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

+ W.P.(C) 8522/2021 & C.M.Nos.26389-26391/2021

DIVYAM SHEKHAWAT Petitioner

Through: Mr. Jaideep Singh, Advocate.

versus

UNION OF INDIA AND ORS Respondents

Through: Mr. Farman Ali and Mr. Athar Raza
Farooquei, Advocates.

% Date of Decision: 17th August, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the rejection notification dated 27th July, 2021 and Advertisement dated 08th September, 2020 to the extent it requires the provisional certificate to be issued before 01st April, 2021 for entry to Short Service Commission [SSC]- 56 (T). Petitioner also seeks direction to the respondents to grant the petitioner joining of Technical Entry, SSC.
3. Learned counsel for the petitioner states that the Petitioner graduated with a B.Tech. degree from SRM Institute of Science and Technology in

June, 2021 instead of April 2021 because of delays caused due to COVID-19 pandemic. He states that though the Petitioner had secured Rank 17 in the All India Merit List out of a vacancy of 40, yet, the respondents cancelled his candidature for the 56th course, SSC (Technical), Chennai only on the ground that the provisional certificate of his final degree was issued by his University on 10th June, 2021 instead of being issued earlier between 1st Feb, 2021 and 1st April, 2021. He further states that the Petitioner's college was following the guidelines that were issued by the Government of Tamil Nadu including order dated 22nd March, 2021 vide which the Government had asked all the Educational Institutions to only conduct classes and complete internal and practical exams between 23rd March, 2021 to 31st March, 2021.

4. Learned counsel for the petitioner also states that the impugned notification has been issued in violation of principles of natural Justice as the Petitioner's admission was cancelled without issuing him a show-cause notice or giving him an opportunity of hearing. He states that the Petitioner's representation to Respondent No. 3, Directorate General of Recruiting was not accepted. In support of his submission, he relies upon the judgment of the Supreme Court in *National Medical Commission vs. Mothukuru Sriyah Koumudi and Ors.*, 2020 SCC OnLine SC 992.

5. Having heard learned counsel for the petitioner, this Court is of the view that recruitment process to SSC cannot be brought to a standstill just because educational institutions are delaying issuance of degrees due to Covid-19 guidelines. This Court takes judicial notice of the fact that there are many educational institutions which routinely delay issuance of degrees and if the time for furnishing the degrees is extended in the present case, it will have to be extended in all other cases. Accordingly, if the argument

advanced by the learned counsel for the petitioner is to be accepted, it may mean that the recruitment process of the Indian Army would never come to an end!

6. Undoubtedly, stipulation of any cut-off date for furnishing any certificate may operate inequality against a few individuals but that cannot be a ground for setting aside the stipulation on that ground. In any event, the petitioner has the option to sit in the next year exam.

7. Moreover, the date of 01st April, 2021 for furnishing the proof of passing degree exam had been stipulated in the advertisement and the petitioner having participated in the recruitment process pursuant to the said advertisement cannot subsequently challenge it.

8. Further, in *National Medical Commission* (supra), the dispute before the High Court was whether the student had approached the respondent No.2-college before the last date prescribed for admission i.e. 3^{0th} July, 2020. The High Court, in the said case, after considering the entire material on record had concluded that the student had visited the college and had paid the university fees on 2^{9th} July, 2020. The High Court also held that respondent No.2-college had intentionally and illegally denied admission to student to GS-MS (General Surgery) seat for the academic year 2020-2021 year. Accordingly, the question that arose for consideration before the Supreme Court whether the High Court was right in directing creation of an additional seat for the academic year 2020-2021 for granting admission to the said student. The Apex Court after referring to its judgment in *S. Krishna Sradha vs. The State of Andhra Pradesh, 2019 SCC OnLine SC 1609* directed the respondent No.2-college to grant admission to the student in the next academic year i.e. 2021-2022 and directed payment of

compensation of Rs.10 lacs to be paid by respondent No.2-college. Consequently, the judgment of the Supreme Court in *National Medical Commission* (supra) has no application to the facts of the present case

9. Also, there must be many similarly placed candidates who may not have even applied under the advertisement knowing very well that they would not be able to furnish proof of passing the degree exam by 01st April, 2021. Consequently, if relief is granted to the petitioner, it would amount to discrimination against similarly placed law-abiding candidates. Accordingly, the present writ petition being bereft of merit is dismissed along with pending applications.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 17, 2021
AS