

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA No. 21827 of 2026

Dr. Aishwarya Sharma
Vs.
National Medical Commission & Ors.

For the writ petitioner	:-	Mr. Kallol Bose, Adv. Mr. Rittick Chowdhury, Adv. Mr. Atreya Chakraborty, Adv. Ms. Antara Chowdhury, Adv.
For the State	:-	Mr. Sahasrangshu Bhattacharjee, Ld. AGP Mr. Suchindram Bhattacharjee, Adv.
For respondent nos. 2-4	:-	Mr. Lokenath Chatterjee, Adv. Ms. Mary Datta, Adv.
For the National Medical Commission	:-	Mr. Sunit Kumar Roy, Adv.
For respondent no. 7	:-	Mr. Asumdipta Santra, Adv.
Heard on	:-	19.08.2026
Judgment on	:-	20.08.2026
Judgment uploaded on	:-	20.08.2026

Amrita Sinha, J.:-

1. The petitioner is a third-year post-graduate trainee pursuing Master of Surgery course in Otorhinolaryngology (ENT) in Jagannath Gupta Institute of Medical Sciences and Hospital being the respondent no. 7. She prays for a direction upon the West Bengal University of Health Sciences to provisionally permit her to appear in the forthcoming final MS (ENT) examination upon exemption to submit the certificate of passing the online Basic Course in Biomedical Research (BCBR).

2. The petitioner undertakes to appear in BCBR examination scheduled on 27th September, 2026 and submit the qualifying certificate to the authority upon declaration of its result. The petitioner further submits that pending submission of BCBR qualifying certificate, the respondent authority may withhold her final result, mark sheet, degree, registration number and other certificate pertaining to final MS examination.
3. For being eligible to appear in the final MS examination, a candidate is required to complete an online course in Research Methodology. The petitioner appeared in BCBR examination in August, 2025, but because of a personal mishap in her family, she claims that, she could not properly follow up and verify the result of the examination.
4. The petitioner has averred that at the relevant time her mother was suffering from serious illness, namely, recurrent carcinoma and was undergoing major surgery, chemotherapy and continued medical treatment and follow-up including hospitalization. She was deeply and continuously occupied with her mother's medical care. Approximately a year back she untimely lost her younger sister to cancer.
5. The petitioner submitted a representation before the Controller of Examinations, West Bengal University of Health Sciences disclosing that she sincerely completed her post-graduate academic and clinical training and maintained satisfactory attendance and fulfilled all other academic requirement of the course. She regretted for not identifying and rectifying the issue of not completing BCBR course prior to appearing in MS final examination. The same was because of her oversight and she took full

responsibility of the same. She requested the Controller to permit her to appear in MS final examination with undertaking to complete BCBR at the earliest possible opportunity.

6. Learned advocate representing the petitioner submits that the situation of the petitioner was beyond her control. There was no deliberate omission or negligence on her part. She had to take the responsibility of her family members. She lost her younger sister to cancer and her mother is also fighting the same disease. The petitioner has disclosed all facts before the authority and sought for an exemption for clearing BCBR prior to appearing in MS final examination. The authority ought to act with compassion and empathy. The law should be elastic enough to accommodate such unforeseen circumstances. No prejudice would be caused to any third party if the prayer of the petitioner is allowed by the authority.
7. It has been submitted that the National Medical Commission (NMC) had permitted candidates in the year 2023 to appear in the final examination with the condition that the result of the candidates will be declared only after passing BCBR online course. Similar exemption has been sought for in case of the petitioner.
8. In support of the aforesaid submissions learned advocate for the petitioner relies on the judgment delivered by the Hon'ble Supreme Court in the matter of ***D. M. Premkumari -vs- Divisional Commissioner, Mysore Division & Ors.*** reported in ***(2009) 12 SCC 267*** wherein the Court observed that people mistakenly think that law is merciless and it is separated from feelings and righteousness. Judiciary has a very strong

sense of justice and it works to maintain social justice and fairness. Judiciary does not believe in misplaced sympathy. It has been submitted that the prayer of the petitioner may be considered with empathy.

9. Reliance has also been placed on the judgment delivered by the Hon'ble Supreme Court in the matter of ***Coal India Ltd. & Ors. -vs- Saroj Kumar Mishra*** reported in ***(2007) 9 SCC 625*** wherein the Court was dealing with the 'floodgate argument' advanced by the authority. The Court held that only because there is a possibility of floodgate litigation, a valuable right of a citizen cannot be permitted to be taken away.
10. Learned advocate for the petitioner also relies on the unreported judgment delivered by a coordinate Bench of this Court on 11th December, 2025 in ***WPA 27446 of 2025*** in the matter of ***Nahid Alam -vs- The West Bengal Medical Counselling Committee (WBMCC) & Ors.*** wherein the Court relied upon the observation of the Hon'ble Supreme Court in the matter of D. M. Premkumari (supra) and passed necessary direction.
11. The petitioner earnestly prays that she may be permitted to take the final examination subject, however, to her clearing BCBR online course.
12. Learned advocate representing the National Medical Commission opposes the prayer of the petitioner.
13. It has been submitted that a Gazette notification has been published by NMC on 29th December, 2023 publishing the Post-Graduate Medical Education Regulations, 2023 (PGMER-23). Regulation 5.2(xi) lays down the course in Research Methodology. It prescribes that all post-graduate

students shall complete an online course in Research Methodology. The students are expected to complete the course in the first year. The online certificate generated on successful completion of the course and examination thereafter, will be acceptable evidence of having completed the course. The certificate shall be a mandatory requirement to be eligible to appear for the final examination of the respective post-graduate course. The requirement is applicable for all post-graduate students.

14. It has been submitted that obtaining certificate on mandatory completion of the online course in Research Methodology is one of the eligibility criteria to appear in the final examination of the post-graduate course. As the petitioner failed to clear BCBR online course when she appeared for the same in August, 2025, it has to be taken that the petitioner does not have the eligibility criteria to appear in the final examination.
15. It has been argued that PGMER-23 is a mandatory requirement applicable for all post-graduate students and no exception ought to be drawn in case of a single candidate, the petitioner herein.
16. It has been submitted that the notice of exemption which the petitioner relies upon was issued by NMC in the year 2023 when PGMER-23 was not in force. Such exemption was granted only because of the Covid-19 situation which was prevailing during the subject period of time and the students in the post-graduate course were all engaged in the critical care duty of the patients. After PGMER-23 came into force on and from 29th December, 2023, all the students would be bound to follow the Regulations and no exception ought to be allowed in respect of any of them.

17. In support of such submission learned advocate for the Commission relies on the judgment delivered by a coordinate Bench of the High Court of Kerala at Ernakulam on 18th June, 2024 in **WP(C) no. 20095 of 2024** in the matter of **Dr. Gireesh. G.S -vs- Government Medical College Thrissur & Ors.** wherein the Court was pleased not to grant exemption to the petitioner to appear in the final examination without clearing BCBR online course.
18. The respondent NMC prays for dismissal of the writ petition.
19. I have heard and considered the submissions made on behalf of both the parties and have perused the documents placed before the Court.
20. The petitioner has prayed for exemption of the Regulation requiring mandatory certification of the online course in Research Methodology to appear in the final examination of the post-graduate course. The aforesaid requirement has been made mandatory by NMC by implementation of PGMER-23.
21. The focus and goal of the said Regulations is to produce competent specialists and medical teachers recognized by the fraternity as graduating scholar building upon their under graduate education and skills. The institutions imparting post-graduate medical education is required to continuously work to synchronise the institutional goals with the national goals to produce the kind of trained manpower with high knowledge, appropriate skills and impeccable ethical standards.

22. The Regulations specify the qualifications and the duration of the various courses. The parameters for maintenance of standard medical education including monitoring of standard are prescribed. The period of training is also detailed. The course in Research Methodology is a part of the training programme. The said course is an online one and all students of the post-graduate course are required to register on the portal of the designated training institutions.
23. As per the Regulations, the students are expected to complete the course in the first year. The post-graduate course of the petitioner is of three years. The same implies that a candidate gets more than one opportunity to complete the course. The petitioner is in the last year and is due to appear in the final examination which is scheduled shortly, but because of non-completion of BCBR course she is ineligible to appear in the same.
24. It appears that the petitioner actually got herself registered with the training institution, but for tending to medical emergencies in her family, she was not able to complete the course. The petitioner was all along aware that for being eligible to appear in the final examination, she is mandatorily required to clear the online course. She seeks exemption on the ground that the reason for not clearing the BCBR examination was absolutely beyond her control.
25. The petitioner has relied upon the judgment delivered by the Hon'ble Supreme Court in the matter of Premkumari (supra). It appears that the petitioner has relied upon the penultimate paragraph of the judgment, but has missed the direction passed in the last paragraph of the said judgment

which clearly mentions that without going into the merit of the case and for doing complete justice, necessary order was passed by the Hon'ble Supreme Court. It has been clearly recorded that the said order shall not be treated as a precedent in any other case.

26. The Hon'ble Supreme Court enjoys power under Article 142 of the Constitution of India for doing complete justice in any cause or in any matter pending before it. The High Court does not enjoy such power. There is no ratio decidendi in the cited reference. Hence, reliance on Premkumari (supra) does not help the petitioner in any manner.
27. In Saroj Kumar Mishra (supra) the Court was concerned to protect the valuable right of a citizen. In the instant case, the petitioner cannot claim exemption to produce the certificate of BCBR online examination to appear in the final year MS examination as a matter of right. On the contrary, as per the Regulation, for being eligible to appear in the post-graduate final examination, submission of the certificate of BCBR examination is mandatory. Accordingly, the ratio laid down in Saroj Kumar Mishra (supra) does not come to the aid of the petitioner.
28. It will not be out of place to mention that compassion can be shown to a litigant within the framework of law. A direction cannot be passed upon the authority which is contrary to the statutory law by merely showing compassion and empathy to a litigant. Relaxation of any mandatory provision without any supporting law only on sympathy ought not to be allowed.

29. In Nahid Alam (supra) the candidate was found to be eligible for admission in MBBS course. There was no compromise with the merit of the candidate. As the candidate was unable to arrange for the course fee of Rs. 25,00,000/- (rupees twenty-five lac) only by bank draft / pay order, the Court, upon considering the economic and social condition of the petitioner, directed the authority to admit the candidate in his allotted seat subject to compliance of all formalities. Such is not the case here.
30. The petitioner all along knew that she was required to clear the mandatory online BCBR course for appearing in the final examination. The petitioner was expected to complete the course in her first year itself. The petitioner may have genuine personal reasons for not clearing the course within the stipulated time period. The same cannot be a reason to exempt the petitioner from producing the certificate for appearing in the final examination as the same is a mandatory requirement of law.
31. It is well settled proposition of law that for invoking the high prerogative writ jurisdiction one has to show that there has been infringement of either the fundamental right(s) guaranteed under the Constitution or there has been violation of any of the statutory right(s) of a citizen. In the case at hand, there has neither been violation of either the constitutional or the statutory provision of law.
32. The petitioner merely seeks relaxation of the Regulation prescribing the eligibility criteria for appearing in the final post-graduate MS examination. The said Regulation is equally applicable to one and all. It will not be proper to allow a single candidate to appear in the post-graduate final

examination if she does not fulfil the mandatory eligibility criteria. The same may be viewed as compromising with the eligibility of the candidate to appear in the final year examination.

33. The notice of exemption for the year 2023, heavily relied upon by the petitioner, was a one-time benefit allowed by the authority in view of the prevailing Corona pandemic when the students were directed to perform duty in the critical care unit of the hospitals and they did not get the opportunity to clear the course. None of the students were at fault. Here, the student herself is at fault. She has failed to clear the online BCBR examination. The one-time measure made available to all the candidates due to the unprecedented pandemic cannot be relied upon to grant similar relief to the petitioner.
34. Moreover, PGMER-23 was not in existence when the exemption was granted. The said Regulation came into force thereafter. The petitioner has not been able to show any instance of granting relaxation of the Regulations after the same came into force.
35. The petitioner intends to bank upon the support of the college by submitting that the Regulations are not strictly followed. Such submission of the petitioner cannot be accepted in law. The college where the petitioner is studying is a self-financed private one. The same is affiliated to the West Bengal University of Health Sciences. The college is duty bound to follow and abide by the statutory Regulations of the competent authority. If the college fails to act in accordance with the statutory Regulations, then necessary action may be taken against the college by the competent

authority. All the students of the college may suffer for the arbitrary act of the college. But the same will certainly not give any right to the petitioner to claim relaxation of the statutory Regulations.

36. The writ Court has its own limitations. Writ jurisdiction ought not to be invoked to seek relaxation of mandatory Regulations laying down the eligibility criteria to appear in an examination. The Court does not find any pressing reason to exercise jurisdiction in this matter. Granting any relief to the petitioner will hit the principles of equality guaranteed under the Constitution. Granting special privilege to the petitioner will amount to discrimination with the other candidates who have been permitted to appear in the examination only after they have cleared the online examination.
37. In view of the discussions made hereinabove, the Court is not inclined to interfere in the instant matter.
38. The writ petition fails and is hereby dismissed.
39. No costs.
40. All parties to act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.
41. Certified server copy of this judgment, if applied for, be supplied to the parties or their advocate on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)