

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION [C] No. 26563 of 2008

National Board of Examinations

... Petitioner

Vs.

Gaurav Khanna & Ors.

... Respondents

O R D E R

The National Board of Examinations ('the Board' for short) has filed this SLP being aggrieved by the interim order dated 24.7.2008 passed by the High Court directing: (i) the second respondent College to receive the thesis submitted by the first respondent forthwith in respect of DNB in Anesthesiology and forward it to the Board; (ii) the second respondent to permit the first respondent to sit in the appraisal as and when the same is held; and (iii) the Board to accept the application form of the first respondent for appearance in the final examination for the DNB programme. On 24.10.2008, this Court stayed (*ex parte*) the said interim order dated 24.7.2008.

2. Learned counsel for the Board submitted that the second respondent college did not have recognition during the relevant period. The first respondent's counsel on the other hand, contended that the college had accreditation up to 31.12.2006 that there was legitimate expectation that the accreditation would be continued from 1.1.2007, but the accreditation had been continued only from January, 2008. The case of the first respondent (writ petitioner) is that the accreditation should be with effect from 1.1.2007.

3. We are informed by the learned counsel for the first respondent that the examination for DNB in anesthesia is to be held on 13th December, 2008.

4. The writ petition is still pending. The writ petition has been ordered to be listed for final hearing within six months of the order dated 24.7.2008. The said order dated 24.7.2008 is only an interim arrangement to ensure that the first respondent does not lose a year of his career in the event of his ultimate success in the writ petition. Therefore, we do not propose to interfere with the

discretion exercised by the High Court in granting the interim relief.

5. We, however, make it clear that compliance with the directions given in the said interim order, by the second respondent or the Board will not create any equities in favour of the first respondent, in the event of ultimate failure in the writ petition. We also make it clear that the Board may withhold the results of the first respondent till the writ petition is finally disposed of and then abide by the final decision. We request the High Court to endeavour to dispose of the writ petition within six months from 24.7.2008, as directed in its order dated 24.7.2008.

6. Our attention was drawn to several documents to contend that the first respondent did not participate in the DNB programme in the manner required. It is open to the Board to bring all these facts to the notice of the High Court at the final hearing of the writ petition.

7. The interim order dated 24.10.2008 in this case is vacated and the special leave petition is dismissed. The impleadment application is also dismissed as withdrawn.

J.

(R. V. Raveendran)

New Delhi;
December 8, 2008.

(D. K. Jain) J.