a new postgraduate course without "Relieving Order" from the Government of Rajasthan. Further, respondent No.8 was never granted the mandatory Study Leave under Rule 112 of the Rajasthan Service Rules ("**RSR**"), 1951 and even the Last Pay Certificate ("**LPC**"), which acts as financial "relieving order" for a transitioning government servant, was never issued for him. Even the respondent



No.8's Service Book is still with BCMO, Karanpur (respondent No. 8's current employer), which shows that administrative control was never given to DH, Tonk. Additionally, respondent No.8 never went through the requisite Medical Fitness Examination at joining and even the formal Joining Report by DH Tonk or Self-Appraisal by the trainee on the OPJR Portal by 09.04.2026 was not executed. Non-fulfilment of such statutory mandatory requirements shows that the allotment was just a procedural technicality and respondent No.8 never "joined" and/or "pursued" the course.

27. It is submitted that the State Government's order dated 09.03.2026 only directs relieving of selected doctors and is not a blanket direction that relieves all in-service candidates. Respondent No.8 never submitted relieving application and continued his duty at CHC Dhanur. Further, respondent No.1's Notice dated 02.03.2026 required that in-service candidates' training can start only after being relieved from parent organization, hence, it was statutorily impossible for respondent No.8 to 'pursue' the State course. The petitioner's assumption that mere "allotment" in the State Counselling means "pursuing" under Clause No. 2.3 of NBEMS Handbook, is wrong in light of the judgment **Remika Devi (supra)**. Since the respondent No.8 never joined or pursued the seat allotted through State Counselling, allotment in the Final Allotment List of First Round abides by Clause No. 2.3 of NBEMS Handbook and **Remika Devi (supra)**.
28. It is submitted that the respondent No.8 participated in Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 and having secured an All India Rank of 67414, he was allotted a "General



Medicine” seat at Mohandai Oswal Hospital, Ludhiana, in First Round, after which he physically reported to the said institute and paid Rs. 1,25,000/- as annual course fee, thereby securing his seat. Further, the reply by the DH Tonk to the respondent No.1’s letter seeking status of the respondent No.8 categorially states the respondent No.8 “is not pursuing the course”.

29. In **Remika Devi (supra)**, this Court held that when rules provide financial penalty for non-joining, extra-statutory punishments like disqualification or ineligibility cannot be imposed. The State rules provide financial consequences for non-joining allotted seats, hence, cancelling respondent No.8’s specialized DNB seat is arbitrary and ultra vires. Even otherwise, respondent No.8’s All India Rank is 67414, whereas petitioner’s rank is 70279, hence, even if a vacancy arises, it would go to the next meritorious candidate in the rank and there are many candidates with higher rank than the petitioner. Also, as observed in **Index Medical College vs. State of M.P., 2021 SCC OnLine SC 318**, submitting a secured medical seat to stray round forges risk of seat going waste, which is against public interest.
30. Lastly, it is submitted that the last date for completing the formalities to join the State Quota seat was 09.04.2026 and now the State Quota seat has irrevocably lapsed qua him. Hence, currently the only position respondent No.8 has is at the Central DNB seat at Mohandai Oswal Hospital, Ludhiana and if such seat is cancelled it would lead to double jeopardy, as for non-joining the State Seat respondent No.8 is liable to financial penalty of Rs. 10 Lakhs under the State bonding rules and Ms. Dubey, learned counsel, also states that respondent No.8



is ready and willing to deposit the said Rs. 10 Lakhs. Further, if the seat is cancelled the respondent No.8 would be left without any PG medical seat, which would cause irreparable injury to his career, which cannot be compensated in terms of money.

ANALYSIS AND FINDINGS

31. I have heard learned counsels for the parties and perused the material available on record, including the case laws cited.
32. The present matter is with respect to the medical seats allotted during Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 by respondent No.1 in terms of NBEMS Handbook. The petitioner has initially sought setting aside of the Second Round Allotment List dated 02.04.2026 to the extent that the respondent No.1 has allotted the Sponsored Post MBBS DNB Seats for Admission Session 2025 to respondent Nos. 4 to 6 and not re-allotted the previously assigned seats of respondent Nos. 7 and 8 in the second round. The petitioner's primary contention is that respondent Nos. 4 to 8, in view of the NBEMS Handbook, are not entitled to the seats allotted to them and if the said seats allotted to respondent Nos. 4 to 8 are cancelled, the petitioner will get a better option.
33. As for respondent Nos. 4 to 6 are concerned, upon careful perusal of the Counter Affidavit on behalf of the respondent No.1 dated 16.04.2026, it is clear that the respondent Nos. 4 to 6 have admitted that they are already pursuing PG Medical Course allotted through the State Counselling and have no objection if the seats allotted to them in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 are released and go into to the Stray Round of



counselling. Hence, in view of the same and in view of absence of any objection/counter by the respondent Nos. 4 to 6, the seats allotted to respondent Nos. 4 to 6 in Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 shall form part of Stray Round of counselling.

34. Coming to the case of respondent Nos. 7 and 8, both have placed heavy reliance on the judgment of **Remika Devi (supra)** to urge that they were merely allotted seat and never “joined” and/or “pursued” the course and hence, Clause No. 2.3 of the NBEMS Handbook is not applicable to them. At this stage it is relevant to examine whether the ratio given in **Remika Devi (supra)**, while also considering **Bhavna Tiwari (supra)**, is applicable to the case of respondent Nos. 7 and 8.

The relevant paragraphs of **Remika Devi (supra)** reads as under:-

“33. The controversy, therefore, turns on the interpretation of the expression “already pursuing a Post Graduate course” as contained in Clause No. 2.3 of the Handbook. Before advertng to the rival submissions, it would be apposite to reproduce the relevant condition issued by the respondent No. 1:

“2.3. Candidates already pursuing a Post Graduate course (MD/ MS/ DNB/ PG Diploma/ NBEMS Diploma) are not eligible for admission to Sponsored Post MBBS DNB seats of 2025 admission session for the entire duration prescribed for the course already joined by them earlier. This shall be irrespective of their resignation or discontinuation from the said course due to any reason.”



(emphasis supplied)

34. The said clause, on a plain reading, disqualifies only those candidates who are already pursuing a postgraduate course. The provision further employs the expressions “resignation” and “discontinuation”, which, in my considered view, necessarily presupposes that the candidate has first joined the course. A person who has not joined a course cannot, in law or in common parlance, be said to be either resigning from or discontinuing the same.

35. The respondents have sought to contend that the term “pursuing” ought to be interpreted broadly so as to include even cases of mere allotment of a seat. This submission is based on erroneous interpretation of the said clause and thus, liable to be rejected. It is well settled that while a purposive interpretation may be adopted to further the object of a provision, the same cannot be stretched to rewrite the rule or introduce a disqualification which the rule making authority has consciously not incorporated. If the intent was to treat even allotment as a ground of ineligibility, the same should have been explicitly provided.

36. The same is also evident from the clause Nos. 5 and 6 of the Allotment Letter of the SVR wherein it is in clear words stated that the effect of joining would be such that the candidate will not be able to resign from said seat and the only consequence of non-reporting to the allotted college would be forfeiture of security deposit. ...



37. The above clauses clearly demonstrate that the rules treat joining as a distinct and consequential step, separate from allotment. It clear that allotment and joining are distinct stages of Counselling process and are governed by different provisions. While joining leads to a binding admission with no option of resignation, non-joining, i.e. mere allotment, attracts only forfeiture of the security deposit. No further disability, much less ineligibility for a separate Counselling process, is contemplated. In such a scenario, the rules governing allotment and joining stages are different and cannot be commingled.

38. Reliance has been placed on Bhavna Tiwari &Ors. (Supra) by all the parties. The petitioners, by placing reliance, contend that factual matrix is similar as to that of the petitioners' case and thus, should also be allowed the same whereas the respondents have placed reliance contending that the as per Hon'ble Supreme Court there should be severe consequences for seat blocking. ...

39. On perusal of the judgment, one thing that is clear is that the judgment clearly recognises the distinction between allotment and joining and prescribes consequences for both. While the consequences for allotment and joining of SVR would be that no resignation would be permitted, the consequences for allotment and subsequent failure of joining would only be forfeiture of deposit. Once NExT is implemented, the candidate upon non-joining, would be



debarred for 1 year from NExT. It is an admitted position that NExT has not been implemented as of yet.

40. The contention of the respondents that such an interpretation of the extant rules should not only include the candidates who have joined but also the candidates who have been allotted as it is necessary to curb seat blocking, also does not merit acceptance. I am cognizant of the fact that seat blocking is a matter of serious concern. However, the measures to address such concerns must emanate from the regulatory framework. Where the rules itself prescribe the consequence of non-joining as forfeiture of the security deposit, the respondents cannot, by administrative interpretation, impose an additional penalty of ineligibility for participation in a SPMD Seats Counselling process. Eligibility and non-eligibility conditions must be applied in a strict sense. Expansion of such conditions should not be made so as to curtail the right of the candidate which is otherwise available on literal interpretation of the eligibility conditions and extant rules. In the absence of NExT, in my considered view the candidate cannot be any debarred from participating in the SPMD Seats Counselling.

41. The argument sought to be advanced by the respondents that a stricter interpretation is warranted in the interest of maintaining discipline in the Counselling process is, no doubt, a matter of policy. However, such an interpretation must flow clearly from the defined provisions.



XXXXXXX

43. This Court cannot also lose sight of the fact that the respondents themselves have, in certain instances, permitted candidates who were allotted seats in state quota to participate in SPMD Seats Counselling and have further allotted seats in the first round of said Counselling. While I do not rest my conclusion solely on such instances, they do indicate that the interpretation now sought to be advanced is not supported by any consistent or uniform practice. In my considered view, no distinction can be drawn between candidates allotted seats under the State Quota and the present petitioners so as to justify the denial of seats to the latter.”

(Emphasis added)

35. A perusal of the paragraphs, reproduced above, clearly shows that, Clause No. 2.3 of the NBEMS Handbook only disqualifies candidates already pursuing a PG course and by using expressions “resignation” and “discontinuation”, it presupposes that the candidate has joined the course. Hence, a candidate who never joined a course cannot be said to be either resigning or discontinuing the same. It was also observed that mere allotment is not equal to “pursuing”.
36. Coming to the case of respondent No.7, the facts are that in the State Counselling he was allotted a seat in MD Anaesthesiology at MAMC, Agroha and reported for the same on 19.02.2026. Thereafter, in the Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 he was allotted a seat in DNB General Medicine at MAMC,



Agroha. On 10.03.2026, he surrendered the seat allotted through State counselling and on 11.03.2026, he reported to MAMC, Agroha, and completed admission formalities including payment of one-year annual course fee and on 16.03.2026, he was officially relieved from his prior duties and on 17.03.2026 he joined the course at MAMC, Agroha and since then has been pursuing the said course.

37. At this juncture it is relevant to look at the reply sent by MAMC, Agroha to respondent No.1's communication seeking status of the respondent No.7, which is extracted below:-



Website : www.mamc.edu.in
Email : mamc_agroha@yahoo.co.in
director@mamc.edu.in

EPABX : 01669-252000
: 01669-252001
Off. : 01669-281694
Fax : 01669-281176



MAHARAJA AGRASEN MEDICAL COLLEGE AGROHA - 125 047 (HISAR)

Ref. No. MAMC/26/AC90/405

Dated 07/04/2026

Sir/Madam,

With reference to your communication regarding the complaint of alleged seat blocking in sponsored counselling (Session 2025), the required information in respect of **Dr. Naveen Beniwal** (NEET PG 2025 Roll No. 25661190071, Rank: 39031) is provided below:

State Round MD/MS Counseling held by Pt. BDS UHS, Rohtak - 2026

Whether the candidate has taken admission at our Institute through counselling conducted by State authorities: **Yes**, The candidate was allotted a seat in MD Anaesthesiology through State Counselling and reported on 19/02/2026 but not joined the department.

Whether the candidate is presently pursuing the course: **No**

If not pursuing, whether the candidate has resigned: **Yes**, The candidate surrendered the seat without joining the department on 10.03.2026.

Date of resignation: 10.03.2026 (Seat surrender after reporting the institute without joining the department)

Sponsored Seat DNB Counseling held by NBEMS, New Delhi - 2026 (session- 2025)

Whether the candidate has taken admission at our institute through counseling conducted by Sponsored Seat DNB Counseling - 2026 : **Yes**, The candidate was allotted a seat in DNB, General Medicine and reported on 11/03/2026 and joined the department on 17/03/2026 (after getting approval from national board for delay in joining).

Whether the candidate is presently pursuing the course: **Yes**

If not pursuing, whether the candidate has resigned: **NA**

Date of resignation: **NA**

This is for your kind information and necessary action.

Thanking you.

TRUE COPY

DIRECTOR



38. A perusal of the communication, reproduced above, clearly shows that the MAMC, Agroha has accepted that respondent No.7 has “not joined the department” and also is not “pursuing the course”. Additionally, it is also unequivocally stated that respondent No.7 has “surrendered the seat without joining the department on 10.03.2026”. This communication from the concerned institution clearly shows that the respondent No.7 neither joined nor pursued the course allotted through the State Counselling and hence, applying the ratio of **Remika Devi (supra)**, his surrender of seat cannot be said to be either resigning or discontinuing and hence, clearly not debarred under Clause No. 2.3 of the NBEMS Handbook.
39. After surrendering the seat allotted through State counselling, respondent No.7 reported to MAMC, Agroha, and completed admission formalities including payment of one-year annual course fee and on 17.03.2026 he joined the course at MAMC, Agroha and since then has been pursuing the said course and there is even Continuation Certificate certifying that respondent No.7 is pursuing the said course for last two months issued the Head of the Department of General Medicine, which is extracted below:-



2026:DHC:4924



Website : www.mamc.edu.in
mail : mamc_agroha@yahoo.co.in
director@mamc.edu.in

EPABX : 01669-252000
: 01669-252001
Off. : 01669-281694
Fax : 01669-281176



MAHARAJA AGRASEN MEDICAL COLLEGE AGROHA - 125 047 (HISAR)

Ref. No. MAMC/MED/26/410

Dated 06/05/2026

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Dr. Naveen Beniwal, son of Baljit Beniwal, NEET-PG 2025 Roll No. 25661190071 and Rank 39031, is a bonafide DNB Resident in the Department of General Medicine at Maharaja Agrasen Medical College, Agroha, Hisar.

He has joined the Department of General Medicine as a DNB First Year Resident on 17th March 2026 (forenoon) and has been working in the department since then, and continues to do so till date, i.e., 06th May 2026.

This certificate is issued upon his request for official purposes.


06/05/26
Head of Department

Department of General Medicine

MAMC, Agroha, Hisar

Cable



40. In view of the above discussion, Clause No. 2.3 of the NBEMS Handbook is not applicable to respondent No.7 and he has been pursuing the course at MAMC, Agroha since 17.03.2026. Hence, I find no merits in the contentions of the petitioner to disturb respondent No.7's seat.
41. The eligibility/ ineligibility of respondent No.8 is being considered in detail in W.P.(C) 5824/2026. The said writ petition is filed by the respondent No.8 as the petitioner.

W.P.(C) 5824/2026

42. This is a writ petition filed under Article 226 of the Constitution of India seeking the following prayers:-

“(a) Issue a writ in the nature of Certiorari, or any other appropriate writ, order, or direction, to quash and set aside the impugned Show Cause Notices dated 02.04.2026 and 15.04.2026 (bearing Ref. no.: P- 11016(12)/1/2025-C&R (1975)/25661139538) issued by Respondent No. 1, along with any subsequent adverse administrative orders or cancellation notices issued against the Petitioner in this regard;

(b) Issue a writ in the nature of Mandamus, or any other appropriate writ, order, or direction, commanding the Respondents to regularize the Petitioner's allotment to the Sponsored Post MBBS DNB course (General Medicine) at Mohandai Oswal Hospital, Ludhiana, Punjab, and permit him to join and pursue the said allotted course without any hindrance, impediment, or coercive action;



- c) Issue a Writ of Declaration, or any other appropriate writ, order, or direction, reading down Clause 2.3 of the Information Bulletin/Handbook for SPMD Counselling 2025 issued by the Respondent , clarifying that the expression "already pursuing a Post Graduate course" cannot be interpreted to include candidates whose prior admission process was procedurally defective, void ab initio, or lacking mandatory statutory prerequisites (such as the execution of bonds or submission of a relieving order);*
- (d) In the alternative to prayer (c), issue a Writ of Declaration, or any other appropriate writ, order, or direction, striking down Clause 2.3 of the Information Bulletin/Handbook for SPMD Counselling 2025 issued by the Respondent as being arbitrary, unreasonable, and violative of Article 14 of the Constitution of India, to the extent that it fails to provide intelligible differentia between a validly enrolled candidate and a candidate holding a procedurally invalid "Joined" status;*
- (e) Issue a Writ of Mandamus, or any other appropriate writ, order, or direction, directing the Respondent No. 1 (NBEMS) to immediately permit the Petitioner to participate in the ongoing/upcoming rounds of the Centralized Merit-Based Counselling for Sponsored Post MBBS DNB seats for the 2025 admission session, and allot a seat commensurate with the Petitioner's merit and rank;*



(f) Issue an appropriate writ, order, or direction declaring that the Petitioner is not "already pursuing" a postgraduate course within the meaning of Clause 2.3 of the NBEMS Information Bulletin, as the Petitioner never concluded the mandatory joining formalities for the State-allotted seat;

(g) Award the costs of the present Writ Petition in favour of the Petitioner; and

(h) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case, and in the interest of justice and equity."

43. The petitioner herein is respondent No. 8 in W.P.(C) 4491/2026 and the respondent herein is the respondent No. 1 in W.P.(C) 4491/2026.
44. For the sake of brevity, facts and submissions made on behalf of the petitioner (respondent No. 8 in W.P.(C) 4491/2026) are not repeated and are substantially the same.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

45. Ms. Gupta, learned counsel for the respondent (in addition to submission made in W.P.(C) 4491/2026 on behalf of NBEMS) has made the some additional submission with regards to the petitioner. It is submitted that the ***Remika Devi (supra)*** is not applicable and distinguishable on facts as therein the petitioner did not report to the respective institution and did not complete the admission formalities, whereas, in the present case, the petitioner reported, joined and blocked the seat allotted to him in the first round of state counselling and had he not joined the seat, the seat would have been available for



Second and/or Third Rounds or stray round of counselling.

46. It is submitted that the petitioner joined and blocked the allotted seat in first round of State counselling in Post MBBS Diploma (Paediatrics) at District Hospital, Tonk, Rajasthan, as he physically reported at the DH Tonk, Rajasthan and submitted original documents and signed the initial surety bond, which are the primary requirements for joining and retaining the seat, as per Clause Nos. 8, 11 and 12 of instruction booklet issued by Government of Rajasthan for NEET PG Counselling 2025. In view of the same, petitioner's contention that the never completed the final joining formalities such as depositing the entire admission fees, executing the mandatory Bank Guarantee of Rs. 1.5 lakhs and service bond of 8.5 lakhs and was not relieved from his employment, is misleading.
47. Further, as admitted by the petitioner in terms of order dated 09.03.2026, the candidate had to initiate the relieving process, but the petitioner did not initiate any steps for initiating relieving process and consequently, blocked the seats as well as continued to draw salary and remuneration being 'in service'.

ANALYSIS AND FINDINGS

48. I have heard learned counsels for the parties and perused the material available on record, including the case laws cited.
49. In the present case, in the State counselling the petitioner was allotted a Post MBBS Diploma (Paediatrics) seat DH Tonk, but as per him he never officially joined the course. The reply sent by DH Tonk, to the respondent's communication seeking status of the petitioner, is extracted below:-



counseling@natboard.edu.in

From: sandeep rajotia <drsandeeprajotia@yahoo.co.in>
Sent: 07 April 2026 20:38
To: counseling@natboard.edu.in
Subject: Re: Seat blocking - Sponsored Post MBBS DNB seats Counseling for 2025 admission session - regarding.

Categories: To do

Dr. AMAN CHOUDHARY (NEET PG 2025 Roll no. - 25661139538, Rank: 67414

He is an inservice candidate and allotted post MBBS diploma in paediatric in first round of state counselling. And had reported for same with in reporting time.

Now state govt relieved all the inservice candidates to join pg courses by a common order dated 09/03/2025, asking all of them to join allotted pg course.

Below are the informations you asked for.

1. Whether the candidate has taken admission at your institute through counselling conducted by State authorities (Yes/No). yes
2. If yes, whether the candidate is presently pursuing the course (Yes/No).No
3. If not pursuing, whether the candidate has resigned (Yes/No). No
4. Date of resignation (if applicable). Not resigned yet

Dr.sandeep Rajotia
SPOC
District saadat hospital, tonk
Sent from my iPhone



50. A perusal of the email, reproduced above, clearly shows that the DH Tonk has accepted that although petitioner took admission, however, he is not pursuing the course. This email from DH Tonk conclusively shows that the petitioner never joined or pursued the course and applying the ratio of ***Remika Devi (supra)*** it is clear that Clause No. 2.3 of NBEMS Handbook is not applicable to the petitioner, as the said clause only bars candidates who are “already pursuing” a Post Graduate course. “Allotment” and “Joining” are entirely distinct stages, and a candidate cannot be deemed to be “pursuing” a course without actually having joined it. The petitioner, in my considered view, does not fall under Clause No. 2.3 of NBEMS Handbook.
51. In ***Remika Devi (supra)*** I have also held that seat blocking is a matter of serious concern, but such measures are to be addressed by the regulators. The non-joining the seat allotted through State Counselling carries a financial penalty of Rs. 10 Lakhs, which the petitioner is ready and willing to pay and shall deposit the same within 4 weeks from pronouncement of this judgment.

CONCLUSION IN W.P. (C) 4491/2026

52. In view of the aforesaid, the writ petition is disposed of with direction that the seats allotted to respondent Nos. 4 to 6 in Sponsored Post MBBS DNB Seats Counselling for Academic Session 2025 shall form part of Stray Round of counselling and the petitioner will be permitted to appear in the Stray Round of counselling, if and when conducted.
53. It is also directed that legitimately secured seat by respondent No.7 at “General Medicine” at MAMC, Agroha, Hisar shall remain entirely unaffected.



54. In view of the discussion in W.P.(C) 5824/2026, herein above, it is directed that legitimately secured seat by respondent No. 8 at “General Medicine” at Mohandai Oswal Hospital, Ludhiana, Punjab shall also remain unaffected.
55. With the said direction, the present petition is disposed of, along with pending applications, if any.

CONCLUSION IN W.P. (C) 5824/2026

56. In view of the aforesaid discussion, the writ petition is allowed to the extent that the petitioner is permitted to join and pursue the Sponsored Post MBBS DNB course (General Medicine) at Mohandai Oswal Hospital, Ludhiana, Punjab. The petitioner shall pay the penalty of Rs. 10 Lakhs to the concerned authority within 4 weeks from pronouncement of this judgment.
57. With the said direction, the present petition is disposed of, along with pending applications, if any.

MAY 29th, 2026 / HG

JASMEET SINGH, J